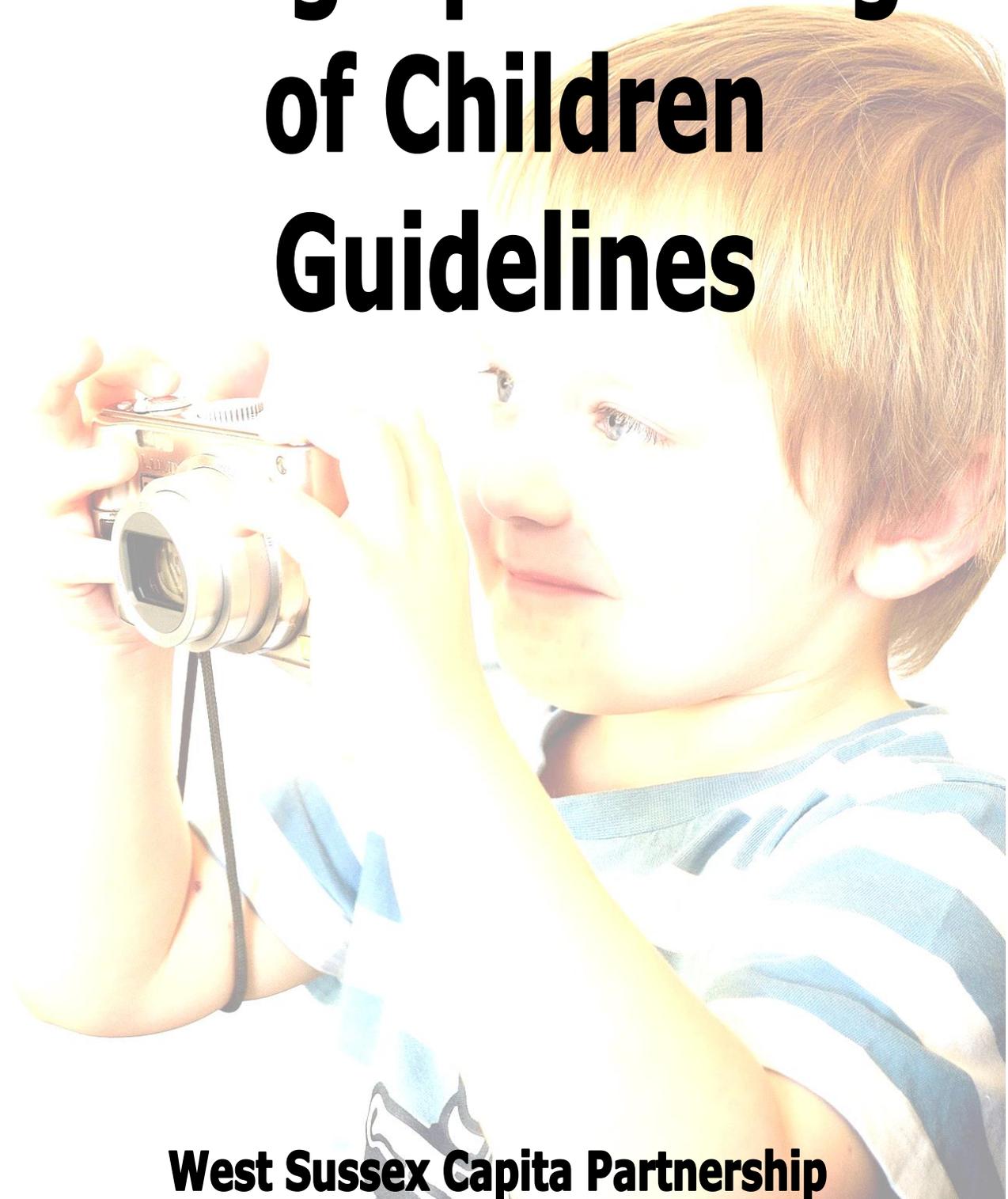


Photographic Images of Children Guidelines



West Sussex Capita Partnership

ACKNOWLEDGEMENT

The original version of this guidance document built upon an earlier work undertaken by Warwickshire County Council during 2007.

