



Whitecross Nursery School

Photography & Images Policy

Reviewed by	Claire FitzPatrick
Date of last review	June 2023
Date of next review	June 2024
Ratified by the Governing Body	5 th July 2023

This policy will be reviewed sooner if there is a change to legislation or guidance which may affect it. Any changes will be communicated to all stakeholders.

Statement of intent

At Whitecross Nursery School, we use images and videos for a variety of purposes, including prospectuses, display boards, educational purposes, conferences and the school website. We understand that parents may also wish to take videos or photos of their children participating in school events for personal use.

Whilst we recognise the benefits of photography and videos to our school community, we also understand that these can have significant risks for those involved. Under the legal obligations of the UK GDPR and the Data Protection Act (DPA) 2018, the school has specific responsibilities in terms of how photos and videos are taken, stored and retained.

The school has implemented a policy on the safe use of recording equipment by staff, children and parents to reflect the protective ethos of the school with regard to children's safety.

In order to ensure that, as far as possible, the use of photography and video is safe at all times, the policy provided below should be followed. This policy is applicable to all forms of visual media, including film, print, video, DVD and websites.

Legal framework

This policy has due regard to all relevant legislation and guidance including, but not limited to, the following:

- The Data Protection Act 2018
- The UK General Data Protection Regulation (UK GDPR) The Freedom of Information Act 2000
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- DfE (2022) 'Keeping children safe in education 2022'

This policy operates in conjunction with the following school policies:

- Data Protection Policy
- SEND Policy
- Behaviour Management Policy
- Records Management Policy

- Online Safety Policy
- Staff code of Conduct
- Child Protection and Safeguarding Policy
- Acceptable Use of ITC Policy for Staff and Volunteers

Roles and responsibilities

The Headteacher is responsible for:

- Submitting consent forms to parents, at the beginning of the academic year with regard to photos and videos being taken whilst at school.
- Ensuring that all photos and videos are stored and disposed of correctly, in line with the UK GDPR and the DPA 2018.
- Deciding whether parents are permitted to take photos and videos during school events.
- Communicating this policy to all the relevant staff members and the wider school community, such as parents.

The DSL is responsible for:

- Liaising with social workers to gain consent for the use of photos and videos of children who are LAC.
- Liaising with the DPO to ensure there are no data protection breaches.
- Informing the Headteacher of any known changes to a child's security, e.g. child protection concerns, which would mean that participating in photography and video recordings would put them at significant risk.

Parents are responsible for:

- Completing a photography consent form on an annual basis.
- Informing the school in writing if they wish to make any changes to their consent.
- Acting in accordance with this policy.

Definitions

“Camera” is used to refer to mobile phones, tablets, webcams, portable gaming devices, and any other equipment or devices which may be used to be take photos.

“Personal use” of photography and videos is defined as the use of cameras to take images and recordings of children by relatives, friends or known individuals, e.g. a parent taking a group photo of their child and their friends at a school event. These photos and videos are only for personal use by the individual taking the photo and are not intended to be passed on to unknown sources. The principles of the UK GDPR and the DPA 2018 do not apply to images and videos taken for personal use.

“Official school use” is defined as photography and videos which are used for school purposes, e.g. for building passes and identity cards. These images are likely to be stored electronically alongside other personal data. The principles of the UK GDPR and the DPA 2018 apply to images and videos taken for official school use.

“Media use” is defined as photography and videos which are intended for a wide audience, e.g. photos of children taken for a local newspaper. The principles of the UK GDPR and the DPA 2018 apply to images and videos taken for media use.

Staff may also take photos and videos of children for **“educational purposes”**. These are not intended for official school use, but may be used for a variety of reasons, such as school displays,

special events, assessment and workbooks. The principles of the UK GDPR and the DPA 2018 apply to images and videos taken for educational purposes.

Consent

All photos and video content are classified as personal data under the UK GDPR and the DPA 2018; images or video content may be used for publicity or other purposes only once informed consent has been provided, and it has not been withdrawn.

