

DATA PROTECTION ADVICE SHEET – THE USE OF PHOTOGRAPHS

The Data Protection Act 1998 regulates the use of all personal information. This can be anything from a case file with someone's name on it, an e-mail where someone is the subject or even photographs or recordings of individuals. Sometimes, a photograph is not close enough to identify people. These pictures cannot be classed as personal information, because no-one can be picked out. However, close-ups, or pictures where people can easily be identified, count as personal information under Data Protection.

This does not prevent you from using them but, generally, it means that you need permission from the people being photographed. You need consent for both still and moving images.

General advice

- To obtain and use any personal information, you need to satisfy one of a set of conditions laid out in the Act. However, most of the conditions don't apply to situations involving photographs. Unless you have a legal obligation to use photos, or their use is required in a life or death situation, you must get permission from the people in the photographs to make use of them.
- Generally, for photographers working on behalf of Camden and Islington Foundation Trust the Trust has the responsibility of ensuring the photography is aware of his/her responsibilities to ensure compliance under the Act. In practical terms this means the employee organising the document for which the photographs are being taken. You must get permission from individuals **before** anyone takes photographs. You must give a clear idea of what the pictures are for and make sure you have permission before proceeding. In effect, people should have the option of not being included. If people willingly pose for a photographer, then they just need to be told what the picture is for. It is especially important to make sure that you consult parents about photographs of their children, even if the youngster is keen to be photographed.
- Once a photograph has been taken, it is important you only use the image for the purpose described. For example, if a picture is taken for a newsletter or brochure, you must not subsequently re-use it for a different reason without the permission of the people in it.
- At large events, people may well expect to get photographed by the local press and official photographers. It's good practice to make sure that photographers working on behalf of the Council identify themselves, and make sure that people know how the photographs will be used. The press has special exemptions which mean they don't need permission to use personal information for the purposes of journalism.

Websites

Many websites use photographs and images of people to make them more people-friendly and attractive. The Data Protection Act does not prevent this. However, websites are caught by the specific rules set down in the Act for the transfer of information outside the European Union. However unlikely it might be, a website can be viewed anywhere in the world, so you need 'active' permission. Unlike the use of photos that can't be viewed outside the EU, this permission must be clear and recorded. Verbal consent is not enough.

Chair: Richard Arthur
Chief Executive: Wendy Wallace

The way to make sure that websites can include pictures of people is to ask them to sign a simple consent form. You need 'active' consent to make sure that the people in question are content to have their images used. It's imperative that pictures of identifiable people don't appear on a website without their permission.

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