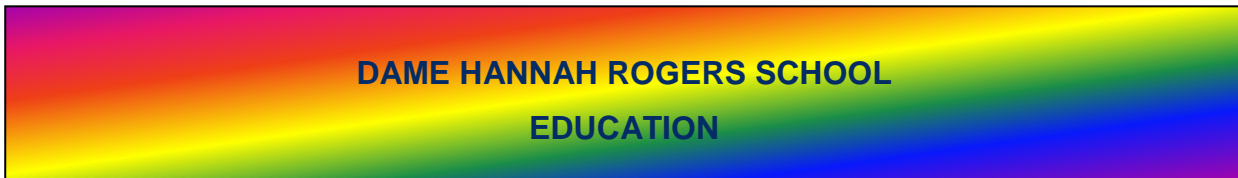




Video, Photography and Images Policy

Video, Photography and Images Policy



Title:	Video, Photography and Images Policy
Policy Category:	Education
Authors:	Chris Freestone
Consultation process:	Presentation to Heads of Department for annual consideration. Governing body (as appropriate), MDT, Parents (as required)
Ratification date and group:	15/06/2016
Publication date:	15/06/2016
Review date:	14/06/2017
Committee, group or individual monitoring the document:	Education team Governing Body Cross Trust policy monitoring group.
Resources and regulatory base:	Data Protection Act DfE – school guidance re images Consent for children Mental Capacity Act
Links to additional policies:	Acceptable Use of the Internet Behaviour and Discipline Policy Safeguarding Policy - Education Mental Capacity Policy School Technical Security Policy ICT Policy Education Social Media Policy Staff Code of Conduct

Video, Photography and Images Policy

TABLE OF CONTENTS

CODE OF PRACTICE	5
ABOUT THIS CODE	5
COMPLYING WITH THE DATA PROTECTION ACT	6
PHOTOGRAPHY AND FILMING IN SCHOOLS	6
PRIVACY NOTICES	7
WEB CAMERAS AND WEBSITES	7
When to obtain consent	7
CONSENT	8
What is valid consent?	8
Consent from children and young people	8
Failure to obtain consent	8
Pupils in appropriate dress	8
Limited purposes	8
Using information with pictures	9
USING IMAGES	9
Retention	9
DATA SUBJECTS' RIGHTS	10
Encryption	10
STORING IMAGES SECURELY	10
OTHERS	10
Professional photographers	10
INAPPROPRIATE BEHAVIOUR	10
ACCEPTABLE BEHAVIOUR	11
APPENDIX 1 - THERAPY DEPARTMENT	11
Use of Photographs	11
Use of Videos	12
Recording of photographs and videos	12
Consent	12
REVISION HISTORY	ERROR! BOOKMARK NOT DEFINED.
AMENDMENT RECORD	ERROR! BOOKMARK NOT DEFINED.

A Code in relation to video, photography and images (as per DCC guidance)

Hannah's School in Ivybridge is a non maintained special school registered with the Department for Education for the following profile of children and young people:

AGE RANGE: 3-19 years

SPECIAL NEEDS CATERED FOR:

- PMLD
- SLD
- MLD
- ASD
- PD

The school provides a sensory, integrated curriculum which is tailored to suit the needs of each child or young person who attends. This includes the integration of therapeutic support in respect of:

- speech and language therapy
- physiotherapy
- occupational therapy
- rebound therapy
- hydrotherapy

The majority of the young people who attend Hannah's School have learning difficulties ranging from moderate to profound. Much of the evidence of their individual education achievement is captured utilising photographic and other image based evidence eg video. Evidence of moments of celebration, life skills, trips out and other key events are also captured in this way.

Parental consent is sought at the start of each academic year. Where a legal order may be in place consent is sought from the appropriate legal representative eg local authority.

The following code gives advice and guidance in relation to the consent, capture, storage and use of images (AS PER DCC GUIDANCE).

CODE OF PRACTICE

This code offers practical advice to schools on how to obtain, use and handle images of people, appropriately and lawfully in accordance with The Data Protection Act 1998. The code applies to the collection and use of images of any person who can be identified, whether they are a pupil, teacher, other employee, governor, visitor or parent. For the purposes of this code, an **image** is a still or moving picture of a person who can be identified.

ABOUT THIS CODE

The Data Protection Act 1998 protects information which is about living and identifiable individuals - this is known as personal data.

