

Ormiston Academies Trust

Photography and videos policy for Ormiston SWB Academy

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Author	Kerry Barry
Owner	Carmel Brown
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I. Legal framework

I.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

I.2. This policy has been created regarding 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'

I.3. This policy also has due regard to the academy policies, including, but not limited to, the following:

- Child Protection and Safeguarding Policy, May 2018
- Special Educational Needs and Disabilities (SEND) Policy, Nov 2017
- Behaviour for Learning Policy, Nov 2017
- Data Protection and Freedom of Information Policy, v1.1 May 2018

For the purpose of this policy:

I.4. "Personal use" of photography and videos is defined as the use of cameras (or similar device) to take photographs and recordings of children by relatives, friends or known individuals, e.g. a parent taking a group photograph of their child and their friends at an academy event. These photographs and videos are only for personal use by the individual taking the photograph and are not intended to be passed on to unknown sources.

I.5. "Official academy use" is defined as photography and videos which are used for academy purposes, e.g. for building passes or for upload to the academy website. These photographs are likely to be stored electronically alongside other personal data. The principles of the GDPR apply to photographs and videos taken for official OAT use.

I.6. "Media/social use" is defined as photography and videos which are intended for a wide audience, e.g. photographs of children taken for a local newspaper. The principles of the GDPR apply to photographs and videos taken for media/social use.

I.7. Staff may also take photos and videos of students for "educational purposes". These are not intended for official academy use, but may be used for a variety of reasons, such as displays, special events, assessment and workbooks. The principles of the GDPR apply to photographs and videos taken for educational purposes.

2. Roles and responsibilities

2.1. The *Principal* is responsible for:

- Submitting consent forms to parents/carers at the beginning of the academic year with regards to photographs and videos being taken whilst at the academy or while on education visits/trips etc.
- Ensuring consent is stored on a register of responses and maintained so it is accurate at all times.
- Ensuring that all photographs and videos are stored and disposed of correctly, in line with the GDPR.
- Deciding whether parents are permitted to take photographs and videos during academy events.
- Communicating this policy to all the relevant staff members and the wider school community, such as parents/carers.

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

- Liaising with social workers to gain consent for photography and videos of Looked After Children (LAC) students.
- Liaising with the academy Data Protection Lead (DPL), to ensure there are no data protection breaches.
- Informing the *Principal* of any known changes to a student's security and safeguarding, e.g. child protection concerns, which would mean that participating in photography and video recordings would put them at significant risk.

2.3. Parents/carers are responsible for:

- Completing the *Consent Form* via the Academy website on an annual basis.
- Informing the academy in writing where there are any changes to their consent.
- Acting in accordance with this policy.

2.4. In accordance with the academy's requirements to have a *DPL*, the *DPL* is responsible for:

- Informing and advising the academy and its employees about their obligations to comply with the GDPR in relation to photographs and videos at the academy.
- Monitoring the academy's compliance with the GDPR with regards to processing photographs and videos.
- Advising on data protection impact assessments in relation to photographs and videos at academy
- Liaising with the OAT Data Protection Officer (DPO)
- Conducting internal audits, with regards to the academy'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 academy.

3. Parental consent

- 3.1. The academy understands that consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes.
- 3.2. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes.
- 3.3. Where consent is given, a record will be kept documenting how and when consent was given and last updated.
- 3.4. The academy 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.
- 3.5. Where a child is under the age of 16, the consent of parents/carers 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.
- 3.6. If the law provides it, children as young as 13 may be permitted to provide consent to the processing of their data.
- 3.7. All parents/carers will be asked to complete the *Consent Form* (and those children aged 13+) on an *annual basis*, which will determine whether or not they allow their child to participate in photographs and videos.
- 3.8. The *Consent Form* will be valid for the *full academic year*, unless the student's circumstances change in any way, e.g. if their parents/carers separate, or consent is withdrawn. Additional consent forms will be required if the student's circumstances change.
- 3.9. 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 student whose parents have not consented.
- 3.10. All parents are entitled to withdraw or change their consent at any time during the academy year.
- 3.11. Parents/carers will be required to confirm on the *Consent Form*, in writing, that they will notify the academy if their child's circumstances change in any way, or if they wish to withdraw their consent.
- 3.12. For any LAC students, or students who are adopted, the *DSL* will liaise with the students' social worker, carers or adoptive parents to establish where consent should be sought. Consideration will be given as to whether identification of an LAC student, or students who are adopted, would risk their security in any way.
- 3.13. Consideration will also be given to any students for whom child protection concerns have been raised. Should the *DSL* believe that taking photographs and videos of any students would put their security at further risk, greater care will be taken towards protecting their identity.
- 3.14. A list of all the names of students for whom consent was not given will be created by the *DPL* and will be circulated to all staff members. This list will be updated *annually*, when new consent forms are provided.

