



BRACKNELL TOWN COUNCIL PHOTOGRAPHY POLICY

Bracknell Town Council (BTC) policy for photography

Introduction

These guidelines have been produced to help Bracknell Town Council meet their legal requirements, including those under the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA 2018), copyright legislation, and respect for a person's privacy. These guidelines also reflect the duties required of staff and councillors for child and vulnerable adult protection.

Definition of photography

For the purposes of these guidelines, the word 'photography' is used to refer to images in any format, moving or still, recorded on any equipment (for example, camera, video recorder, iPad, mobile phone etc.).

Photography taken by, or on behalf of, Bracknell Town Council

Bracknell Town Council commissions photographs for a number of reasons. These include:

- Printed material such as newsletters or brochures;
- Display material such as banners and posters;
- Images to be issued to the media with a press release;
- Images to use on social media/networking sites, or on the council's website where they are likely to be shared widely;

Photography is generally in digital format and typically taken by a member of staff with a BTC digital camera, or by a commissioned photographer.

Councillors taking images with their own cameras to use on social media sites are also required to take note of, and abide by the provisions of this guidance.

Photographs for printed material and display material

Images used in leaflets, brochures, banners and posters (ie. advertising materials or material promoting policy) should be stock images obtained from a supplier, or commissioned images using models. Where printed materials are concerned, images of residents should only be used in publications such as newsletters reporting specific events or similar documents. In other words, photos of residents must reflect the actions of those individuals, and not be used for generic promotions.

Photographs and consent

The council regularly uses photography for publicity purposes at events. The GDPR contains a Principle which requires all personal data to be lawfully processed. Where photographs are taken, and the consent of the individual is sought, that consent is now required to be informed consent (ie. freely given and unambiguous, with full understanding of how the images will be used) and consent must be recorded in such a way that it can be proven – either by a statement of consent, or a clear affirmative action.

Where posed individual or group shots are obtained, either written permission must be obtained, or a clear affirmative action must be shown to have been given. In practice, this is not difficult to demonstrate where adults are concerned, as it will be clear that permission has been given for a posed shot. However, when taking photos at events, either use the council's official consent form (attached) or ask those attending to indicate consent on any signing sheet being used for the event, and retain this alongside the photos to which it applies.

Where long distance, crowd, or un-posed group shots are obtained, particularly at council events, an argument for public interest can be made under the provisions of DPA 2018. Where public interest applies, this, rather than consent, is the lawful processing provision.

Where images are provided by another organisation (another council, a school etc.), the informed consent they have obtained must include the fact the images will be shared with and used by BTC or other third parties.

Photographs of children or vulnerable adults

There are higher levels of protection for children's data in the new legislation. In particular the level of protection for children's data on social media is increased. While the legislation anticipates that this applies in the main to personal data children share themselves, this does mean care must be taken when using any images of children, particularly when sharing these on social media sites.

Parents or guardians may give their consent, on behalf of the child, for photography, but it must be made clear how the images will be used. The consent must always be recorded. The GDPR accepts that children over the age of 16 may give their own consent to the use of their personal data for 'information society services' such as social media, and the DPA 2018 lowers this to 13 years. Nevertheless it is safer to seek parental consent where children under 16 are concerned. It is no longer appropriate to rely on consents given to a school or a youth organisation for their own processing, and the BTC or individual councillors must be able to demonstrate that they have direct parental consent for all photographs of individual children or posed group photographs including children.

Photographs of vulnerable adults must also only be obtained with recorded consent from the individual themselves, if they have capacity, or from an appropriate adult with a caring or familial role, and should be used with care, and in ways which will not endanger or belittle the individual concerned.

Where long distance, crowd, or un-posed group shots including children are obtained, particularly at council events, an argument for public interest can be made under the provisions of DPA 2018. However, advertising material must make clear that photos will be taken at the event. (See below).

Photographs of staff

Images of staff must be treated in the same way as images of other adults. If the intention is to use these images as publicity or on websites, they should also be time limited (i.e. withdrawn after an agreed period, or after the individual has left).

Withdrawal of consent

Individuals may withdraw their consent for their image to be used at any time. It should be made clear that images already in the public domain (for example, images shared on social media, or included in a published document) cannot be recalled, but once consent is withdrawn, the images should be deleted on all council platforms on which they appear. In practice, it is reasonable to refresh images on social media regularly.

Storage of images

Images will be downloaded to the council's main online library. Images which feature identifiable individuals will be stored for a maximum of five years, after which the images will be deleted and the consent forms shredded.

Staff may also store images for business use locally. If the image has been taken by a staff member on BTC's behalf and stored locally, the image should only be kept for the minimum period of use (usually up to two years) and then deleted. Images taken by a staff member, or by other individuals, for their own personal use must not be included in the library.

Event photography for council publicity

While it is possible to obtain consent when taking small posed groups, this is not possible at large events. As noted above, where un-posed photographs are taken of groups at such events, the lawful processing principle is met by the public interest provision. However, the council will make every effort to ensure the public is aware that a photographer is taking pictures for publicity purposes, by putting signs at the entrance to the venue to advise the public that photos may be taken at the event and how they will be used, and where applicable, include a notice in the program or on tickets ("Please note the council's photographer is taking photographs for publicity purposes for the website, newsletter, or social media"). This will enable any person who does not wish to be photographed or filmed to take steps to avoid this.

Any photographer/film/video operators wishing to record an event for commercial purposes should notify the event organizer or the council. This includes photographers for media outlets.

A decision should be made by the lead organising officer as to how the photography guidelines should be implemented to meet the needs of the photography at an event. In particular a judgement needs to be made as to what is fair and would reasonably be expected by members of the public who attend. The photography pro forma acts as a guide to the areas needing consideration.

Official photographers

Official photographers are defined as anyone employed or commissioned by the council to take photographs/video etc. including staff. They will be allowed to take photographs in any location, as directed by the council and under the supervision of the lead officer, and must abide by these guidelines. It is the responsibility of the staff at any event for which a photographer is booked to ensure that photography consents are obtained prior to images being taken. Signed forms must be held by the council as the authority using the images.

Copyright

Copyright in photographs subsists with the owner of the media on which the images are taken. If an external photographer is commissioned, the ownership of copyright in the images, or their use (including the length of time they can be used) must be agreed in the contract. This is extremely important, as punitive fines can be levied for using images to which the council does not own copyright. Images obtained from the internet are still subject to copyright and should not be re-used in publications, promotions etc.