

NHL Stenden University of Applied Sciences image protocol

Citation reference	image protocol
Effective date	1 August 2019
Adopted by the Board	9 July 2019
Consent from University Participation Council	no
Legal ground	'Consent', 'performance of an agreement' and 'legitimate interest' in accordance with Art. 6, paragraph 1 under a, b and f of the GDPR
Particulars	None
Brief description	Images of people are personal data but also fall under special categories of personal data.

Recitals

- NHL Stenden is part of an image culture.
- In accordance with the privacy policy plan, the privacy of the people the institute interacts with is a top priority for NHL Stenden University of Applied Sciences.
- In our current data-driven information society, images can be distributed, shared, altered, saved and misused more easily than ever before.
- Creating, collecting, distributing, editing, saving and destroying visual material showing people is to be considered processing of personal data.
- The processing of personal data and, consequently, images of people is subject to the European General Data Protection Regulation and, as such, to the principles of
 - o lawfulness, fairness and transparency;
 - o purpose limitation;
 - o data minimisation;
 - o accuracy;
 - o storage limitation;
 - o security.
- Images of people are not only personal data, but also refer to special categories of personal data within the meaning of Article 9 of the GDPR, such as health (wearing glasses), religion (headscarf or cross) and race.
- Recital 51 of the GDPR, however, reads: *'The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through a specific technical means allowing the unique identification or authentication of a natural person.'*
- On its website, the Dutch Data Protection Authority states: *'Photographs and videos on which people are recognisable are personal data. If you want to publish visual material of a student aged 16 or older? The student will have to give consent. For students under age 16 you need their parents' consent. You must be able to prove that you have valid consent from students or their parents for the publication of the visual material. This is part of your accountability obligation. And it should be just as easy for the students and their parents to withdraw their consent as it is to grant it.'*
- Visual material is not limited to photographs but also includes videos, films and all other forms of images, distributed through any channel whatsoever. Where in the text below we refer to 'photograph', this can also be read as film or video, etc.
- An image protocol of NHL Stenden should reflect the reality of higher education and must be observable and enforceable for all involved.

Photographs in central systems

1. NHL Stenden uses photographs in the student information system and in the staff information system for identification, for instance in the face books. Processing is based on consent: staff members (salaried or otherwise), students and course participants are, therefore, not obliged to supply a photograph and may withdraw consent for use of their photograph at any time, which request will be acted on within a reasonable period of time. This use will be specified in more detail in a separate appendix. Academies, Services and Liaison units are instructed on how they can gain access to the desired face book via My Card - and exclusively via this channel.

Professional photographs taken on commission

2. Professional photographs taken or recordings made on commission have one or more of the following purposes. They are
 - a. for illustration of promotional material used by NHL Stenden;
 - b. for functional use in the publications issued by NHL Stenden;
 - c. for publication on the websites administered by NHL Stenden.
3. The photographs may be included in the (future) image library of NHL Stenden or stored in a different, secure manner. Other use is only permitted if the purpose is compatible with the purposes mentioned above.
4. The photographs are kept for as long as they are used, but never longer than the hard copy edition (including reprints) or, in the case of a digital publication, never longer than five years.
5. Staged photographs are taken based on an **agreement** with the persons portrayed. In that case, no consent is required, as the legal ground is performance of a contract. *See model agreement.*
6. For other commissioned photographs, the persons portrayed must give **consent** if they are clearly recognisable (this applies to individual portraits, close-ups, group portraits of seven people or less where the faces are clearly visible, and other images at the discretion of the photographer). This consent is given **verbally** to the photographer or the filmmaker. Persons portrayed receive a business card with a text along the lines of: *'Thank you for giving us verbal permission to use your photograph. Should you change your mind, send an email to <address>. We will then refrain from using your photograph or remove it.'*
7. On open days or other events during which it can be expected that the visitors are for the most part 16 years and younger, no photographs will be taken or recordings made in which individual visitors could be recognisable. This means that no recognisable photographs are taken or recordings made on orientation days for years 3 and 4 of secondary education.
8. No permission is requested for general atmospheric photographs and general views. Visitors are always informed by means of signs of the presence of a photographer or filmmaker and are given the option to indicate by wearing a button that they do not want to be visible in a recognisable way. These buttons are available at the entrance; this will be explicitly pointed out to visitors.
9. The professional photographer or filmmaker is informed of these rules and regulations and receives a copy.

Decentralised visual material not made on commission

This concerns visual material not made on commission, including all visual material used on the social channels of NHL Stenden University of Applied Sciences. This includes photographs of excursions posted by a study programme, images of a team outing posted by a department, or photographs of a graduation ceremony.

