



# Guidance For Schools Using Digital Images Of Children And Young People

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This guidance was produced by Sandwell Metropolitan Borough Council.

## **Guidance for Sandwell Schools**

Digital technology has vastly increased the use and potential misuse of photographic images (printed, digital and video images) and concerns about allowing the filming of children & young people's events and publishing their pictures to web sites has highlighted the need for advice that schools should have a consistent, legal and up to date policy about the use of photographic images.

In developing such a policy for your own school we suggest that, head teachers, governing bodies and other managers should open the issue for discussion and explanation with parents and other stakeholders. It should always be possible to enable those parents / staff members with particular concerns to specify that they withhold their consent for whatever reason.

Most abused children are abused by someone they know; the risk of a child being directly targeted for abuse through being identified by a stranger is small. Providing reasonable steps are taken to ensure a photograph is appropriate and the full name and contact details are protected that photography for school and other events by staff, families and the media should be allowed. We are aware that the widespread use of mobile telephones as digital cameras would make banning difficult to impose.

Generally photographs for school and family use and those that appear in the press are a source of pleasure and pride. They usually enhance self-esteem for children and young people and their families and this should continue within safe practice guidelines.

These guidelines attempt to raise awareness of the potential dangers to children whilst offering practical, reasonable and proportional advice to schools and services.

For further guidance relating to data protection issues for schools please see the guidance issued in circular 112 of 27/4/2007.

Please contact the Local Authority Child Protection Officers for Education if you wish to discuss this advice or seek any further help.

## 1. Issues of Consent

The Data Protection Act 1998 affects our use of photography. An image of a child is personal data for the purpose of the Act and it is a requirement that consent is obtained from the parent/carer of anyone under the age of 18 years for any photographs or video recordings for purposes beyond the school's core educational function e.g. school web sites, school productions. It is also important to ascertain the views of the child/young person when considering that. The Information Commissioner has suggested that a young person from 12 years old may consent if they are deemed competent.

As it is likely that there will be a number of occasions during a child's educational journey when the school may wish to photograph or video that pupil, we recommend that consent is sought when the pupil starts at the school, to last for the duration of their stay.

There will also be times when off-site activities are taking place e.g. activity holidays or educational visits. In these circumstances it is possible that the school will want to make some visual record. It is also likely that children and young people will want to make their own visual records so it is important that organisations develop policies and guidelines re use of mobile phones with cameras and digital cameras.

For school and other events which are photographed for publicity purposes, a signed consent form should be obtained from the child's parent/guardian or the child and kept on file covering all cases where images of children are to be published beyond the parameters of school use. An example can be found in Appendix B.

Where children are 'Looked After', schools must check consent on the corporate parent's behalf with the social worker and there may be other situations, e.g. adoption placements or following a resettlement from domestic violence, where a child's security is known to be at stake. If there is any indication that a child's security may be compromised advice must be sought.

Consent gained for photographs or videos may not extend to website or webcam use. It is essential that acceptable use policies are in place and consent from the parent/carer is gained to enable children and young people to use these mediums in school.

Parents may withdraw consent to any use of digital medium at any stage; good practice indicates this should be done in writing.

## 2. Planning Photographs of Children

Images and details of pupils published together allow for the remote possibility that people outside the school could identify and then attempt to contact pupils directly. The measures described below should help to minimise the risk of such unsolicited attention.

- Where possible, use general shots of classrooms or group activities rather than close up pictures of individual children. Consider the camera angle; photographs taken over the shoulder, or from behind are less identifiable.
- Use images of children in suitable dress, and take care when photographing PE or swimming events to maintain modesty.
- Remember to include images of children from different ethnic backgrounds in your communications wherever possible, and positive images of children with disabilities to promote your 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, consider airbrushing logos.
- Consider alternatives. Is a photograph of the children necessary, or could an article be illustrated by the children's work for example.

General guidelines for staff using digital images of children and young people can be found in Appendix A 3.

## 3. Identifying children and young people

Good practice with regards to the identification of children and young people when using digital media suggests that:

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

It is suggested that:

- the minimum amount of information is used. Is it really necessary to accompany a picture with the pupils' names, the year group, or the school?
- When **fully** naming pupils in any published text, whether in the school's brochure, website, or in the local press, avoid using their photograph, unless you have parental consent to do so.

#### **4. Using photographs of children supplied by a third party**

Copyright **does not** apply to images for **private family** use.

