

Education Department Policy Document

Policy and Guidance on the Use of Digital Images of Children

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EDUCATION

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

DRAFT Policy and Guidance on the Use of Digital Images of Children

Contents

POLICY ON THE USE OF DIGITAL IMAGES OF CHILDREN	2
GUIDANCE ON THE USE OF DIGITAL IMAGES OF CHILDREN	3
1.0 Consent.....	3
2.0 Planning appropriate digital recording of children	4
3.0 Using digital imagery of children supplied by a third party	4
4.0 Use of Images of children by the Media	4
5.0 School Prospectus and other literature.....	5
6.0 Videos/Digital Recordings.....	5
7.0 Websites	5
8.0 Webcams	5
9.0 Parental right to take photographs	6
10.0 The Storage of Photographs and Consent forms	6
11.0 Official School Photographs	6
12.0 Images taken by young people	6

POLICY ON THE USE OF DIGITAL IMAGES OF CHILDREN

This policy sets out a framework to manage risk associated with digital images of young people under the age of 18, developed after discussions between local media, the Islands' Child Protection Committee and the Education Department and informed by established policies elsewhere.

DRAFT Policy and Guidance on the Use of Digital Images of Children

The policy applies to

1. Activities in schools
2. Activities organised by schools or other organisations where participation is lead by schools (e.g.: sports commission) that take place offsite including activity holidays and off-island visits
3. Events organised by the Education Department in partnership with schools and external providers

The policy requires that

1. The Headteacher/Principal/Head of Service/Teacher-in-Charge is accountable for the use of digital images of young people in his/her care
2. Consent is sought using the official **consent form** for any photographs, video or webcam recordings when a young person starts at the institution, to last for the duration of their time on the roll of that particular institution
3. Institutions must observe the Department's protocols for managing parental consent
4. The publication of a photograph, video clip or webcam images taken for school and other events by staff, families and the media with the full name or contacts details requires the **express permission** of the child's parent or legal guardian through the written consent form
5. The lead teacher of an activity is responsible for ensuring the appropriate consent and responsible use of photographs, video clips or webcam images in accordance with this policy for the young people in their care
6. Only young people's first names may be used anywhere on a website or blog, particularly in association with digital imagery
7. Parents retain the right to withdraw consent at any stage, but they need to do so in writing and with sufficient notice before a known event is likely to be photographed
8. Parents can take photographs or video recordings of activities for their own private use
9. Institutions must undertake their own risk assessment of the validity of any visitor to the premises using digital imagery equipment, who must be supervised whilst on site
10. Staff must ensure children and young people using digital imaging equipment are made aware that taking and distributing inappropriate photographs may be a criminal offence and that making images without others' knowledge constitutes a breach of trust

GUIDANCE ON THE USE OF DIGITAL IMAGES OF CHILDREN

1.0 Consent

DRAFT Policy and Guidance on the Use of Digital Images of Children

- 1.1 Under the Data Protection (Bailiwick of Guernsey) Law, 2001 an image of a child is personal data and it is a requirement that consent is obtained from the parent of a child or young person under the age of 18 years (or the child him or herself if deemed competent from 12 years old as suggested by the Information Commissioner) for any photographs or video recordings for purposes beyond the school's core educational function. (e.g. school web sites, school productions).
 - 1.2 It is also important to ascertain the views of the child.
 - 1.3 Where children are 'Looked After', schools must check consent on the corporate parent's behalf with the social worker. There may be other situations, (for example: in adoption placements; where a court order is in place following separation of parents; or following a resettlement from domestic violence) where a child's security is known by the school to be at risk, indicating the need for extra care.
 - 1.4 The lead teacher of an activity is responsible for ensuring the appropriate consent and responsible use of photographs, video clips or webcam images in accordance with this policy for the young people in their care.
- 2.0 Planning appropriate digital recording of children**
- 2.1 Appropriate photographs/digital recording require that young people are appropriately dressed and are not participating in activities that might bring the individuals or the school into disrepute.
 - 2.2 When naming pupils in any published text do not use their photograph, whatever the media (print, web, broadcast or press), unless you have the signed consent form.
 - 2.3 Only young people's first names may be used anywhere on a website or blog, particularly in association with digital imagery.
- 3.0 Using digital imagery of children supplied by a third party**
- 3.1 Copyright is the right that the photographer automatically enjoys as the creator of commercial, commissioned work to prevent other people exploiting it and to control how other people use it. Copyright does not apply to images for private family use. If you commission photographs make sure that you have a signed agreement with the photographer that the Department will own the copyright for items taken on your institution's behalf.
 - 3.2 Before using a photograph supplied by a third party you should check that the third party owns the copyright in the photograph and you should obtain their written (email) permission to use it. If you use a photograph without the copyright owner's permission, action can be taken against you for copyright infringement. Images downloaded from the Internet are also subject to copyright. Do not use sources like Google images to find photographs of children. Use a reputable stock images website or take advice from the Department's Director of Communications.
- 4.0 Use of Images of children by the Media**

