



Children Families & Education Directorate

Policy & Guidance for Kent schools, settings and KCC services on the use of photographic images of children.

March 2009



Children,
Families &
Education



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Guidance for Kent Schools, settings, KCC services and staff

Introduction

Digital technology has vastly increased the use and potential misuse of photographic images. (printed, digital and video images) and concerns about allowing the filming of children & young people's events and publishing their pictures to web sites has prompted us to advise that schools, settings and other KCC services should have a consistent, legal and up to date policy about the use of photographic images.

Our KCC policy has been developed after discussions between the press, KCC communication teams, schools and safeguarding staff.

In developing such a policy locally for your own organisation / school we suggest that, head teachers, governing bodies and other managers should open the issue for discussion and explanation with parents and other stakeholders. It should always be possible to enable those parents / staff members with particular concerns to specify that they withhold their consent for whatever reason.

Most abused children are abused by someone they know. We have taken the view, in consultation with our local police force, that the risk of a child being directly targeted for abuse through being identified by a stranger is small. We think providing reasonable steps are taken to ensure a photograph is appropriate and the full name and contact details are protected that photography for school and other events by staff, families and the media should be allowed. We are aware that the widespread use of mobile telephones as digital cameras would make banning difficult to impose and police.

Generally photographs for school and family use and those that appear in the press are a source of pleasure and pride. They usually enhance self esteem for children and young people and their families and the practice should continue within safe practice guidelines.

The following guidelines have been drawn up in consultation with the DCSF, the Kent County Council, Children, Families & Education Directorate and Communities Directorate professionals (Children's Social Services, Children's Safeguards Service, Communication & Information Governance Team and Youth Service), the County Council's Corporate Media Centre and the Legal Services, the Kent Police, Partnership with Parents and representatives from 2 major Kent newspaper groups. These guidelines attempt to raise awareness of the potential dangers to children whilst offering practical advice to schools and services that we believe is reasonable and proportional.

Please contact your Area Child Protection Officer, or the Head of the Children's Safeguards Service, if you wish to discuss this advice or seek any further help.

1. **Issues of Consent**

The Data Protection Act 1998 affects our use of photography. This is because an image of a child is personal data for the purpose of the Act 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. (Eg school web sites, school productions). It is also important to ascertain the views of the child.

As it is likely that there will be a number of occasions during a child's time in educational activity when the school may wish to photograph or video that pupil, we recommend that consent is sought when the pupil starts at the school, to last for the duration of their stay.

There will also be times where organisations will be carrying out off-site activities eg activity holidays or educational visits. In these circumstances it is likely that the organisation will want to make some visual record. It is also likely that children and young people will want to make their own visual records so it is important that organisations develop policies and guidelines re use of mobile phone with cameras and digital cameras. Information about safe usage of new technology can be found at

http://www.kenttrustweb.org.uk/kcn/e-safety_home.cfm

For both school / setting and other events which are photographed for publicity purposes a signed consent form, as attached to this guidance, should be obtained from the child's parent/guardian or the child and kept on file covering all cases where images of children are to be published beyond the parameters of school use.

Where children are 'Looked After' schools must check consent on the corporate parent's behalf with the social worker and there may be other situations, (in adoption placements or following a resettlement from domestic violence for example), where a child's security is known by the class teacher to be at stake, indicating the need for extra care.

Consent gained for photographs or videos may not extend to website or webcam use, so it is important to check, when introducing such technology, the status of existing consent for pupils or models.

Parents retain the right to withdraw consent at any stage, but they need to do so in writing.

2. Planning photographs of children

Images and details of pupils published together allow for the remote possibility that people outside the school could identify and then attempt to contact pupils directly. The measures described below should help to minimise the risk of such unsolicited attention.