However, copyright does exist in commercial photographs and it rests with the photographer. Copyright is a right that the photographer automatically enjoys as the creator of the work to prevent other people exploiting his or her work and to control how other people use it.

If you commission photographs for use at school make sure that you include in the contract that the school will own the copyright for items taken on your behalf.

Before using a photograph supplied by a third party you should check that the third party owns the copyright in the photograph and you should obtain their written or verbally recorded permission to use it.

If you use a photograph without the copyright owner's permission you could find that an action is taken against you for copyright infringement.

Images downloaded from the Internet are also subject to copyright. Do not use sources like Google images to find photographs use a reputable stock images website or take advice.

Third Parties will generally be under the same obligations as your school to obtain parental consent to the use and distribution of photographs. You should therefore ask the third party to guarantee to you that all relevant consents have been given and that they are entitled to provide you with the image.

#### **5. Use of Images of children by the Press**

(Please refer to the recommendations in section 3 above; 'Identifying Pupils')

There may be occasions where the press take photographs at your school of pupils. The consent form identified in Appendix B attempts to highlight the potential risks for parents so that they can make an informed decision about whether to agree to their children being featured in the press and whether their full name should accompany the photograph.

The manner in which the press use images is controlled through relevant industry codes of practice as well as the law. However, given your responsibility to parents and pupils, it is sensible to politely check that broadcasters and press photographers you may be chaperoning on your school premises are aware of the sensitivity involved in detailed captioning, one to one interviews, and close or sports photography.

#### **6. School Prospectuses and other literature**

Although most school literature is sent to a specific audience, it would be best to avoid using personal details or full names of any child in a photograph. See the advice given in sections 2, 3 and 4 of this document.

#### **7. Videos**

You must have parental consent before any child can appear in a video, Parents can make video recordings of nativity plays and other such events for their own personal and family use, as they are

not covered by the Data Protection Act (cross reference with section 10 of this document).

Potential difficulties in this area could be avoided if the school adopts the policy of taking an official video of the event and making copies available to parents.

## **8. Websites**

Web use can be of particular concern to parents and staff because of the potential misuse of images. With digital photography there is the remote possibility that images of children could be produced, manipulated and circulated without the parents or children's knowledge.

The dual concern which follows such a risk is that children might be exploited and a school or setting might be criticised or face legal action. Images on websites can be made more difficult to copy by several measures such as:

- copy-protection,
- overlaying with a watermark,
- publishing in low definition.

It is important to take care with identification and to respect parental views on the use of any photography of children on a website. Increasingly, users are generating content for websites e.g. children, young people and adults placing pictures on social networking web sites. It is therefore important that schools/organisations ensure that children, staff and parents understand the risks involved and are encouraged to adopt safe practice when generating content for school related websites.

It is essential that schools have an e-safety policy and acceptable use guidelines.

## **9. Webcams**

The regulations for using webcams are similar to those for CCTV (closed-circuit television). This means that the area in which you are using the webcam must be well signposted and people must know that the webcam is there before they enter the area, in order to consent to being viewed in this way. Children should be consulted and adults would need to consent as well as the parents of all the affected children.

In gaining consent, you must tell the person why the webcam 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.

There are both benefits & risks to the use of webcams and good practice suggests that unless a webcam is a response to a specific threat or difficulty in relation to either crime or health and safety it may pose more difficulties for the school than it would actually resolve. If you want to use a webcam, it would be prudent to undertake careful parental, staff, and legal consultation.

## **10. Parental right to take photographs**

Parents are not covered by the Data Protection Act 1998 if they are taking photographs or making a video recording for **their own private use**. The Act does not, therefore, stop parents from taking photographs or making video recordings at school events, such as nativity plays.

Parents are **not** permitted, however, to take photographs or to make a video recordings for anything **other than their own personal use** (e.g. with a view to selling videos of a school event).

Recording and/or photographing other than for private use would require the consent of the other parents whose children may be captured on film. Without this consent the Data Protection Act 1998 would be breached. The consent form included in Appendix B and guidance for parents and carers outlined in “Use your camera and video courteously” in Appendix C reminds parents of this fact.

When hosting an event where parents are permitted to take photographs or DVD footage, make it clear from the start that any images taken must be for private use only and ask for them not to be put on the web otherwise Data Protection legislation may be contravened. You might want to consider putting this in writing to parents/carers prior to the event (see Appendix C for example) and/or make an announcement at the start of the event.

