



# Clay Cross Parish Council

## Photographic and Filming Policy

This Policy and Guidance explains what steps need to be taken when the Council obtains images for its own use and when films or photographs are taken on council premises by others.

For the avoidance of doubt, this Policy and Guidance applies to cameras, mobile phones, videos and any other equipment capable of recording images. Any reference to photographs and photography should be interpreted as including filming.

The Council recognises that taking photographs and using video recording equipment is part of daily life. It does not wish to prevent individuals from taking photographs of their friends and families for personal use. However, the Council also appreciates that individuals using council facilities do not expect to be photographed or filmed by others, particularly when their image could be published on the internet or used for commercial or publicity purposes.

The Council is particularly mindful of its child protection obligations and this Policy and Guidance seeks to explain what steps the Council can take to protect everyone and in particular children and vulnerable adults from unwanted photography or filming on council premises.

The Council regularly uses photographs for publicity purposes. The Data Protection Act will apply where the photographs are taken for official use and stored with personal details such as names and addresses. This Policy and Guidance advises what steps are needed to take to ensure compliance with the Act.

### **Section 1: Photographs taken by or on behalf of the Council**

Clay Cross Parish Council regularly uses photography and filming for publicity purposes. Most photography work is commissioned through the Parish Clerk and all enquiries should initially be sent through the Parish Clerk.

The Council will commission images or filming for a number of reasons and uses. They include:

- Printed materials such as newsletters, brochures and Voice magazine.
- Display materials, such as banners and posters.
- To issue to the media alongside press releases.
- To use on the Internet and/or our own website Claycross.gov.uk to use on social media networks such as Facebook/Twitter/Flicker etc.

Images are either electronic or in the form of photographic prints and photography typically coming from these sources:

1. Taken by a member of staff with a Clay Cross Parish Council camera;
2. Taken by a commissioned freelance photographer; or
3. Submitted by a third party, for example a member of staff using their own equipment or staff from a partner organisation.

### **1a. Photographs of identifiable individuals taken for the Council's Own Publicity Purposes**

**Permission for photos** – In order to protect the Council against any action for breach of the Data Protection Act, you must obtain written permission for the use of photographs.

Please ensure that if you organise photographs on behalf of the Council that you use the Council's official consent form. The Council will accept another consent form [such as another Council's template] provided it meets the Council's standards and authorises Clay Cross Parish Council to use the image. For further advice please contact the Parish Clerk. Once the form has been signed the specified conditions must be adhered to. The forms must be stored alongside the photos to which they apply unless agreed otherwise with the Parish Clerk, they must be stored in the parish office and will be in folders dated by the year and split into directorates for easy access.

**Photos of children** - Children (under 18) cannot give their own consent to photography; the consent of a parent or guardian is required. Such consent must be obtained from the child's parent or guardian on the official consent form. The Council will accept another consent form [such as one obtained by the school] provided it meets the Council's standards and authorises Clay Cross Parish Council to use the image. For further advice please contact the Parish Office.

**Schools and community group photos** – A head teacher or community group leader may be able to authorise consent for a group of children being photographed for publicity purposes. Head teachers routinely obtain written permission from parents to allow their children to be photographed whilst at school or participating in activities, which the school are involved in. The teacher/leader must sign the Council's official consent form [or one which meets the Council's standards] to accept responsibility on behalf of the parents, for the children being photographed/filmed. You should contact the Parish Clerk for further advice and guidance.

**Withdrawal of consent** – An individual who has given consent may wish to withdraw that consent at a later date. If consent is withdrawn the individual must be advised that the Council cannot recall any publications or films in which their image appears. However once consent is withdrawn, no further use can be made of that individual's image and it should be deleted.

**Storing Images** - Images containing individuals should be stored in a restricted file with a copy of the relevant completed consent form, which only the Parish Office has access to. Images will be filed by date and year, and will be reviewed every three years by the Parish Clerk.

**Disposal of images** – Photographs that are out of date or no longer usable will be destroyed appropriately by shredding and deletion of the electronic version or archived.

**Use of images in parish publications** - Care should be taken to avoid including any personal information where images are used. If images are to be used, the inclusion of detailed personal information will be avoided. However in certain situations the Council may use general information on the photograph e.g. John Smith, Joe Bloggs.

**Use of images on social media sites** – photos taken at large events such as Clay Cross Gala will be included on a Clay Cross Parish Council Events Facebook page, the image library Flickr etc. The Photo consent form has been updated to take this into account. These images can be seen across the world wide web, and anyone choosing to access the Council’s social media sites – which means that permission has been sought for this purpose. No personal information will be used with these images, to ensure those pictured are protected. They will only be used as part of the Council’s promotional purposes.

**Correct use of images** - There are two potential consequences of using an image wrongly:

1. Committing a libel
2. Disclosing personal data in breach of the Data Protection Act

To minimise any risk the photograph must be used in its proper context. It is not recommended to use a specific photo of an individual to illustrate a general topic without making explicit reference to this in the caption.

