

The Use of Photographic and Video Images of Children and Young People

Introduction

For many young people and their families, sport, sporting events and sporting activities play a big part in their lives. Young people are encouraged to be proud of their achievements and have photographs and films to document special moments. Governing bodies (SGBs) may also want to promote their activities to encourage participation and promote awareness of their sport. Individual sports people and their coaches may also find it helpful to use photographs or videos as a tool to support young sportspeople's skills development.

SGBs are often asked questions around safeguarding and data protection in relation to photography at sports events.

SGBs should always be mindful of child protection and safeguarding when allowing people to take photos or videos during an event, competition or activity run by or on behalf of the SGB. With the recent changes in data protection legislation, SGBs must also ensure that the use of photographs and videos comply with their obligations regarding protecting people's personal data.

With the correct measures in place, SGBs can seek to minimise potential risks and ensure that the correct approach is taken within their individual sports. This briefing note intends to give an overview of the most pertinent risks and attempts to address how these can be mitigated.

Potential risks

Some of the potential risks of photography and filming at events include:

- Children are at greater risk of being identified when a photograph is shared alongside personal information (such as their full name, address, details of their hobbies/interests). In the wrong hands, such information may leave a child vulnerable to individuals looking to locate, contact or 'groom' the child for abuse.
- There is an increased risk of identification of and therefore contact with a child in circumstances where there are legal restrictions in place. Such a situation may arise when, for example, a child is placed in local authority care or with an adoptive/foster family, or where it is potentially dangerous to reveal the child's whereabouts to an estranged parent due to concerns about domestic violence.
- Inappropriate photographs or recorded images being taken of children. Some individuals deliberately target sports events to take inappropriate photos in ways that are potentially illegal and harmful, for example, images of children in private situations (such as in changing rooms).
- Adaptation or copying of images for inappropriate use. Images can be easily copied and edited, particularly if published without a watermark.
- Even where images are shared privately online, there is no way to ensure that these will not be re-shared and enter the public domain on other websites/social media
- Some sports present a higher risk than other sports, either due to the sport itself or aspects associated with the sport (typically involving the sportswear required) so particular care should be taken where there is a higher risk.
- Talented young athletes present unique issues. As young athletes progress, their success can lead to an increased public profile as events become increasingly high profile. Event organisers and governing bodies will wish to use this success to promote their sports and in many cases elite young athletes may welcome positive coverage in order to secure sponsorships/endorsements
- Increased risk profile under the General Data Protection Regulation (EU) 2016/679 (the GDPR) and the Data Protection Act 2018.

Practical steps

- **Consider the photograph itself** – the risk of misuse of photographs can be minimised by giving careful consideration to the type of photographs which are permitted. Children should always be pictured in suitable kit and the focus should be on the activity rather than the child. Avoid showing the full face and body of the child if possible. For example, in swimming, photos should show the children in the water from the waist/shoulders up. Considered using models/illustrations for promotional work, rather than the children involved.
- **Professional photographer** – when using a professional photographer for a specific event, ensure that all children and their parents/carers are aware that they will be in attendance. Check the photographer's identity and validate their role. Issue the photographer with ID and insist that this worn at all times. A clear, detailed brief should always be provided, which details type of photographs which are considered appropriate. Ensure the photographer is aware of children for whom parental consent has not been provided. Ensure that the photographer delivers up copies of all photographs taken, and not simply those selected by the photographer, to ensure transparency is observed.
- **Do not allow photographs to be taken away from official events** – one to one photo shoots should be avoided and should never take place at the child's home or away from official SGB events. Where this is necessary, it should be supervised at all times.
- **Training** – ensure all staff and volunteers who use images of athletes as part of their training are issued with clear guidelines by which they are required to comply, including the use of the images, consent, and retention, safe storage and confidentiality. This training should be repeated frequently, and care should be taken to ensure that any new members of staff undertake the training as a matter of urgency.
- **Consent** – express parental consent should be obtained from the child's parents/carers before any image of the child is used for promotional purposes. Make sure this permission is given after the parent/carer has been given the opportunity to read your photography policy. Ask parents to sign a consent form for use of their child's images, and keep a record of this. It is also appropriate to consult the child about the use of their photograph to ensure they are aware the photo is being taken, and

what it will be used for. Parental consent should always be sought for children under the age of 18, even if the child consents. In cases involving elite athletes who wish for their image to be more widely used, SGBs retain their duty of care and their responsibility safeguard the athlete. They must ensure that the athletes and their parents' consent to images being taken and what information will be published alongside them.