Data Protection considerations aside, it is possible to consider banning all filming / recording / photography of school productions, sports days etc. if you feel that this is appropriate. Many parents would consider it to be over-cautious to impose such a ban and due consideration must be given on this course of action. Should you wish to impose any such ban we would advise you to take legal advice in order to ensure that the correct steps are taken, whilst acknowledging that such a ban would be difficult to enforce.

The important thing is to be sure that people with no connection with your school do not have any opportunity to film covertly. Ask your staff to quiz anyone they do not recognise who is using a camera or video recorder at events and productions and include this instruction in your consent form or any event tickets.

### **11. The storage of photographs**

Photographs must be maintained securely for authorised school use only and disposed of either by return to the child, parents, or shredding as appropriate in line with record retention schedules.

Storage should include reference to the permissions obtained and their currency and staff should be aware that images should not be removed from institutional computers and taken home.

If permission is withdrawn for a photograph it must be edited from the storage immediately.

### **12. Official School Photographs**

Schools will periodically invite an official photographer into school to take portraits/photographs of individual children and/or class groups. It is essential that when considering such an activity, schools undertake their own risk assessment in terms of the validity of the photographer/agency involved and establish what checks/vetting has been undertaken ( e.g. CRB ). 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.

### **13. Images taken by young people**

Schools will have their own policies on use of mobile phones, camera phones and digital cameras by children and young people. Where such equipment is allowed it is important that schools have policies and codes of conduct for safe usage and advice on inappropriate usage and possible consequences of misuse.

Areas of increased concern would involve residential trips and usage in bedrooms, swimming. Children and young people may need to be made aware that taking and distributing inappropriate photographs may be a criminal offence.

#### **14. Useful sources of information**

DfE Guidance for schools on the use of photographs and video images of children for publicity purposes:

<http://www.education.gov.uk/schools/pupilsupport/pastoralcare/childprotection/policy/a0010833/child-protection-guidance-for-schools-on-the-use-of-photographs-and-video-images-of-children-for-publicity-purposes>

DfE Guidance for schools on photographic images and the press:

<http://www.education.gov.uk/schools/pupilsupport/pastoralcare/childprotection/policy/guidance/a0010835/child-protection-guidance-for-schools-on-photographic-images-and-the-press>

Child Exploitation and On--line Protection centre [www.ceop.gov.uk](http://www.ceop.gov.uk)

Think you know --[www.thinkyouknow.co.uk/](http://www.thinkyouknow.co.uk/)

The Information Commission website at [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk)

Press Complaints Commission Code of Practice at [www.pcc.org.uk](http://www.pcc.org.uk)

This guidance is produced with thanks to Kent County Council for the original document.

***Guidance for Staff Using Digital Images of Children and Young People***

It is a requirement that, when using a photograph or photographic equipment, the following guidelines must be followed:

- Ensure that you have the appropriate consent when planning to use digital images of children and young people as detailed in the school's "Use of photographic Images" policy.
- Ensure that a member of the senior management team is aware that you will be using the school's photographic/video equipment is being used and for what purpose. Make sure that you sign the equipment in and out to account for the use of equipment.
- Staff must not use their personal photographic/video equipment, nor take images of children and young people using personal mobile telephones under any circumstances
- Staff should remain sensitive to any children who appear uncomfortable and should recognise the potential for misinterpretation. Avoid taking images in one-to-one situations. Do not use images that are likely to cause distress, upset or embarrassment
- A member of staff should establish whether the image(s) will be retained for further use. Images should be securely stored on a school computer or data card and used only by those authorised to do so.
- Staff should ensure that all images are available for scrutiny and be able to justify images of children in their possession.
- Staff should report any concerns relating to any inappropriate or intrusive photography to a member of the senior management team.
- If any resulting digital image is used, avoid naming the pupil.
- If the pupil is named, avoid using a digital image.
- Ensure all children are appropriately dressed.
- Avoid images that show a single child with no surrounding context of what they are learning or doing. A group of three or four children is more likely to show the activity to better effect. Use photographs that represent the diversity of the young people participating.
- Be clear about the purpose of the activity and about what will happen to the photographs when the lesson/activity is concluded.
- It is not appropriate to take photographs of a pupil's injuries, whether they are accidental or non-accidental, as it may cause distress and humiliation. If appropriate, seek medical help and in the case of a suspected non-accidental injury contact the Designated Senior Person for Child Protection immediately.

