THE UNIVERSITY of EDINBURGH

Assessment Details

Name Art Installation - Legitimate Interest Assessment (LIA)

Approver Rena Gertz

Respondent Nicola Osborne,Nic Sandiland (External),Miriam Walsh

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Assessment Questions

(1) Identifying a Legitimate Interest

1.1 What is the purpose of the processing operation?

The first stage is to identify to a legitimate interest – what is the purpose for processing the personal data?

Response

The processing of personal image data is a fundamental aspect of An Obscure Camera artwork and the associated installation. This artwork is about viewer interaction with a live video feed and cannot be achieved with the same artistic or practice-based research objectives in any other way.

The purpose and intent of the data processing is to actively engage passersby on Potterrow and those participating/viewing the work in reflective consideration of surveillance and personal data. The public facing communication and the installation itself is designed to encourage members of the public to take a more critical perspective on the use and processing of their data in public contexts, potentially providing significant benefits to their ongoing understanding and engagement with other forms of public data capture.

1.2 Is the processing necessary to meet one or more specific organisational objectives?

If the processing operation is required to achieve a legitimate business objective, then it is likely to be legitimate for the purposes of this assessment.

Response

(Yes)

Justification

Key objectives of the Institute for Design Informatics and Inspace are the:

- Fusing of design and creative methodologies with data, data science, data-driven technologies and ethical AI
- Commission and production of creative activity that unlocks digital and creative technology and explores its role in society.

For Inspace, as a public engagement and art gallery space, these objectives are often fulfilled through practice-based research and experimental artistic and creative interventions.

An Obscure Camera helps us to fulfill these objectives as it is a piece of creative practice-based research aiming to explore the choices made by automated surveillance technology by asking the participant to reflect on what they choose to follow and what it *feels* like to do so. The use of data processing in this work is highly intentional and is needed to achieve this objective of opening up a dialogue and increased public criticality around surveillance and the capture of data in public spaces.

1.3 Is the processing necessary to meet one or more specific objectives of a third party?

While you may only need to identify one legitimate interest, it may be useful to list all interests in the processing, including those of a third party

Response

(Yes)

Justification

The processing of data is necessary in order to achieve all the agreed shared objectives of the project team for this creative project and installation, in Inspace, as part of the planned research and development (R&D) artist residency:

- **Installation and testing** of existing *An Obscure Camera* protype in Inspace to identify areas of development and invite interaction/feedback on the installation from invited visitors towards a subsequent public showing. *(processing: live camera feed critical to this work)*
- **Collaboration** with DI Research Software Engineer towards a co-development plan post residency towards a public showing of the work in December 2024 *(processing: live feed testing critical to effective post residency development work)*
- **Connections** with broader IDI research community to explore mutually interesting conceptual crossovers between *An Obscure Camera* and current research taking place at the Institute. *(processing: live demo and documentation work essential for inviting participation, feedback and engagement with Design Informatics Research and Student community)*
- **Dissemination and awareness raising** of the residency and prototype as a creative intervention working with data and technology to enable live interaction with, and exploration of the meaning of, surveillance as part of our everyday. *(processing: live camera feed critical to this work and communication of this necessary to encourage dialogue and raise awareness)*

(2) **The Necessity Test**

2.1 Why is the processing activity important to the University?

A legitimate interest may be elective or business critical; however, even if the University's interest in processing personal data for a specific purpose is obvious and legitimate and based on its objectives, it must be a clearly articulated and communicated to the individual.

Response

This processing activity is part of the University's ongoing research and dialogue and public engagement activities around data, data science, ai, and society, and fits closely with key research into responsible uses of data, citizen participation in data driven innovation (including the work of the DDI programme), and ethical considerations around data in and around society.

Through engaging the public in critical thinking and reflection on personal data, surveillance, and society's use of new technologies, this work aligns with the University's stated strategic vision that "Our graduates, and the knowledge we discover with our partners, make the world a better place".

The work is intentionally made in public, aligning to the University value that research is "relevant to society and we are diverse, inclusive and accessible to all". Additionally, this work, through being located at the heart of the city, and developing into work which will tour the UK, also aligns with the University's values of sustaining "a deep allegiance and commitment to the interests of the city and region in which we are based, alongside our national and international efforts, ensuring relevance to all."

2.2 Is the processing activity important to other parties the data may be disclosed to, if applicable?

Just because the processing is central to what the University and/or a third party does, does not make it legitimate. It is the reason for the processing, balanced against the potential impact on an individual's rights, that is key.

Response

(Yes)

Justification

This processing is important to our external artistic partners in this project, as it is core to their practice-based research and ongoing development of the art work.