- Where possible, use general shots of classrooms or group activities rather than close up pictures of individual children. Consider the camera angle; photographs taken over the shoulder, or from behind are less identifiable.
- Use images of children in suitable dress, and take care photographing PE or swimming events to maintain modesty, using team tracksuits if appropriate for example.
- Remember to include images of children from different ethnic backgrounds in your communications wherever possible, and positive images of children with disabilities to promote your school as an inclusive community, and to comply with the Disability Discrimination Act.
- Children can be identified by logos or emblems on sweatshirts etc. Depending on the use to which the photograph will be put, consider airbrushing logos.
- Consider alternatives. Is a photograph of the children necessary, or could an article be illustrated by the children's work for example?

3. Identifying and children young people

The DCSF advise the following, as a broad rule of thumb, where consent is unclear:
(see Teachernet

<http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/usefulinformation/photosandvideos/>)

- If the pupil is named, avoid using their photograph. If the photograph is used, avoid naming the pupil.

We recommend that:

- You use the minimum information. Ask yourself whether it is really necessary to accompany a picture with the pupils' names, the year group, or the school.
- When **fully** naming pupils in any published text, whether in the school's brochure, website, or in the local press, avoid using their photograph, unless you have parental consent to do so.

4. Using photographs of children supplied by a third party

Copyright does not apply to images for private family use. However, copyright does exist in commercial photographs and it rests with the photographer. Copyright is a right that the photographer automatically enjoys as the creator of the work to prevent other people exploiting his or her work and to control how other people use it. If you commission photographs for use at school/setting or work include in your contract that the school / KCC will own the copyright for items taken on your behalf.

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 or verbally recorded permission to use it. If you use a photograph without the copyright owner's permission you could find that an action is 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 use a reputable stock images website or take advice.

Third Parties will generally be under the same obligations as your school to obtain parental consent to the use and distribution of photographs. You should therefore ask the third party to guarantee to you that all relevant consents have been given and that they are entitled to provide you with the image.

5. Use of Images of children by the Press

(Please refer to the recommendations in section 3 above; 'Identifying Pupils')

There may be occasions where the press take photographs at your school of pupils. The consent form attached (PC2) attempts to highlight the potential risks for parents so that they can make an informed decision about whether to agree to their children being featured in the press and whether their full name should accompany the photograph.

The manner in which the press use images is controlled through relevant industry codes of practice as well as the law. However, given your responsibility to parents and pupils, it is sensible to politely check that broadcasters and press photographers you may be chaperoning on your school premises are aware of the sensitivity involved in detailed captioning, one to one interviews, and close or sports photography.

6. School Prospectuses and other literature

Although most school literature is sent to a specific audience, it would be best to avoid using personal details or full names of any child in a photograph. Follow the DCSF advice above.

7. Videos

You must have parental consent before any child can appear in a video, Parents can make 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 Act. (Please refer to section 10). Potential difficulties in this area could be avoided if the school adopts the policy of taking an official video of the event and making copies available to parents.

8. Websites

Web use can be of particular concern to parents and staff because of the potential misuse of images by paedophiles. 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. Images on website can be made more difficult to copy by several measures - copy-protection, overlaying with a watermark, or published in low definition.

It is important to take care with identification and to respect parental views on the use of any photography of children on a website.

Increasingly users are generating content for websites e.g. children and adults placing pictures on **Bebo**, **Myspace**, or **Facebook** web sites. It is therefore important that schools/organisations ensure that children, staff and parents understand the risks involved and are encouraged to adopt safe practice when generating content for school related websites.

We recommend that you check the Kent schools e-safety policy 2007 which is available at www.kenttrustweb.org.uk
http://www.kenttrustweb.org.uk/kcn/e-safety_home.cfm

9. Webcams

The regulations for using webcams are similar to those for CCTV (closed-circuit television). This means that the area in which you are using the webcam must be well signposted and people must know that the webcam is there before they enter the area, in order to consent to being viewed in this way. Children should be consulted and adults would need to consent as well as the parents of all the affected children.

In gaining consent, you must tell the person why the webcam is there, what you will use the images for, who might want to look at the pictures and what security measures are in place to protect access.

