

## **PUBLISHING PHOTOGRAPHS OF PEOPLE**

### **Guidance for the use of photographs of people in publications**

Photographs containing one or more recognisable individuals are considered to be personal information under the Data Protection Act 1998. They should not be used in any Council publication unless explicit permission has been obtained from the individuals. This includes photographs of employees of Perth and Kinross Council.

Note that it is impossible to differentiate between use in printed publications and on the web site since it is normal practice to make electronic versions of all printed publications available on the web site.

#### **1. Permission**

Permission must only be recorded using the Council's Permission Form for Photography. A sample form is available on *eric*.

Permission is for Council use only.

If photographs are being taken for joint use with other organisations, then this must be specifically stated on the permission form and the various partners clearly identified. An appropriate information sharing protocol must have been agreed with the partners prior to the photographs being taken.

The Permission Form must be fully explained to the individual; completed accurately and in full; and signed by the individual or, for children under 16 and adults incapable of giving consent, by the parent or legal guardian.

An individual may revoke their permission at any time. If the permission is revoked, the photograph must be destroyed / deleted. Where the photograph is already contained in a publication it is acceptable to continue to use the publication until it is feasible to withdraw or replace it in line with its planned life.

#### **2. Retention**

A photograph taken for publicity purposes will remain current (that is, accurate and / or relevant) for a maximum of two years from the date it was taken. As a consequence, permission is only sought for a two year period.

Photographs must be removed from image libraries, including the website, two years from the date of the photograph being taken and must not be used in any new publications thereafter. If permission has been given, the photographs should then be offered to the Museum, Library or Archives along with a copy of the Permission Form, otherwise they should be destroyed / deleted.

Completed permission forms must be kept by the responsible Service for at least two years from the date of the photograph being taken or, if it is being used in a current publication, until the publication is replaced or withdrawn from circulation.

### **3. Photographs of Events or Public Places**

Permission is not required for a photograph of a crowd scene, street scene, etc.

Care must be taken, however, to ensure that the published image cannot be enlarged sufficiently to allow individuals to be identified, e.g. avoid the use of high resolution images on the web site.

For a photograph of an identifiable individual or group of identifiable individuals, even if they are part of a crowd, it is necessary to obtain permission from each of the individuals. A separate Permission Form must be completed for each recognisable individual.

The exception to this is where individuals might reasonably expect their photographs to be taken. This would include competitors or participants in a public event such as a parade, race, football match, etc.

Care should be taken, however to ensure that an event is actually “public”. It is good practice to obtain the permission of the organiser / owner before taking photographs and may be a requirement on occasions.

If photographs are taken at a seminar, meeting or similar event, organised by the Council, participants must be informed prior to the event. In addition, Permission Forms would still be required for all photographs of individuals or groups of individuals.

### **4. Historical Photographs**

Photographs of people are held for historical or archival purposes. Particular care should be taken when using such photographs involving identifiable individuals who are likely to still be alive.

Where possible, contact details for the subjects of photographs should be obtained when photographs are accepted into the Museum, Library or Archives' collections.

Prior to their use, a check should be made to see whether contact details are recorded for the subjects of the photographs. Where contact details are available an attempt should be made to obtain permission for the use of the photograph.

Where there are no contact details available or contact attempts have failed, consideration should be given as to whether it is appropriate to use the photograph without permission. In other words, assess whether the publication of the photograph is likely to cause damage or distress to anyone.

### **5. Employees and Councillors**

This guidance covers photographs of employees taken for publicity purposes - specific permission is required.

This guidance does apply when taking photographs of employees for administrative purposes, for example id badges.

In the majority of instances, photographs of Councillors are taken as part of “photo opportunities”. In situations like this, permission is not required.

## **6. School Pupils**

Head teachers will normally obtain blanket permissions for all pupils in their school on a regular basis. The need for specific consent for any photographs taken in the school environment will be at the discretion of the head teacher.

## **7. Best Endeavour**

It is recognised that there may be circumstances where the application of the procedures described above is not possible, i.e. explicit, written consent cannot be obtained. As a consequence these procedures should be used on a “best endeavour” basis.

It is the individual responsibility of the photographer to ensure that these procedures are applied and to obtain consent whenever necessary. A photographer failing to do so may be subject to disciplinary investigation or legal action.

Any employee commissioning photographs must communicate clearly these procedures to the photographer and ensure he or she understands their responsibilities and liabilities.