

Wiltshire County Council guidelines on use of photography

Introduction

The Data Protection Act sets out the rights and responsibilities in respect of keeping personal data on individuals. The principles of the Act are set out in Appendix 1 but in summary everyone has the right to know that information is held on them and the reason for holding that data. They also have the right to refuse permission for that data to be published. The term 'data' includes photographic images.

Two areas are exempt from the act. They are:

- ◆ **Journalism, literature and art** - Publication by any person of any journalistic, literary or artistic material is exempt from the act. So the Act allows newspapers and broadcasters to publish photographs to publicise activities.
- ◆ **Research, history and statistics** - "research purposes" includes statistical or historical purposes. Personal data processed only for research purposes may be kept indefinitely.

General

The term 'images' encompasses photographs - both digital and film - and video.

If you produce a publication, exhibition board, web site or video for distribution and feature an image of a recognisable individual, you need the permission of the individual in the picture. The Act states you must take reasonable steps to get their permission. To get the permission of everyone in a large crowd would be unreasonable – this really applies to featured individuals. The easiest way to do this is to get the necessary permissions before the photograph is taken. We have included sample permission forms in this document.

It is important that those being asked for their consent understand what you intend to use the images for once they are taken. It must be made clear if the picture will be used to illustrate a general theme and so may appear in a variety of different publications or if it is just to illustrate a specific event or pastime.

Consent is not just necessary for images of children, or other members of the public. It should also be used for corporate images – e.g. if a picture is to be taken of a business or a factory. Again, the image may be used out of context and so it is necessary to approach the organisation for consent **before** using the resulting images, in case there are limitations on their use. A corporate consent form has been included in the appendix.

When taking pictures of children you need the permission of their parent or guardian. The only exceptions allowed are under the 1989 Children Act which allows for the Local Authority to give consent for those children who are under care orders or where there is shared parental responsibility with other people, providing consultation has taken place with all those who have shared parental responsibility .

Schools

If schools do not seek the necessary permission from parents for pictures they may take then they leave yourselves vulnerable to prosecution under the Data Protection Act should the publication of any image by the school cause distress or offence. The responsibility under the Act for seeking permissions and keeping accurate records lies with the school.

When getting consent from parents to take photographs of their children, the best way to do this is by writing, so that it is possible to lay out in clear terms what is being asked of the parents/carers and what will happen with the resulting images.

These guidelines **only** relate to images taken by or commissioned **by the school themselves for publication**. The school is **not** liable for images taken by parents or others at school events, as it is those who own and publish the images that are subject to the Act.

For establishments who need to take regular photographs of individuals such as schools we have produced a consent form (Appendix 2) that can be issued when a child starts school to cover all possible eventualities whilst the child is at the school. We have also devised a consent form (Appendix 3) for 'one off' permissions for individual activities not covered by the general consent form. It is made clear to parents that if circumstances change and they no longer wish their child to be featured in photographs they need to inform the school.

Child protection

This is a separate consideration and does not come under the Data Protection Act. When taking pictures of children for publication, it is important schools make sure the resulting images cannot be construed as being provocative in any way and they should ensure that the subjects are suitably dressed.

Many parents and schools are concerned at the potential for the misuse of photographs of children particularly when accompanied by the child's full name. The attached consent forms seek permission for use of images and names by the school and separate permission for the school to allow images and names of their child/children to be given to the media, including class photos at the start of their school life. If a parent does not consent to the full name being used then first names only are to be used by the school.

Schools and parents do need to understand that some newspapers will not use any photograph of a child that is only accompanied by a first name. The media are not subject to the Data protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child. We advise you try and work with your local media to balance positive promotion of school activities with the need to protect children. If parents do not sign the consent form their child cannot be included in any promotion of school activities, including through the media.

Please note that these guidelines should not be taken as legal advice to schools and should the school require legal advice on any of the matters dealt with in these guidelines you are strongly advised to seek independent legal advice.

