

PHOTOGRAPHIC IMAGES OF CHILDREN GUIDELINES



ACKNOWLEDGEMENT

This guidance document builds upon the work undertaken by
Warwickshire County Council

DOCUMENT CONTROL

This document was first published on the 1st of May 2008 following an extensive consultation process. It was reviewed and updated in August 2010.

In this review a number of updates were introduced. These include:

- Updates to WSCC contacts,
- Additional guidance relating to staff creating images,
- Additional guidance relating to the official use of social networking sites,
- Alterations to section numbers with the Schools AUP referred to in this document.

This document will be reviewed again in August 2011. Any comments should be directed to Simon Gawn at simon.gawn@westsussex.gov.uk

An electronic copy of this document is available from the West Sussex Grid for Learning within the section on the policy on Acceptable Use (AUP – link at back of document

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1 INTRODUCTION

1.1 INTRODUCTION

- 1.1.1 This document provides guidance on the appropriate use of images of children in education.
- 1.1.2 For the purposes of the guidance the term 'school' is used however this could mean other settings where children receive education such as schools, youth and community centres, pupil reintegration units, further education colleges, etc.
- 1.1.3 It covers still, video and electronic photographic images wherever they are used. The guidance is for staff in both schools and other areas of West Sussex County Council (WSCC) who wish to use images of children and young people in education.
- 1.1.4 Schools need to make full and proper use of photographic images while complying with the law and preserving the safety of children.
- 1.1.5 Concerns focus on issues around rights of privacy, child protection and copyright ownership. These guidelines address these issues and give advice on good practice.

1.2 OTHER INFORMATION

- 1.2.1 Further information is available within the WSCC Acceptable Use Policy (WS - AUP) a link is provided in the further information section of this document).

1.3 TYPICAL USES OF PHOTOGRAPHS

- 1.3.1 Photography can enhance pupil's learning, typical examples with educational schools include:
 - For GCSE examination submissions e.g. videos of swimming, trampolining, athletics events.
 - Key skills for PE.
 - Video Based Learning Project in PE (using software such as the DartTrainer/Dartfish), this secondary school software allows for recording and subsequent manipulation of video images of children in physical education and sporting activities.
 - Performing arts including dance and movement, concerts, drama performances, parent evenings.

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- Sports days and sports fixtures and the use of photographic equipment by parents and carers and children from the other school(s).
- Media including newspapers and television especially when some editors require children's names when publishing photographs.
- Displays in the school of children's activities.
- Publications by the school and by WSCC.
- School and WSCC web-sites.
- Staff training and professional development activities.
- Publicity material for contractors.
- Time lapse photography for recording of building development
- Site security/CCTV videos.
- Recording students work in Early Years and Key Stage 1 in particular.

2 RESPONSIBILITIES

2.1 GOVERNING BODY/MANAGEMENT COMMITTEE

- 2.1.1 The Governing Body / Management Committee should formally adopt these guidelines as policy and good practice.
- 2.1.2 They also ensure that there is a process in place to ensure that the guidance is being followed within the school.

2.2 WEST SUSSEX COUNTY COUNCIL

- 2.2.1 West Sussex County Council will review this guidance by August 2011 to ensure it remains to date with good practice.

2.3 LEGAL BACKGROUND

- 2.3.1 Human Rights legislation gives people certain rights and it is the right to 'privacy' that is the issue when using photographs. The Council and educational schools must take steps that respect the rights of people in photographs.
- 2.3.2 Under the Data Protection Act 1998 personal data (which includes photographs) must be processed fairly and lawfully.
- 2.3.3 The Copyright, Designs and Patent Acts 1988 moved the ownership of copyright to the photographer (or their employer) and away from the person commissioning and paying for the photographs, if the picture is taken with consent, unless there is an agreement otherwise (see appendix of the document).