DOCUMENT CONTROL

This document was first published on the 1st of May 2008 following an extensive consultation process. It was reviewed and updated a second time in February 2015.

In this review a number of updates were introduced. These include:

- Updates to WSCC contacts,
- Additional guidance relating to staff creating images,
- Additional guidance relating to the official use of social networking sites,
- Alterations to section numbers with the Schools AUP referred to in this document.

This document will be reviewed again in March 2016. Any comments should be directed to Simon Gawn at simon.gawn@westsussex.gov.uk

An electronic copy of this document is available from the West Sussex Grid for Learning within the section on the policy on Acceptable Use (AUP – link at back of document)

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1 INTRODUCTION

1.1 INTRODUCTION

- 1.1.1 This document provides guidance on the appropriate use of images of children in education settings.
- 1.1.2 For the purposes of the guidance the term 'school' is used however this could mean other settings where children receive education such as: academies, free schools, youth and community centres, links colleges, further education colleges as well as maintained schools.
- 1.1.3 It covers film based images, video and digital photographic images wherever they are used. The guidance is for staff in schools as well as other areas where West Sussex County Council and its partners have staff who wish to use images of children and young people in education.
- 1.1.4 Schools need to make full and proper use of photographic images while complying with the law and preserving the safety of children.
- 1.1.5 Concerns focus on issues around rights of privacy, child protection and copyright ownership. These guidelines address these issues and give advice on good practice.

1.2 OTHER INFORMATION

- 1.2.1 Further information is available within the WSCC Acceptable Use Policy and a link is provided in the further information section of this document.

1.3 TYPICAL USES OF PHOTOGRAPHS

- 1.3.1 Photography can enhance pupil's learning, typical examples within educational settings include:
- For recording evidence of students work and progress at all levels of education
 - For GCSE examination submissions e.g. videos of swimming, trampolining, events.
 - Key skills for PE.
 - Video Based Learning Project in PE (using software such as video coaching and analysis tool - Dartfish), this software allows for recording, subsequent manipulation and uploading to the cloud of video images of young people to help with physical education and sports coaching.
 - Performing arts including dance and movement, concerts, drama performances, parent evenings.

- Sports days and sports fixtures and the use of photographic equipment by parents and carers and children from the other school(s).
- Media including newspapers and television especially when some editors require children's names when publishing photographs.
- The use of images on "official" school social networking sites.
- Displays in the school of children's activities.
- Publications by the school and by WSCC.
- School and Local Authority web-sites.
- Staff training and professional development activities.
- Publicity material for contractors.
- Time lapse photography for recording of building development
- Site security/CCTV videos.
- Recording students work in Early Years and Key Stage 1 in particular.



2 RESPONSIBILITIES

2.1 GOVERNING BODY/MANAGEMENT COMMITTEE

- 2.1.1 The Governing Body / Management Committee should formally adopt these guidelines as policy and good practice.
- 2.1.2 They also ensure that there is a process in place to ensure that the guidance is being followed within the school.

2.2 WEST SUSSEX COUNTY COUNCIL

- 2.2.1 West Sussex County Council will review this guidance by March 2016 to ensure it remains to date with good practice.

2.3 LEGAL BACKGROUND

- 2.3.1 Human Rights legislation gives people certain rights and it is the right to 'privacy' that is the issue when using photographs. The Council and schools must take steps that respect the rights of people in photographs.
- 2.3.2 Under the Data Protection Act 1998 personal data (which includes photographs) must be processed fairly and lawfully.
- 2.3.3 The Copyright, Designs and Patent Acts 1988 moved the ownership of copyright to the photographer (or their employer) and away from the person commissioning and paying for the photographs, if the picture is taken with consent, unless there is an agreement otherwise (see appendix of the document).