Video, Photography and Images Policy

The Data Protection Act (DPA) provides a framework which balances the legitimate needs of organisations to collect and use personal data, against the right of individuals to respect the privacy of their personal details.

The DPA has a set of eight common-sense principles, which help organisations understand how to use personal data properly.

Personal data shall:

- used **fairly** and **lawfully**
- used for **limited, specifically stated purposes**
- used in a way that is **adequate, relevant and not excessive**
- accurate and where necessary **kept up to date**
- be **kept no longer than is necessary**
- be **processed in line with the individual's rights**
- be kept **secure**
- not be **transferred to countries without adequate security**

COMPLYING WITH THE DATA PROTECTION ACT

When a school captures a person's image, whether it is by camera, CCTV, video, web camera or mobile phone, and that person can be identified, then the image is likely to be considered personal data. This means that the image must be processed in line with the data protection principles. Processing means anything that is done to the image for example recording it, using it or sharing it.

More information about the data protection principles can be found on the Information Commissioner's Office website at: www.ico.gov.uk

PHOTOGRAPHY AND FILMING IN SCHOOLS

The Data Protection Act states that personal data must be processed fairly and lawfully.

To be fair, when a school wants to take a picture of someone or record their activity, they need to tell the person:

- that they are going to do this
- why
- what they are going to do with the image
- who may see it
- any non-obvious consequences – for example if the picture is going to be used on the school website, in a newsletter, school prospectus or on a televised programme. This is known as a **privacy notice**.

If photography or filming is going to take place, people should be told beforehand and given the opportunity to object or simply move out of the picture. This is particularly important if the images are to be used by a journalist or a media company.

A privacy notice can be provided in a number of ways, for example by letter to the individuals concerned, on a poster put up around the school, or on the school website.

Video, Photography and Images Policy

It is important to remember that privacy notices should be clear about why the images are being collected and what they are going to be used for. It may not be considered fair or lawful if a school said they were collecting and using the images for one reason and then later used it for something completely unconnected, without going back and re-informing the individuals.

PRIVACY NOTICES

Issuing a privacy notice is not the same as asking for consent. It is not always necessary to obtain a person's consent to record or use their image, provided it is for a legitimate and lawful purpose, such as education, and does not cause that person any damage, distress or unjustified prejudice of some kind.

It is good practice to provide a standard privacy notice to parents or carers when new pupils start your school about when and how their image could be used by the school.

WEB CAMERAS AND WEBSITES

It is not acceptable to use an image for this purpose without the knowledge or consent of that person, such use could breach the Data Protection Act.

People should be made aware that if they give consent to their image being put onto a website, there are no restrictions on the Internet and that their image will be accessible.

When to obtain consent

If you are taking a photograph or filming someone on school premises and you want to use this image for educational purposes, then it is unlikely that you will need to obtain that person's consent.

However, the individual must still be informed that photography or filming is taking place and the context in which the image will be used (see [Privacy Notices](#)).

It is good practice to obtain consent if a photograph is to be used for the promotion of the school, for example in the school prospectus.

If an existing image is to be re-used and it is for a different purpose than the original intention, the individuals should be notified of its re-use.

If a photograph is to be used on the school website, consent from those in the picture must be obtained. In addition, if an image is to be used for commercial purposes, for example by an outside company, consent must also be obtained.

If web cameras are being used, the area covered by the camera must be clearly signposted to allow those who do not wish their image to be broadcasted, the opportunity to move away.

If a school wants to use a photograph of someone on their website - whether it is a teacher, pupil, parent, volunteer or visitor – they must explain to the individuals that they want to publish their photograph in this way and obtain their consent.

CONSENT

What is valid consent?

Consent must be fully informed which means that the person giving consent must understand why their image is being used, who may see it and any implications that may result from using or disclosing the image.

Consent can be explicit or implied. Obtaining explicit consent is good practice and can be expressed either verbally or in writing. Written consent is preferable because it reduces the scope for subsequent dispute. Implied consent can also be valid in many circumstances. It should be noted that individuals have the right to withdraw or limit consent at any time.

Consent from children and young people

Young people over 16 years old are usually considered to be competent to give consent; therefore you should seek consent from them.

However, it is recognised that schools may wish to increase the age of consent to 18 years of age because a child is legally under parental guidance until then. Due consent will be sought annually. However issues around capacity and any legal intervention will also have to be duly considered. The application of the Mental Capacity Act (MCA) may be required. The Trust policy in relation to the MCA should be consulted.

