



Love to Learn



## PHOTOGRAPHY AND VIDEOS IN SCHOOL POLICY

**ADOPTED DATE: MAY 2020**

**REVIEW DATE: MAY 2022**

**Malcolm Sargent Primary School**

**Empingham Road**

**Stamford PE9 2SR**

Engage & Inspire \*

Nurture & Growth \*

Pride & Joy

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## Statement of intent

At Malcolm Sargent Primary School (the School) we use imagery and videos for a variety of purposes, including display boards, educational purposes, conferences, social media 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 General Data Protection Regulation (GDPR), 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 cameras and videos by staff and parents to reflect the protective ethos of the school with regard to pupils' safety.

In order to ensure that, as far as possible, the use of photography and video is used safely 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, social media and websites.

Signed by:

_____	Principal	Date:	_____
_____	Chair governors	of Date:	_____

## 1. Legal framework

- 1.1. This policy has due regard to legislation, including, but not limited to, the following:
  - The General Data Protection Regulation (GDPR)
  - The Freedom of Information Act 2000
  - The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
  - The School Standards and Framework Act 1998
  - The Children Act 1989
  - The Children Act 2004
  - The Equality Act 2010
- 1.2. This policy has been created with regard to the following guidance:
  - Information Commissioner's Office (2017) 'Overview of the General Data Protection Regulation (GDPR)'
  - Information Commissioner's Office (2017) 'Preparing for the General Data Protection Regulation (GDPR) 12 steps to take now'
- 1.3. This policy also has due regard to the school's policies, including, but not limited to, the following:
  - SEN Policy
  - Behaviour Management & Exclusion of Pupils Policy
  - Data Protection Policy under GDPR
  - Safeguarding & Child Protection Policy
  - Surveillance & CCTV Policy

## 2. Definitions

### For the purpose of this policy:

- 2.1. **"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 GDPR do not apply to images and videos taken for personal use.
- 2.2. **"Official school use"** is defined as photography and videos which are used for school purposes, e.g. for building passes. These images are

likely to be stored electronically alongside other personal data. The principles of the GDPR apply to images and videos taken for official school use.

- 2.3. **“Media use”** is defined as photography and videos which are intended for a wider audience outside the school ie for written media such as for local newspapers and publications, and for social media such as the school's website, Facebook page or other social media site. The principles of the GDPR apply to images and videos taken for media use.
- 2.4. Staff may also take photos and videos of pupils 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 GDPR apply to images and videos taken for educational purposes.

### 3. Roles and responsibilities

3.1. The Principal is responsible for:

- Deciding whether parents are permitted to take photographs and videos during school events.
- Communicating this policy to all the relevant staff members and the wider school community, such as parents.
- Delegating the following tasks to the Business Manager:
  - Submitting Student Update Forms to parents at the beginning of the academic year which includes consent to photographs and videos being taken whilst at school.
  - Liaising with the Data Protection Office (the DPO) to ensure there are no data protection breaches.
  - Ensuring that all photos and videos are stored and disposed of correctly, in line with the GDPR.

3.2. The Designated Safeguarding Lead (DSL) is responsible for:

- Liaising with social workers who are designated to work with vulnerable pupils in order to establish consent or not for the use of their images
- Informing the Principal of any known changes to a pupil's security, e.g. child protection concerns, which would mean that participating in photography and video recordings would put them at significant risk.

3.3. All staff are responsible for:

- Prior to taking an image, checking the consent for the child is appropriate for the image to be taken and its use
- In the case of any query regarding the application of this policy, the staff member will consult with the Principal
- Acting in accordance with this policy

3.4. Parents are responsible for:

- Completing the Student Update Form on an annual basis.
- Informing the school in writing where there are any changes to their consent. If consent is given on an ad hoc basis for a one-off event this may be gained verbally; however it will always be confirmed by the school in writing to the parent.
- Acting in accordance with this policy.

3.5. In accordance with the school's requirements to have a DPO, the DPO is responsible for:

- Informing and advising the school and its employees about their obligations to comply with the GDPR in relation to photographs and videos at school.
- Monitoring the school's compliance with the GDPR in regards to processing photographs and videos.
- Advising on data protection impact assessments in relation to photographs and videos at school
- Conducting internal audits, in regards to the school's procedures for obtaining, processing and using photographs and videos.
- Providing the required training to staff members, in relation to how the GDPR impacts photographs and videos at school.