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

4. General procedures

- 4.1. Photographs and videos of students will be carefully planned before any activity.
- 4.2. The *DPL* will oversee the planning of any events where photographs and videos will be taken at the academy.
- 4.3. Where photographs and videos will involve LAC students, adopted students, or students for whom there are security and safeguarding concerns, the *Principal* will liaise with the *DSL* to determine the steps involved.
- 4.4. When organising photography and videos of students, the *Principal*, as well as any other staff members involved, will consider the following:
 - Can general shots of classrooms or group activities, rather than individual shots of students, be used to fulfil the same purpose?
 - Could the camera angle be amended in any way to avoid students being identified?
 - Will students be suitably dressed to be photographed and videoed?
 - Will students 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? For example, would it be appropriate to remove any branding (e.g. academy logo on the uniform) which may identify students?
 - Are the photographs and videos of the students completely necessary, or could alternative methods be used for the same purpose? For example, could an article be illustrated by students' work rather than photographs or videos of the students themselves?
- 4.5. The list of all students of whom photographs and videos must not be taken will be checked prior to the activity. Only students for whom consent has been given will be able to participate.
- 4.6. The staff members involved, alongside the *Principal* and *DPL*, will liaise with the *DSL* if any LAC student, adopted student, or a student for whom there are security concerns is involved (see section 5 of this policy).
- 4.7. Academy owned or agreed professional photographer's equipment will be used to take photographs and videos of students. Exceptions to this are outlined in section 7 of this policy.
- 4.8. Staff will ensure that all students are suitably dressed before taking any photographs or videos.
- 4.9. Where possible, staff will avoid identifying students. If names are required, only first names will be used.
- 4.10. The academy will not use photographs or footage of any student who is subject to a court order.
- 4.11. The academy may continue to use photographs and videos for the duration of students' time/education at the academy (e.g. from Years 7–11). The academy will not use photographs of students or staff members who have left the academy, without parental consent.
- 4.12. Photographs and videos that may cause any distress, upset or embarrassment will not be used.
- 4.13. Any concern relating to inappropriate or intrusive photography or publication of content is to be reported to the *DPL*.

5. Additional safeguarding procedures

- 5.1. The academy understands that certain circumstances may put a student's security at greater risk and, thus, may mean extra precautions are required to protect their identity.
- 5.2. The *DSL* will, in known cases of a student who is an LAC or who has been adopted, liaise with the student's social worker, carers or adoptive parents to assess the needs and risks associated with the student.
- 5.3. Any measures required will be determined between the *DSL*, social worker, carers, *DPL* and adoptive parents with a view to minimise any impact on the student's day-to-day life. The measures implemented will be one of the following:
 - Photographs and videos can be taken as per usual academy procedures.
 - Photographs and videos can be taken within academy or outside for educational purposes and official school use, e.g. on registers, but cannot be published online or in external media.
 - No photographs or videos can be taken at any time, for any purposes.
- 5.4. Any outcomes will be communicated to all staff members via a *staff meeting* and the list outlining which students are not to be involved in any videos or photographs, held in the *school office*, will be updated accordingly.

