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1 **Summary**

These guidelines have been produced to support Bracknell Forest Borough Council to meet the requirements of the Data Protection Act 1998 and copyright legislation, as well as to carry out the Council’s duties for child protection.

It is important that a common sense approach is taken and that fear of breaching such legislation is not wrongly used to stop people taking photographs or videos which provide many with much pleasure.

These guidelines cover:
- Advice on how to plan for an event involving photography;
- Photography commissioned by the Council for publicity and public information;
- Managing photography by the media at events organised by the Council and on Council property;
- Specific advice for schools and the Council’s looked after children.

2 **Definition of Photography**

For the purposes of these guidelines, the word “photograph” is used to refer to images in any format, moving or still, recorded on any equipment (for example camera, mobile phone, video recorder).

3 **Planning for an event**

(See the photography checklist – appendix A)

3.1 **Risk assessments**

A risk assessment should be made when planning any photography of the public which is to be stored and/or published. This can form part of the formal risk assessment when planning an event.

A decision should be made by the lead officer at this stage as to how the photography guidelines should be implemented to meet the needs of the photography event.

In particular, a judgement will need to be made by the lead officer about what would reasonably be expected by members of the public who attend.

The Photography Checklist in appendix A acts as a guide to the areas needing consideration. This can be filled in as part of a formal risk assessment for a large scale event or can be used as a mental prompt when planning for a smaller scale photo-shoot.
4 Classification of photographers

4.1 Official Photographers

4.1.1 Definition

Official photographers are defined as anyone employed or commissioned by the Council or schools to take photographs, including staff (see 4.1.6 for specific advice for staff taking photographs).

Official photographers (excluding staff) can be booked through the communications and marketing team, who can provide advice on all aspects of photography for publicity purposes.

Official photographers will be allowed to take photographs in any location, as directed by the Council, under the supervision of the lead officer.

4.1.2 Copyright for official photographers

Official photographers are required to sign the Council’s copyright form (see appendix B) before undertaking any work on the Council’s behalf. These forms are available from the communications and marketing team and on BFNet.

4.1.3 Data protection for official photographers

Official photographers give the Council’s data protection slip (see appendix C) to members of the public being photographed to make sure they have given their consent.

For children under 16 years-old, consent should be obtained from their parent (guardian)/carer.

The slip gives individuals the opportunity to say they do not want to be in the photograph.

Only photographs with the relevant data protection consent should be stored and re-used by the Council.

4.1.4 Crowd shots

To cover data protection at large events with crowds, where it is not possible to give those in the photographs a data protection slip, signs can be displayed (see appendix D for suggested wording), to allow those who wish not to be photographed to make this known.

Notification that photographs will be taken can also be made by announcements at the event and including information in pre-event publicity, for example, leaflets/tickets/adverts.

4.1.5 Official photographers and child protection

When taking photographs of children, official photographers should be supervised by the lead officer with the support of the communications and marketing team.

4.2 Staff

Employees of Bracknell Forest Borough Council, including the borough’s schools, will be classed as “official photographers” while on duty and are expected to use the data protection slips when taking photographs of members of the public to gain consent.

However, they do not need to sign the copyright form as external “official photographers” are required to do.
4.3  Photographers and camera crews from the media

4.3.1  Data Protection and copyright for the media

The media do not need to use Council data protection slips or sign a copyright form.

They are within their rights to take any photographs while in a public place but would need permission before taking photographs on privately owned land (including land/precincts owned by the Council).

4.3.2  Managing media photography and child protection

If the media have been invited to a photo opportunity by the Council they should be supervised and managed by the communications and marketing team or the lead officer as appropriate.

Complaints about the conduct of media photographers and camera crews should be made to the communications and marketing team or the lead officer, who will deal with the situation accordingly.

4.4  Casual photography

Casual photography is defined as any member of the public, other than the Council’s official photographer, taking photographs for their own use. This could range from a family day out at a leisure facility, to school plays and sports days and events organised by the Council, such as the half marathon.

4.4.1  Child protection and casual photography

If it is practical, a voluntary register of casual photographers can be taken to provide a record of members of the public who have been granted permission to take photographs – this could form part of the visitor sign-in process at Council premises/leisure centres.

There should be a notice in reception areas clearly stating photography of any kind is only permitted with the authorisation of the centre. This should also include a note about users being alert and reporting suspicious activity.

Any complaint made about casual photographers behaving inappropriately should be reported to the lead officer who will deal with it according to their existing procedures.

Casual photographers will be banned from taking photographs in:

- Toilet areas
- Changing rooms
- Shower rooms
- Sauna areas
- Fitness suites
- Health suites
5 **Websites**

When publishing photographs of a child on a website, the lead officer should decide whether publication might pose a risk to that child. For example, publishing a child’s name on a school website could easily lead to identification of individuals who could then be contacted directly (see separate section 6 on schools).