Staff and parents will be encouraged to read the Data Protection Policy for more information on the school's approach to data protection.

Parents will be required to provide consent on their child's behalf, except where the processing is related to preventative or counselling services offered directly to children.

Parents will be aware that their child/they may be photographed at school and they have the right to withdraw consent for:

- Photos or videos taken by members of staff for school-based publicity and promotional purposes or for anonymous use on the school website.
- Photos or videos taken by parents and other family members of children at the school during school concerts, performances, sports events and other similar events organised by the school.
- Photos or video taken by members of the press who are on the school premises by invitation in order to celebrate individual, group or school success.

The school will recognise that consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes. Where consent is given, a record will be kept documenting how and when consent was given and last updated.

The school will ensure that consent mechanisms meet the standards of the UK GDPR and the DPA 2018. Where the standard of consent cannot be met, an alternative legal basis for processing the data will be found, or the processing will cease.

Parents and children, as applicable, will be asked to complete the photography consent form on an annual basis, which will determine whether or not they allow their child/themselves to participate in photos and videos.

The photography consent form will be valid for the full academic year, unless the child's circumstances change in any way, e.g. if their parents separate, or consent is withdrawn. Additional consent forms will be required if the child's circumstances change.

If there is a disagreement over consent, or if a parent does not respond to a consent request, it will be treated as if consent has not been given and photos and videos will not be taken or published of the child without consent.

All parents will be entitled to withdraw or change their consent at any time during the school year. Parents who wish to withdraw their consent must notify the school in writing.

If any parent withdraws or changes their consent, or the DSL reports any changes to a child's security risk, or there are any other changes to consent, the list will also be updated and re-circulated.

For any children who are LAC, PLAC, or adopted, the DSL will liaise with the child's social worker, carers or adoptive parents to establish where consent should be sought. Consideration will be given as to whether identification of children who are LAC, PLAC, or adopted would risk their security in any way.

Consideration will also be given to any children for whom child protection concerns have been raised. Should the DSL believe that taking photos and videos of any children would put their security at further risk, greater care will be taken towards protecting their identity.

A list of all the names of children for whom consent was not given will be created by the DPO and will be circulated to all staff members. This list will be updated termly, when new consent forms are provided by new children starting school.

General procedures

Photos and videos of children will be carefully planned before any activity and the DPO will oversee the planning of any events where photos and videos will be taken.

Where photos and videos will involve children who are LAC, PLAC, or adopted, or children for whom there are security concerns, the Headteacher will liaise with the DSL to determine the steps involved.

The list of all children who have not consented to being photographed or recorded will be checked prior to the activity. Only children for whom consent has been given will be able to participate.

The staff members involved, alongside the Headteacher and DPO, will liaise with the DSL if any child who is LAC, PLAC, adopted, or for whom there are security concerns.

A school-owned iPad will be used to take photos and videos of children.

Staff will ensure that all children are suitably dressed before taking any photos or videos.

Where possible, staff will avoid identifying children by name or any other identifiable data. If names are required, only first names will be used.

The school will not use photos or videos of:

- Any child who is subject to a court order.
- Children who have left the school, without the consent of their parents.
- Staff members who have left the school, without their consent.

Photos and videos that may cause any distress or embarrassment will not be used.

Any concern relating to inappropriate or intrusive photography or publication of content will be reported to the DPO.

Additional safeguarding procedures

The school will consider certain circumstances that may put a child's security at greater risk and, thus, may mean extra precautions are required to protect their identity.

The DSL will, in known cases of children who are LAC, PLAC or adopted, liaise with the child's social worker, carers or adoptive parents to assess the needs and risks associated with the child.