3 GOOD PRACTICE

3.1 GENERAL GUIDANCE

- 3.1.1 When taking a picture the school or WSCC must obtain the consent of the person in the picture or from their parent or carer (See 3.2).
- 3.1.2 If using a photo from the media or commissioning a photograph, have a signed agreement (see Section 14 of the WS – Acceptable use Policy (AUP)).
- 3.1.3 Use the image in its intended context. Examples of where this has not happened are:
- A picture of a child accepting an award that was taken by a national newspaper and then used by an extremist group in a story with a completely different story angle.
- 3.1.4 Follow the commitment made in the consent forms:
- Not to name the child if specific consent is not provided;
 - Not to use the photograph out of context;
 - Not to use the photograph to illustrate sensitive or negative issues.

3.2 SEEKING PERMISSION

- 3.2.1 Use of images of children requires the consent of the parent / carer. Permission should always be obtained by using the form in section 14 of the WS-AUP when a child joins the school.
- 3.2.2 The form covers both the school and WSCC when using the photographs in publications and on websites. Each year as part of a standard communication, ask parents if they wish to change their permission. If they do, encourage them to contact the head teacher/manager in writing.
- 3.2.3 There may be situations where the gaining of consent is not straightforward. For example the following situations:
- Parent(s)/Carer(s) have given consent but pupil does not want to be photographed
 - Parent(s)/Carer(s) do not give consent but the pupil gives their consent and wants to be in the photograph.

- One parent/carer consents and another does not
Your decision will be based on how you balance various individual's rights.
 - No pupil should be forced in to having their photograph taken if they do not want to. If the pupil has sufficient understanding of the issues involved (generally when aged 12 and above) then the pupil can make the decision.
 - When parents or carers disagree about the issue of consent then the decision of the parent with day to day responsibility (primary carer) for the pupil should be the one followed
- 3.2.4 When a parent does not agree to their child's photograph being used, the head teacher / manager must inform staff and staff must make every effort to comply.
- 3.2.5 For example, if a child whose parents have refused permission for photography is involved with a sports event, e.g. a football match, it may not be appropriate to photograph the whole team. Careful liaison with parents is therefore essential. With discussion it may be possible to agree other options.
- 3.2.6 When photographic images are transmitted or shared beyond the school e.g. television broadcasts, images on intranet sites, specific permission should be obtained (see Section 14 of the WS-AUP).

3.3 PHOTOGRAPHING CHILDREN

- 3.3.1 When photographing children:
- Ensure that parent(s) and/or the carer(s) of young people have signed and returned the school / WSCC consent form for general photography (see Section 14 of the WS-AUP).
 - Ensure all children are appropriately dressed.
 - Avoid images that only show a single child with no surrounding context of what they are learning or doing.
 - Photographs of three or four children are more likely to also include their learning context.
 - If a child has a specific vulnerability then it is important to take into consideration the vulnerability and place the child's welfare as paramount at all times. Do not use images of a child with a specific

vulnerability without expressing concerns to parent and obtaining a specific written permission to proceed.

- Use photographs that represent the diversity of the young people participating.
- Report any concerns relating to any inappropriate or intrusive photography to the head teacher / manager.
- Remember the duty of care and challenge any inappropriate behaviour or language.
- Do not use images that are likely to cause distress, upset or embarrassment.
- Regularly review stored images and delete unwanted material in accordance with the retention of records policy.
- The safest approach for staff is to avoid using personally owned cameras at all and always use school owned cameras.
- At the very least always use school memory cards.
- Memory cards, USB drives and CD's should only be used as temporary storage for transport.
- Once the images are uploaded to the appropriate area of the school network images should be deleted immediately from any temporary storage location.
- Ideally images should be deleted using file-shredding software such as "File Shredder".
- The safest approach for staff processing images is to avoid using personally owned computer equipment and always use school owned equipment for these purposes.

3.4 SPECIFIC SITUATIONS

INTER-SCHOOL FIXTURES

- 3.4.1 Apply these guidelines to inter-school events. If a child with a specific vulnerability is involved or any child where permission is withheld, it will be necessary to liaise with a member of staff from the other school so that they are aware of the wishes of the parents or carer of the child and seek the cooperation of the parents of the opposing team.

TEACHER TRAINING AND PORTFOLIOS

- 3.4.2 During teacher training and with newly qualified staff, colleagues need to compile portfolios with photographs of children during lessons.
- 3.4.3 Staff should act responsibly in compiling these images. A member of the management team may wish to oversee the compiled images as part of the management process and consider their appropriateness.