3 GOOD PRACTICE

3.1 GENERAL GUIDANCE

- 3.1.1 When taking a picture the school or WSCC must obtain the consent of the person in the picture or from their parent or carer (See 3.2).
- 3.1.2 If using a photo from the media or commissioning a photograph, have a signed agreement see pages 17 and 18 (also see Section 5 of the WS – Acceptable use Policy – Use of digital images).
- 3.1.3 Use the image in its intended context. Examples of where this has not happened are:
- A picture of a child accepting an award that was taken by a national newspaper and then used by an extremist group in a story with a completely different story angle.
- 3.1.4 Follow the commitment made in the consent forms:
- Not to name the child if specific consent is not provided;
 - Not to use the photograph out of context;
 - Not to use the photograph to illustrate sensitive or negative issues.

3.2 SEEKING PERMISSION

- 3.2.1 Use of images of children requires the consent of the parent / carer. Permission should always be obtained by using the form found on pages 17 and 18 (as well as both sections 5 and 13 of the WS-AUP) when a child joins the school.
- 3.2.2 The form covers both the school and WSCC when using the photographs in publications and on websites. Each year as part of a standard communication, schools will ask parents if they wish to change their permission. If they do, encourage them to contact the head teacher/manager in writing or ask them to complete a fresh permission form.
- 3.2.3 There may be situations where the gaining of consent is not straightforward. For example the following situations:
- Parent(s)/Carer(s) have given consent but pupil does not want to be photographed
 - Parent(s)/Carer(s) do not give consent but the pupil gives their consent and wants to be in the photograph.
 - One parent/carer consents and another does not
- Your decision will be based on how you balance various individual's rights.
- No pupil should be forced in to having their photograph taken if they do not want to. If the pupil has sufficient

understanding of the issues involved (generally when aged 12 and above) then the pupil can make the decision.

- When parents or carers disagree about the issue of consent then the decision of the parent with day to day responsibility (primary carer) for the pupil should be the one followed

3.2.4 When a parent does not agree to their child's photograph being used, the head teacher / manager must inform staff and staff must ensure they comply.

3.2.5 For example, if a child whose parents have refused permission for photography is involved with a sports event, e.g. a football match, it may not be appropriate to photograph the whole team. Careful liaison with parents is therefore essential. With discussion it may be possible to agree other options.

3.2.6 When photographic images are transmitted or shared beyond the school e.g. television broadcasts, images on intranet sites, used on "official" social networking feeds, specific permission should be obtained (see Appendix 3).

3.3 PHOTOGRAPHING CHILDREN

3.3.1 When photographing children:

- Ensure that parent(s) and/or the carer(s) of young people have signed and returned the school / WSCC consent form for general photography.
- Ensure all children are appropriately dressed.
- Avoid images that only show a single child with no surrounding context of what they are learning or doing.
- Photographs of three or four children are more likely to also include their learning context.
- If a child has a specific vulnerability then it is important to take into consideration the vulnerability and place the child's welfare as paramount at all times. Do not use images of a child with a specific vulnerability without expressing concerns to parent and obtaining a specific written permission to proceed.
- Use photographs that represent the diversity of the young people participating.
- Report any concerns relating to any inappropriate or intrusive photography to the head teacher / manager.



- Remember the duty of care and challenge any inappropriate behaviour or language.
- Do not use images that are likely to cause distress, upset or embarrassment.
- Regularly review stored images and delete unwanted material in accordance with the retention of records policy.
- The safest approach for staff is to avoid using personally owned cameras, mobile phones or tablets at all and always use school owned devices.
- At the very least always use school memory cards.
- Memory cards, USB drives and CD's should only be used as temporary storage for transport.
- Once the images are uploaded to the appropriate area of the school network images should be deleted immediately from any temporary storage location including tablets.
- Ideally images should be deleted using file-shredding software such as "File Shredder".
- The safest approach for staff processing images is to avoid using personally owned computer equipment and always use school owned equipment for these purposes.