Any measures required will be determined between the DSL, DPO, social worker, and carer and/or adoptive parent with a view to minimising any impact on the child's day-to-day life. The measures implemented will be one of the following:

- Photos and videos can be taken as per usual school procedures
- Photos and videos can be taken within school for educational purposes and official school use, e.g. on registers, but cannot be published online or in external media
- No photos or videos can be taken at any time for any purposes

Any outcomes will be communicated to all staff members via a staff meeting or email and the list outlining which children are not to be involved in any videos or photos, held in the school office, will be updated accordingly.

Use of iPads

Staff members may be provided with an iPad to record and maintain pictorial evidence of the lessons, behaviour, activities and events related to their children. Photos and videos may only be taken for educational purposes and in “school or educational provision settings” as mentioned above.

The use of personal cameras, mobile phone cameras or other recording equipment will be prohibited on school premises at all times.

The school-owned iPads will be located and stored securely in the filing cabinet. Members of staff will be responsible for making sure that the iPad is locked away after use in the filing cabinet at the end of the day or take it home.

Members of staff will not be allowed to bring a personal camera into the setting without prior permission. If personal cameras are allowed to be brought in due to a specialist requirement or defective equipment, the memory card should be shown to be empty and images downloaded to the school’s server.

Staff or other adults will not be permitted to take photos of children in vulnerable circumstances, such as when they are upset or inappropriately dressed. Members of staff and the school community will be required to report inappropriate use of digital cameras and images to the Headteacher. If it is found that any incidents raise child protection concerns, immediate action will be taken in consultation with the DSL.

The school will not take responsibility for lost, stolen or damaged camera equipment. This remains the responsibility and obligation of the individual who has borrowed the equipment.

Other school-owned devices

Staff will only be permitted to take photos and videos of children using the school’s iPads. Staff will not use their personal mobile phones, or any other personal device, to take images and videos of children.

Photos and videos taken by staff members on school visits may be used for educational purposes, e.g. on displays or to illustrate the work of the school, where consent has been obtained.

Storage and retention

As per the UK GDPR and the DPA 2018, images obtained by the school will not be kept for longer than necessary; retention periods for the different types of personal data are outlined in the school’s Records Management Policy.

Digital photos and videos held on the school’s drive are accessible to teaching staff only. Photos and videos are stored in labelled files, annotated with the date, and are only identifiable by year group or class number – no names are associated with images and videos. Files are password protected and only staff members have access to these passwords – these are updated yearly to minimise the risk of access by unauthorised individuals.

Paper documents will be shredded or pulped and electronic memories scrubbed clean or destroyed once the retention period has ended. The DPO will review stored images and videos on a yearly basis to ensure that all unwanted material has been deleted.

Where a parent or child has withdrawn their consent, any related imagery and videos involving their child/the child will be removed from the school drive immediately. When a parent withdraws consent, it will not affect the use of any images or videos for which consent had already been obtained. Withdrawal of consent will only affect further processing.

Where a child's security risk has changed, the DSL will inform the Headteacher immediately. If required, any related imagery and videos involving the child will be removed from the school drive immediately. Hard copies will be removed by returning them to the parent/child or by shredding, as appropriate.

Official school photos will be held on SIMS alongside other personal information and retained for the length of the child's attendance at the school, or longer, if necessary, e.g. due to a police investigation.

Members of staff will maintain responsibility for ensuring that images are safely stored on hard drives or deleted. Staff are not permitted to use memory sticks to store images. They will take reasonable measures to ensure that they do not come into the possession of unauthorised persons.

No digital image will be altered or enhanced in any way by any member of staff, unless given prior permission by the Headteacher to do so. The school may require images to be deleted or edited as appropriate and may choose to use images taken by members of staff or volunteers for other purposes, provided the processing conditions and consent requirements of this policy are met. Staff members are responsible for ensuring that edited images do not mislead or misrepresent. They must not edit images which result in their subject being vulnerable to embarrassment, teasing, bullying or abuse.

Appropriate use of images under UK GDPR and the DPA 2018

Photos will be used in school for many reasons and the different uses for the same image should be considered separately, as each photograph and use will potentially have different conditions for processing.

