



Guidance for settings on the use of images

Introduction

This guidance is designed to offer practical advice to settings to help them achieve a balance between safeguarding the children in their care and ensuring families are able to celebrate in their children's achievements through the use of technology.

Settings are advised to have a clear policy which outlines the safety guidelines for the use of photography and mobile phones within the setting (3.4 Early Years Foundation Stage Safeguarding and Welfare Requirements). Staff or volunteers **must not** use personal technological devices (including mobile phones and cameras) to take images of children that attend the setting. ACE Day Nursery has an additional policy on the "Use of mobile phones, cameras and technological devices" which outlines the agreed protocol for staff and volunteers.

The **use of images** can be divided into three categories:

- Images taken by the setting i.e. observations
- Images taken by parents at setting events
- Images taken by third parties

General Data Protection Regulation (GDPR) affects the use of photography. An image of a child is personal data and it is, therefore, a requirement under GDPR that consent is obtained from the parent/carer of a child for any images made such as those used for setting websites, observations, outings and events or other purposes. It is also important to take into account the wishes of the child, remembering that some children do not wish to have their photograph taken.

A signed consent form should be obtained from the child's parent/carer, and should be kept on the child's file, covering all cases where images of children are to be used.

Where parents/carers have refused permission for their child to be photographed or have not returned a completed and signed consent form, the child's image must not be recorded.

Where a parent/carer has given consent but a child declines to have an image taken, it should be treated as consent **not** having been given. This will be recorded as an alteration on the consent form held in the child's file and all staff and volunteers will be notified. The management team, when choosing photographs for specific uses, refers to a spreadsheet which lists up-to-date information regarding use of images consent.

Care should be taken in relation to particularly vulnerable children such as Looked After Children (LAC), recently adopted or those who have fled domestic violence/abuse.

Examples:

*A photograph of a child is taken as part of their Learning and Development record. The images will be stored electronically with other personal data and GDPR **will** apply.*

*A small group of children are photographed during an outing and the photo is to be used in the setting newsletter. This will be personal data but **will not** breach the Act as long as the children and/or their parents/carers are aware this is happening and the context in which the photo will be used.*

Parents wishing to take images of ACE events

GDPR does **not** prevent parents from taking images at ACE events, but these must be **for their own personal use**. Any other use would require the consent of the parents of other children in the image.

Examples:

*A parent takes a photograph of their child and some friends taking part in a sponsored fun walk to be put in the family photo album. These images are for personal use and GDPR **does not** apply.*

*Grandparents are invited to the setting nativity play and wish to video it. These images are for personal use and GDPR **does not** apply. **However**, if they intend to use the video on a social networking site e.g. Instagram, Twitter, they must receive permission from the parents of all the other children involved.*

The setting manager in consultation with the committee/employer must decide when parents are to be permitted to take images. This information must be given to parents.

Wherever possible, the setting will take their own 'official' photos or videos, in order to retain control over the images produced. If this is not possible we will ask a parent to be the 'official photographer' using their own device, transferring all images directly onto our empty memory stick and deleting the images from their own device immediately afterwards. Parents are asked to sign a declaration beforehand stating that all images will be deleted as described above. These images are then transferred to the office computer and memory stick images deleted. These images are shared with parents / carers through a display in the setting. Once the display is removed the photographs used are given to the child and their family, or shredded.

Third parties

Staff should challenge anyone who is using a camera, mobile phone or video recorder at the setting whom they do not recognise.

Images taken by the press

If a child is photographed by a newspaper, the photo becomes the property of the newspaper and the newspaper has the final say as to how it is used. (N.B. images can be placed by editors on the newspaper's website). Generally, newspaper photos of groups of 12 or more children do not have the names of the children attached. Photos of smaller groups might include the full name of the child in the accompanying caption; however, the setting/parents are not obliged to provide children's names and it is recommended that they do not do so.

Example:

A photograph is taken by a local newspaper of a setting event. As long as the setting has agreed to this, and the children and/or their guardians are aware that photographs of those attending the event may appear in the newspaper and given permission, this will not breach GDPR.

Storage of images

ACE has a duty of care to safeguard images so that they cannot be used inappropriately, or outside the agreed terms under which consent has been obtained. Images can be stored digitally, in prints or negatives, or electronically, provided the storage is secure. Images must be maintained securely for authorised setting use only.

Images are disposed of either by returning to the child and parents/carers, by shredding and/or by deletion from all hard-drives. Images are deleted approximately six months after the child leaves the setting.

Transfer of images

There is a risk, however small, that images may be lost while in the process of being transferred by either traditional or electronic methods. Therefore, there is the risk that an individual who would use them inappropriately may obtain the images. This risk should be explained to parents and carers.

Publishing or displaying photographs or other images of children

The Department for Education advises that if the photograph is used, avoid naming the child. Whatever the purpose of displaying or publishing images of children care should always be taken to avoid the possibility that people outside the setting could identify and then attempt to contact children directly.

- Where possible, general shots of group activities rather than close up pictures of individual children should be used
- Children should be in suitable dress
- An article could be illustrated by the children's work as an alternative to using an image of the child

Useful sources of information

The Information Commission website

www.ico.gov.uk

Internet Watch Foundation

www.iwf.org.uk

Child Exploitation and Online Protection

www.ceop.gov.uk

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