When publishing on websites, photographs should not be used of children in a state of undress. Names of children can be used, but it is important not to publish other personal details which could be used with the name to identify the child, leading to direct contact being made with them.

6 **Schools**

6.1 **Photography in schools**

When planning an event or occasion involving photography, schools should consider photography as part of the risk assessment produced for that event – see appendix A for a sample checklist.

6.2 **Data protection in schools**

The Data Protection Act is unlikely to apply in many cases where photographs are taken in schools and fear of breaching the Act should not be wrongly used to stop people taking photographs or videos which provide pleasure for many.

- Photos taken for official school use may be covered by the Act and pupils should be advised why they are being taken.

- Photos taken purely for personal use are exempt from the Act.

For simplicity, it is suggested schools gain blanket consent from parents (guardian)/carers for their child to be included in official school photographs every year, at the same time as they update other personal pupil data.

The school should note pupils whose parents have not given consent. Schools should ensure they have a procedure for reviewing images they have stored and they are deleted once they are no longer needed.

6.2.1 **Data protection at school events**

Schools are advised to put a sign up (see example in appendix D) at events where publicity photographs are being taken to allow any visitors who do not want to be included to make this known. This sign can also include a line about reporting any suspicious or inappropriate activity to the headteacher or appropriate member of staff (see child protection below in 6.3).

A sentence can also be included in any programmes and pre-event publicity to make this clear.
6.3 Child protection and schools

Headteachers should decide whether publishing a photograph in any format, might pose a risk to a child. Consideration in particular should be made to any other information about the child, such as name, accompanying that photograph. Special consideration should be given to children who are known to be fostered/adopted and the views of the foster/adopted parents sought.

6.3.1 Casual photography at school events

It is suggested schools notify all parents (guardians)/carers before an event, if photography will be restricted (for example photography throughout a school concert might disrupt the pupils performing and the request might be made for all photographs to be taken at the end).

Schools could also consider asking parents and visitors to sign a voluntary register to keep a record of those taking photographs.

For example, the register could be incorporated into the school’s usual sign in book for visitors, with an extra “tick box” for those taking photographs.

Signs can be displayed at the entrance to events to cover both data protection (see above 6.2.1) and also asking guests to report inappropriate activity to the headteacher/appropriate member of staff. They will then take the appropriate action in line with their school procedures.

6.3.2 School websites

Schools should develop their own policies for website management and should always seek parental permission to include photographs of children on websites (this can be carried out as part of the blanket data protection consent).

Publishing a child’s name on a school website could easily lead to them being identified and contacted directly so as a general rule of thumb it is recommended:

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

On school websites:

- Photographs should not be captioned with the children’s names;
- Personal details of children such as e-mail addresses, home addresses and telephone numbers should not be revealed;
- Schools should ensure that no individual child could be identified or contacted by visitors to the school’s website;
- General shots of classrooms or group activities are preferable to close-up pictures of individual children.
6.4 Photographs taken by pupils

Pupils will want to take photographs to mark occasions such as school trips etc. It is up to individual schools when they allow pupils to take photographs.

Schools need to take strong action against pupils taking inappropriate photographs or using photographs for deliberate misuse, harassment or bullying.

7 Looked After Children

These are intended as additional precautions when taking photographs at events specifically for Looked After Children, over and above those already set out above.

7.1 Data protection and Looked After Children

When taking photographs of looked after children for publication the following should apply:

- Photographs should only be taken in consultation with the Council’s children and families, social care team.
- Children, if of an age to do so, should give their consent to the photo being taken and used for publicity and the Council’s data protection slips should be used.
- The parents (guardians)/carers of the children should be consulted prior to publication of their children’s photographs.
- Where there is an interim care order or care order in force the responsible officer in the Council should also give consent to the child’s photograph being published.
- Schools should have their own rules regarding photographs and these also apply to Looked After Children.

7.2 Child protection and Looked After Children

Care must be taken when publishing any information with photographs that could identify Looked After Children or could result in direct contact being made with them.

