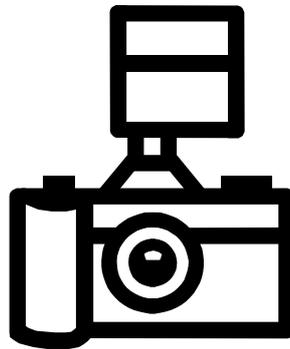


Using images of people: photographs, videos and webcams



Contents

Introduction

Guidance for Schools

Existing photos	3
Websites	4
Prospectuses	4
Videos	5
Webcams	5
Consent	5

Guidance for Council Staff

How long does consent last?	6
Existing photos	6
Photos on the web	6
Staff photos on the internet	7
Agency photos	7
Videos	7
Webcams	8
Consent	8
Copyright	9

Appendix A

Sample Consent forms	10
----------------------	----

Acknowledgements to Hampshire County Council who did most of the work on this guidance and Bradford MDC who supplied additional material.

www.actnow.org.uk – the only data protection resource specific to local government

Introduction

Since the introduction of the Data Protection Act in 1998, we must be very careful if we use photographs, videos and webcams of clearly identifiable people. Also, increased use of the internet has led several people to ask us for advice on using images of children and adults both on our website and our printed publications. We offer separate guidelines for schools and for other Council staff.

The Data Protection Act 1998 also affects our use of photography. There are several issues you should be aware of.

You must get the permission of all the people who will appear in a photograph, video or webcam image before you record the footage. That means children as well as adults.

A council has already been taken to court (and paid substantial damages and costs) for failing to obtain a consent and for using a photograph of a child in an inappropriate situation.

Sample consent forms for both children and adults can be found at Appendix A.

You must make it clear:

- why you are using that person's image
- what you will be using it for, and
- who might want to look at the pictures.

If you are taking images at an event attended by large crowds, such as a sports event or the Bradford Festival, this is regarded as a public area so you do not need to get the permission of everyone in a crowd shot. People in the foreground are also considered to be in a public area, however, we suggest that photographers address those within earshot, stating where the photograph may be published and giving them the opportunity to move away. If you want to use an image of, for example, the winner of a race at a sports event – with the crowd in the background – you must get the race winner's verbal permission and record the fact that you have done so. You can record their consent when you take the photograph or when you return to your office.

See Appendix A for a sample verbal consent form.

If you intend to use images from an agency, it is the agency's responsibility to get permission from all those appearing in the image before it is recorded. However, it is ultimately our responsibility to ensure that permission was obtained, so you might want to get this in writing from the agency concerned.

Specific corporate guidance

This document includes specific guidance for both schools and Council staff about procedures for taking photographs or recording video footage of people. Appendix A contains a set of sample consent forms that you could use for your project.

Guidance for schools

How long does consent last?

It is important to get consent from the parent, guardian or carer of a child or young person up to the age of 18 (this is called 'parental consent'). As most children attend primary and secondary schools for five years, it seems sensible for you to get consent for the whole five-year period.

We suggest you send a consent form to parents with the school registration pack, to cover the period that their children will spend at that particular school.

Although this usually means that you won't have to renew parental consent until a child changes schools or starts at sixth form, you will have to be careful to record any changed circumstances. This will be easier if you keep photographs and signed consent forms together.

Don't forget that you also need consent from teachers and any other adults who may appear in the photograph or video, not just the children. A sample consent form for adults can be found at Appendix A.

You should not re-use photographs after a child (or teacher) appearing in them leaves the school, so we recommend you destroy them immediately.

Can I use existing photographs?

You may have photographs on file. If you are re-using older photographs where you obtained consent but probably only for paper publications, we recommend that you renew parental consent to use the images on your website.

If you never obtained consent, ie you had the photos before the Act came into force, you must apply common sense when using them. For example, never use a picture of an untraceable person on a leaflet about a mental problem or an illness. To help you make a balanced decision when re-using photographs, it may be helpful to consider the following:

- for what purpose was the photograph originally taken, eg was it taken for a specific project such as your school prospectus?
- where was the photograph taken, eg was it taken in a public place such as on a school trip to a museum?
- when was it taken, eg was it taken recently or a long time ago?

Once again, avoid using photographs of children after they have left the school.

www.actnow.org.uk – the only data protection resource specific to local government

What else should I think about?

