

Employment of Third Party Photographers

Many schools make use of external photography services to record specific events such as sports days and drama productions as well as annual portraits of staff, students and their siblings.

When a school captures a person's image, whether it is by camera, video, web camera or mobile phone, and that person can be identified, then the image is likely to be considered personal data under the Data Protection Act 1998. This means that the image must be processed in line with the data protection principles. Processing means anything that is done to the image for example recording it, using it or sharing it.

It also means that written consent must be obtained from the parent of a child or young person under the age of 18 (or from the child him or herself if deemed to be competent to make such judgements from 12 years old as suggested by the Information Commissioner) for any photographs or video recordings. Verbal consent must not be accepted under any circumstance. If it is not possible to obtain prior written parental consent, then images must not be taken involving the individual child or young person concerned.

New legislation (Protection of Freedoms Act 2012) became effective in September 2012 with the introduction of changes to 'Regulated Activity'. Effectively, because photographers are supervised whilst in schools and other similar establishments, and will not meet the frequent or intensive rule, there is no requirement for them to undertake a DRB check. However, it is ultimately for the Headteacher to determine whether a DRB check is required for a specific role within a school bearing in mind their legal and other responsibilities. Safeguarding the children in their care is of the utmost importance.

If professional photographers attend a school event, this should be made clear to those pupils and parents attending, preferably beforehand. Professional photographers should in an informal setting, out of courtesy, approach people nearby who are in the picture and explain that a photograph or filming is about to take place in case they want to move away.

As the school is facilitating collection of these images but has no effective control over how these images are processed it is essential that a formal agreement is made between the school and the photographer.

This should include:

- Professional conduct whilst on-site
- Storage and retention of images
- Disposal of images
- Confidentiality and non-disclosure.

These areas may already be covered in existing agreements with photographers. If no formal agreement exists or, these areas are not covered, a sample agreement is provided overleaf.

For further information or advice:

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https://ico.org.uk/media/for-organisations/documents/1136/taking_photos.pdf

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