Environmental Services

Digital photographs are not admissible as evidence in court. If you are taking photographs that may be required in a court of law e.g. Trading Standards cases, prosecutions under the New Roads and Street Works Act or Development Control cases all photography must be on 35mm film.

Social care

Only model posed agency photographs may be used to illustrate anything which may be viewed as negative in tone or that may cause offence, embarrassment or distress. This applies to both adults and children: for example, drug/alcohol abuse, child abuse, domestic violence, criminal activity or 'looked after' children.

Use of all agency photographs must carry the appropriate credit of the agency and make sure it is clear the images are 'model posed'. Please contact Sian Penlington in Communications or Angela Stansby in Adult and Community Services for access to and advice on model posed photography

Only model posed photography may be used to illustrate social care issues relating to adult care, children and families services and other sensitive issues outlined above.

Adults with learning difficulties may not be in a position to give their consent to the use of their image. In these cases, it is down to the judgement of the individual. The adult's carer could be approached to give consent but it may be more appropriate to use model posed images.

Storing images

All images, whether taken digitally or in hard copy must be sent to your service communications officer to ensure appropriate and consistent use of the image. In the case of corporate images these should be forwarded to the Communications unit.

All images, whether held digitally or in hard copy, must be accompanied by;

- a copy of the consent form
- a log of who or what the photograph is of
- where and when it was taken
- the appropriate caption
- name and contact details of the photographer if the work was commissioned

Appendices

DATA PROTECTION PRINCIPLES

Personal data shall:

- 1. Be processed fairly and lawfully**
- 2. Be obtained only for one or more specified and lawful purposes**
- 3. Be adequate, relevant and not excessive in relation to the purpose for which they are processed.**
- 4. Be accurate and, where necessary, kept up to date.**
- 5. Be kept for no longer than is necessary for that purpose.**
- 6. Be processed in accordance with the rights of data subjects under this Act.**
- 7. Be held with the appropriate technical and organisational measures in place against unauthorised or unlawful processing, accidental loss or destruction of, or damage to, personal data.**
- 8. Not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.**

SCHOOL GENERAL CONSENT FORM

Dear Parent/Guardian,

During the school year the school would wish to use for the purposes of publicizing or promoting school activities, photographs or images and names of your child/children taking part in school activities including school sports days, classes (including PE classes or cross country runs) school fetes or fairs, musical events, theatrical events such as school plays and other activities (for example nature trails) and class photos. Group photographs taken may also be stored in the school archives.

Before any photographs or images can be published, the consent of the parent or guardian must be obtained. By signing this form you are giving your consent to the school to use images or photographs taken by the school or an authorized agent of the school, which will be used to promote or publicize school activities or stored in the school archives. These images or photographs may or may not be used by the local or national media. The school cannot prohibit the media taking pictures of any child involved in school activities and

You may withdraw your consent at any time and your consent must be withdrawn in writing to the school. Please note that certain images of your child or children (for example group photographs taken some time ago, photographs retained for school archives) cannot always be deleted. All photographs and images will only be retained for the period of time that your child remains at the school (except for school photographs to be retained in school archives or group photographs).

The school is **only responsible for photographs taken by the school or an authorized agent of the school** and cannot be responsible for photographs taken by other third parties (such as parents). The media are not subject to the Data protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child.

Please confirm your consent by putting your initials in the appropriate boxes and signing and returning this form to the school by (insert date)

If you do not sign this consent form your child cannot be included in any promotion of school activities, including being issued to the media.

I CONSENT to the school taking and publishing photographs and/or images of my child/children for the purpose of promoting or publicizing school activities and events during my child/children's time at the school and for those photographs to be issued for use by the media.

Initial here ...

I CONSENT to the school using the first name and surname of my child/children in group photographs or photographs promoting school activities, including through the media.

Initial here ...

I CONSENT to the school using photographs or images of my child/children on the school website and I understand that these images will available on the World Wide Web.

Initial here ...

I UNDERSTAND I CAN WITHDRAW MY CONSENT AT ANY TIME IN WRITING.

Parent/Guardian signature...

Date...