DISPLAYS IN SCHOOLS

- 3.4.4 Still photographs shown on displays and video clips available during open / parents' evenings should depict children in an appropriate way.
- 3.4.5 They should not display images of children in inappropriate or revealing clothing so appropriate levels of integrity and decency are maintained.
- 3.4.6 Do not use photographs or images likely to cause embarrassment.

PARENTS EVENINGS, CONCERTS, PRESENTATIONS

- 3.4.7 To allow the appropriate recording of children's images by parents/carers:
 - Be aware that images of children participating in extracurricular events such as these that are taken for personal use are exempt from the Data Protection Act. These include uses such as Parents taking photographs of sports day or Grandfather videoing a school nativity.
 - Ensure that children are appropriately dressed;
 - Obtain parental permission with the form in Section 14 of the WS-AUP;
 - Be aware of any child who should not be photographed; and
 - 'Monitor the use of cameras and anyone behaving inappropriately. If there are concerns, the head teacher or their representative with their authority, can require the person to cease using the camera or leave the premises, or can offer an option to stay but to hand in the camera for collection later'.

PRACTICAL EXAMINATION EVIDENCE

- 3.4.8 This covers the use of video material recording pupils level of performance in examined practical aspects, that are unable to be assessed during the moderating examiner's school visit.
- 3.4.9 The protocol laid down by the major exam boards is that this material should be returned to the school when the examiner has completed their judgements.
- 3.4.10 It would therefore be good practice for colleagues to establish what will happen to the video evidence in discussion with the external examiner during their visit. This discussion should take into consideration the school's retention of records policy.

CHILDREN PHOTOGRAPHING EACH OTHER

- 3.4.11 This practice can occur in various situations. These situations can occur both within school and during offsite activities, particularly during residential periods.
- 3.4.12 Schools should ensure that pupils are aware of the restrictions within the school of the use of mobile phones that possess photographic capabilities
- 3.4.13 There may be incidents where children take inappropriate photographs, perhaps showing friends, other children, or even of themselves inappropriately dressed. Staff should actively manage situations to minimise the risk of this.
- 3.4.14 In relation to off site situations staff should maintain the supervision and management control specified in the "Supervision Off-Site" document 2006 (WSGfL website) and "Standards for LAs in Overseeing Educational Visits 2002" (Teachernet).

NEWSPAPERS

- 3.4.15 The publishing of photographs within local newspapers can increase the sense of the school being part of the community.
- 3.4.16 There are several scenarios which can occur:

Team photographs

- 3.4.17 When everyone is prepared to allow team photographs and full names to be published. In this situation publication can occur.

- 3.4.18 If a parent is not happy to have a child's name printed on a photograph then consideration could be given to publishing the photograph with no names. The head teacher / manager should make every effort to ensure, in conjunction with the newspaper editors, that this occurs. Schools should be aware that some editors refuse to publish articles where photographs are not named.
- 3.4.19 Depending on the circumstances the options may include to not proceed with the team photo or proceed with the child missing from the photo.

Photo opportunities

- 3.4.20 When a school invites a newspaper to celebrate an event, the head teacher/manager should make every effort IN ADVANCE to ensure that the newspaper's requirements can be met.
- 3.4.21 Almost without exception, this means the paper will prefer to publish the full names of anyone in a photograph they print. The only exception to this might be in a larger group shot (e.g.: a group of more than 10 children).
- 3.4.22 However newspapers usually prefer to work with smaller groups of children (e.g. three or four) and for this number, names would definitely be required.
- 3.4.23 It is not acceptable to invite a newspaper to take photographs and then refuse to provide any names. Newspapers will often not print anonymous photographs. Schools must give thought to this beforehand and parental permission / opinion must be their key guidance.
- 3.4.24 This might mean offering only those children whose parents are happy for publication of photographs and names for inclusion in any photo opportunities.
- 3.4.25 If this is not possible – for instance where a specific group of children have achieved something special and, parental permission (re. the publication of full names) is withheld for one or more of the group. Here, it might be possible to negotiate a 'first names only' agreement with the newspaper.
- 3.4.26 Otherwise schools must be prepared to forego newspaper publicity.