Occasionally, members of the press may take photographs or film footage at your school. For example, a school was recently visited by the mayor and the local press took photographs of the mayor surrounded by pupils. Although the press can claim exemption from the Data Protection Act for journalistic work (section 32), some parents may object to their children appearing in the media. Therefore, we have included this option on the consent form for schools.

Remember to include images of children from different ethnic communities in your communications whenever possible, and to use positive images of disabled children. This will ensure that your photographs are inclusive of the whole community and comply with the Disability Discrimination Act.

Only use images of pupils in suitable dress, to reduce the risk of the images being used inappropriately. For example, don't use photographs of children in swimming costumes. You will also need to be aware of copyright implications with any photographs that you may use from elsewhere.

Websites

Due to recent negative press on photographs of children on websites, we have decided to take our lead from the Department for Education and Skills' Superhighway Safety Website at www.safety.ngfl.gov.uk/schools. This website contains lots of useful information for schools that use the internet or have their own website.

We recommend that school websites avoid using:

- personal details or full names (first name and surname) of any child or adult in a photograph, although first names can be used in some circumstances
- personal e-mail or postal addresses, and telephone or fax numbers.

If you use a photograph of an individual pupil, don't include that child's first name in the accompanying text or photo caption. If a pupil is named in the text, don't include a photograph of that child. This will avoid the risk of inappropriate and unwelcome attention from people outside the school.

As an alternative, you could ask pupils to draw a picture of a pupil or member of staff for your website.

Additionally, you can use group or class photographs with very general labels such as "a science lesson" or "making Christmas decorations".

School prospectuses and other literature

Although most school literature is sent to a very specific audience, it would be best to avoid using personal details or full names of any child in a photograph. Also avoid naming a child in the text or accompanying photo caption if they appear in a photograph – and vice versa.

www.actnow.org.uk – the only data protection resource specific to local government

Videos

Before any children or young people up to the age of 18 can appear in your video, you must get parental consent. You can do this in the same way as for photographs of children, using the relevant parental consent form. Similarly, you must get the permission of anyone in your video who is not part of a crowd and is easily recognisable.

The question arises as to whether parents can make video recordings of nativity plays and similar school events. Yes they can because there is an exemption under the Act for personal and domestic purposes. The School should inform parents who wish to do so that they should be for personal and domestic use and no other use. This should be done before the event and parents who object to their child being in a school play which may be videoed should express their preference when such a production is proposed.

Webcams

The regulations for using webcams are similar to those for CCTV (closed-circuit television). This means that the area in which you are using the webcam must be well signposted and people must know that the webcam is there before they enter that area. In effect, this means you are getting their consent. As with photographs, you must tell the person:

- why the webcam is there
- what you will use the images for, and
- who might want to look at the pictures.

MMS phones

Multi media messaging service mobile phones can take and transmit images which may be personal data. Schools should consider banning the use of such phones particularly in situations where children are not fully dressed – changing rooms etc.

Getting consent

As mentioned above, it is important to get parental consent when a child starts at your school. Once the consent form has been signed, you should keep it on file. You will also need to get consent from the teachers, if you wish to use their images too. The consent form must make it clear that you could use the photographs on your school website, as well as in printed publications for promotional purposes.

For example, you could ask:

- may we use your child's photograph in the school prospectus and other printed publications that we produce for promotional purposes?
- may we use your child's photograph on our school website?

It is important that you make it clear that websites can be seen throughout the world and not just in the United Kingdom, where UK law applies.

There is one sample consent form for schools – see Appendix A. It covers the whole period that a child attends that school. You will find the conditions of use for the photographs on the back of the consent form.

Guidance for Council staff

Before you start taking images of people, it is vital that you get their consent to do so. You need to be particularly careful when dealing with children, so it is important that you get consent from the parent, guardian or carer of any child or young person up to the age of 18 ('parental consent'). We suggest you ask for parental consent early in a project's lifetime and plan ahead, in case the printed publication is transferred to our website at a later point.

You need a person's consent (or parental consent for those under 18) when they are clearly recognisable in an image. A person may be unrecognisable if they have their back to the camera, or they appear out of focus in the foreground of a photograph while the camera zooms in on an object in the background. You should be especially sensitive in the case of children with special educational needs. If you need to get consent for children, you should send a consent form to the parents via the headteacher at the child's school. Remember to allow plenty of time for this, so that you get permission before you take the photographs.