10. Amateur photographs taken centrally have the following purposes:
 - a. recording of events organised by NHL Stenden
 - b. promoting the sense of community;
 - c. promoting the values of NHL Stenden by means of images.
11. These images are kept for as long as they are functional, but in so far as NHL Stenden can influence this directly, photographs and images are removed **no later than** two years after publication.
12. For this category of images, no permission is requested, but the photographs are taken on the grounds of the legitimate interest of NHL Stenden, with due observance of the following articles 13 up to and including 19.
13. The person who takes the photograph or commissions it, proactively tries to prevent that images are made of someone against their will.
14. NHL Stenden administrators of institution-related Internet websites, explicitly including social media, actively ensure that others, such as students, do not post photographs that the persons portrayed could take offence at or that could cause damage to those portrayed.
15. With regard to the provisions of articles 13 up to and including 16, staff members and students have a right to object to the publication of photographs or visual material on which they are recognisable. Upon request, their image will be deleted without discussion and without delay, but at any rate within 72 hours.
16. At graduation ceremonies and other meetings with a more or less official character, visitors are always informed by means of signs that photographs will be taken or recordings will be made. They are given the option to indicate by wearing a button that they do not want to be visible in a recognisable way. These buttons are available at the entrance.
17. Staff members do not post work-related images of colleagues or students on social media or on websites other than those of NHL Stenden.
18. NHL Stenden does not accept responsibility for visual material that staff members or students post on social media channels, nor for what the social media do with those data on the basis of their terms and conditions.

Photographs and visual material for functional use in education

19. These recordings have the following purposes:
 - a. educational development of students;
 - b. professional development of staff members;
 - c. digital distribution of educational material;
 - d. personal communication between the institute and students.
20. For educational purposes, recordings can be made of students, for example in the context of their competence development, for recording a presentation with the character of a test, or to be able to provide specific feedback.
21. No permission of students is asked for this: the recordings are made on the basis of the legitimate interest of NHL Stenden.
22. The fact that such recordings are made is described in the educational material that students receive before the start of the educational unit in question (possibly in digital form). These images are stored securely by the study programme. Only staff members or third parties authorised by the study programme can access these images. The retention term is recorded in the data registers and tailored to the status of the recordings and the Selection List for Universities of Applied Sciences.
23. Separate protocols apply to recordings of students from other educational institutes or clients of care institutions and the like made by students or staff members of NHL Stenden.
24. NHL Stenden may record lectures and distribute these recordings by means of channels administered by the institute.
25. Lecturers are not asked for permission: the recordings are made on the basis of the **legitimate interest** of NHL Stenden University of Applied Sciences. Students who do not want to be recognisable in photographs or videos (or in sound) are not recorded or otherwise rendered unidentifiable.
26. Digital lectures are not kept longer than functionally necessary. After one year, based on the right of objection, lecturers can submit a written request to remove the recording, stating reasons related to their specific situation.
27. Photographs or film recordings for the professional development of staff members may only be accessed by authorised staff members and may not be used for external presentations, papers or internal presentations involving students or parents.
28. Photographs or film recordings for the professional development of staff members must be destroyed as soon as possible, but no later than six months after they are made.
29. Study programmes can use so-called face books in order to get to know and recognise students more quickly and allow for a personal approach. The use of photographs for this purpose is based on written consent from students. Students are in no way pressurised to supply a photograph and do not experience any negative consequences if they do not supply one. Photographs taken for the face books are kept for the duration of enrolment. *See consent form (or app).*
30. Study programmes that want to make broader use of the visual material of staff members and students because of their specific nature draw up a special protocol that is submitted to the Data Protection Officer for assessment and to the relevant participation council for approval. *See instructions for study programme-specific protocol.*

Photographs and visual material in research

31. Visual material used in applied research conducted by staff members or students of NHL Stenden is subject to the rules and regulations of the [Research Roadmap](#). The visual material is considered research data and processing is based on consent from the research subjects.

Complaints and your rights.

1. Data subjects who want to exercise their privacy rights can send a request to <https://www.privacy.nhlstenden.com> (tab Forms).
2. Complaints about non-compliance with this protocol and/or privacy legislation can be submitted to the Data Protection Officer fg@nhlstenden.com. The board takes a substantiated decision on the complaint within six weeks after receiving it.

Entry into force, citation reference and publication

1. This protocol takes effect on 1 August 2019 and applies to images made or processed from that date on.
2. This protocol is referred to as: image protocol
3. NHL Stenden publishes this protocol on the website.