**Appendix B**  
**Consent form for the use of images of children**

To:

Name of child:

School:

Occasionally, we may take photographs of the children. We may use these images in our publicity or the schools/setting prospectus or in other printed publications as well as on our website. We may also make video or webcam recordings for school-to-school conferences, monitoring or other educational use.

From time to time, our establishment/school may be visited by the media who will take photographs or film footage of a visiting dignitary or other high profile event. Pupils will often appear in these images, which may appear in local or national newspapers, websites or on televised news programmes.

To comply with the Data Protection Act 1998, we need your permission before we can photograph or make any recordings of your child. Please answer questions 1 to 5 below, then sign and date the form where shown.

If your child is old enough to express their own view, you may want to consult with them about the categories of consent, and we invite you to use this letter to explore their feelings about being photographed at school.

**PLEASE RETURN THE COMPLETED FORM TO THE SCHOOL AS SOON AS POSSIBLE.**

*Please circle your answer*

|  |        |
|--|--------|
| 1. May we use your child's photograph (unidentified) in the school prospectus and other printed publications that we produce for promotional purposes? | Yes/No |
| 2. May we use your child's image (unidentified) on our website?  | Yes/No |
| 3. May we record your child's image (unidentified) on video or webcam?   | Yes/No |
| 4. Do you consent to your child being photographed or filmed in press events agreed by the school?   | Yes/No |
| 5. Do you consent to your child's full name being published with a press photograph?   | Yes/No |

**\*\*\*Please see notes at end of document \*\*\***

Please note that websites can be viewed throughout the world and not just in the United Kingdom where UK law applies. "Unidentified" above means we will only use the first name. Please also note that the conditions for use of these photographs are on the back of this form.

I have read and understood the conditions of use on the back of this form.

Parent's or guardian's signature:

Date:

Name (in block capitals):

## Conditions of school use

1. This form is valid for five years from the date you sign it, or for the period of time your child attends this school or setting. The consent will automatically expire after this time. It is your responsibility to let us know if you want to withdraw or change your agreement in writing at any time.
2. We, the school, setting or service, will not use the personal details or full names (which means first name and surname) of any child in a photographic image on video, on our website, in our school prospectus or in any of our other printed publications.
3. We will not include personal e--mail or postal addresses, or telephone or fax numbers on video, on our website, in our school prospectus or in other printed publications.
4. If we use photographs of individual pupils, we will not use the name of that child in the accompanying text or photo caption, unless we have your agreement.
5. If we name a pupil in the text, we will not use a photograph of that child to accompany the article.
6. We may include pictures of pupils and teachers that have been drawn by the pupils.
7. We may use group or class photographs or footage with very general labels, such as "a science lesson" or "making Christmas decorations".
8. We will only use images of pupils who are suitably dressed, to reduce the risk of such images being used inappropriately.
9. **As the child's parents/guardian, we agree that if we take photographs or video recordings of our child/ren which include other pupils, we will use these for personal and family use only.** I/we understand that where consent has not been obtained from the other parents for any other use, we would be in breach of the Data Protection Act 1998 if we used our recordings for any wider purpose.

**'Use your camera and video courteously'**

**A guide for parents who wish to use photography and/or video a school event**

Generally photographs and videos for school and family use are a source of innocent pleasure and pride, which can make children, young people and their families feel good about themselves. By following some simple guidelines we can proceed safely and with regard to the law.

- ❖ Remember that parents/carers and others, attend school events at the invitation of the head and governors
- ❖ The head and governors have the responsibility to decide if photography and videoing of school performances is permitted
- ❖ The head and governors have the responsibility to decide the conditions that will apply so that children are kept safe and that the performance is not disrupted and children and staff not distracted.
- ❖ Parents and carers can use photographs and videos taken at a school event for their own personal use only. Such photos and videos must not be sold and must not be put on the web/internet. To do so would break Data Protection legislation.
- ❖ Recording or/photographing other than for your own private use would require the consent of all the other parents whose children may be included in the images.
- ❖ Parents and carers must follow guidance from staff as to when photography and videoing is permitted and where to stand in order to minimise disruption to the activity.
- ❖ Parents and carers must not photograph or video children changing for performances or events
- ❖ If you are accompanied or represented by people that school staff do not recognise they may need to check who they are, particularly if they are using a camera or video recorder. v. Remember that for images taken on mobiles phones the same rules apply as for other photography, you should recognise that any pictures taken are for personal use only.