Please note that the consent forms that schools have for school literature and websites do not cover literature produced by Council departments or used on the Internet. You must have a separate, signed consent form for your project.

How long does consent last?

We recommend that you destroy images two years after the date on the consent form, in case family circumstances change, unless further consent is agreed. This is particularly important if your publication will have a high profile, eg if it will have a wide circulation or be publicising a conference.

If the images are for a specific project, you may want to state this on the form and agree not to use the photographs for other projects. The member of staff sending out the form must remember to delete whichever options do not apply.

Can I use existing photographs?

You may have photographs on file. If you are re-using older photographs for which you did have consent but probably only for paper publications, we recommend that you renew this consent if you use the images on a website.

If you never had consent, ie you had the photos before the Act came into force, you must be extremely careful and apply common sense when using them. For example, never use a picture of an untraceable person on a leaflet about a mental problem or an illness. To help you make a balanced decision when re-using photographs, it may be helpful to consider the following:

- for what purpose was the photograph originally taken, eg was it taken for a specific project?
- where was the photograph taken, eg was it taken in a public place?
- when was it taken, eg is it a picture of a child who could now be an adult?

www.actnow.org.uk – the only data protection resource specific to local government

Your departmental photographic libraries will need to be sufficiently well organised so that you can check consent at a later date if you are re-using the photograph. This will be easier if you keep photographs and signed consent forms together. However, you must be prepared to destroy all photographs once the consent has expired.

Are there special rules for putting photographs on the web?

If you are putting photographs of children on the internet, especially if they can be clearly identified, you should follow the guidance given for school websites. However, there may be occasions when you have good reason for including an adult's or child's full name with a photograph. For example, you can include the full name of a competition winner if you have their consent, but it is not acceptable to include the full name of a model used in promotional literature.

What about using photos of staff on the internet or intranet?

Departments may from time to time wish to display photographs of staff on the internet. A likely reason for this is for staff recognition purposes. An 'image' is personal data and must not be processed for any other purpose than it was originally collected for.

Photographs taken for security reasons using a digital camera, to enable access to buildings for example, is a legitimate business purpose for processing personal data. Unless the staff member agreed for the image to be further processed by publishing it on the intranet or internet when the photograph was taken, it cannot be used for this or any other purpose without their consent.

Individuals may wish to give consent for their image to appear on the internet. Others may feel more comfortable with access restricted to their department only. A choice could be offered about the disclosure of their personal data and their wishes should be respected. Using images of staff on the internet requires 'explicit consent.'

Individuals must be made aware of the risk to security when images are transmitted on the world wide web to countries without adequate levels of protection for processing personal data, outside the European Economic Area. The best evidence of explicit consent for publication on the web is a signature on a consent form – see Appendix A.

This guidance follows the standards set in the Draft code of practice 'The use of personal data in employee/employer relationships' published by the Information Commissioner's Office, featuring the eight principles of the Data Protection Act 1998.

Can I use photographs from an agency?

If you get photographs from an agency, you should ask the agency to guarantee that permission has been granted. Wherever possible, however, you should use photographs that portray Bradford people and Bradford district. You should also tell the agency how you will be using the photographs because there are different charges for different situations. Ultimately, however, it is your responsibility to ensure that the agency obtained permission from the people in the photographs, so you might want to get this in writing from the agency.

What else should I think about?

www.actnow.org.uk – the only data protection resource specific to local government

Remember to include images of people from different ethnic communities in your communications whenever possible and to use positive images of disabled people. This will ensure that your photographs are inclusive of the whole community and comply with the Disability Discrimination Act.

Only use images of children in suitable dress, to reduce the risk of the images being used inappropriately. For example, don't use photographs of children in swimming costumes. You will also need to be aware of copyright implications with any photographs that you may use from elsewhere.

Videos

Before any adults or young people up to the age of 18 can appear in your video, you must get the correct permission, ie parental consent for those under 18. You can do this in the same way as for photographs of people, using the relevant consent form. Similarly, you must get the permission of anyone in your video who is not part of a crowd and is easily recognisable.

Webcams

The regulations for using webcams are similar to those for CCTV (closed-circuit television). This means that the area in which you are using the webcam must be well signposted and people must know that the webcam is there before they enter that area. In effect, this means you are getting their consent. However, as with photographs, you must tell the person:

- why the webcam is there
- what you will use the images for, and
- who might want to look at the pictures.

