

Using images of people: Photographs, Videos and Webcams

School policy on taking photographs

Schools may wish to create their own policy on taking photographs and videos at school events. It will be for individual schools to decide not to allow any photographs at such events. Alternatively, schools might want to create a disclaimer form to use if parents want to take photographs or video an event. The disclaimer should be signed by the parent of the child in the image and **not** by the parent taking the photograph or video.

Getting consent

It is important to get parental consent when a child starts at your school. Once the consent form has been signed, you should keep it on file. You will also need to get consent from the teachers, if you wish to use their images too.

The consent form must make it clear that you could use the photographs on your school website, as well as in printed publications for promotional purposes. For example, you could ask:

- may we use your child's photograph in the school prospectus and other printed publications that we produce for promotional purposes?
- may we use your child's photograph on our school website?

It is important that you make it clear that websites can be seen throughout the world and not just in the United Kingdom, where UK law applies.

If you meet a condition under Schedule 2 or 3 of the Data Protection Act 1998, you may not need to obtain consent. If you are in any doubt, please contact your data protection co-ordinator.

There is one sample consent form for schools included with this guide; it covers the whole period that a child attends that school. You will find the conditions of use for the photographs on the back of the consent form.

This form is intended as a template and can be adapted for your own purposes.

How long does consent last?

You **must** get consent from the parent, guardian or carer of a child or young person up to the age of 18 (this is called 'parental consent'). INTO recommends that you get parental consent **before** taking any photographs or recording any videos. INTO suggest you send a consent form to parents with the school registration pack, to cover the period that their children will spend at the school.

Although this usually means that you won't have to renew parental consent until a child changes schools or starts at sixth form, you will have to be careful to record any changed circumstances. This will be easier if you keep photographs and signed consent forms together.

In exceptional circumstances you may need to make a decision based on the individual case. For example, if a young person has left home but is under 18 years of age, it might be difficult to obtain parental consent.

Don't forget that you also need consent from teachers and any other adults who may appear in the photograph or video, not just the children.

You should not re-use photographs after a child (or teacher) appearing in them leaves the school, so we recommend you destroy them immediately.

Can I use existing photographs?

You may have photographs on file. If you are re-using older photographs where you got consent but probably only for paper publications INTO recommend that you renew parental consent to use the images on your website.

If you never got consent, ie you had the photos before the Act came into force, you must apply common sense when using them. For example, never use a picture of an untraceable person on a leaflet about a mental problem or an illness. To help you make a balanced decision when re-using photographs, it may be helpful to consider the following:

- for what purpose was the photograph originally taken, eg was it taken for a specific project such as your school prospectus?
- where was the photograph taken, eg was it taken in a public place such as on a school trip to a museum?
- when was it taken, e.g. was it taken recently or a long time ago?

Once again, avoid using photographs of children after they have left the school.

If a parent or pupil supplies your school with a photograph, don't automatically assume that they are giving their consent to subsequent publishing. Make sure you get a signed consent form **before** publishing in any school literature or on the web.

OTHER CONCERNS

Is there a dispute over consent?

If two parents disagree over consent for their child to appear in photographs or in video recordings, then you have to treat it as if consent has not been given. Likewise, if the parents give their consent but the child does not, then it is safer to assume that consent has not been given.

Will my event be attended by the press?

Occasionally, members of the press may take photographs or film footage at your school. For example, a school was visited by local politicians or celebrities and the local press took photographs of the mayor surrounded by pupils. Although the press are exempt from the Data Protection Act, some parents may object to their children appearing in the media. Therefore, INTO have included this option on the consent form for schools. If you have invited the press to the school premises, you are responsible for making sure parents and staff know why images are being taken, where and how they will be published, and for obtaining any required consent.

Remember that when a press image has been captured the data controller for that image is the media organisation concerned and **not the school**. Therefore parents will need to make any objections to that organisation and **not to the school**.

What equalities issues should I consider?

Remember to include images of children from different ethnic communities in your communications whenever possible, and to use positive images of disabled children. This will ensure that your photographs are inclusive of the whole community and comply with relevant equality legislation.

Are the 'models' wearing appropriate dress?

Exercise caution at all times to ensure that only images of pupils in suitable dress are taken, to reduce the risk of the images being used inappropriately. For example, avoid using full-length photographs of children in swimming costumes; instead taking the shot from the shoulders up. The Institute of Sport and Recreation Management (ISRM) issued stringent guidelines on photographing sports events in January 2003. Further details can be found on the [ISRM website](http://www.isrm.co.uk/news/photos.htm) at www.isrm.co.uk/news/photos.htm.

What about copyright?

You will also need to be aware of copyright implications with any photographs that you may use from elsewhere.

Will the photo shoot exclude anyone?

Remember that children like to fit in and may feel excluded by being left out of photographs and videos of events. Keep this in mind when organising photo shoots involving groups of children.