The current DCSF advice on Teachernet advises about both benefits & risks and states "unless a webcam is a response to a specific threat or difficulty in relation to either crime or health and safety it may pose more difficulties for the school than it would actually resolve. If you want to use a webcam, we would advise careful parental, staff, and legal consultation".

10. Parental right to take photographs

Parents are not covered by the Data Protection Act 1998 if they are taking photographs or making a video recording for **their own private use**. The Act does not, therefore, stop parents from taking photographs or making video recordings at school events, such as nativity plays.

Parents are not permitted, however, to take photographs or to make a video recording for anything other than their own personal use (e.g. with a view to selling 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 Act 1998 would be breached. The consent form attached reminds parents of this fact.

Data Protection considerations aside, it is possible to consider banning all filming / recording / photography of school productions, sports days etc. if you feel that this is appropriate. We believe that many parents would consider it to be over-cautious to impose such a ban and we would not recommend this course of action. Should you wish to impose any such ban we would advise you to take legal advice in order to ensure that the correct steps are taken, whilst acknowledging that such a ban would be difficult to enforce.

See Primary Headteacher's draft letter in appendix

The important thing is to be sure that people with no connection with your school do not have any opportunity to film covertly. Ask your staff to quiz anyone they do not recognise who is using a camera or video recorder at events and productions and include this instruction in your consent form or any event tickets.

11. The storage of photographs

Photographs must be maintained securely for authorised school setting or KCC use only and disposed of either by return to the child, parents, or shredding as appropriate. Storage should include reference to the permissions obtained and their currency and staff should be aware that images should not be removed from institutional computers and taken home. If permission is withdrawn for a photograph it must be edited from the storage immediately.

12. Official School Photographs

Schools & settings 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 and establish what checks/vetting has been undertaken (e.g. CRB). Procedures should also ensure that levels of supervision are appropriate to safeguard the welfare of children at all times when visitors are present on the school site.

13. Images taken by young people

Schools and settings will have their own policies on use of mobile phones, camera phones and digital cameras by children and young people. Where such equipment is allowed it is important that schools have policies and codes of conduct for safe usage and advice on inappropriate usage and possible consequences of misuse. Eg areas of increased concern would involve residential trips and usage in bedrooms, swimming. Children and young people may need to be made aware that taking and distributing inappropriate photographs may be a criminal offence.

http://www.kenttrustweb.org.uk/kcn/e-safety_home.cfm

14. Useful sources of information

Teachernet www.teachernet.gov.uk/

<http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/usefulinformation/photosandvideos/photoschoolevent/>

Child Exploitation and On-line Protection centre www.ceop.gov.uk

Think you know - www.thinkyouknow.co.uk/

The Information Commission website at www.dataprotection.gov.uk

Press Complaints Commission Code of Practice at www.pcc.org.uk/cop/cop.asp

Internet Watch Foundation at www.internetwatch.org.uk

Produced with thanks in particular to Hampshire County Council for their original document

If you need any further information, please contact the Head of Children's Safeguards Service at Sessions House, County Hall on 01622 696366.

Or

Refer to the contact details at the back of this document for your Area Children's Officer.

Using Images of Children – PC1

Date

Consent form for use by Kent County Council Schools, settings and KCC services

To Name of the child's parent or guardian

Name of child:

School / setting or KCC Service / other organisation

This letter explains why we need to ask you for your consent to any photographs of your child or young person while at school / setting or youth establishment. When you have read the letter, you should fill in and return the form attached to let us know your wishes.

Generally, photographs for school and family use, and those that appear in the press are a source of pleasure and pride. We believe they can enhance self esteem for children and young people as well as their families and so are to be welcomed.

In an age in which digital technology has vastly increased the use and potential misuse of photography and there has been publicity surrounding concern about filming school events we believe you should understand the risks and weigh the chances of a child being identified by a photograph in the local press or on a web site and as a result being targeted for abuse.