MMS phones

Multi media messaging service mobile phones can take and transmit images which may be personal data. Councils should consider banning the use of such phones particularly in situations where subjects are not fully dressed – sports centres, changing rooms etc

Getting consent

To avoid any problems in the future, you must get a signed consent form before taking any images. For children, you send the consent form to the parents through the headteacher of the child's school. Once you have the signed form, you should keep it on file.

The form must make it clear that you may use the images on a website, as well as in printed publications. For example, on the form you could ask:

- may we use your photograph/your child's photograph in promotional publications produced by the Council?
- may we use your photograph/your child's photograph on our website?

It is important that you make it clear that websites can be seen throughout the world and not just in the United Kingdom where UK law applies.

www.actnow.org.uk – the only data protection resource specific to local government

There are three sample consent forms at Appendix A for Council staff, relating to different situations. You will find the conditions of use for the photographs on the back of all forms.

Copyright

It is important to be sure of the copyright position of any photographs you intend to use, because photographic images are considered as artistic works under the laws of copyright.

Copyright is basically the right given to authors and creators of works, such as books, films or computer programs, to control the exploitation of their works. This right broadly covers copying, adapting, issuing copies to the public, performing in public and broadcasting the material. Copyright arises automatically and does not depend on the completion of any formalities, such as registration. Remember that photographs obtained from the Internet are also subject to copyright. The first owner of copyright is usually the author of the work. The major exception is where such work is made in the course of employment, in which case the employer owns the copyright.

Commissioning and paying for work does not procure the copyright. Contractors and freelancers own the first copyright in their work unless the commissioning contract agrees otherwise.

You should also remember that copyright lasts for over 50 years. Photographs taken after 1 August 1989 are protected for 70 years after the death of the photographer. There are different rules regarding older photographs depending on the relevant Copyright Act at the time they were taken. See the table below.

Date photograph taken	Length of copyright
Before 1912	Expired
1 July 1912 - 1 June 1957	50 years from the end of the year in which the photograph was taken
1 June 1957 - 1 August 1989	70 years from when the negative was taken
After 1 August 1989	70 years after the death of the photographer

Photographs on the internet that are not owned by the Council should have a photographic credit attached to them. It is your responsibility to ensure that all photographs on your web pages have this credit applied. Photographs owned by the Council do not need a credit.

More information on copyright is available from the United Kingdom's Copyright Licensing Agency (tel: 020 7631 5555; e-mail: cla@cla.co.uk; web: www.cla.co.uk) or International Federation of Reproduction Rights Organisation in Brussels (tel: 32 2 551 0899; e-mail: secretariat@ifrro.be; web: www.ifrro.org).

www.actnow.org.uk – the only data protection resource specific to local government

Appendix A

Sample consent forms for photographs, videos and webcams

To help you with the planning of taking images of anyone, be they adults or children, we have prepared five sample consent forms for different situations that may be of use to you. These can be adapted to your own requirements, although the Data Protection guidelines must remain.

Available forms are as follows:

consent form for use by Bradford Council schools – to be used by headteachers wishing to use images of children for all school-based literature and recordings

consent form for Council non-school staff commissioning photography of children – to be used when Bradford MDC are requesting the use of images of children

consent form for Council staff commissioning photography of adults – for use when using any images of adults for a Bradford Council publication

verbal consent form – for use at large events when you might need someone's consent unexpectedly, eg a race winner

consent form for using photographs of staff on the internet – any staff pictures placed on the net must have explicit consent before they go live.

Consent form for use by schools

To Name of the child's
parent or guardian: _____

Name of child: _____

School: _____

Occasionally, we may take photographs of the children at our school. We may use these images in our schools prospectus or in other printed publications that we produce, as well as on our website. We may also make video or webcam recordings for school-to-school conferences, monitoring or other educational use.

From time to time, our school may be visited by the media who will take photographs or film footage of a visiting dignitary or other high profile event. Pupils will often appear in these images, which may appear in local or national newspapers, or on televised news programmes.

To comply with the Data Protection Act 1998, we need your permission before we can photograph or make any recordings of your child. Please answer the questions below, then sign and date the form where shown and return the completed form to the school

Please circle your answer



May we use your child's photograph in the school prospectus and other printed publications that we produce for promotional purposes?

Yes / No

May we use your child's image on our website?

