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## Guidance for using images of children

Listed below are 11 guidance points to consider when using images of children.

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### Planning

You must get consent from the parent, guardian or carer of any child or young person up to the age of 18 ('parental consent'). We suggest you ask for parental consent early in a project's lifetime and plan ahead.

In exceptional circumstances you may need to make a decision based on the individual case. For example, if a young person has left home but is under the age of 18 years, it may be difficult to obtain parental consent.

If two parents disagree over consent for their child to appear in photographs or in a video recording, then you have to treat it as if consent has not been given. Likewise, if the parents' consent but the child does not, then consent cannot be regarded as given.

You need a person's consent (or parental consent for those under 18) when they are clearly recognisable in an image. You should be especially sensitive in the case of children with special educational needs. If you need to get consent for children, you should send a consent form to the parents via the head-teacher/centre manager at the child's school/club/centre. Remember to allow plenty of time for this, so that you get permission before you take the photographs.

### How long does consent last?

It is recommended that you destroy images five years after the date on the consent form, in case family circumstances change, unless further consent is agreed. This is particularly important if your publication will have a high profile, e.g. if it will have a wide circulation or be publicising a conference.

### Can I use existing photographs?

You may have photographs on file. If consent has run out and you wish to re-use the photograph, you must renew consent. You cannot use the photograph otherwise.

If you never had consent, i.e. you had the photos before the Act came into force, you must be extremely careful and apply common sense when using them. For example, never use a picture of an untraceable person on a leaflet about a mental problem or an illness.

Destroy all photographs once the consent has expired.

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## **Commissioning photographers**

You may have photographs on file. If consent has run out and you wish to re-use the photograph, you must renew consent. You cannot use the photograph otherwise.

If you never had consent, i.e. you had the photos before the Act came into force, you must be extremely careful and apply common sense when using them. For example, never use a picture of an untraceable person on a leaflet about a mental problem or an illness.

Destroy all photographs once the consent has expired.

## **Can I use photographs from an agency?**

If you get photographs from an agency, you should ask the agency to guarantee that permission has been granted. You should also tell the agency how you will use the photographs because there are different charges for different situations. Ultimately, however, it is your responsibility to ensure that the agency got permission from the people in the photographs, so you might want to get this in writing from the agency.

## **Is a third party hosting the event?**

Where a third party hosts an event, it is up to the third party to obtain consent from people to be included in any images. For example, if an organisation wants to take photographs in a town centre, it will be the organisation's responsibility to obtain consent.

## **What about equalities issues?**

Remember to include images of people from different ethnic communities in your communications whenever possible and to use positive images of disabled people. This will ensure that your photographs are inclusive of the whole community and comply with the Disability Discrimination Act.

## **Are any children easily identifiable?**

The DCSF have advised that it is okay to use close up shots of particular children. However, no child must be named and photographed without good reason – you must also seek additional consent. It is important to realise that you must avoid captions that reveal personal details, such as e-mail addresses, telephone numbers, and/or home addresses.

## **Are the 'models' wearing appropriate dress?**

Exercise caution at all times to ensure that only images of children in suitable dress are used, to reduce the risk of images being used inappropriately. For example, avoid using full-length photographs of children in swimming costumes; instead use shots taken from the shoulders up, or edit/crop the original picture. Remember, clothing may also make a child easily identifiable, a logo may say something like, 'My name is KATIE'. This is also considered inappropriate dress.

## **What about copyright?**

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.

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.

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## Photographs taken at public events

If consent cannot be reasonably sought, as the photographs are being taken in a public place, e.g. opening event, or funfair, and if you can answer 'yes' to the following questions, then it would be reasonable to take the photographs and use them for the original purpose without fear of being in breach of the Data Protection Act 1998.

- Would people attending the event expect photographs to be taken?
- Would people in the photograph probably consider themselves to be in a public place, with no expectation of privacy?
- Do you think it unlikely that anyone would object to the photograph being taken? (An individual could be in a public place, but may not want any images in which they are present being used).

Some venues, e.g. children's centres, might want to consider displaying signs stating that attendees may appear in photographs taken on the centre's behalf for publicity purposes.

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