On advice from the Kent Police, the Kent Local Authority and others, we have taken the view that the risk of a child being identified by a stranger is so small that, providing reasonable steps are in place in terms of school security, planning to ensure an appropriate photograph, and to protect the full name and contact details of children, the practice of photography for school events by families and the media, should continue. In any case, the widespread use of mobile telephones as digital cameras would make banning virtually impossible to impose and police.

The DCSF broad rule of thumb for schools is that "if the pupil is named, avoid using the photograph. If the photograph is used, avoid naming the pupil". For our own school publications, we will follow this advice for photographs to be used for circulation beyond the school. The press however like to reflect the local community by naming children who appear, and may decline to photograph events if this facility is denied to them.

We are mindful of the fact that for some families, there may be reasons why a child's identification is a matter of particular anxiety, and if you have special circumstances either now, or at any time in the future which would affect or change your consent on this issue, you need to let your child's class teacher know.

If your child is old enough to express their own view, you may want to consult with them about the categories of consent, and we invite you to use this letter to explore their feelings about being photographed at school. **Please complete the form attached. Talk to the supervisor, teacher or KCC staff member if you are unclear.**

Consent form for use by Kent County Council schools, settings and KCC staff

To Name of the child's
parent or guardian: _____

Name of child: _____

School/
setting or
youth
organisation _____

Occasionally, we may take photographs of the children. We may use these images in our publicity or the schools/setting prospectus or in other printed publications as well as on our website. We may also make video or webcam recordings for school-to-school conferences, monitoring or other educational use.

From time to time, our establishment / school may be visited by the media who will take photographs or film footage of a visiting dignitary or other high profile event. Pupils will often appear in these images, which may appear in local or national newspapers, websites or on televised news programmes.

To comply with the Data Protection Act 1998, we need your permission before we can photograph or make any recordings of your child. Please answer questions 1 to 4 below, then sign and date the form where shown.

PLEASE RETURN THE COMPLETED FORM TO THE SCHOOL SETTING OR SERVICE AS SOON AS POSSIBLE.

*Please circle your
answer*

- | | |
|--|-----------------|
| 1. May we use your child's photograph (unidentified) in the school prospectus and other printed publications that we produce for promotional purposes? | Yes / No |
| 2. May we use your child's image (unidentified) on our website? | Yes / No |
| 3. May we record your child's image (unidentified) on video or webcam? | Yes / No |
| 4. Do you consent to your child being photographed or filmed in press events agreed by the school? | Yes / No |
| 5. Do you consent to your child's full name being published with a press photograph? (At the present time, some local newspapers will not agree to publish a photograph without a full name)*** Please see notes at end of document *** | Yes / No |

Please note that websites can be viewed throughout the world and not just in the United Kingdom where UK law applies.

*Unidentified above means we will only use the first name
Please also note that the conditions for use of
these photographs are on the back of this form.*

I have read and understood the conditions of use on the back of this form.

Young person to sign
if 16 or over /
Parent's or
guardian's signature
for younger children:

Date:

Name (in block
capitals):

Conditions of school use

1. This form is valid for five years from the date you sign it, or for the period of time your child attends this school or setting. The consent will automatically expire after this time. It is your responsibility to let us know if you want to withdraw or change your agreement at any time.
2. We, the school, setting or service, will not use the personal details or full names (which means first name **and** surname) of any child in a photographic image on video, on our website, in our school prospectus or in any of our other printed publications.
3. We will not include personal e-mail or postal addresses, or telephone or fax numbers on video, on our website, in our school prospectus or in other printed publications.
4. If we use photographs of individual pupils, we will not use the name of that child in the accompanying text or photo caption, unless we have your agreement.
5. If we name a pupil in the text, we will not use a photograph of that child to accompany the article.
6. We may include pictures of pupils and teachers that have been drawn by the pupils.
7. We may use group or class photographs or footage with very general labels, such as "a science lesson" or "making Christmas decorations".
8. We will only use images of pupils who are suitably dressed, to reduce the risk of such images being used inappropriately.
9. **As the child's parents/guardian, we agree that if we take photographs or video recordings of our child/ren which include other pupils, we will use these for personal and family use only.** I/we understand that where consent has not been obtained from the other parents for any other use, we would be in breach of the Data Protection Act 1998 if we used our recordings for any wider purpose.