SCHOOL CONSENT FORM FOR A PARTICULAR ACTIVITY

Dear Parent/Guardian,

To promote the school we wish to use photographs or images and names of your child/children taking part in (insert name of specific activity)

Before any photographs or images can be published, the consent of the parent or guardian must be obtained. By signing this form you are giving your consent to the school to use images or photographs taken by the school or an authorized agent of the school, which will be used to promote or publicize school activities or stored in the school archives. These images or photographs may or may not be used by the local or national media.

All photographs and images will only be retained for the period of time that your child remains at the school. The school is **only responsible for photographs taken by the school or an authorized agent of the school** and cannot be responsible for photographs taken by other third parties (such as parents). The media are not subject to the Data Protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child.

Please confirm your consent by putting your initials in the appropriate boxes and signing and returning this form to the school by (insert date)

If you do not sign this consent form your child cannot be included in any promotion of this activity, including being issued to the media.

I CONSENT to the school taking and publishing photographs and/or images of my child/children for the purpose of promoting or publicizing this activity and for those photographs to be issued for use by the media.

Initial here ...

I CONSENT to the school using the first name and surname of my child/children in group photographs or photographs promoting this activity, including through the media.

Initial here ...

I CONSENT to the school using photographs or images of my child/children on the school website and I understand that these images will be available on the World Wide Web.

Initial here ...

Parent/Guardian signature ...

Date ...



COUNTY COUNCIL CONSENT FORM FOR INDIVIDUALS

Dear,

To promote the work of the county council we wish to use photographs or images of people using or benefiting from our services or taking part in activities arranged by the council. Before any photographs or images can be published by us, your consent must be obtained. By signing this form you are giving your consent for the council to use images or photographs to promote or publicize activities and for those images to be stored by the council for two years. You are also agreeing that we can pass these images or photographs to the local or national media to publicise this service or event. This image will only be used to promote the work of this service or publicise this particular activity.

The image will only be used for the following purposes:

- Electronic and printed information, displays and exhibitions relating to the activity shown in the picture, passed to the local or national media to promote this activity.
- Any similar campaign or related area

This image will **NOT** be used for anything which may be viewed as negative in tone or that may cause offence, embarrassment or distress

Please confirm your consent by putting your initials in the appropriate boxes and signing and returning this form to the address below by (insert date)

I CONSENT to the council taking and publishing photographs and/or images of me for the purpose of promoting or publicizing this activity.

Initial here ...

I CONSENT to the photographs or images of being placed on the Wiltshire County Council website and I understand that these images will available on the World Wide Web.

Initial here ...

Print your name

Your signature ...

Today's date ...

Please return to: Communications Unit, County Hall, Trowbridge, BA14 8JN



COUNTY COUNCIL CONSENT FORM FOR CORPORATE BODY/COMPANY/ORGANISATION

Dear,

To promote the work of the county council we wish to use photographs or images and names of companies or other bodies we work with. Before any photographs or images can be published by us, your consent must be obtained. By signing this form you are giving your consent for the council to use images or photographs of your organisation to promote or publicize activities and for those images to be stored by the council for two years.

The image will only be used for the following purposes:

- Electronic and printed information, displays and exhibitions relating to the activity shown in the picture
- Any similar campaign or related area

This image will **NOT** be used for anything which may be viewed as negative in tone or that may cause offence, embarrassment or distress, e.g. anything that may bring the organisation into disrepute.

Please confirm your consent by putting your initials in the appropriate boxes and signing and returning this form to the address below by (insert date)

I CONSENT to the council taking and publishing photographs and/or images of this organisation/company for the purpose of promoting or publicizing this activity and for those photographs to be issued for use by the media.

Initial here ...

I CONSENT to the company name being used in promoting this activity, including through the media.

Initial here ...

I CONSENT to the photographs or images of the organisation/company being placed on the Wiltshire County Council website and I understand that these images will available on the World Wide Web.

Initial here ...

Print your name...

Your signature ...

Today's date ...

Please return to: Communications Unit, County Hall, Trowbridge, BA14 8JN