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# Langham Village School Photo and Video Guidelines

# Photo and Video Guidelines

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If you would like to discuss anything in this privacy notice, please contact:

Data Protection Officer: **Data Protection Education Ltd.**

Telephone: 0800 0862018

Email: dpo@dataprotection.education

If you would like a copy of any documentation, please contact the organisation office: **office@langham.norfolk.sch.uk**

# Photo and Video Guidelines

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# Photo and Video Guidelines

## Introduction

Photographs, video and other recordings (hereby described as photographs) are used throughout school life and are considered personal data. They can be used with other personal data (names, class information) and are used for a wide-range of purposes - learning journals, school newsletters, identification or many more purposes.

These guidelines are to ensure that the taking, storing and deletion of photographs meet the organisation's obligations as a data controller under data protection legislation as well as to help the organisation understand that the organisation should not try to be a data controller where they cannot control the collection and purpose of the images.

This document does not cover working with school photographers, which will be a separate best practice document.

## Understanding the lawful basis and purpose

A data controller decides why data is collected and how it is processed. As part of being a data controller, it is important to identify the lawful basis of processing and photographs will only be collected and stored with a documented lawful basis.

The lawful bases are:

- **Performance of a task in the public interest:** Possible for use with photos
- **Consent:** Possible for use with photos
- **Legal obligation:** Possible for use with photos
- **Vital interests:** Unlikely
- **Contractual:** Possible, but uncommon
- **Legitimate Interest:** Not to be used as part of the public authority processing

Complexities happen when the same photograph is used for different purposes, or where the same photograph may be used for different purposes by different data controllers (for example a class photo taken for the school records, sold as a souvenir photograph for parents by the school photographer, or passed on for publication to the local newspaper). Therefore, organisation's must be sure that they only define the lawful basis for the occasions where they are the data controller.

### The age of consent

The ability to give consent and to withdraw consent is not specified in the Data Protection Act 2018, other than about information society services (online services) which is set at the age of 13.

This means that where a data subject can understand their rights, then they can provide their own consent. While this is not set in stone (see ICO statements below) it is a reasonable assumption that data subjects start to be able to understand their rights as data subjects

around the age of 12 or 13. Therefore primary schools are likely to be able to manage with parental consent throughout their child's time at school.

For secondary schools, it is likely that you will start with parental consent, but as the ICO says in their guidance on consent:

> "For children under this age, you need to get consent from whoever holds parental responsibility for the child - unless the online service you offer is a preventive or counselling service.
>
> "Parental consent will always expire when the child reaches the age at which they can consent for themselves. You need therefore to review and refresh children's consent at appropriate milestones. "

The Information Commissioner's Officer states in the guidance on children and the GDPR:

> "There may be circumstances in which you wish to process a child's personal data using consent as the lawful basis for your processing. You should bear in mind however that consent puts the onus on the child (or their parent) to decide whether the processing is acceptable or not. It may therefore sometimes be more appropriate and provide better protection for the child to consider alternative bases for processing. Although consent is a lawful basis for processing children's personal data, using it does not necessarily guarantee that the processing is fair.
>
> Our draft GDPR consent guidance provides details about the various requirements for valid consent, and you need to meet all of these. In addition, you need to consider the competence of the child and whether they are able to understand the implications of the collection and processing of their personal data. If they do have the relevant understanding then they are considered competent to give their own consent to the processing, unless it is evident that they are acting against their own best interests. Article 6(1)(a) Quote "the data subject has given consent to the processing of his or her personal data for one or more specific purposes;"
>
> You should also take into account any imbalance in power in your relationship with the child, to ensure that if you accept their consent it is freely given.
>
> Where the child is not competent to understand what they are consenting to, then, in data protection terms, their consent is not 'informed' and it therefore isn't valid. If you wish to rely upon consent in this situation, you need the consent of a person with parental authority over that child.
>
> In England Wales and Northern Ireland there is no set age at which a child is generally considered to be competent to provide their own consent to processing. In Scotland children aged 12 or over are presumed to be of sufficient age and maturity to provide their own consent for data protection purposes, unless the contrary is shown.
>
> However, the GDPR seeks to recognise the difficulties of assessing competence in an online context by allowing Member States to set an age at which children can give their own consent to the processing of their personal data when an ISS (online service) is

offered directly to children. The issues surrounding online consent and children are discussed in the next section: 'What are the rules about an ISS (online service) and consent?'