Yes / No

May we record your child's image on video or webcam?

Yes / No

Are you happy for your child to appear in the media

Yes / No

Please note that websites can be viewed throughout the world and not just in the United Kingdom where UK law applies.

Please note that the conditions for use of these photographs are on the back of this form.

I have read and understood the conditions of use on the back of this form.

Parent's or
guardian's signature: _____ Date: _____

Name (capitals): _____

www.actnow.org.uk – the only data protection resource specific to local government

Conditions of use

This form is valid for five years from the date you sign it, or for the period of time your child attends this school. The consent will automatically expire after this time.

We will not re-use any photographs or recordings after your child leaves this school.

We will not use the personal details or full names (which means first name and surname) of any child or adult in a photographic image on video, on our website, in our school prospectus or in any of our other printed publications.

We will not include personal e-mail or postal addresses, or telephone or fax numbers on video, on our website, in our school prospectus or in other printed publications.

If we use photographs of individual pupils, we will not use the name of that child in the accompanying text or photo caption.

If we name a pupil in the text, we will not use a photograph of that child to accompany the article.

We may include pictures of pupils and teachers that have been drawn by the pupils.

We may use group or class photographs or footage with very general labels, such as “a science lesson” or “making Christmas decorations”.

We will only use images of pupils who are suitably dressed, to reduce the risk of such images being used inappropriately.

Consent form for Council staff commissioning photography

To Name of parent or guardian: _____
or Headteacher's name: _____

Name of child: _____

School the child attends (if applicable): _____

Location of photograph: _____

Bradford MDC would like to *take photographs / *make a video recording of your *child / *children for promotional purposes. These images may appear in our printed publications, on video, on our website, or on all three. (**delete as appropriate.*)

To comply with the Data Protection Act 1998, we need your permission before we take any images of your *child / *children. Please answer questions then sign and date the form where shown. **Please return the completed form to:**

(Insert name of the person commissioning the photography and the return address.)

If photographs or recordings of school groups are organised and individual children cannot be easily identified, headteachers must find out whether any parents do not want their child to be in the photograph. **Headteachers should return the completed form to the address shown above.**

 **To the parent** *Please circle your answer*
May we use your child's image in our printed promotional publications? **Yes / No**
May we use your child's image on our website? **Yes / No**
May we record your child's image on our promotional videos? **Yes / No**

 **To the headteacher**
I have checked which parents are happy for their children's images to be used in Bradford MDC printed publications, on its website, on video, or on all three. **Yes / No**

Please note that websites can be viewed throughout the world, not just in the United Kingdom where UK law applies. Please also note the conditions for using these images on the back of this form.

I have read and understood the conditions of use on the back of this form.

Signature: _____ Date: _____

Your name (in block capitals):

Conditions of use

This form is valid for *two years from the date of signing / *for this project only. The consent will automatically expire after this time.

We will not re-use any images *after this time / *after the project is completed.

We will not include details or full names (which means first name and surname) of any child or adult in an image on video, on our website, or in printed publications, without good reason. For example, we may include the full name of a competition prize winner if we have their consent. However, we will not include the full name of a model used in promotional literature.

We will not include personal e-mail or postal addresses, or telephone or fax numbers on video or on our website or in printed publications.

If we use images of individual pupils, we will not use the name of that child in the accompanying text or photo caption without good reason. And if a pupil is named in the text, we will not use a photograph of that child to accompany the article without good reason. For example, we may include a picture and full name of a competition prize winner if we have their consent. However, we will not include a picture and full name of a model used in promotional literature.

We may use group or class images with very general labels, such as “a science lesson” or “making Christmas decorations”.

We will only use images of pupils who are suitably dressed, to reduce the risk of such images being used inappropriately.

**Please delete the option that does not apply.*

Consent form for Council staff commissioning photography

To Name: _____

Address: _____

Contact tel no: _____

Location of photograph: _____

Bradford MDC would like to *take your photograph / *make a video/webcam recording of you for promotional purposes. These images may appear in our printed publications, on video, on our website, or on all three.*
*(*Please delete as appropriate.)*

To comply with the Data Protection Act 1998, we need your permission before we take any photographs or recordings of you. Please answer the questions below, then sign and date the form where shown. We will not use the images taken, or any other information you provide, for any other purpose.

Please return the completed form to:

(Insert the name of the staff member commissioning the photography and the return address.)