3.4 SPECIFIC SITUATIONS

INTER-SCHOOL FIXTURES

- 3.4.1 Apply these guidelines to inter-school events. If a child with a specific vulnerability is involved or any child where permission is withheld, it will be necessary to liaise with a member of staff from the other school so that they are aware of the wishes of the parents or carer of the child and seek the cooperation of the parents of the opposing team.



TEACHER TRAINING AND PORTFOLIOS

- 3.4.2 During teacher training and with newly qualified staff, colleagues need to compile portfolios with photographs of children during lessons.
- 3.4.3 Staff should act responsibly in compiling these images. A member of the management team may wish to oversee the compiled images as part of the management process and consider the appropriateness of both the images themselves, the uses they have been put to and, the way in which the images are stored.

DISPLAYS IN SCHOOLS

- 3.4.4 Still photographs shown on displays and video clips available during open / parents' evenings should depict children in an appropriate way.
- 3.4.5 They should not display images of children in inappropriate or revealing clothing so appropriate levels of integrity and decency are maintained.
- 3.4.6 Do not use photographs or images likely to cause embarrassment or distress.

PARENTS EVENINGS, CONCERTS, PRESENTATIONS

- 3.4.7 To allow the appropriate recording of children's images by parents/carers:
 - Be aware that images of children participating in extracurricular events and are taken for personal use, are exempt from the Data Protection Act. These include uses such as Parents taking photographs of sports day or a Grandfather taking a video of a school nativity.
 - Ensure that children are appropriately dressed;
 - Obtain parental permission with the form in Appendix 3; These are: "Use of digital images" and "Examples of letters, permission forms and posters".
 - Be aware of any child who should not be photographed; and
 - 'Monitor the use of cameras and anyone behaving inappropriately. If there are concerns, the head teacher or their representative with their authority, can require the person to cease using the camera or leave the premises, or can offer an option to stay but to hand in the camera for collection later'.



PRACTICAL EXAMINATION EVIDENCE

- 3.4.8 This covers the use of video material recording pupil's level of performance in examined practical aspects that are unable to be assessed during the moderating examiner's school visit.

- 3.4.9 The protocol laid down by the major exam boards is that this material should be returned to the school when the examiner has completed their judgements.
- 3.4.10 It would therefore be good practice for colleagues to establish what will happen to the video evidence in discussion with the external examiner during their visit. This discussion should take into consideration the school's retention of records policy.

CHILDREN PHOTOGRAPHING EACH OTHER

- 3.4.11 This practice can occur in various situations. These situations can occur both within school and during offsite activities, particularly during residential periods.
- 3.4.12 Schools should ensure that pupils are aware of the restrictions within the school of the use of mobile phones that possess photographic capabilities
- 3.4.13 There may be incidents where children take inappropriate photographs, perhaps showing friends, other children, or even themselves, inappropriately dressed. Staff should (in line with the school's own Behaviour Policy) actively take steps to manage situations to minimise the risk of this.
- 3.4.14 In relation to off site situations staff should maintain the supervision and management control specified in the Regulations & Notes of Guidance for Off-Site Educational Visits 2013 (WSGfL website).

NEWSPAPERS

- 3.4.15 The publishing of photographs within local newspapers can increase the sense of the school being part of the community. However, the school should always consider whether there may be any safeguarding issues (for example by identifying a child, location and school where that child might be at risk of harm)
- 3.4.16 There are several scenarios which can occur:

Team photographs

- 3.4.17 When everyone is prepared to allow team photographs and full names to be published. In this situation publication can occur.
- 3.4.18 If a parent is not happy to have a child's name printed on a photograph then consideration could be given to publishing the photograph with no names. The head teacher / manager



should make every effort to ensure, in conjunction with the newspaper editors, that this occurs. Schools should be aware that some editors refuse to publish articles where photographs are not named.