Appendix 1 sample Headteacher's letter

Dear Parent/Carer

Your child's class/group is staging a production on _____. I am sure some parents/carers would like to take photographs of the production they will attend. As you know the school has a policy on photographing children and you, as parent/carer, completed a form which stated whether or not your child could be photographed. However, school productions were not covered.

If you wish to take pictures at the production there is a strong possibility that other children would also be in the shot. To ensure all those who have children in the production are happy for that to happen, I have to get permission.

I would, therefore, be grateful if you would complete the slip at the bottom of this letter and return it to me by _____. If I do not receive a completed slip by that date, I will assume you agree. Should any parent/carer not agree with children being photographed I may have to say no photographs at all, which I feel would be a shame. Photographs of school productions are ones which people tend to treasure, so I hope I don't have to take that action. Alternatively, I could give the parent/carer who objects the choice of their child not being included in the production which, again, I feel would be a shame.

I am enclosing a Frequently Asked Question (FAQ) sheet which outlines some of the reasons for this letter, with the most important priority being your child's safety.

I hope you will support me in this.

Yours

Child's name: _____ Date: _____

I am / am not * happy for photographs to be taken of the production in which my child is appearing. (Please delete as appropriate)

Signed: _____ Date: _____
(Parent/Carer)

Photographing Children Frequently asked questions

Why do we need a policy?

Schools, playgroups and youth groups have always used photographs as a way of celebrating achievement or seeking publicity for fundraising etc. Parents and families and the children themselves often derive great pleasure from seeing their loved ones in print or on a website.

We want to ensure that everyone can continue to enjoy these things safely. However parents need to be aware that placing any identifying information in the public domain has risks as well. Parents need to understand these issues in order to give properly considered consents.

It is important that parents and schools have the opportunity to fully consider the issues before any problems arise.

So what are the risks?

The most highly publicised and worrying risk is that a child who appears in the paper or on a web site may become of interest to a predatory sex offender (paedophile).

Locating people through the internet has become extremely easy, using widely available software, so if there is a picture and the name of a school, setting or youth group and the name of the child it could be quite easy to find out the child's address and even work out their likely route to school.

There are also other specific groups of children and families whose safety could be put at risk if identified eg families fleeing domestic violence.

Isn't this just scaremongering?

Sadly no. We have had cases in Kent of families receiving unwelcome phone calls following appearances in the press. However this is rare so it is important to have a sense of proportion in these matters. Remember we want to celebrate success and achievement but parents must be aware of risks in order to make an informed decision.

I want to do my own recording of the school play is this ok?

Taking pictures or recordings of *your own children for your own personal use* is ok. The difficulty arises with plays etc in that other children may be filmed. Therefore all parents involved will need to consent for recording of a school activity. This can create real problems for schools as few solutions will satisfy everyone.

Eg if one parent does not consent the options may be that either their child does not appear in the play or that no parents may record or photograph the performance. (Also be aware it could be illegal to sell or distribute any such recording without proper permission)

What about school websites?

The same concerns apply with the added concern that images of children may be copied directly from a site and can then be manipulated or changed by another person. Schools will copy protect images and use lower quality images which cannot be usefully enlarged.