May we use your image in printed publications produced by the Council for promotional purposes?

Please circle your answer

Yes / No

May we use your image on our website?

Yes / No

May we record your image on our promotional videos?

Yes / No

Please note that websites can be seen throughout the world, and not just in the United Kingdom, where UK law applies. Please also note that the conditions for use of these images are on the back of this form

I have read and understood the conditions of use on the back of this form.

Your signature: _____

Date: _____

Your name (capitals): _____

www.actnow.org.uk – the only data protection resource specific to local government

Conditions of use

This form is valid for *two years from the date of signing / *for this project only. Your consent will automatically expire after this time.

We will not re-use any images *after this time / *after the project is completed.
We will not include details or full names (which means first name and surname) of any person in an image on our website, on video, or in printed publications, without good reason. For example, we may include the full name of a competition prize winner if we have their consent. However, we will not include the full name of a model used in promotional literature.

We will not include personal e-mail or postal addresses, or telephone or fax numbers on video, on our website or in printed publications.

**Please delete the option that does not apply.*

Verbal consent form

Name of the project: _____

Name of the photographer or recorder: _____

Photographer's
address: _____

(Insert the name of the person
to be photographed/ recorded.)

_____ has verbally agreed to have their *photograph taken / *be videoed.

Contact tel no _____

	<i>Please tick the correct box</i>	
	Yes	No
 In accordance with the Data Protection Act 1998, I have explained that: We may use these images in printed publications produced by Bradford MDC, for promotional purposes.		
We may use these images on our website, and it is understood that websites can be seen throughout the world and not just in the United Kingdom, where UK law applies.		
May we use these images in promotional videos?		
This form is valid for *two years from the date of signing / *for this project only.		
We will not re-use any images *after this time / *after the project is completed. Your consent automatically expires at that point.		
We will not include details or full names (which means first name and surname) of any person, in an image on video, on our website or in printed publications, without good reason. For example, we may include the full name of a competition prize winner if we have their consent. However, we would not include the full name of a model used in promotional literature.		
We will not include personal e-mail or postal addresses, or telephone or fax numbers, on our website or in printed publications.		

Your signature: _____ Date: _____

**Please delete the options that do not apply.*

Consent form for using photographs of Council staff on internet & Intranet

To Name (block capitals):

Department: _____

Section: _____

Description: _____

Location of
photograph: _____

The department would like to use your photograph for staff recognition purposes. These images will appear on our web page. This page appears on the intranet only / internet. (**Delete as appropriate.*)

To comply with the Data Protection Act 1998, we need your permission to use photographs of you. Please answer the question below, then sign and date the form where shown. We will not use the images taken, or any other information you provide, for any other purpose.

Please return the completed form, even if you have chosen not to give your consent, to:



May we use your image on our web pages?

*Please circle
your answer*

Intranet only, accessible by my department only.

Yes / No

Intranet only, accessible by everyone on the intranet.

Yes / No

The Council's internet site, viewable by anyone in the world.

Yes / No

Please confirm that you have read and understand the conditions for use, and the notes relating to the eight principles of the Data Protection Act, that are found on the back of this form.

I have read and understood the conditions of use on the back of this form. I confirm that I understand publication of my picture on Bradford MDC's intranet will mean that my picture will be viewable by those with access to the intranet alongside my job title and business contact details and consent to such processing of my personal data. Equally, I understand that if my picture and details are placed on the internet that potentially this will be accessible by anyone in the world with internet access.

Your signature: _____

Date: _____

Conditions of use

This form is valid for this project only / the duration of your employment with this department (please delete).

Your consent will automatically not apply to any other usage of the photos if you choose to give consent for this project only.

Images must only be used in circumstances where consent has been given.

Signed consent must be given for images to appear on the intranet or the internet (viewable by potentially anyone), or they cannot be published in this way.

Under the 1998 Data Protection Act your rights include:

- in accordance with principle 1 of the Act, your consent (to the publication of your photo) can be withdrawn at any time
- in accordance with principle 2 of the Act, your photo will not be used for any other purpose without your further consent
- in accordance with principle 4 of the Act, your personal data will be accurately maintained and kept up to date
- in accordance with principle 5 of the Act, publication of your photo will cease and all electronic copies will be deleted when you leave the Council
- in accordance with principle 8 of the Act, your photo will not be published on the internet without your further explicit consent.