DRAFT Policy and Guidance on the Use of Digital Images of Children

- 4.1 It is good practice to always check consent records before embarking on any activity in school or off-site where media has been invited.
- 4.2 There may be occasions where the Press take photographs of young people. The manner in which the media use images is controlled through relevant industry codes of practice as well as the law. However, given your responsibility to parents and young people, it is sensible to confirm that broadcasters and press photographers are aware of the sensitivity involved in detailed captioning, one to one interviews, and close or sports photography.
- 4.3 Where you are satisfied that parents/guardians are happy to have their children appear in the media having consented in writing in accordance with this policy, then it is also reasonable to assume that publication of full names is acceptable as described in the consent form.
- 4.4 The exception to the use of full names is websites and blogs where only first names must be used.
- 4.5 The institution cannot be held accountable for the storage and further use of images and names released to the media under the authority of the original written consent provided by the parent/guardian.

5.0 School Prospectus and other literature

- 5.1 Use photographs of young people only where you have the written consent of the parents.

6.0 Videos/Digital Recordings

- 6.1 Parental consent covers the use of video in school.
- 6.2 Parents can take video recordings of nativity plays and other such events for their own personal and family use, as they are not covered by the Data Protection Law. The school needs to make this clear in their literature and at the opening of a performance/service etc.

7.0 Websites

- 7.1 With digital photography there is the remote possibility that images of children could be produced, manipulated and circulated without the parents' or children's knowledge. The dual concern which follows such a risk is that children might be exploited and a school or setting might be criticised or face legal action. Mitigating action is to make images on websites more difficult to manipulate - copy-protection, overlaying with a watermark, or published in low definition.
- 7.2 It is important to take care with identification using only first names and to respect parental views on the use of any photography of children on a website.
- 7.3 Increasingly users are generating content for websites e.g. young people and adults placing pictures on **Bebo**, **Myspace**, or **Facebook** web sites. It is therefore important that schools/organisations ensure that young people, staff and parents understand the risks involved and are encouraged to adopt safe practice when generating content for school related websites. The Department's **e-safety policy** refers.

8.0 Webcams

DRAFT Policy and Guidance on the Use of Digital Images of Children

8.1 The regulations for using webcams are similar to those for CCTV (closed-circuit television). The area in which you set up the webcam must be well signposted and people must know that the webcam is there before they enter the area.

9.0 Parental right to take photographs

9.1 The Data Protection (Bailiwick of Guernsey) Law, 2001 does not apply to parents taking photographs or making a video recording for their own private use. The Law does not, therefore, stop parents taking photographs or making video recordings at school events.

9.2 Parents are not permitted, however, to take photographs or to make a video recording for anything other than their own personal use. They may not sell videos of a school event. Recording and/or photographing other than for private use would require the consent of the other parents whose children may be captured on film. Without this consent The Data Protection (Bailiwick of Guernsey) Law, 2001 would be breached.

9.3 The important thing is to be sure that people with no connection with your school do not have any opportunity to film covertly. Mitigating action is to display notices or include this instruction on any event tickets.

10.0 The Storage of Photographs and Consent forms

10.1 Photographs must be kept securely for authorised school or setting use only and disposed of either by return to the young person, parents, deletion or shredding as appropriate. Staff should be aware that images should not be copied or moved to other systems/files outside school. If permission is withdrawn for a photograph it must be edited from the storage immediately.

10.2 Consent forms should be scanned onto the young person's school record and hard copies filed. If permission is withdrawn, this record must be edited, staff advised and the written withdrawn of consent filed with original consent form. All records, digital and hard copies, should be destroyed one year after the young person leaves the institution.

11.0 Official School Photographs

11.1 Schools will periodically invite an official photographer into school to take portraits/photographs of individual children and/or class groups. It is essential that when considering such an activity schools undertake their own risk assessment in terms of the validity of the photographer/agency involved. DBS checks (formerly CRB) will not be required as schools should ensure that levels of supervision by DBS checked members of staff are appropriate to safeguard the welfare of children at all times when the visitors are present on the school site in line with Education Department policy.

12.0 Images taken by young people

12.1 The Education Department's e-safety policy provides codes of conduct and advice on safe and appropriate use and possible consequences of misuse of digital images taken by young people. Areas of increased concern would involve residential trips and usage in bedrooms, swimming etc. Children and young people need to be made aware that taking and distributing inappropriate photographs may be a criminal offence.