

Guidance for schools and other establishments on the use of images

Introduction

Collection, storage and sharing of personal data, including photographic images of children and young people, is governed by the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. Photographic images of children and young people are not automatically considered to be special category personal data:

*'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.'*

Recital 51 of EU GDPR, May 2018

This guidance is designed to offer practical advice to schools in order for them to comply with legislation and safeguard the children in their care, whilst enabling families to experience pleasure and pride at their children's achievements through the use of technology.

Schools and other educational organisations and establishments are advised to have a clear policy which outlines the safety guidelines for the use of photography and other images of children and young people.

The use of images can be divided into five categories:

- Images taken by the school which are required for the school to perform its public task;
- Images taken by the school which do not fall under the public task purpose;
- Images taken by parents at school events;
- Images taken by the media;
- Images taken by third parties.

Images taken by school required for the school's public task

Photographs are used in schools for many different reasons and it is important that the different uses are considered separately as they may have different conditions for processing.

If the images taken are necessary for the school to perform its public duty, consent is unlikely to be required. Examples may include: photographs taken of a child in the Early Years Foundations Stage for inclusion in their learning journal; photographs taken to enable staff to identify children with medical conditions/dietary needs; photographs taken of a learning task for use on a school display board.

More information can be found in 'Data Protection: A toolkit for schools,' (DfE, April 2018), which gives these useful examples.

- *Photographs used in identity management may be essential for performing the public task of the school, but should be deleted once a child is no longer at that setting, as it is no longer needed for the purpose for which it was held.*
- *Photographs in the school environment relative to providing education may fall under the public task purpose, but after the child has left the school this argument becomes weak and may not be lawful: permission to retain beyond their time in school (if required) should be sought. For example, if the child is in a display showing a scientific experiment being done that you wish to retain as a learning resource for future years.*

'Data Protection: A toolkit for schools', (DfE, April 2018)

Even if consent is not required, consideration still needs to be given to the devices staff use to take images, how such images will be securely stored and the length of time images will be retained for. **Images must be maintained securely for authorised school use only, and destroyed as appropriate when no longer required.**

Care should be taken in relation to particularly vulnerable children such as those who are in public care, recently adopted or those resettled following domestic violence.

Images taken by school not required for the school's public task

If images are taken by the school which do not fall under the public task purpose, then parental consent will be required. Examples include images taken for the school's prospectus, website or social media pages.

- Photographs used in promoting/marketing type material should seek specific informed consent, and only be used in line with the consent provided.

'Data Protection: A toolkit for schools', (DfE, April 2018)

A signed consent form should be obtained from the child's parent/carer, and should be kept on the child's file, covering all cases where images of children are to be used. The General Data Protection Regulations state that consent must be actively given; i.e. parents have to return a signed consent form rather than consent being assumed and parents returning a form to withdraw consent. It is also necessary that it is made explicit what personal data will be used for, therefore a multiple opt-in form may be required.

It is important to take into account the wishes of the child, remembering that some children do not wish to have their photograph taken.

For an example of a multiple opt-in consent form, which can be adapted for individual schools, see **Appendix A**. This could be issued in addition to the school's admission form. Parents may withdraw/change their consent at any stage, but they would need to do so in writing.

We advise the following,

- **If the pupil is named, avoid using the photograph.**
- **If the photograph is used, avoid naming the pupil.**

Whatever the purpose of displaying or publishing images of children, care should always be taken to avoid the possibility that people outside the school could identify and then attempt to contact pupils directly. Most abused children are abused by someone they know, but there is still a concern that children might be identified from pictures appearing online and targeted for abuse.

- Where possible, general shots of classrooms or group activities rather than close up pictures of individual children should be used. The camera angles should be considered. Photographs taken over the shoulder, or from behind are less identifiable.
- Children should be in suitable dress, and images of PE or swimming events should maintain modesty, for example wearing team tracksuits if appropriate.
- Children from different ethnic backgrounds should be included in your communications wherever possible, as well as positive images of children with disabilities to promote the school as an inclusive community, and to comply with the Disability Discrimination Act.
- Children can be identified by logos or emblems on sweatshirts etc. Depending on the use to which the photograph will be put, airbrushing logos should be considered.
- An article could be illustrated by the children's work as an alternative to using an image of the child.

Parents wishing to take images at school events

Increasingly technology is making it easier for images to be misused and it is therefore important that schools take practical steps to ensure that images of children taken by parents and carers are done so in a way that is in accordance with the protective ethos of the school.

The Data Protection Act does **not** prevent parents from taking images at school events, but these must be **for their own personal use**. Any other use would require the consent of the parents of other children in the image.