In some offline contexts it may be straightforward to assess the competence of an individual child. However, if you aren't in a position to make an individual assessment then you should at least take into account the age of the child and the complexity of what you are expecting them to understand.

If you accept consent from a holder of parental responsibility over a child then you need to think about how you will get that consent reaffirmed by the child when they become competent to provide their own consent (or in the context of an ISS (online service), reach the age of digital consent). We recommend that you are clear that this needs to happen at the time when you collect consent from the holder of parental responsibility, and that you periodically engage with the child about this too. This should mean that, as the child approaches the age of digital consent or develops their understanding and competence, both parent and child are already aware that the child will need to provide their own consent for the processing to continue."

# Retention

The retention period for photographs should be a maximum of one-year from the time that the student leaves the organisation.

However, some photographs (such as important events, year group photos, special achievements) may form part of the organisation's historical memory. Therefore, at the end of the retention period photographs will either be destroyed or may be retained for archiving purposes in the public interest.

Any photographs kept for archival and historical purposes (including legacy content) cannot be used for any other purposes without gaining the consent of the data subjects in question.

# Taking and storing images

**Staff:**

Photographs should only be taken by authorised members of staff for agreed purposes (recording learning outcomes, recording and celebrating achievements, events and trips etc.).

Staff must only take photographs on approved devices. Data should be not be kept long-term on cameras, devices and portable storage; rather they should be moved to the designated storage location.

**Students:**

Students should only take photographs for official school projects under the supervision of staff. Images should be taken using equipment belonging to the organisation. Data should not

be kept long-term on cameras, devices and portable storage; rather they should be moved to the designated storage location.

Students may not take photographs in school on their own devices for their own personal or household use.

The organisation must recognise that they are not the data controller and as the photographs have been taken for personal or household use, GDPR does not apply. Ownership and copyright of the photographs belong to the person who took the photographs.

**Parents and visitors:**

Parents and visitors should not take photographs on their own devices while on school premises.

At the Headteacher's discretion, parents and visitors may take photographs in school on their own devices on special occasions such as school plays, trips or sports day for their own personal or household use.

On these occasions, the parents/visitors must follow the school photographic standards.

The organisation must recognise that they are not the data controller and as the photographs have been taken for personal or household use, GDPR does not apply. Ownership and copyright of the photographs belong to the person who took the photographs.

**Press and media:**

At the Headteacher's discretion, the Press may be invited take photographs of school events and activities. It is recommended that expectations and any restrictions are agreed in advance.

The organisation must recognise that they are not the data controller and as the photographs have been taken for journalistic purposes, the media organisation is the data controller. Ownership and copyright of the photographs belong to the person or organisation who took the photographs.

**Off-site photographs:**

Where photographs are taken on public land, there is no power to request a restriction on photographs being taken. If a no-photo instruction exists from a parent, consideration must be given to whether the child can attend such an event.

## Storage and folder naming convention

Photographs should not be stored long-term on cameras, mobile devices or other portable storage.

Photographs are personal data and appropriate organisational and technical measure put in places to secure them, such as stored on the school network or cloud storage and appropriate information classification and access control implemented.

Photographs could be included in a subject access request and are subject to the data retention schedule. Therefore, all photographs must be locatable and identifiable.

We recommend that this is done using a simple folder structure as follows.

Photographs>Year>Class>Date>Description

Using a folder naming convention groups of images and individual images can easily be found and deleted as required.

Access control should be applied to a folder at any level to prevent any unauthorised use.

# Photo and Video Guidelines

## General photographic standards

The following are recommended standards that anyone taking photographs in school or of school events adhere:

- Make efforts to only show students and the school in a positive light
- Do not take any photographs of students in inappropriate or embarrassing situations
- Do not take any photographs of students in inappropriate states of dress
- Do not take photographs of accidents or injuries
- Focus on the activity, not the child
- Do not take photographs of any person with a “do not photo” instruction
- Photographs must not be shared on social media where they can be accessed by the general public

# Photo and Video Guidelines

## Uses

This list is not comprehensive and may be added to in subsequent versions of this guidance document.