- **Store images securely** – care should be taken in regards to how images or recordings of children are stored. Hard copies of images should be kept in a locked drawer, and electronic images should be in a protected folder with restricted access. Staff and volunteers should avoid using any personal equipment to take photos and recordings of children where possible. Images should not be stored on unencrypted portable equipment such as laptops or memory sticks.

What do SGBs need to do to comply with data protection?

- **Be GDPR compliant** – in capturing, storing and using photographs or videos taken at events from which children can be directly or indirectly identified, SGBs must ensure that the use of such photographs or videos complies with their obligations where they are a controller of personal data under the GDPR. As a controller, SGBs must ensure that there is a lawful basis under the GDPR for using the personal data contained in photographs or videos.
- **Ask for consent** – one lawful basis under the GDPR is asking individuals who are the subject of the photograph or video (the data subject) for consent to use the photograph or video for specific purposes. This might apply where the SGB wishes to use a photograph or video of one or a few children for a specific publication. When asking for consent, this must comply with the requirements of the GDPR, including a specific consent statement with a privacy notice attached.
- **Rely on legitimate interests** – another lawful basis is where the SGB or a third party has a legitimate interest in using the photograph or video, provided the data subject does not suffer any disadvantage. Where the chance of harm to the data subject is small, it is likely that a desire to promote and raise awareness of the sport would be considered a legitimate interest. SGBs must ensure that the data subject is provided with a privacy notice before using the photograph or video and

that it has assessed the legitimate interests against the interests of the data subject to ensure that the data subject's interests are not prejudiced.

Further information on compliance with the GDPR can be found in our data protection guide for SGBs.

Do SGBs need to get parents / attendees to sign something if they want to take their own photographs?

From a data protection point of view, SGBs will not be a controller of any personal data contained within photographs or videos not used by or in the possession of the SGB.

There is no requirement in law to have persons sign a form in order to take photographs and in many respects the prospect of having every person attending at an event, sign to signify that they have read and understood a policy on the taking and subsequent use of photos, is very difficult.

SGBs should consider how to ensure that their policy on the taking of photographs is drawn to the attention of attendees in a number of different ways. It would be possible to draw attention to this generally as part of membership renewal, or as part of applying for tickets for an event. Equally displaying notices at the event is important.

Ultimately, a combination of these steps should help, rather than having someone sign a document at a particular event, which the individual concerned may recognise only as relevant to that particular event.

Photography policy

SGBs should develop a policy to govern the handling of images of children and young people.

The policy should include the following points:

- Do not use children's names or personal details in photograph captions. If a child is named, avoid using the photograph – if the child is photographed, avoid using their name.
- Use a parental permission form to obtain consent for a child to be photographed and videoed.
- Obtain the child's permission to use their image in addition to their parent's consent.
- Seek to reduce the risk of inappropriate use at all times – only use images of children in suitable clothing, and be aware of the possibility of photos being edited out of context.
- Address how images of children on the SGB's website can be misused. Images accompanied by personal information, such as the name of a child and their hobby, could be used to learn more about a child prior to grooming them for abuse. Some SGBs may impose an acceptable use policy, which includes asking parents not to share photos on social media.
- Have a written statement of what is expected from professional photographers or the press who are invited to an event. These should make clear the SGB's expectations of them in relation to child protection
- Have a clear policy on how to withdraw consent, report concerns, or raise a complaint.
- State that on occasion, general images of events may be taken. Make it clear to all participants and parents that such images will be taken, and for what purpose they will be used.