

Guidance on the Use of Images

Introduction

Burwell Early Learners CIO recognises the benefits of using photos to enhance room floor books and ensure children feel included with their pictures and photos on display but that some families may wish for protection from their child's photo entering a more public sphere. This guidance is designed to offer practical advice to allow a balance between safeguarding the children and young people in our care and ensuring families are able to celebrate in their children's achievements through the use of technology.

We have a clear policy which outlines the safety guidelines for the use of photography and mobile phones within the setting (3.4 Early Years Foundation Stage Safeguarding and Welfare Requirements)

The use of images can be divided into three categories:

- Images taken by the setting i.e. observations
- Images taken by parents at setting events
- Images taken by third parties

Staff or volunteers **must not** use personal technological devices (including mobile phones and cameras) to take images of children that attend the setting. We consider the appropriate use of staff and volunteer technological devices and have a policy which outlines the agreed protocol.

The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 affect the use of photography. An image of a child is personal data and it is, therefore, a requirement that consent is obtained from the parent/carer of a child for any images made such as those used for setting websites, observations, outings and events or other purposes. We also take into account the wishes of the child, remembering that some children do not wish to have their photograph taken.

A signed consent form is obtained from the child's parent/carer on entry to BEL, which is kept on the child's file, covering all cases where images of children are to be used. We annually review 'contact details and remind parents and young people, who have previously given consent, they have the right to opt out if they no longer want to be included.

Where parents/carers have refused permission for their child/young person to be photographed or have not returned a completed and signed consent form, the child's image is not recorded.

Where a parent/carer has given consent, but a child or young person declines to have an image taken, it is treated as consent not having been given and other arrangements are made to ensure that the child/young person is not photographed/filmed.

Nb. Extra care is taken in relation to particularly vulnerable children such as Children in Care, recently adopted or those who have fled domestic violence/abuse.

Examples:

*A photograph of child is taken as part of their Learning and Development record. The images are likely to be stored electronically with other personal data and the terms of the GDPR and Data Protection Act **will** apply.*

*A small group of children are photographed during an outing and the photo is to be used in the setting newsletter. This will be personal data but **will not** breach the GDPR and Data Protection Act as long as the children and/or their parents/carers are aware this is happening and the context in which the photo will be used.*

Parents wishing to take images of setting events

The GDPR and Data Protection Act 2018 do **not** prevent parents from taking images at setting events, but these must be **for their own personal use**. Any other use would require the consent of the parents of other children in the image.

Examples:

*A parent takes a photograph of their child and some friends taking part a sponsored fun walk to be put in the family photo album. These images are for personal use and the GDPR and Data Protection Act 2018 **do not** apply.*

*Grandparents are invited to the setting nativity play and wish to video it. These images are for personal use and the GDPR and Data Protection Act 2018 **do not** apply. **However**, if they intend to use the video on a social networking site e.g. Facebook, Instagram, Twitter, they must receive permission from the parents of all the other children involved.*

The setting manager in consultation with the committee decide when parents are to be permitted to take images. This information is given to parents and their responsibilities highlighted before photos are taken.

Third parties

Staff should challenge anyone who is using a camera, mobile phone or video recorder at the setting whom they do not recognise.

Images taken by the press

If a child is photographed by a newspaper, the photo becomes the property of the newspaper and the newspaper has the final say as to how it is used. (N.B. images can be placed by editors on the newspaper's website). Generally, newspaper photos of groups of 12 or more children do not have the names of the children attached. Photos of smaller groups might include the full name of the child in the accompanying caption; however, the setting/parents are not obliged to provide children's names and it is recommended that they do not do so.

Example:

A photograph is taken by a local newspaper of a setting event. As long as the setting has agreed to this, and the children and/or their guardians are aware that photographs of those attending the event may appear in the newspaper and given permission, this will not breach the GDPR and Data Protection Act 2018.

Storage of images

We have a duty of care to safeguard images so that they cannot be used inappropriately, or outside the agreed terms under which consent has been obtained. Images can be stored digitally, on videotape, in prints or negatives, or electronically, provided the storage is secure.

Images are maintained securely for authorised setting use only, and disposed of either by return to the child, parents, or by shredding.

Transfer of images

There is a risk, however small, that images may be lost while in the process of being transferred by either traditional or electronic methods. Therefore, there is the risk that an individual who would use them inappropriately may obtain the images. This risk should be explained to parents and carers.

Publishing or displaying photographs or other images of children

The Department for Education advises that if the photograph is used, avoid naming the child.

Whatever the purpose of displaying or publishing images of children care should always be taken to avoid the possibility that people outside the setting could identify and then attempt to contact children directly.

- Where possible, general shots of group activities rather than close up pictures of individual children should be used
- Children should be in suitable dress
- An article could be illustrated by the children's work as an alternative to using an image of the child

Useful sources of information

The Information Commissioner Office website

<https://ico.org.uk/>

Guidance to the General Data Protection Regulation (GDPR)

<https://www.gov.uk/government/publications/guide-to-the-general-data-protection-regulation>

Child Exploitation and Online Protection

www.ceop.gov.uk