These scenarios are where the school is the data controller (deciding why the data is collected and for what purpose) and should be included in the organisation's Privacy Notice.

| Use | Lawful Basis | Notes |
|---|---|---|
| For identification purposes (e.g. in the school MIS system) | Public interest | To aid with the running of the school.<br>Secure using access control as other data related to the image. |
| Display in access-controlled areas of the school (such as corridors, classrooms) | Public interest | Where the photographs are used in an educational context, e.g. when presenting a descriptive journey for special needs students.<br>Avoid using more than the first name.<br>Access restricted to those with authorised access. |
| Display in access-controlled areas of the school (such as corridors, classrooms) | Consent | Where the photographs are used for display of celebrations or events.<br>Avoid using more than the first name.<br>Access restricted to those with authorised access. |
| Display in public areas of the school (such as reception) | Consent | Where the photographs are used for display of celebrations, a record of events or promotional purposes.<br>Placed in reception widens the potential audience.<br>Avoid names if possible.<br>Access unrestricted. |
| For use in the school newsletter and other printed documents (such as the prospectus) | Consent | Where the photographs are used for display of celebrations, a record of events or promotional purposes.<br>Placed in reception widens the potential audience.<br>Avoid names if possible.<br>Access unrestricted.<br>Published and printed documents are not subject to destruction if consent |

| | | |
|---|---|---|
| | | was granted for the purpose at the time of production and later withdrawn. |
| For use on the school website | Consent | Where the photographs are used for display of celebrations, a record of events or promotional purposes.<br>Large potential audience on the Internet.<br>Avoid names if possible.<br>Access unrestricted. |
| For use on social media (such as the school Twitter or Facebook page) | Consent | Where the photographs are used for display of celebrations, a record of events or promotional purposes.<br>Large potential audience on the Internet.<br>Avoid names.<br>Access unrestricted.<br>The school does not use social media. |
| Provided by the school for use by the press or media. | Consent | Where the photographs are used for display of celebrations, a record of events or promotional purposes.<br>Large potential audience in published media and online.<br>Avoid names if possible.<br>Access unrestricted.<br>School is no longer the controller when provided to the external publisher. |
| Staff photos for a website or school reception | Consent | No statutory requirement to publish photographs of general staff.<br>Gain consent for names and photographs. |
| (stored on e-signing systems) | Consent | When the data is being collected to inform data subjects on:<br>● Why it is being collected<br>● How it will be stored and used<br>● How long it will be stored<br>● Who (if anyone) it will be shared with |

| | | |
|---|---|---|
| | Historical/ archiving purposes | yearbook, inform data subjects:<br>● Who the data is being shared with e.g.:<br>○ book producer<br>○ printer<br>● Ensure a data sharing agreement is in place with producers<br>● Whether the book will be available to the public<br>● That yearbook photographs are permanent and that consent withdrawal post-publication only affects any further editions.<br>● That the school will retain a copy beyond standard photograph retention schedules for historical/archiving purposes |

## Notes on photographs shared on social media

Extra consideration should be given to the use of photographs on social media. The school does not use social media.

When consent is provided to use photographs on social media data subjects and parents should be explicitly informed (ideally on the initial consent form) that the consent relates only to the initial publication as there is no way to actively control any image once shared either publicly or even with a restricted private group on a social media account.

Once shared, a photograph may be kept, used and shared as part of a family photograph making it exempt from GDPR. Whilst there are ownership and intellectual property issues, the "personal and household exemption" (Recital 18) includes the following:

> "Personal or household activities could include correspondence and the holding of addresses, or social networking and online activity undertaken within the context of such activities."

Therefore it should be assumed that the control that a data controller can exert on any published image extends only as far as the social media account under their control. Any withdrawal of consent only applies to the social media account under the direct control of the controller and not any subsequent sharing or re-use of the image.

We recommend that social media accounts are cleansed of older posts at least every twelve months to avoid the legacy publication of student images who may no longer be students.