#### **4. Parental consent**

4.1. The school understands that consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes.

4.2. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes.

4.3. Where consent is given, a record will be kept documenting how and when consent was given and last updated.

4.4. The school ensures that consent mechanisms meet the standards of the GDPR. Where the standard of consent cannot be met, an

alternative legal basis for processing the data will be found, or the processing will cease.

- 4.5. Where a child is under the age of 16, the consent of parents will be sought prior to the processing of their data, except where the processing is related to preventative or counselling services offered directly to a child.
- 4.6. If the law provides it, children as young as 13 may be permitted to provide consent to the processing of their data.
- 4.7. All parents will be asked to complete the Student Update Form on an annual basis, which will determine whether or not they allow their child to participate in photographs and videos.
- 4.8. The Student Update Form will be valid for one year, unless the pupil's circumstances change in any way, e.g. if their parents separate, or consent is withdrawn. Additional consent forms will be required if the pupil's circumstances change.
- 4.9. 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 photographs and videos will not be taken or published of the pupil whose parents have not consented.
- 4.10. All parents are entitled to withdraw or change their consent at any time during the school year.
- 4.11. Parents will be required to confirm on the Student Update Form, in writing, that they will notify the school if their child's circumstances change in any way, or if they wish to withdraw their consent.
- 4.12. For any LAC pupils, or pupils who are adopted, the DSL will liaise with the pupil's social worker, carers or adoptive parents to establish where consent should be sought. Consideration will be given as to whether identification of an LAC pupil, or pupils who are adopted, would risk their security in any way.
- 4.13. Consideration will also be given to any pupils for whom child protection concerns have been raised. Should the DSL believe that taking photographs and videos of any pupils would put their security at further risk, greater care will be taken towards protecting their identity.
- 4.14. A list of all the names of pupils for whom consent was not given will be created by the Business Manager and will be circulated to all staff

members. This list will be updated annually, when new consent forms are provided.

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

## 5. General procedures

5.1. Photographs and videos of pupils will be carefully planned and consent checked before the activity commences by the leading member of staff and in discussion with all other staff involved and supporting in accordance with this policy.

5.2. Where photographs and videos will involve LAC pupils, adopted pupils, or pupils for whom there are security concerns, the leading staff member will liaise with the DSL to determine the steps involved and will ensure that this is disseminated appropriately to the members of staff taking the images.

5.3. When organising photography and videos of pupils the staff members involved will consider the following:

- Can general shots of classrooms or group activities, rather than individual shots of pupils, be used to fulfil the same purpose?
- Could the camera angle be amended in any way to avoid pupils being identified?
- Will pupils be suitably dressed to be photographed and videoed?
- Will pupils of different ethnic backgrounds and abilities be included within the photographs or videos to support diversity?
- Would it be appropriate to edit the photos or videos in any way? E.g. to remove logos which may identify pupils?
- Are the photographs and videos of the pupils completely necessary, or could alternative methods be used for the same purpose? E.g. could an article be illustrated by pupils' work rather than images or videos of the pupils themselves?

5.4. The list of all pupils of whom photographs and videos must not be taken will be checked prior to the activity. Only pupils for whom consent has been given will be able to participate.

5.5. School equipment will be used to take photographs and videos of pupils. Exceptions to this are outlined in section 7 of this policy.

- 5.6. Where possible, staff will avoid identifying pupils. If names are required, only first names will be used.
- 5.7. The school will not use photographs of children or staff members who have left the school, without parental consent.
- 5.8. Photos and videos that may cause any distress, upset or embarrassment will not be used.
- 5.9. Any concern relating to inappropriate or intrusive photography or publication of content is to be reported to the DPO.