Examples:

*A parent takes a photograph of their child and some friends taking part in the school Sports Day to be put in the family photo album. These images are for personal use and the Data Protection Act **does not** apply. **However**, if the photos were posted to a social media page, they must receive permission from the parents of the other children involved.*

*Grandparents are invited to the school nativity play and wish to film it. These images are for personal use and the Data Protection Act **does not** apply. **However**, if the grandparents published the film on their family website/social media page, they must receive permission from the parents of the other children involved.*

The head teacher, in consultation with governors, should agree when parents are to be permitted to take images. This information could be included in invitation letters to parents.

Parents should be required to give an undertaking on how the images will be used – see **Appendix B**. Parents should also be advised that they may only take images in designated circumstances and areas, such as in the school hall and not backstage

or in changing rooms. It is important that parents understand their responsibilities for the safe keeping of any images they may take.

Consideration should be given to a special photo call session at the end of the event – this would avoid distraction and disturbance and also allow for the withdrawal of children whose parents/carers have not consented.

It is recommended that wherever possible schools take their own 'official' photos or films in order to retain control over the images produced.

It is also important to ensure that people with no connection with your school do not have any opportunity to produce images covertly. Staff should question anyone who is using a camera, phone or other hand held device at events they do not recognise.

Images taken by the media

There may be occasions where the media take photographs at your school of pupils. It is important that parents and carers are aware of the potential risks and benefits so they can make an informed decision about consent.

It is essential that when considering inviting an official photographer, schools establish the validity of the organisation and what checks/vetting has been undertaken. Procedures should also ensure that levels of supervision are appropriate to safeguard the welfare of children at all times when visitors are present on the school site.

If a child is photographed by a newspaper, the photo becomes the property of the newspaper and the newspaper has the final say as to how it is used. (N.B. images can be placed by editors on the newspaper's website). Generally, newspaper photos of groups of 12+ children do not have the names of the children attached. However, photos of groups of less than 12 children are likely to include the full name of the child in the accompanying caption. Parents need to be aware when they give consent that this is the position. It is important that they are also reminded of the benefits of publicly celebrating achievement to build esteem in the child and pride in their school.

Further advice is available from The Press Complaints Commission who publish a Code of Conduct

Images taken by third parties

Copyright of an image including those downloaded from the internet usually rests with the person who produced it.

Before using an image supplied by a third party schools should check that the third party owns the copyright of that image and you should obtain their written permission to use it.

Schools should ask a third party to guarantee to you that all relevant consents have been given and that they are entitled to provide you with the image.

Websites and Web cams

Consent gained from parents/carers for the use of photographs or film may not extend to website or web cam use, so it is important to check, when introducing such technology, the status of existing consent for pupils.

The regulations for using web cams are similar to those for CCTV (closed-circuit television). Children, their parents and other adults appearing on the web cam all need to be consulted and their consent obtained. In gaining consent, you must tell the person why the web cam is there, what you will use the images for, who might want to look at the pictures and what security measures are in place to protect access. In addition, the area in which the web cam is being used must be well signposted as people must know that the web cam is there before they enter the area.

Useful sources of information

Data Protection: A toolkit for schools, DfE, April 2018

The Information Commission website at www.ico.gov.uk

Press Complaints Commission Code of Practice at www.pcc.org.uk/cop/practice.html

Internet Watch Foundation at www.internetwatch.org.uk

Child Exploitation and Online Protection at www.ceop.gov.uk

Appendix A

XXXXXXXXXX School Use of Images Consent Form

During the School Year we take photographs and recordings of children for a range of purposes and it is a requirement of the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 that we have parental consent for this.

The school has adopted certain safeguards in order to minimise any risk to your child:

- Only appropriate images will be taken;
- When we use photographs of your child, the child's full name will not appear in the accompanying text or photo caption;
- Images will be kept securely and destroyed after the required time. Please note that historic photos will remain on our school website and social media pages;
- Any external photographer will have the validity of their organisation checked;
- Appropriate levels of supervision will be in place at all time.

All parents/carers are required to have completed a consent form, which are retained centrally. Should you wish to change the level of consent, please complete a new form and return it the school office.

Please circle your answer

I give consent for photographs including my child to be used:

In learning journeys/workbooks belonging to other children	Yes/No
In the school's prospectus/other printed materials	Yes/No
On the school's website	Yes/No
On the school's social media pages (e.g. facebook, twitter)	Yes/No
By third parties* (e.g. local newspapers, school photographers)	Yes/No
<i>*Please note that the school does not have control of how images taken by third parties are published</i>	

I give consent for recordings including my child to be used:

On the school's website	Yes/No
On the school's social media pages (e.g. facebook, twitter)	Yes/No

Name of child

Signed

Relationship to child

Date.....

Appendix B

Request for Parents Wishing to Take Their Own Photos/Films

I agree to ensure that all images I take will be for my personal use, will be kept securely and will be used appropriately.

I understand 'personal use' means that I must not share/post images including other children online.

I agree not to distract or obscure the view of others whilst taking images

Name of child

Signed

Print name

Relationship
to child

Date

Thank you for your co-operation. The safe use of images can be a source of pleasure and pride and a valuable record of the achievements of your child.