This processing is also important to passersby who will be the subjects of the live feed and to researchers and students invited to view work in progress

For passersby this project invites them to:

- reflect and consider the use of surveillance and personal data in public spaces
- take a more critical perspective on the use and processing of their data in public contexts, potentially engage with other forms of public data capture as a result of awareness raising via this work

For Design Informatics community (researchers, staff and students) this project invites them to:

- explore the choices made by automated surveillance technology
- reflect on and embody surveillance technology by asking them choose to 'follow' as a surveillance camera might, and to consider what it *feels* like to do so
- critically engage with the process and implications of data capture in public contexts

2.3 Is there another way of achieving the objective?

If there isn't, then it is likely that the processing is necessary; or:

• If there is another way but it would require disproportionate effort, then the processing is still necessary; or
• If there are multiple ways of achieving the objective, then a PIA should have identified the least intrusive means of processing the data which would be necessary; or
• If the processing is not necessary (It is unlikely that there will be many scenarios where processing is not necessary where it has been identified as being the only way to achieve a stated business objective), then legitimate interests cannot be relied on as a lawful basis for that processing activity.

Response

(No)

Justification

The processing of personal image data is a fundamental aspect of the installation. It is about viewer interaction with a live video feed and we do not believe it can be achieved with the same artistic or practice based research objectives in any other way

3.1 Would the individual expect the processing activity to take place?

If individuals would expect the processing to take place then the impact on the individual is likely to have already been considered by them and accepted. If they have no expectation, then the impact is greater and is given more weight in the balancing test.

Response

There is no expectation in the UK for privacy to apply to those walking in a public street and therefore passersby on Potterrow are likely to expect to have their data processed by street facing cameras, like the one we will use for this installation, from a variety of surveillance cameras already being used by local businesses/organisations/buildings on this street.

In this artwork's case, there is therefore the additional display of the live feed as part of the installation. This use involves a change of context that may be unexpected by passersby. Those subjects who may not have seen or read signage publicly displayed on Inspace maybe be unaware of this aspect of the data capture, making this more likely to be negatively received.

To mitigate and negative impact of this likely unexpected use we will:

- Display overt externally facing and clear signage in a couple of locations to increase visibility and awareness of this project across the week
- This signage will note that the live feed for the artwork will not be recorded or stored therefore the unexpected participation is minimised as much as possible
- Anonymise/pseudonymise any personal identifiable data captured as part of documentation and the raw footage will be deleted
- Provide a link to the DPIA and LIA so that these are publicly available
- Provide an email address for anyone to contact us with concerns they may have

3.2 Does the processing add value to a service that the individual uses?

Response

(No)

Justification

This is an artwork and is not relating to services provision

3.3 Is the processing likely to negatively impact the individual's rights? If so, how?

If processing would undermine or frustrate the ability to exercise those rights in future that might well affect the balance

Response

(No)

Justification

There is no expectation of privacy in a public place, but the use of this feed in the gallery space is a change of context. However, to minimise any perceived undermining and risk or frustration to the individual and their ability to exercise their rights, we are implementing the follow additional restrictions, and we will make sure signage clearly states and signposts the intention and public benefits

- The live feed is not recorded or stored therefore the unknowing participation is minimised as much as possible
- Any documentation including personal data will be anonymised/pseudonymised and the raw footage deleted
- Externally facing and clear signage will be placed in a couple of locations to increase visibility and awareness

3.4 Is the processing likely to result in unwarranted harm or distress to the Individual?

Response

(No)

Justification

The data being collected which may include some personal identifiable data is being intentionally limited and therefore we believe this presents an extremely low risk of unwarranted harm or distress to the individual

3.5 Would there be a prejudice to the University or third party if processing does not happen? How?

Response

(Yes)

Justification

If processing cannot happen, then this residency and project at Inspace is no longer viable.

Also as noted in question 1.2 key objectives of the Institute for Design Informatics and Inspace are the:

- Fusing of design and creative methodologies with data, data science, data-driven technologies and ethical AI
- Commission and production of creative activity that unlocks digital and creative technology and explores its role in society.

Being able to showcase research and creative work that pushes boundaries and questions the role of data in our society is fundamental to our programming now and in the future. And as also noted in question 1.3 Dissemination and awareness raising, encouraging public engagement with these concepts is a core part of Inspace programming.

A live camera feed is critical to this planned installation, development and testing of this stage of An Obscure Camera prototype (first stage was in Brighten Dome) and is fundamental to the conceptual and technical development of the work beyond the residency and in the lead up to a further public presentation of the work later this year.

3.6 **Is the processing in the interests of the individual whose personal data it relates to?**

Response

Yes

Justification

Public benefit and awareness raising is at the core of the proposed installation and also the key motivators for the Institue for Design Informatics and Insapce in hosting this project.