Appendices 1, 2 and 3 of this policy in relation to Therapy Services at Hannah's, Children's Services at Hannah's and Adult Services at Hannah's will also apply.

Failure to obtain consent

If an image is published without the consent of the individual or parent or carer, when consent should have been obtained, they could make a complaint against the school (utilising the school's complaints process) and if necessary escalated up to the Information Commissioner's Office.

In extreme cases this could result in a fine, enforcement action and damages being awarded to the complainant.

Pupils in appropriate dress

When taking photographs or filming pupils, the photographer must make sure the pupils are wearing appropriate dress to avoid privacy issues and reduce the risk of images being used inappropriately. In a sports context, avoid photography of children in PE or swimming costumes except in appropriate circumstances, for example a swimming performance review.

Attention should also be paid to using appropriate camera angles for all types of photography or filming.

Limited purposes

It is important to make sure that when photographs are taken or filming is made which identify people, they should only be used in the way in which the person or people in the picture were originally told they would be. For example, if a photograph was taken of a student to appear in a classroom, it would not be appropriate for the school to re-use that photograph in other unexpected ways, for example on the school website or in their

prospectus. In such a case the school would need to inform the pupil and their parent of the re-use and seek their consent to use it in this way.

Using information with pictures

If a picture of someone is published with a caption, for example in a newspaper, use only the minimum amount of personal information necessary. Details of home addresses, home telephone numbers or personal email addresses should not be published. If required, a general school email address or telephone number should be provided instead.

USING IMAGES

In some cases an individual or group may want their names published alongside their picture. For example, a competition winner, sports team or someone who has received an award.

In the case of publishing pupil information, it is good practice to check with the pupil's parents whether they are happy for their child's name to be published alongside their picture.

Retention

The Data Protection Act stipulates that personal data must not be kept for any longer than is necessary - this applies to information as well as photographs that identify particular people. This can however be superseded by the guidance in relation to the legal retention of records in relation to children in care and other regulatory requirements.

The Act does not provide retention periods for schools to adopt, so it is up to the school to decide how long they need to keep photographs for and what they are going to do with them when they no longer need them, for example give them to the pupil or securely destroy them.

If a school decides the photographs are required for historical purposes, for example in the case of class or year group photographs, these can be retained indefinitely.

Individuals have several rights under the Data Protection Act in relation to how their information is processed.

These rights include the right to:

- request a copy of the personal data (including images) held about them; this is known as a Subject Access Request (Section 7 of the DPA).
- prevent their personal data being used in a way which causes them unwarranted damage or distress (Section 10 of the DPA).
- prevent their personal data being used for direct marketing purposes (Section 11 of the DPA).
- compensation if they have suffered damage as a result of their personal data not being processed in accordance with the DPA (Section 13 of the DPA).
- have inaccurate or misleading information held about them corrected or destroyed (Section 14 of the DPA).

Video, Photography and Images Policy

Schools should identify a member of staff who will be able to deal with these situations as they arise. More information about these rights can be obtained from the Information Commissioner's Office at www.ico.gov.uk

DATA SUBJECTS' RIGHTS

It is a requirement under The Data Protection Act, to make sure that personal data is kept secure; this includes photographs and video recordings. Images held in manual form must be held securely, for example in a locked drawer or filing cabinet. Electronic images should be held in a protected folder with restricted access, to make sure that only authorised individuals can access them.

Encryption

Images, especially of pupils, should not be stored on unencrypted portable equipment such as laptops, memory sticks and mobile phones. Storing personal information on these devices is not considered secure. There have been many high-profile data losses over the last few years across the public sector, which have included the loss of children's data.

It is strongly advised that school encrypts their portable equipment in case personal information is downloaded and subsequently lost or stolen.

STORING IMAGES SECURELY

In April 2010, the Information Commissioner was given the power to fine any organisation that loses personal data or has a serious security breach (including stolen equipment containing personal data) up to £500,000. In such cases, the Information Commissioner will need evidence from the organisation that they had adequate safeguards in place to help prevent such security incidents.

The Information Commissioner does not look favourably on organisations which permit personal data to be downloaded onto unencrypted equipment.

OTHERS

Professional photographers

If professional photographers attend a school event, this should be made clear to those attending, preferably beforehand. Professional photographers should, out of courtesy, approach people nearby who are in the picture and explain that a photograph or filming is about to take place in case they want to move away.