Contact Numbers Children's Safeguards Service

Head Office – Sessions House		
Kel Arthur Head of Service	Office No: Mobile No:	01622 696366 07786 191359
Sue Urwin Children's Officer (Care Standards)	Office No: Mobile No:	01622 696366 07717 716861
Mike O'Connell Children's Officer (Training and Development)	Office No: Mobile No:	01622 696366 07740 183807
Celia Swain PA to Mike O'Connell	Office No:	01622 696677 7000 6677
vacancy PA to Kel Arthur	Office No:	01622 696366 7000 6366
Kay Ashman PA to Sue Urwin	Office No:	01622 696677 7000 6677

West Kent – Kings Hill		
Helen Windiate Area Children's Officer (Child Protection)	Office No: Mobile No:	01732 525035 07740 183798
Claire Ray Area Children's Officer (Early Years)	Office No:	01732 525381 07920 108828
Linda Funnell PA to Helen Windiate and Claire Ray	Office No:	01732 525097 7003 5097

East Kent – Clover House		
Elaine Coutts Area Children's Officer (Child Protection)	Office No: Mobile No:	01227 284682 07786 191601
Angela Chapman Area Children's Officer (Early Years)	Office No: Mobile No	01227 284566 07717 895731
Kerry Oliver PA to Elaine Coutts and Angela Chapman	Office No:	01227 284566 7679 4556

Mid Kent – Kroner House		
Kate Davis Area Children's Officer (Child Protection)	Office No: Mobile No:	01233 898644 07740 183797
Tracey Scott Area Children's Officer (Early Years)	Office No: Mobile No	01233 898696 07825 633811
Jill Taylor PA to Kate Davis	Office No:	01233 898696 7001 8696
Sharon Hammond PA to Tracey Scott	Office No	01233 898696 7001 8696

NB: Situations involving allegations against members of staff must be discussed with one of the above prior to any action being taken. Urgent out of hours CP Calls should be directed to County Duty Service on 08458 247100.

Contact Addresses Children's Safeguards Service

Kel Arthur : Head of Children's Safeguards Service

Sessions House
County Hall
Maidstone
ME14 1XQ
PA : Teresa Young

Helen Windiate : Area Children's Officer (Child Protection) West Kent

17 Kings Hill Avenue
Kings Hill
West Malling
Kent ME19 4UL
PA : Linda Funnell

Claire Ray: Area Children's Officer (Early Years) West Kent

Kings Hill
PA: Linda Funnell

Elaine Coutts : Area Children's Officer (Child Protection) East Kent

Clover House
John Wilson Business Park
Thanet Way
Whitstable
Kent CT5 3QZ
PA : Kerry Oliver

Angela Chapman: Area Children's Officer (Early Years) East Kent

Clover House
PA: Kerry Oliver

Kate Davis: Area Children's Officer (Child Protection) Mid Kent

Kroner House
Eurogate Business Park
Ashford
Kent TN24 8XU
PA : Jill Taylor

Tracey Scott : Area Children's Officer (Early Years) Mid Kent

Kroner House
PA: Sharon Hammond

Mike O'Connell : Children's Officer (Training & Development)

Sessions House
County Hall
Maidstone
ME14 1XQ
PA : Celia Swain

Sue Urwin : Children's Officer (Care Standards)

Sessions House
County Hall
Maidstone
ME14 1XQ
PA: Kay Ashman

For more information about e-Safety advice, policies and guidance they can be found at www.kenttrustweb.org.uk?esafety

This site is maintained and updated regularly by the Kent e-Safety Officer who works as part of the e-Safety Strategy group. The Kent e-Safety “Safeguarding in a digital age” group comprises of Teachers, Child Protection and children’s workforce professionals and Kent Police to produce advise, policies and guidance about on online safety for the young people in Kent as well as for teachers and schools. They work alongside the Kent Children's Safeguards Service and the Kent Safe Guarding Children Board to produce guidance for professionals working with young people.

For more information and advice, you can contact the e-Safety officer:
esafetyofficer@kent.gov.uk

******Notes******

Press representatives on our consultation group wanted us to note:

The local press are concerned that if consent is withheld for names on press photographs they will be unable to use them in their publications. Anonymous photos are not as news worthy as named local children featuring in local interest articles.

We would want young people and their parents and carers to be certain they understand the issues around consent for press purposes are not the same as consent for school or KCC use where anonymity is more often sought.

See **section 3. Identifying and children young people** and
section 5. Use of Images of children by the Press