6. Academy-owned devices

- 6.1. Staff are encouraged to take photographs and videos of students using academy equipment; however, they may use other equipment, such as academy-owned mobile devices, where the *DPL* has been consulted and consent has been sought from the *Principal* prior to the activity.
- 6.2. Where academy-owned devices are used, photographs and videos will be provided to the academy at the earliest opportunity and removed from any other devices.
- 6.3. Staff will not use their personal mobile phones, or any other personal device, to take photographs and videos of students unless special permission is granted by the Principal or DSL. After which, photographs and videos should be removed immediately after academy use e.g. social media.
- 6.4. Photographs and videos taken by staff members on academy visits may be used for educational purposes, e.g. on displays or to illustrate the work of the school, where consent has been obtained.
- 6.5. Digital photographs and videos held on the academy's drive are accessible to staff only, as well as photographs and videos shared with OAT which are stored on a secure server. Photographs and videos are stored in labelled files, annotated with the date, and are only identifiable by year group/class number – no names are associated with photographs and videos. Files will be secured appropriately, and only relevant staff members have access to view and edit photographs.

7. Use of a professional photographer

7.1. If the academy decides to use a professional photographer for official photos and events, the *Principal* will:

- Provide a clear brief and schedule 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 students and parents/carers 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 students or one-to-one photo sessions at events unless the photographer has the correct DBS for OAT academy use.
- Communicate to the photographer that the material may only be used for the academy's or the Trust'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/carer or governor, is nominated to be the photographer, they are clear that the photographs or videos are not used for anything other than the purpose indicated by the academy.

8. Permissible photography and videos during academy events

8.1. If the Principal permits parents/carers to take photographs or videos during an academy event, parents will:

- Remain seated while taking photographs or videos during concerts, performances and other events.
- Minimise the use of flash photography during performances.
- In the case of all academy events, make the focus of any photographs or videos their own children.
- Avoid disturbing others in the audience or distracting students when taking photographs or recording video.
- Ensure that any photographs and recordings taken at academy events are exclusively for personal use. Parents/carers are discouraged from uploading photographs and videos to the internet, posting photographs and videos on social networking sites or openly sharing them in other ways.
- Refrain from taking further photographs and/or videos if and when requested to do so by academy staff.

9. Storage and retention

- 9.1. Photographs obtained by the academy will not be kept for longer than necessary. (Photographs and video will be kept for the duration of a child's time at the academy and additional permission will be sought if required for a longer period e.g. alumni).
- 9.2. Hard copies of photographs and video recordings held by the academy will be annotated with the date on which they were taken and will be stored in the *school office*. They will not be used other than for their original purpose, unless permission is sought from the *Principal* and parents/carers of the students involved and the *DPO* has been consulted.
- 9.3. Paper documents will be shredded or pulped, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.
- 9.4. The *DPL* will review stored photographs (working with the academy and *OAT*) and videos on a *termly/yearly* basis to ensure that all unwanted material has been deleted.
- 9.5. Parents/carers must inform the academy in writing where they wish to withdraw or change their consent. If they do so, any related photography and videos involving their children will be removed from the academy/*OAT* secure drives immediately.
- 9.6. When a parent/carer withdraws consent, it will not affect the use of any photographs or videos for which consent had already been obtained. Withdrawal of consent will only affect further processing.
- 9.7. Where a student's security/safeguarding risk has changed, the *DSL* will inform the *Principal* immediately. If required, any related photographs and videos involving the student will be removed from the academy/*OAT* secure drives immediately. Hard copies will be removed by returning to their parents/carers or by shredding, as appropriate.
- 9.8. Official academy photos are held on the *Academy Management Information System* alongside other personal information, and are retained for the length of the student's attendance at the academy, or longer, if necessary, e.g. due to a police investigation.
- 9.9. Some educational records relating to former students of the academy may be kept for an extended period for legal reasons, but also to enable the provision of references or academic transcripts.

10. Monitoring and review

- 10.1. This policy will be reviewed on an *annual* basis by the *Principal* and the *DPL*. The next scheduled review date for this policy is *June 2019*.
- 10.2. Any changes to this policy will be communicated to all staff members and, where appropriate, parents/carers.