INAPPROPRIATE BEHAVIOUR

If someone is suspected of taking inappropriate or unauthorised pictures then the school should ask them to stop and leave the site. The incident should be recorded and, if appropriate, reported to the safeguarding lead or Police.

Schools should be aware that students, staff or parents could make and distribute images of people without the school's knowledge or consent.

Video, Photography and Images Policy

Images can be obtained in a number of different ways, for example by mobile phone, camera, web cam and video camera.

Schools should make it clear in all relevant policies that taking pictures of people without their knowledge or permission (including permission from the school), or misusing or defacing images is not allowed. Policies should make it clear of the consequences of breaching these rules, for example disciplinary action will be taken.

ACCEPTABLE BEHAVIOUR

Schools should keep themselves up to date with advancements in technology and should devise their own [Acceptable Use](#) and [Behaviour Policy](#), in relation to photography and filming.

The acceptable use and behaviour policy should be applicable to pupils, staff and visitors and should be communicated to anyone entering onto school premises (for example on school trips) and distribute this to staff, pupils, parents and carers.

This code and guidance will be reviewed annually or sooner if case law or legislation requires it.

The Governing Body will have oversight of this policy as it applies to Hannah's School (DHRS).

APPENDIX 1 - THERAPY DEPARTMENT

Use of Photographs

Photographs or videos can be a useful tool to demonstrate a therapeutic approach and to show how a student has progressed as a result of therapy intervention. Sometime a visual representation is the most useful tool for aiding understanding of recommendations given.

Photographs may be taken by the therapy team of a student's equipment such as a switch, wheelchair, sleep system etc for therapy case notes and to be used in care plans / communication profiles / reports to aid understanding of how to use / position the equipment. In the case of photographs which guide staff to undertake lifting, positioning, use of equipment etc the child or young person will be appropriately dressed and their privacy maintained as much as is practicable for the purposes of safe and accurate management.

Photographs of students may also be taken by the therapy team to demonstrate a variety of therapeutic approaches such as positioning of the student, how to carry out stretches, how a young person expresses 'yes' or 'no' using facial expression.

Photographs of students may be used on a communication aid to enable the communication aid user to accurately choose the name of the person they want to talk about.

Photographs of equipment and students are useful tools during staff training so that staff can better understand a recommended approach.

Video, Photography and Images Policy

Use of Videos

Sometimes videos can be very useful to show how to carry out a therapy approach.

Videoing is used to carry out baseline measurements prior to introducing an Intensive Interaction Approach. Further videos are then taken at intervals when Intensive Interaction is being carried out so progress of early interaction skills can be measured.

Videos are useful tools for training staff to enable understanding of how to implement therapy approaches.

Recording of photographs and videos

Photographs and Videos will only be taken when there is a sound clinical reason. Students will always be informed that a photograph or video is being taken. Photographs / videos will be stored securely in paper files and digital versions will be stored securely on encrypted devices only.

Consent

For students under the age of 16 and for 16-18 year olds a form will be given to parents / guardians or the Local Authority for children with a care order, annually, to consent to photographs / videos for therapy notes / therapy plans including communication profiles. Therapy staff will always let the student know when they are taking a photo / video. For students over the age of 18 years who have capacity and understand the implications, therapy staff will ask their permission for a photograph / video to be used in a therapy plan. For students over the age of 18 who do not have a capacity a photograph will only be used if it is in their 'best interest' and agreed at a multi disciplinary meeting. If no consent has been obtained a photograph without the person's face in can be used if a visual representation is necessary to support a therapy plan.

Best practice is to utilise the framework in relation to Fraser and Gillick competencies.

For training purposes for internal and external staff consent will always be sought each time there is training, from the parents if under the age of 18 and from students who have capacity over the age of 18.

Consent forms will be stored securely in case notes and dated. For students who are over 18 years old forms in accessible formats, using symbols and pictures will be used so that they are fully able to understand what they are consenting to.

Video, Photography and Images Policy

AMENDMENT RECORD AND REVISION HISTORY

Procedures are reviewed annually to ensure relevance to the system and processes.

A record of contextual additions or omissions is given below.

Date	Page	Addition or Omission	Context	Initial	Version

In Confidence

Subject:	Video, Photography and Images Policy	Author:	Chris Freestone
Document Type:	Policy	Authorised By:	Chris Freestone
Effective Date:	15/06/16	Next Review:	14/06/17
Page Number:	13 of 13	Version:	1.1