# Photographs in use with other data

Always apply the principles of data minimisation and use the minimum amount of data required.

Avoid using names and other identifying data with photographs. For example, a photograph and details of a craft project could be used to learn more about them before grooming or abuse.

Generally, if a photograph is used, avoid using names. Where a name is used, consider whether first name only or initials will suffice and avoid using a photograph.

## Medical data and photographs

Historically, photographs of children with medical conditions and allergies have been on display in staff rooms, school offices and kitchen areas where it is accessible in an uncontrolled manner.

This has often been assumed as a situation where vital interests apply (a matter of life or death). However, this really applies when a data subject is incapacitated. The ICO states about vital interests:

- The processing must be necessary. If you can reasonably protect the person's vital interests in another less intrusive way, this basis will not apply.
- You cannot rely on vital interests for health data or other special category data if the individual is capable of giving consent, even if they refuse their consent.

We believe that the correct lawful basis is a task in the public interest as the Government guidelines place a statutory obligation on schools to process this data for the safety and wellbeing of children.

About the posting of medical (special category) data, less intrusive methods are possible - which also meet the requirement for technical and organisational measures to secure the data. It can be kept in a folder; it can be kept in the MIS system. The intention of posting on a wall is to inform staff - in reality, it is a passive approach with no data protection whereas the importance of the data is better served by controlling the data and actively informing relevant staff.

In rare cases where parents require medical data to be posted on display, documented consent should be collected, being clear to inform the parents about all possible access to the data.

## Photographs taken at events by friends and family

Where an event is taking place, it can be difficult to restrict photographs being taken. Indeed, where an organisation defines consent as the lawful basis for allowing parents to take photographs, they will find it not only difficult to enforce this, but in reality they are acting as the data controller when in reality they are not - the photographs are for personal or household use. Not only is the organisation not the controller, but GDPR does not apply.

Where a child, member of staff or other parent does not wish to have their photograph taken we recommend that they are placed a t the edge of group shots and not included in the photo. Attention will not be drawn to these children.

Note that certain events (such as sports day) even though on private land are difficult to enforce no-photo decisions.

(For display with advance material and at events taking place on private school land where the Headteacher has permitted photographs to be taken):

> We stage numerous school events and know some parents, carers, family and friends like to take photographs, videos or other visual recordings of the school productions and events.
>
> At Langham Village School we are happy for parents and carers to take photographs and videos at school events for personal use only.
>
> Parents, carers, family and friends of the children are not permitted to take photographs or to make videos or other visual recordings for anything other than their own personal and household use.
>
> To ensure we protect all members of the school community when parents, carers, family and friends attend events and performances within the school, they should make every effort to adhere to our Photography Standards:
>
> - Make efforts to only show students and the school in a positive light
> - Do not take any photographs of students in inappropriate or embarrassing situations
> - Do not take any photographs of students in inappropriate states of dress
> - Do not take photographs of accidents or injuries
> - Focus on the activity, not the child
> - Do not take photographs of any person with a “do not photo” instruction
> - Photographs must not be shared on social media where they can be accessed by the general public

# Photo and Video Guidelines

Not all parents want images of their children to be accessible and shared online. This may be for personal or religious reasons. As a school, we respect the rights of children and their families to have privacy, and we hope that you will support us in doing so.

If it comes to the attention of the school that images and videos have been posted on social media, we may need to consider a ban on video recordings and photographic images being taken at such events in the future.

## Photographs of audiences and the public

Where photographs of a crowd are taken, there is no general expectation of privacy, and no consent is required. However, notices should be available before, and at events to inform attendees that photographs may be taken. It should also be clear who is taking these photographs (parents, family, staff or third-parties such as media).

Where individuals are featured and identifiable in a photograph, documented consent should be collected for the use of the image with a privacy statement explaining:

- Why it is being collected
- How it will be stored and used
- How long it will be stored for
- Who (if anyone) it will be shared with

Where possible avoid taking photographs of faces in crowds and take crowd photos from the rear to avoid identifiable data in the images.

Reviewed: may 2025
Mrs. P Kossowicz (Head teacher)