- 3.4.19 Depending on the circumstances the options may include to not proceed with the team photo or proceed with the child missing from the photo.

Photo opportunities

- 3.4.20 When a school invites a newspaper to celebrate an event, the head teacher/manager should make every effort IN ADVANCE to ensure that the newspaper's requirements can be met.
- 3.4.21 Almost without exception, this means the paper will prefer to publish the full names of anyone in a photograph they print. The only exception to this might be in a larger group shot (e.g.: a group of more than 10 children).
- 3.4.22 However newspapers usually prefer to work with smaller groups of children (e.g. three or four) and for this number, names would definitely be required.
- 3.4.23 It is not acceptable to invite a newspaper to take photographs and then refuse to provide any names. Newspapers will often not print anonymous photographs. Schools must give thought to this beforehand and parental permission / opinion must be their key guidance.
- 3.4.24 This might mean offering only those children whose parents are happy for publication of photographs and names for inclusion in any photo opportunities.
- 3.4.25 If this is not possible – for instance where a specific group of children have achieved something special and, parental permission (re. the publication of full names) is withheld for one or more of the group. Here, it might be possible to negotiate a 'first names only' agreement with the newspaper.
- 3.4.26 Otherwise schools must be prepared to forego newspaper publicity.

USE OF INTERNET/INTRANET SITES

- 3.4.27 Many schools will have an Internet / intranet facility. The site manager should know good practice and ensure that the school only uses appropriate images that follow this guidance.



- For example, if a child has successfully completed a gymnastics award, it would be appropriate to show the child in a tracksuit rather than leotard.
- Schools or other local authority sites may wish to upload images of young people to a social networking site, for publicity purposes. Should they do so they should adhere to the guidance in the rest of this policy.

Please note that, unless specific consent is obtained, care should be taken not to disclose information in a photograph which could identify an individuals home, such as the house front, door number, street sign or even family vehicle registration number.

CLOSE CIRCUIT TELEVISION (CCTV)

3.4.28 Increasing numbers of school are installing such equipment for the following uses:

- As a method of controlling access.
- An aid to site management in monitoring incorrect parking, manoeuvring vehicles, delivery arrivals etc.
- Pupil behaviour issues / bullying. As a behavioural tool during breaks and lunch times it can be used to identify hot spots of inappropriate behaviour. It may also be used to monitor within the building, corridors and areas out of sight or isolated areas for example in the vicinity of (but not within) toilets or changing facilities.
- As an aid to members of staff with particular responsibility for behaviour management.
- To monitor personal safety for site supervisors, caretakers, cleaners etc.
- To monitor site safety and security.
- As an effective deterrent for crime.
- As a means of crime reduction and discouraging trespass.



3.4.29 There are specific legal requirements in using CCTV on any site whether that is a school or other Local Authority site. Further detailed information relating to the use of CCTV is available on the Information Commissioners Office website.

FURTHER INFORMATION

ACCEPTABLE USE POLICY

The West Sussex Acceptable Use Policy can be found on the following link -

<http://www.westsussex.gov.uk/AUP>

Information relating to the use of CCTV from the Information Commissioners Office (ICO) –

http://ico.org.uk/for_organisations/data_protection/topic_guides/~media/documents/library/Data_Protection/Detailed_specialist_guides/cctv-code-of-practice.pdf

Information from the ICO relating to the Data Protection and Freedom of Information Acts in education and educational establishments.

http://www.ico.gov.uk/for_the_public/topic_specific_guides/education.aspx

ADVICE AND SUPPORT AVAILABLE FROM WEST SUSSEX COUNTY COUNCIL

For Information and Advice relating to specific areas referred to in this guidance:

Simon Gawn, ICT in Schools Officer
Tel: 03302 225 926
e-mail: ictinschools@westsussex.gov.uk.