As a public body, the school will consider whether the processing is taking place in the performance of its duties as a public authority. Where this is the case, the legal basis for processing will be recorded as 'public task', not 'legitimate interests' – public authorities cannot use legitimate interests as a lawful basis if the processing is in the performance of their tasks as a public authority.

The school will use privacy notices with declarations attached to inform staff, children and parents about how their personal data may be collected and as one method of gaining consent.

To judge whether legitimate interest can be used as the basis for processing data, the school will carry out three different tests. These are:

- A purpose test – establishing the reasons for using the data, what will be achieved and whether the benefits are justifiable.
- A necessity test – establishing whether the processing of children' data will be useful and whether there is a less intrusive way of reaching a means to an end.
- A balance test – establishing the impact it will have on the data subject by processing the data for said reason.

These three tests make up a 'legitimate interest assessment' (LIA) – the school will carry out an LIA prior to obtaining the data and it will be recorded in a physical copy in compliance with the UK GDPR and the DPA 2018.

Photos used in identity management

These are likely to be essential for performing the public task of the school, but they will be deleted once the child is no longer in attendance – as they are no longer needed for the purpose for which they were held.

Photos used for marketing purposes

Photos will not be used for marketing purposes unless the school has specific informed consent for the images and the images are only used in line with the consent provided.

The school will recognise that when images are posted on the school website anyone may view the images, and consequently this may result in a greater risk of misuse of images. The school will therefore give specific consideration to the suitability of images for use on the school's website.

Photos in the school environment relating to education

These photos may be essential for performing the public task of the school, but once the child has left the school this argument is insufficient. If the school wishes to display the image beyond the child's time at the school, the school will obtain the child's permission. If permission is not granted, the image will be removed.

When gaining consent, including when initially taking the photograph or when the purpose of the image has changed, parents will be informed of the retention period pertaining to the use of the image. If the image is still on display after the retention period stated in the privacy notice used to gain consent, the school will be in breach of data protection obligations and may be subject to a fine.

Use of cameras and filming equipment by parents

Parents or family members will be welcome to take photos of (and where appropriate, film) their own children taking part in schools events, subject to the following guidelines, which the schools expects all parents to follow. Parents will:

- Remain seated while taking photos or videos during concerts, performances and other events.
- Minimise the use of flash photography during performances.
- In the case of all school events, make the focus of any photos and/or videos their own children.
- Avoid disturbing others in the audience or distracting children when taking photos or recording videos.
- Ensure that any images and recordings taken at school events are exclusively for personal use and are not uploaded to the internet, posted on social networking sites or openly shared in other ways.
- Refrain from taking further photos and/or videos if and when requested to do so by staff.

Sharing of images

All images taken by members of staff or volunteers at school or during school activities remain the property of the school and images must not be shared with anyone outside the school or held for private use.

No digital image will be uploaded onto any internet/intranet system without the express permission of the child's parent. Unless specific prior consent has been obtained, members of staff and volunteers will not post school images on personal pages of social networking sites or other websites.

Images will not be emailed or shared via private email accounts unless a parent has asked for a photo of their child to be sent to them.

Use of a professional photographer

If the school decides to use a professional photographer for official school photos and school events, the Headteacher will:

- Provide a clear brief for the photographer about what is considered appropriate, in terms of both content and behaviour.
- Issue the photographer with an identification badge or card, which must be worn at all times.
- Let children and parents know that a photographer will be in attendance at an event and ensure they have previously provided consent to both the taking and publication of videos and/or photos.
- Not allow unsupervised access to children or one-to-one photo sessions at events.
- Communicate to the photographer that the material may only be used for the school's own purposes and that permission has not been given to use the photos for any other purpose.
- Ensure that the photographer will comply with the requirements set out in the UK GDPR and the DPA 2018.
- Ensure that if another individual, such as a parent or governor, is nominated to be the photographer, they are clear that the images and/or videos are not used for anything other than the purpose indicated by the school.