Will the images be transferred electronically or sent in the post?

There is a risk that photographs may fall into the wrong hands if transferred electronically, eg sending photographs of a nativity play or sports day to the press. Also, it is possible for mail to be intercepted while being transferred or for photographs sent in the post to be intercepted. Therefore, you must obtain explicit consent, which means getting a signature.

Can the images be amended?

It is important not to manipulate or amend images, for example, using a 'cut and paste' facility to add one person's head to another's body. However, it is perfectly acceptable to crop an image to fit a specific area of a design.

How will the images be stored?

Photographs can be stored electronically but should be in a secure area.

Websites

Due to negative press on photographs of children on websites in the past, INTO recommend that those involved in the management of school websites avoid using:

- personal details or full names (first name and surname) of any child or adult in a photograph, although first names can be used in some circumstances.
- personal e-mail or postal addresses, and telephone or fax numbers.

If you use a photograph of an individual pupil, don't include that child's first name in the accompanying text or photo caption. If a pupil is named in the text, don't include a photograph of that child. This will avoid the risk of inappropriate and unwelcome attention from people outside the school.

As an alternative, you could ask pupils to draw a picture of a pupil or member of staff for your website. Additionally, you can use group or class photographs with very general labels such as "a science lesson" or "making Christmas decorations". Remember that you must get **explicit consent**, which means getting a signature, before publishing a photograph on the internet.

School prospectuses and other literature

Although most school literature is sent to a very specific audience, it would be best to avoid using personal details or full names of any child in a photograph. Also avoid naming a child in the text or accompanying photo caption if they appear in a photograph - and vice versa. You could use your prospectus to explain to parents how photographs, webcams, camcorders and mobile phones are used in your school. Be positive about how this will help children's development and course work.

Videos

Before any children or young people up to the age of 18 can appear in your video, you must get parental consent. You can do this in the same way as for photographs of children, using the relevant parental consent form. Similarly, you must get the permission of anyone in your video who is not part of a crowd and is easily recognisable.

Some schools now use video conferencing as a teaching aid. You could use your school prospectus to explain to parents how it is used and why, and point out that the images may be recorded by the recipient for

educational purposes. You should make it clear that video conferencing involves sending images over the web and that you need parents' explicit consent to do this. If some children in a class don't have consent, you may be able to alter the camera angle so that these children cannot be identified.

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 that area. In effect, this means you are getting their consent. As with photographs, you must tell the person:

- why the webcam is there; what you will use the images for, and who might want to look at the pictures.

School events

Nativity plays and other school events - Teachers are often asked whether parents can make video recordings of nativity plays and similar school events. Parents are not required to comply with the Data Protection Act when taking photographs of **their** children, for their own private use, at an organised event. As far as the Data Protection Act is concerned, INTO's advice is that schools need not seek permission for parents to video or photograph school events. As long as the parents have been invited to the event and the subsequent pictures are intended for family or private use, there is no breach of the Act.

The parents are there at the invitation of the school and it is up to the school to decide if they wish to allow videos or photographs to be taken by parents during the event. Parents must be asked to give consent for schools to process images for their own promotional use, eg publicising an event, sending photos to the press, putting photos on the web, transmitting photos over the web to the press, and use in school newspapers.

When hosting an event where parents are permitted to take photographs or videos, 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 provide written guidance to parents beforehand and/or make an announcement at the start of the event.

Events hosted by a third party - Where an event is hosted by a third party, eg a district council it is up to the host (the council) to decide if they wish to allow parents to take videos or photographs at the event. The organisers or groups attending from individual schools should inform parents that other parents might take private videos and photographs. The organisers should also explain to parents how any images taken by the organisers are to be processed and the purposes they will be used for, and get any necessary consent. The press are exempt from the Data Protection Act, but they have to consider parental wishes if you allow them to take photographs from which a child can be identified.

Leisure centres - The Institute of Sport and Recreation Management (ISRM) issued guidelines in January 2003 for photography at leisure centres. This may mean the photography is banned at events such as swimming galas. Alternatively, photography may be permitted, but only if the leisure centre has granted permission.

If you are overseeing an event such as a swimming gala, you may have to ask a parent to stop taking photographs. For future reference, it would be useful to record this fact. You are within your rights to ask a parent to leave the school premises if they continue to take photographs against the school's wishes.

Images taken on behalf of a school - If any people or organisations registered under the Data Protection Act 1998 as a 'data controller' want to take pictures, then they have to get permission - this includes school staff or Parent Teacher Associations if they are photographing on behalf of the school or taking 'official' videos. Ensure that all contracts drawn up with photographic agencies and similar organisations include a data protection contract statement. You may want to record that a person or organisation has been asked to take images on behalf of the school so that an audit trail can be followed at a later date.

INTO members who require further support and information should contact their Northern Committee or CEC representative or the Northern office on 028 9038 1455.

March 2005