

North Yorkshire County Council
Education Service

Guidance On The Taking And Use Of Photographs Of Pupils

(This guidance and model consent forms supersedes all that previously issued)

INTRODUCTION

The taking and use of photos is usually a very positive experience for those involved and therefore not something that should generally be discouraged. For example parents are normally more than happy for photos of their children to appear in the press as they are usually associated with a particular achievement.

However, in a minority of cases, a parent may have genuine reasons for not wanting their child to appear in a photo e.g. having moved away from another area in order to escape a violent situation. Then there are those who are concerned about the potential manipulation of images by electronic means by third parties for unlawful purposes.

Given these conflicting situations it is necessary to strike a balance between not depriving the majority of enjoyment while protecting the valid concerns of a minority. In most instances this can be achieved by schools working with parents. When a pupil is first enrolled at a school parents should be told what the school's policy is with regard to the taking of photos, and then given the opportunity to indicate whether they are happy for their child to participate in events where such is to be allowed. It is also helpful if schools, when sending out information to parents about forthcoming events, give a reminder as to whether the taking of photos is to be allowed and whether the press are likely to be in attendance, and suggest to any parent that has a concern about this to contact the headteacher. The emphasis should be on the school wanting to be inclusive but if parents wish to withdraw their child that is their decision not the school's.

Therefore the overall position should be that schools start from the point that in most situations the taking of photos is not a problem and that all pupils are to be included unless parents have specifically opted them out, provided ample opportunity has been given to them to do so.

LEGISLATIVE CONTEXT

A lot of the concern that surrounds the taking and use of photographs stems from a misunderstanding of when the provisions of the Data Protection Act 1998 apply. As a result of possible confusion the Information Commissioner has advised that:

- Photos taken for official school use may be covered by the Act and pupils and students should be advised why they are being taken.
- Photos taken purely for personal use are exempt from the Act
- Photos taken by the media are usually exempt from the Act.

A full copy of the Information Commissioner's guidance is attached as Appendix 'C'. However, to be clear, the guidance does not say that schools cannot ban the taking of photos and videos in circumstances where they feel it is justified, just that they cannot use the Data Protection Act as a reason for doing so.

CHILD PROTECTION CONTEXT

In certain instances identifying a child in publications or on web-sites can place that child at risk. Also, more generally, photographs can be misused or manipulated for use on the internet for illegal purposes including child pornography or grooming. It is therefore important

that schools take practical steps to try to ensure that photographs of children are taken and used in a way that reflects the protective ethos of the school. In particular it is important that schools take care over the secure storage of digital images. Further points:-

- Use only photographs of children in suitable dress, in particular care needs to be taken with images of children at events such as swimming, sports etc;
- If it is known that a child is the subject of a Court Order then it is prudent to seek specific consent from the parent/carer of the child. Where it is known that as a result of a court order the carer of the child may have changed, consent from the new carer should be sought. Where a child is the subject of a child protection/care order, the consent of the County Council as carer should be sought"

OBTAINING CONSENT

When a pupil starts school it is advisable that written consent is obtained for the taking and use of photographs. This should also include the use of images on websites.

Parents/carers/relevant pupils (those aged 16 and over) should be given a form on which they can consent or refuse to give consent to their child(ren) or themselves being photographed. The consent should cover all the time that the pupil is at the school unless the circumstances of the pupil change e.g. where the school receives notification of a change in carer – and then a new consent or refusal must be obtained, or the parent/carer/pupil withdraws the consent

Example forms for use by parents/carers and students aged 16 years or over are attached at Appendices 'A' and 'B'.

It will be helpful if the school's arrangements are published in the school prospectus.

Where consent has been specifically refused pupils must not be included in photographs etc. but it may be worthwhile discussing the loss of opportunity to participate in events with parents/carers/pupils.

PHOTOGRAPHERS AND NEWSPAPER STAFF

The following points should be borne in mind when using photographers or when the Press is invited to publicise the success of the school.

- Use only reputable photographers;
- As far as possible check identities and, in the case of public events, request that identification is worn that is readily visible;
- Advise parents and children of the arrangements for the photographer/ Press to be in attendance;
- Never allow unsupervised access to children;
- Do not provide the photographer/Press with any personal contact details about the child(ren);
- Ensure that the Press adhere to the Press Complaints Commission Code of Practice as follows:
"Journalist must not interview or photograph a child under the age of 16 on subjects involving the welfare of the child in the absence of or without the consent of a parent or other adult who is responsible for the children. Pupils must not be approached or photographed while at school without the permission of the school authorities".

TELEVISION PROGRAMME CODE

The Office of Communications (OfCom) programme code states that programme makers must have due regard to children's welfare at all times and that interviewing of children requires that the consent of a parent or guardian as well as the child be sought beforehand, with exceptions only for the least sensitive interview topics. Schools or parents should contact OfCom if they have any concerns about the use of filmed images by TV companies.

EVENTS

To ensure that the event is an enjoyable experience for all:

- Always advise everyone that photography will be allowed at the event – this will enable those who do not wish their child(ren) or themselves to be photographed to withdraw from the event;
- If practical, consider allocating an area for photography – this has the advantage of making the photography less intrusive to others and it also allows closer control.

WEBSITES

Because of the possible misuse of photographs on websites consider any special measures that might be taken. Also, take care that pupils cannot be identified from the file name. In areas where web cams are in operation display signs in prominent positions advising of this.

CURRICULUM USE

Digital cameras and camcorders are considered valuable teaching tools and are used regularly in lessons and to record school activities. Resulting photographs are often displayed around the school. Clearly the school has more control over the use of these images than those taken at public events. Nevertheless, due regard needs to be paid to the wishes of parents/carers/pupils as expressed when obtaining consent.

CAMERA PHONES

The use of mobile phones with integrated cameras is an area of some concern as it poses a number of potential risks:

- The devices are small ;
- They can be used unobtrusively in places where photography is undesirable e.g. changing rooms;
- The images can be downloaded to the Web, manipulated and misused;
- Photographs taken without the knowledge and/or consent of an individual can be used to bully and intimidate.

It is therefore important that schools consider the merits of putting in place a ban on the use of such devices on school premises. It is recognised that enforcement may be difficult but this should not stop at least discussion with staff, pupils and governors with a view to having a school policy. Technology to block the camera facility on phones may provide the solution in the future but until it is available then probably the most pragmatic approach is to prohibit the use of mobile phones on school premises and to advertise this fact in prominent positions around the school.

Note: Throughout this guidance the reference to photography includes video, film and any other similar means of reproducing images.