## **6. Additional safeguarding procedures**

- 6.1. The school understands that certain circumstances may put a pupil's security at greater risk and, thus, may mean extra precautions are required to protect their identity.
- 6.2. The DSL will, in known cases of a pupil who is an LAC or who has been adopted, liaise with the pupil's social worker, carers or adoptive parents to assess the needs and risks associated with the pupil.
- 6.3. Any measures required will be determined between the DSL, social worker, carers, DPO and adoptive parents with a view to minimise any impact on the pupil's day-to-day life. The measures implemented will be one of the following:
  - 1 Photos and videos can be taken as per usual school procedures, or
  - 2 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, or
  - 3 No photos or videos can be taken at any time, for any purposes
- 6.4. Any outcomes will be recorded on the school's MIS and communicated by the DSL to all necessary staff members.

## **7. School-owned devices**

- 7.1. Staff members must only take photos and videos of pupils using school equipment.
- 7.2. Staff will not use their personal mobile phones, or any other personal device, to take images and videos of pupils.

- 7.3. Photographs 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.
- 7.4. Digital photographs and videos should be held on the school's media drive, accessible by staff only. Photographs and videos should be stored by academic year and then labelled with the class or year group and date. Full names should not be associated with images and videos but first names only or initials are acceptable. Files could be password protected for additional security.

## **8. Use of a professional photographer**

- 8.1. If the school decides to use a professional photographer for official school photos and school events, the lead member of staff will:
  - Provide a clear brief for the photographer about what is considered appropriate, in terms of both content and behaviour.
  - Issue the photographer with identification, which must be worn at all times.
  - Let pupils 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 or photographs.
  - Not allow unsupervised access to pupils 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 photographs for any other purpose.
  - Ensure that the photographer will comply with the requirements set out in GDPR.
  - Ensure that if another individual, such as a parent or governor, is nominated to be the photographer, they are clear that the images or videos are not used for any other anything other than the purpose indicated by the school.

## **9. Permissible photography and videos during school events**

- 9.1. If the Principal permits parents to take photographs or videos during a school event, parents should be advised as follows:

- That the focus of any photographs or videos is only their own child. (Portrait mode is ideal for this as the background is blurred thus reducing identification of other children in the image.)
- That they should avoid disturbing others in the audience or distracting pupils when taking photographs or recording video.
- That any images and recordings taken at school events are exclusively for personal use and should not be shared, especially when another child is clearly visible.
- That they should refrain from taking further photographs and/or videos if and when requested to do so by staff.

## 10. [Updated] Appropriate use of images under the GDPR and the DPA 2018

10.1. Photographs are 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.

10.2. **[Updated]** As a public body, the school **must** 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' as public authorities cannot use legitimate interests as a lawful basis if the processing is in the performance of their tasks as a public authority.

10.3. 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 pupils' 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.

10.4. 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 GDPR and the DPA 2018.

Photographs used in identity management

10.5. 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.

#### Photographs used for marketing purposes

10.6. Photographs 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.

#### Photographs in the school environment relating to education

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

### **11. Storage and retention**

- 11.1. Images obtained by the school will not be kept for longer than necessary.
- 11.2. Hard copies of photos and video recordings held by the school will be annotated with the date on which they were taken and will be stored by the class teacher/Head of Year. They will not be used other than for their original purpose, unless permission is sought from the Principal and parents of the pupils involved and the DPO has been consulted.
- 11.3. Paper documents will be shredded or pulped, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.
- 11.4. The DPO will review stored images and videos on a regular basis to ensure that all unwanted material has been deleted.
- 11.5. Parents must inform the school in writing where they wish to withdraw or change their consent. If they do so, any related imagery and videos involving their children will be removed from the school drive immediately.
- 11.6. 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.
- 11.7. Where a pupil's security risk has changed, the DSL will inform the Principal immediately. If required, any related imagery and videos

involving the pupil will be removed from the school drive immediately. Hard copies will be removed by returning to their parents or by shredding, as appropriate.

- 11.8. Official school photos are held on Integris alongside other personal information, and are retained for the length of the pupil's attendance at the school, or longer, if necessary, e.g. due to a police investigation.
- 11.9. Some educational records relating to former pupils of the school may be kept for an extended period for legal reasons, but also to enable the provision of references or academic transcripts.

## **12. Monitoring and review**

- 12.1. This policy will be reviewed on a regular basis by the Principal and the DPO. The next scheduled review date for this policy is May 2022.
- 12.2. Any changes to this policy will be communicated to all staff members and, where appropriate, parents.