3.7 **Are the legitimate interests of the individual aligned with those of the University or the third party?**

What are the benefits to the individual or society? If the processing is to the benefit of the individual, then it is more likely that legitimate interests can be relied on, as the individual's interests will be aligned with those of the University. Where the processing is more closely aligned with the interests of the University or a third party than with those of the individual, it is less likely that the interests will be balanced and greater emphasis needs to be placed on the context of the processing and relationship with the individual.

Response

Yes

Justification

Potential benefits of this project include supporting individuals to:

- reflect and consider the use of surveillance and personal data in public spaces
- take a more critical perspective on the use and processing of their data in public contexts, potentially engage with other forms of public data capture as a result of awareness raising via this work

These benefits for the individual are well aligned with the University's own objectives around public engagement, criticality and engagement in research, as well as its commitment to delivering back to the local community.

Shared benefits which passersby will also benefit from:

- **Installation, testing and DI collaboration -** this will enable R&D and refinement of the technology and concept towards a quality experience and public showing of the work later this year, which will be open to the public.
- **Connections with broader IDI research community** – this will enrich the concept and connections to broader research and activities happening at the University enabling meaningful and deeper engagement with current challenges around data collection, capture and privacy
- **Dissemination and awareness raising** – this invites and actively seeks out dialogue with the local community building visibility of the research taking place at the Institute for Design Informatics and the University of Edinburgh.

Passersby will not get to experience the **work-in-progress** during this development and testing stage but there is a plan to do a public showing of this work in November this year when members of the public will gain access to these additional benefits, the opportunity to:

- embody the choices made by automated surveillance technology
- reflect on surveillance technology by asking them choose to 'follow' as a surveillance camera might, and to consider what it *feels* like to do so
- critically engage with the process and implications of data capture in public contexts

3.8 **What is the connection between the individual and the organisation?**

For example:
• existing student,
• alumni,
• employee or contractor.

Response

- **Members of the public** in the vicinity of the Inspace gallery and/or those visiting the gallery itself.
- **Members of the University of Edinburgh staff and student body**, as the Inspace gallery is located on the central university campus.
- **Any additional visitors** to the site during this work in progress installation and artists residency are likely to be attending following specific invitation or engagement with the project.

3.9 **What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?**

If processing special categories of personal data, an Article 9 condition must be identified as the lawful basis of processing.

Response

The data being processed is that of a live camera feed which will contain new identifiable/potentially identifiable information. This data will not be recorded or stored in its raw format but documentation of the artwork may contain a minimal amount of special categories of personal identifiable data. The project team will make efforts to minimise the capture of identifiable data of persons within the livestream as part of documentation work and all documentation footage will be checked, evaluated and go through a process of anonimisation and/or pseudonymisation.

Collection of identifiable data of visitors to the installation (e.g. documentation of the work) will be carried out but notices will be on display and data will only be captured from those who have provided explicit consent.

3.10   **Is there any imbalance in who holds the power between the University and the individual?**

Does the individual have a choice regarding the processing of their personal information? If the organisation has a dominant position, this will tip the balance slightly against the use of legitimate interests. The University will need to consider how it addresses any imbalance of power to ensure individuals' rights are not impacted.

Response

(No)

Justification

Because this installation relies on the installation of a camera in Inspace window consent is not possible for this capture. However, to mitigate any perceived imbalance of power we will take the following steps to address this:

- We will collect the minimum data required for the purpose of delivering the intended outcome
- We are being transparent and communicative (including the display of public notices and publishing of the DPIA) about the data we are collecting for the duration of the project and why
- We are limiting the data we store to documentation data only
- Documentation data will be reviewed and evaluated for the presence of personal identifiable data for the livestream and explicit consent will be obtained from visitors where appropriate and possible
- Documentation data will be anonymised/pseudonymised to protect personal data/identity unless explicit consent has been appropriately obtained
- We will store data securely and limit access
- We have outlined an appropriate data retention period and will minimise the scope of data being stored over this period

3.11   **Can the individual control the processing activity in any way? Can the individual opt out easily?**

Giving the individual increased control or elements of control may help the University rely on legitimate interests where otherwise they could not. If individual control is not possible or not appropriate, explain why

Response

(Partly)

Justification

For subjects of the live stream this data is not recorded. Therefore, this applies only to documentation of the work as we will not hold any other data. Removal is possible to a limited extent, for all unpublished data stored in SharePoint that has not yet been anonymised/pseudonymised. However, if a subject is able to look at psuedonymised footage and recognise themselves (e.g. by colour of coat) we could also remove them from this documentation material.