USE OF INTERNET/INTRANET SITES

3.4.27 Many schools will have an Internet / intranet facility. The site manager should know good practice and ensure that the school only uses appropriate images that follow this guidance.

- For example, if a child has successfully completed a gymnastics award, it would be appropriate to show the child in a tracksuit rather than leotard.
- Schools or other local authority sites may wish to upload images of young people to a social networking site, for publicity purposes. Should they do so they should adhere to the guidance in the rest of this policy.

Please note that, unless specific consent is obtained, care should be taken not to disclose information in a photograph which could identify an individual's home, such as the house front, door number, street sign or even family vehicle registration number.

CLOSE CIRCUIT TELEVISION (CCTV)

3.4.28 Increasing numbers of schools are installing such equipment for the following uses:

- As a method of controlling access.
- An aid to site management in monitoring incorrect parking, manoeuvring vehicles, delivery arrivals etc.
- Pupil behaviour issues / bullying. As a behavioural tool during breaks and lunch times it can be used to identify hot spots of inappropriate behaviour. It may also be used to monitor within the building, corridors and areas out of sight or isolated areas for example in the vicinity of toilets.
- As an aid to members of staff with particular responsibility for behaviour management.
- To monitor personal safety for site supervisors, caretakers, cleaners etc.
- To monitor site safety and security.
- As an effective deterrent for crime.
- As a means of crime reduction and discouraging trespass.

3.4.29 There are specific legal requirements in using CCTV on any site whether that be a school or other Local Authority site. Further detailed information relating to the use of CCTV is available on the West Sussex Grid for Learning.

FURTHER INFORMATION

ACCEPTABLE USE POLICY

The West Sussex Acceptable Use Policy can be found on the following link - <http://wsgfl.westsussex.gov.uk/AUP>

Information relating to the use of CCTV on the West Sussex Grid for learning –

<http://wsgfl.westsussex.gov.uk/CCTV>

Information from the Information Commissioner's Office relating to the Data Protection and Freedom of Information Acts in education and educational establishments.

http://www.ico.gov.uk/for_the_public/topic_specific_guides/education.aspx

ADVICE AND SUPPORT AVAILABLE FROM WEST SUSSEX COUNTY COUNCIL

For Information and Advice relating to specific areas referred to in this guidance:

Simon Gawn, ICT in Schools Officer

Tel: 01243 777926

e-mail: ictinschools@westsussex.gov.uk.

Nigel Galloway, News Manager, WSCC Communications Unit

Tel: 01243 777722

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Stewart McKenzie, General Advisor, Physical Education

Tel: 01243 642536

Martin Tomlinson, General Advisor, Outdoor and Adventurous Education

Tel: 01243 382636

Legal Services Helpline.

Tel: 01243 777901

Further information on all aspects of safeguarding and child protection is available from:

Neil Holden, Principal Manager, Children's Safeguarding

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APPENDIX 1

AGREEMENT WITH PHOTOGRAPHERS

West Sussex County Council is commissioning agreed photographic work with (name photographer).

These commissioned images will be used in the County Council publications, and/or our website. The photographs may also be issued to the media for their use with our permission e.g. photo caption picture stories.

It is unlikely that the images will be used in a situation where the County Council would receive money for the image e.g. in advertising material. If this were to be the case then the Council would contact the originating photographer to discuss these specific circumstances.

The photographer's signature for the agreement of the County Council to hold the copyright of the images commissioned is agreed by the (named photographer) under the conditions stated above.

.....(signature of photographer)

Date:

APPENDIX 2

AGREEMENT WITH EDITORS

West Sussex County Council are seeking your (the Editor's name and publication) permission to use (identify picture by description or code number) for the purpose of (identify use e.g. Annual Report/Web site etc.).

We will give a credit to (name of publication) when using this image.

We will not use the image out of context from which the image was originally intended. For example we will not take an image of a disabled child receiving an award and then use the image to promote disabled children.

.....(signature of Editor)

Date: