

The Use of Images Policy (Good Practice, Procedures and Forms)

1 THE LEGAL FRAMEWORK

1.1 The Data Protection Act

The Data Protection Act 1998 came into force in 2000. It protects an individual's personal information. Personal information is information that identifies a living individual. The law requires that data controllers, like South Gloucestershire Council, process such information lawfully, fairly and in accordance with the rights that individuals have been given. The Act applies to manual files as well as computerised records. Therefore, it directly affects our use and storage of all types of photographs, video images, web cameras ("webcams") and stills from Closed Circuit Televisions ("CCTV") cameras. The Act applies whether these images are held in printed form or displayed on the Internet.

1.2 The Human Rights Act and Privacy

The Human Rights Act 1998 prohibits public authorities from interfering with the private and family life of individuals without a proper cause. The Act applies to images where individuals can be clearly identified. The right to privacy extends beyond an individual's home to include their workplace, vehicles and even private acts done in public. The legal boundaries are still being developed. However, the law attempts to protect private information, in a variety of forms, obtained in circumstances where a reasonable person would think the information should be treated as private. Images of scenery or groups where individuals are not clearly identified are unlikely to breach the Act.

1.3 Copyright

Generally, an individual whose effort produces an image (or text) is usually the copyright owner. This right is protected either until 70 years after the image is taken if the image taker is unknown or 70 years after the death of a known photographer or image producer. Council staff should not use images produced by outside organisations without their permission or a signed licence agreement. Failure to get permission could breach an owner's copyright as well as violating the data protection rights of individuals in the image.

Images produced for an employer are the employer's, except where there is a specific agreement stating that the work belongs to the employee. Image users should always ask for the owner's permission to use images. If the owner is untraceable the images should not be used. The Council owns a lot of pictures and images due to the work of past and present employees. These should not be used if they do not have a traceable history. When used the context of the pictures should be retained as much as possible.

2 PRACTICE FOR TAKING, PROCESSING AND STORING IMAGES

2.1 Procedure and Guidelines

Individual consent must be obtained from those included in images before we record them. South Gloucestershire council's official Image / Photograph Consent Forms should be used for this purpose. Consent forms should be kept safely within each department with a copy of each image.

Images that are kept manually should be stored with clear destruction or renewal dates and a list of where, when and how they have been used. They should be separated into categories to avoid inappropriate use. Images kept on hard drives should be password protected and the Council's Internet and email policies should be obeyed. A list of authorized users should also be agreed. Images should only be used according to the consent given on consent forms. Occasionally, images will be needed for use beyond the time span and purpose of the original consent form. In these cases, all identifiable individuals must be contacted to renew their consent. Extra care should be taken if images are needed for a different subject matter or for re-publication on a different forum such as from the Intranet to the Internet.

Staff members commissioning images should ensure that the consent forms are adequate for the required purposes and for the duration required. If an official form is inadequate a covering letter can be drafted to include additional terms. The Data and Information Officer should be contacted if assistance is required. Each department is responsible for ensuring that images used in its publications have all the necessary consents or permissions. This should be settled before publications are given to internal and external printing and publishing services.

2.2 Children (up to 18 years old)

Images of children should not be taken and used without the consent of their parents. This is especially so if parents have raised objections in the past. Consent forms should be used in all cases. Even if a child agrees that his or her image is taken, it is important to adopt a cautious approach and get a signed consent form. Children should be suitably dressed in all images and they should not be used to promote unsuitable causes for example advertising brands or to incite interests in adult causes including pornography, gambling, alcohol consumption or smoking. Recording close-up images of individual children should be avoided where there are clear and reasonable alternatives.

2.3 Schools and Colleges

Schools have a duty to protect the children in their care and are the data controllers of their pupil information. Guidance from the government departments and other bodies should also be considered when commissioning and using images of school children and children in school. The official Image / Photograph Consent Form for Schools should always be used to record consent. Schools and colleges that have websites displaying images of children are increasing. In general, if a pupil is named on the website, their photograph should be omitted and if their photograph is used, their name should be omitted. Where names are used first names are preferred. Identifying features such as class numbers should also be omitted, unless they are clearly required.

Images will be needed for key publications, class photographs, sports, artistic events or other school-based activities. These and other uses of images are important to school and college life and should not be excluded or carried out with excessive administrative burdens. In these cases, a standard letter could be sent to parents informing them of the need to photograph the activity. The letter should tell parents about the specific uses of such images and offer them the opportunity to discuss any issues they may have with staff.

School records (with pictures) should be kept securely in manual or electronic form. For administrative ease and good practice, photographs of pupils should form part of a pupils records. However, parents should have the facility to view or remove such pictures.

2.4 Leisure and Sports Facilities

Local Authorities have a duty to protect adults and children in leisure facilities, youth centres, libraries and other council-run spaces. However, rules should not restrict family privacy or leisure time. Areas such as lockers, changing rooms and other restricted areas should normally be free from photographic interference. Signs indicating restricted areas must be prominently displayed. When letting council premises to private third parties, they are to be made responsible for all images recorded during their rental period. Council leisure facilities must abide by these guidelines.

2.5 Sensitive Cases

Staff members should be careful about using pictures that illustrate sensitive causes such as HIV, physical abuse, show individuals who are now deceased or display other issues that could cause distress. Commercial photo libraries should be used in these cases. These libraries licence groups of images that can be used for a number of stated purposes. Such images should be kept separate from council owned images. The expiry and renewal dates should be clearly indicated on the images and a list of authorized users. Images can be shared between departments to reduce costs or duplication. Abiding strictly by the terms of such licenses will avoid breach of contract. Staff could also choose to record their own pictures for these purposes. However they must ensure that individuals are not identifiable by using side-shots, distance shots, blurring or masking the faces of individuals.

2.6 The Media

Telephone calls and letters from media organisations to record images of individuals on or near to council premises should be directed to the corporate communications department. The department will grant or deny authorisation and record its reasons. Head Teachers and their equivalents will be responsible for authorising such requests if school or college premises are involved. In most cases involving the media, the image consent forms will not be needed. Media organisations should be encouraged to conduct their own consent arrangements for the images they will record, publish and store.