

Guidelines on the collection, use and storage of photographic images

Based on TASI¹ recommendations, this document provides guidance for University staff who are processing² photographic images in compliance with the Data Protection Act (DPA). It should be read in conjunction with the University's [policy](#) on Data Protection.

Photographic images and data protection

Photographic images of individuals and small groups can be defined as 'personal data' and therefore fall within the scope of the Data Protection Act (DPA). Personal data relates to living individuals who can be identified from the data, either by itself or in tandem with other information that might be in the University's possession.

There is some legal ambiguity about exactly what photographs and images of people constitute personal data or not. Some examples are given below by way of guidance. To err on the side of caution any University staff who deal with any photographic images of people should ensure that when they are processing this data they comply with the 8 data protection principles - personal data should be:

- fairly and lawfully processed
- processed for limited purposes
- adequate, relevant and not excessive
- accurate
- not kept longer than necessary
- processed in accordance with individuals' rights
- kept secure

¹ TASI (Technical Advisory Service for Images), see www.tasi.ac.uk

² Processing refers to all aspects of data handling, including collection, holding/storing, and disclosing.

- not transferred to non-European Economic Area (EEA) countries without adequate protection

Images that are clearly ‘personal data’

Where an individual is the focus of an image, the image is likely to be personal data.

Examples include:

- Photographs of individuals which are stored with personal details eg, for identity passes
- Photographs of staff or students published on notice boards along with some biographical details
- Individual images published in a newsletter

Images that are NOT ‘personal data’

Where individuals are ‘incidentally’ included in an image or are not the focus the image is unlikely to contain personal data. Examples include:

- Photographs taken for purely personal use are exempt from the DP provisions; this would include photographs and videos taken by family members at a graduation ceremony
- Images of people who are no longer alive; the DPA only applies to living people so these are not personal data

Images that are ‘personal data’ but compliance with DP is unlikely to be onerous

Images in which individuals can be identified should be treated as personal data, even if the subject of the picture is a crowd or general scene. However, compliance with DP is unlikely to be onerous in such situations as it is very unlikely to be unfair or unexpected for general scenes to be used in a University newsletter or promotional material. Examples include:

- Where people are incidentally included in an image or are not the focus, e.g. at a busy open day or public lecture, the image could contain personal data, but explicit consent would not be required.

Good practice in collecting and using photographs

Photographs of individuals.

Obtain the subject’s consent in writing before photographing; this is the easiest and safest way of proving you have obtained the image fairly and in accordance with the individuals’ rights, both key elements of DPA compliance.

If consent is inappropriate or not possible then informing people that their photograph is to be taken and explaining how it is to be used should be enough to ensure ‘fairness’.

To get consent, use the [standard image release form](#). This form ensures that when you collect the image(s) you are not only acquiring their consent, but also telling people what is being collected, why, the limits on processing (use, disclosure and disposal).

If you wish to design your own image release form ensure the ‘small print’ has the following information:

- A statement that the University processes and stores information in accordance with the Data Protection Act (DPA) 1998
- An explanation of all the reasons for which the image will be used
- A means of obtaining the consent of the individual where required
- Whether the image will be released to third parties and who those third parties are
- Where the image will be used
- A means for the individual to opt out now or later if they wish
- How long the image will be held, how it will be maintained and eventually destroyed
- An explanation of how the individual can see the personal information about them being held

A step by step guide to creating such forms can be found in the [Guidelines for collecting personal data \(PDF-251KB\)](#).

Photographs of large groups. It will usually be enough for the photographer to verbally ask permission to take the photograph to ensure compliance with the DPA. Anyone not wishing to appear on a group photograph will then have the opportunity to 'opt out'. This approach can be used when photographing, for instance, a seminar.

Photographs of small groups. For photographs taken of a small group of individuals best practice would be to seek consent before photographing begins. When acquiring this consent, it is important to ensure that individuals are informed of what the images will be used for (e.g. where they will be published and who will have access to them).

In most cases, verbal consent is all that will be required although photographers may wish to use a [standard image release form](#), to be signed by the subject(s), to ensure that they have appropriate consent.

Using photographs on the web

If you wish to use photographs of individuals on a web-site it is sensible for the explicit consent of the individuals concerned is obtained. You can use the [standard image release form](#) to obtain this consent.

When displaying/disclosing personal information in either of these ways, you have a duty, under the DPA, to keep the information up-to-date. For example, when a member of staff leaves, their photograph should be removed from any web pages of current staff. It is also good practice for the staff/students to be given a means of opting out at a later stage even if initially they gave their consent, although this may not be possible in all circumstances. See the [Guidelines for collecting personal data \(PDF-251KB\)](#) for a sample form to collect permission to use photographs on the web.

Photographs and sensitive personal data

The DPA defines 'sensitive personal data' as a class of data with special rights. This data can only be used in appropriate circumstances, such as a medical context or in the pursuit of equal opportunities. Sensitive data are data about a person's ethnic origins, political opinions, religious beliefs, trade union membership, health, sexual life and criminal history.

If you suspect the images you are about to process could be sensitive personal data, please contact the IMPS office for guidance on imps@reading.ac.uk

Exemptions from the Data Protection Act

DPA provides some exemptions from the Act's provisions if, for instance images is being processed for journalistic, literary and artistic purposes, or for 'research' purposes. It is difficult to provide generic guidance here as each case must be dealt with on a case by case basis.

If you believe the images you are processing could fit these exemptions, please contact the IMPS office for guidance on imps@reading.ac.uk

Using images without the consent of subjects

Images of people that do not have their consent can expose the University to the risk of a legal claim or damage of reputation. If you do not have the consent of the subject then consider using a different (more reliable) image.

If you suspect the images you are about to process are without the consent of subjects, please contact the IMPS office for guidance on imps@reading.ac.uk

Storage of photographic images

Under the DPA photographs (as personal data) must be kept secure.

Checklist for staff

Some questions to consider when processing photographic images:

For what purpose was the photograph originally taken? Bear in mind that if it was taken for one purpose (e.g. personal use) it cannot then be used for another (e.g. promotional use) without the explicit consent of the individuals

Is the image 'sensitive' personal data? If it is, do you have the data subject's explicit consent?

When photographing with small groups and individuals, has an [image release form](#) been used?

When photographing large groups, have the individuals been given a chance to 'opt out' of the photograph?

Has the subject been told how the image will be used?

Are you using the image according to how the subject was told it would be used?

Are you authorised to process the image? Check with IMPS if you are unsure

Has the Data Protection Officer been notified that you are processing images for a particular purpose? Again, check with IMPS if you are unsure

Are you sure that the image will be held securely?

If you do not have the subject's consent to process their image, what is the purpose of this image?

Do you know how long to keep the image for, and when and how to dispose of it?