Harriet Shelly, News Manager, Corporate Resources & Services
Tel: 033 002 224 520
E mail Harriet.Shelley@westsussex.gov.uk

Phillipa Eld, Media Officer for media relations and enquiries relating to Education and Children's Services
Tel. 0330 22 22 418
E-mail philippa.eld@westsussex.gov.uk

Martin Tomlinson, General Advisor, Outdoor and Adventurous Education
Tel: 0330 222 8344

Legal Services.
Tel: 01243 777100

For specific concerns regarding safeguarding –
The Local Authority Designated Officer (LADO)
Tel.: 033022 23339

APPENDIX 1

AGREEMENT WITH PHOTOGRAPHERS

West Sussex County Council is commissioning agreed photographic work with (name photographer).

These commissioned images will be used in the County Council publications, and/or our website. The photographs may also be issued to the media for their use with our permission e.g. photo caption picture stories.

It is unlikely that the images will be used in a situation where the County Council would receive money for the image e.g. in advertising material. If this were to be the case then the Council would contact the originating photographer to discuss these specific circumstances.

The photographer's signature for the agreement of the County Council to hold the copyright of the images commissioned is agreed by the (named photographer) under the conditions stated above.

.....(signature of photographer)

Date:.....

APPENDIX 2

AGREEMENT WITH EDITORS

West Sussex County Council are seeking your (the Editor's name and publication) permission to use (identify picture by description or code number) for the purpose of (identify use e.g. Annual Report/Web site etc.).

We will give a credit to (name of publication) when using this image.

We will not use the image out of context from which the image was originally intended. For example we will not take an image of a disabled child receiving an award and then use the image to promote disabled children.

.....(signature of Editor)

Date:



Consent Form for Photography and Images of Children

Dear Parent or Carer,

During your child's life at *<establishment name>* we may wish to take photographs of activities that involve your child. The photographs may be used for displays, publications and on a web-site by us, by the Local Authority (LA) or by local newspapers.

Photography or filming will only take place with the permission of the head teacher / manager, and under appropriate supervision. When filming or photography is carried out by the news media, children may be named but home addresses will never be given out.

Before taking any photographs of your child, we need your permission. Please **answer the questions below, sign and date the form and return it to *<establishment name>* / *<responsible officer>***. You can ask to see images of your child held by the establishment. You may withdraw your consent, in writing, at any time.

Name of child (Block Capitals):	
Name of person responsible for the child:	
<p>I understand that:</p> <ul style="list-style-type: none"> • "the media" may take images of activities that show the establishment and children in a positive light e.g. Reception Year pictures of new starters, drama and musical performances, sports and prize giving; • photographers acting on behalf of the school or the LA may take images for use in displays, in publications or on a website; • embarrassing or distressing images will not be used; • the images will not be associated with distressing or sensitive issues; and the establishment will regularly review and delete unwanted material. <p>Having read the above statement, do you give your consent for photographs and other images to be taken of your child?</p> <p>Please tick one of the boxes below that best describes how you would like images to be used.</p>	
I do give permission for pictures of my child to be displayed in the school and published, with their names and ages in: the press, "official" school social network feeds as well as on school, Local Authority or press websites.	
I do give permission for pictures of my child to be displayed in the school and published "official" school social network feeds as well as on school, Local Authority or press websites but, not for them to be named .	
I do give permission for pictures to be taken and used within the school but not to be used in the press or on the websites (except in a password protected area of the school e.g. Moodle).	
I do not give my permission for any pictures to be taken and used inside or outside the school.	
Signature of person responsible for the child:	
Relationship to the child:	Date (Date/Month/Year):

NB There may be other circumstances, falling outside the normal day to day activities of the school, in which pictures of children are requested. The establishment recognises that in such circumstances specific consent from parent or guardian will be required before photography or filming of children can be permitted.

If you wish to attend establishment functions and take photographs of your and other people's children please take appropriate images, be sensitive to other people and try not to interrupt or disrupt concerts, performances and events. Thank you.

Please return the form to <responsible officer>