Anyone wishing to publish photographs of Looked After Children should consult the Children and Families: Social Care team in Education, Children’s Services and Libraries.
## Appendix A
### Photography checklist

<table>
<thead>
<tr>
<th>Action</th>
<th>✔</th>
</tr>
</thead>
<tbody>
<tr>
<td>A risk assessment has been made about the photography allowed – and the information that accompanies any images of children.</td>
<td></td>
</tr>
<tr>
<td>Communications and marketing team contacted to book an official photographer and to organise media invites if appropriate.</td>
<td></td>
</tr>
<tr>
<td>Data protection forms given to official photographer and/or any staff that will be taking official photographs on the day to obtain consent.</td>
<td></td>
</tr>
<tr>
<td>Signs produced to use at events where crowd shots will be taken.</td>
<td></td>
</tr>
<tr>
<td>Information put in publicity/programmes/tickets for the event about photography.</td>
<td></td>
</tr>
<tr>
<td>A method for authorising casual photographers such as registration is considered.</td>
<td></td>
</tr>
<tr>
<td>Procedures for how to deal with any complaints about inappropriate photography have been checked.</td>
<td></td>
</tr>
<tr>
<td>Someone is designated with responsibility for supervising official photographers and members of the media on the day.</td>
<td></td>
</tr>
</tbody>
</table>
Agreement for all photographers undertaking work for Bracknell Forest Borough Council.

Please read the following information carefully. It outlines the basis on which Bracknell Forest Borough Council ("the Council") works with photographers. If you have read and fully agree to every aspect of the agreement, please sign below. The terms will then apply to any photographic work that you undertake on behalf of the Council from the date of signature.

Please keep a copy of the Agreement and return it the Communications and Marketing Team at: Easthampstead House, Town Square, Bracknell, Berkshire RG12 1AQ.

- I understand that in the context of data protection legislation, a photographer taking photographs working on commission for the Council will be considered as a "data processor". The Council's agreement to work with me is on the basis that I work under instruction from the Council;

- I understand that the Council will only work with photographers who guarantee to act appropriately to prevent unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, personal data including photographs;

- The copyright for the photographs I produce when commissioned by the Council will be owned by the Council. These photographs may be used by the Council for any purpose it wishes (subject to the Council's compliance with data protection). I am aware that permission has not been given to me to use the photographs for any purpose.

- I understand that I may not disclose the photographs to any other person unless specifically required to do so in order to fulfil the requirements of photographic work to be undertaken for the Council.

- I understand that if I wish to disclose or use a photograph for any purpose of my own I must obtain the prior written permission of the Council.
I also agree to follow the guidelines on crowd and posed shots as follows:

- For crowd shots taken, if the subject is an event or public place, which also includes a crowd, and the photograph is not going to be used in relation to any individuals in the photograph, I will consider the following. Would the general expectation be that publicity photographs would be taken? Is it likely that the people in the photograph would consider themselves to be in a public place, with no expectation of privacy? If I can answer yes to these questions it would be reasonable to take the photographs without fear of breaching Data Protection legislation;

- For posed photographs or shots of specific individuals. I will ensure that the subjects are aware of the purpose(s) for using the photographs and that the photographs may be published in the media, in future promotional literature as well as the Council's website. For this purpose I shall use the printed information slip I have been supplied with by the Council. If any of the subjects object to the photograph being taken, I will not take the photograph. If anyone objects afterwards, I will make a note of this and inform the Council's Communications and Marketing Team immediately.

I understand and agree to work in accordance with the above agreement.

Name: .......................................................... ..........................................................

Address: ..........................................................

Date: ..........................................................

Signed: ..........................................................

nn/f/draft/Copyright form Nov 2004
Official photographer for Bracknell Forest Borough Council

Data Protection Act 1998

The photograph in which you have agreed to appear (or to which you as a parent or guardian have given your permission for children in your charge to appear) has been taken for use to publicise Bracknell Forest Borough Council’s services.

It may be used in any of the media used by the Council to promote services including: newsletters, leaflets, posters and the Council’s website. It may also be circulated to the media and used by other public sector organisations in their publications (for example the police, primary care trust, voluntary organisations, House of Commons newsletters from the MP).

The photograph may be kept on file indefinitely for future use. Bracknell Forest Borough Council will only use the photograph for similar purposes for which it was originally taken. The copyright of the photograph is that of Bracknell Forest Borough Council. Subjects will not be paid a fee for appearing in the photograph.

If you have any objections to the above uses of the photograph please tell the photographer or contact the Communications and Marketing Team on 01344 352296.
Photography at this event

Please be aware that a photographer has been commissioned by Bracknell Forest Borough Council to take photographs at this event for use in Council publicity material.

The photographs may be used in any of the media used by the Council/school for promotion including newsletters, leaflets, posters and the Council’s/school’s website. They may also be circulated to the media and used by other public sector organisations in their publications (for example the police, primary care trust, voluntary organisations, House of Commons newsletters from the MP).

Photographs taken at this event may be kept on file indefinitely for future use. Bracknell Forest Borough Council/School name will only use the photographs for similar purposes for which they were originally taken.

If you feel anyone is taking inappropriate photographs, please report this to XXXXX (event organiser).