**Photographers** - If any Council officer or Councillor wishes to have photos taken or a film made to promote the work they are doing at the Council, they must always seek advice from the Parish Office and must always use the Council’s official Photo and Filming Consent forms. The Parish Office works with a number of experienced photographers who are familiar with the Council’s work. The Council’s official photographers will have been subject to a CRB check, issued with the Council’s Photography Policy. The Parish Clerk will approve all official photographers.

**Copyright** – If photography is being commissioned and purchased from an external photographer, the Council must be clear that it expects to purchase not just specific prints or uses of the photograph, but rights to use the photograph where and when it pleases. To avoid any doubt the photographer will agree to these terms:

***I hereby agree that Clay Cross Parish Council may use photographs commissioned and paid for by them for any usage that they wish and for whatever time they wish.***

***All photography fees negotiated reflect that usage. As photographer, I do retain copyright to photographs created and transfer unlimited reproduction rights to Clay Cross Parish Council and any partner agency.***

**Use of images submitted by a third party** – members of the public or partner organisations may take photographs and later submit them to the Council to be used for publicity purposes. These images should not be used if they contain identifiable individuals unless they are accompanied by the Council’s Consent Form or a consent form, which meets the Council’s standard, completed by the individual photographed. The photograph and consent form should be forwarded to the Parish Office. This Policy and Guidance will apply to the storage, use and disposal of those photographs in the same way as it applies to photographs taken by or on behalf of the Council itself. If the photograph is not accompanied by a completed consent form it should not be used for publicity purposes and should be returned to the sender. Any electronic copies of the photograph should also be deleted.

However, if a member of the public adds any images to the Council’s Facebook page the Council is not able to take any responsibility for this, but if there are any inappropriate images then the

Council will remove them from the page. To upload a photo to the Council's Facebook page the owner of the photo must upload the image to their own profile first and 'tag' in the council's page, therefore if the council does deem it to be inappropriate and remove it from its page, the original image cannot be completely deleted from Facebook as it will remain on the owner's own profile.

### **1b. Event photography for the Council's publicity purposes**

In most cases it is practical to gain the permission of individuals being photographed, it is not always possible to do so for large groups at public events such as Clay Cross Gala, public meetings or photo calls at council facilities.

Access to these public events in publicly accessible areas is not restricted. The Council therefore considers that any person who is present at these events is considered to have given implied consent to appear in the background of any photograph or film.

The Council will however make every effort to ensure the public is aware a photographer is on site taking photos for publicity purposes. It will do the following:

- Put laminated signs at the entrance to the venue to warn the public that photos may be taken at the event.
- Ensure the official council photographer has a florescent waistcoat with 'Council Photographer' in large lettering on the back.

This will enable any person who does not wish to be photographed or filmed, the opportunity of taking steps to avoid being photographed or filmed.

Any photographers/film/video operators wishing to record an event should notify the event organiser or the Council.

Photos from events, such as the Clay Cross Gala may be used on the Council's website and in promotional material to promote the success of the event. When using such images names will not be used in the captions. Providing the Council takes practical steps to make the public aware a photographer is on site, individuals are deemed to have given their consent by remaining at the event or location in which photographs are being taken.

Employees and visitors who have concerns about any photography taking place at an event, should contact the organiser. If appropriate, the person about whom there are concerns should be asked to leave and the event organiser or Council representative should be informed.

If photos are taken within Clay Cross Social Centre premises' of an event or activity, the Duty Caretaker will require proof of identification of the photographer before permission will be granted to film or take any photographs.

NB – Council photographers will be given either a letter or an email as proof of their job. It is the responsibility of the Council Officer booking the job to make sure that staff and the Duty Caretaker at the Social Centre or council buildings are aware of the photo shoot to make sure they have access.

Use of images submitted by a third party – members of the public or partner organisations may take photographs at council events and later submit them to the Council to be used for publicity purposes. If the Council has made every effort to ensure the public is aware a photographer is on site taking photos at the event for publicity purposes as outlined above, these images may be used by the Council. For further advice please contact the Parish Clerk.

### **1c. Photographs taken for non-publicity purposes**

This Policy and Guidance is not intended to apply to photographs taken by or on behalf of the Council for day to day business purposes, such as event planning or recording purposes. Photographs will be routinely taken by council officers for example, for recording event layouts, the progress of developments, council assets, displays etc. Such photographs are unlikely to contain images of individuals other than council officers and will not be released into the public domain.

These images can be stored by individual departments and will not need to be referred to the Parish Clerk. Officers must however be mindful that the Data Protection Act will apply where such photographs contain images of individuals and are stored with personal details. They must be stored and disposed of appropriately in accordance with the Act. For further advice, please contact the Parish Clerk.

In addition, this Policy and Guidance is not intended to apply to photographs taken by or on behalf of the Council in the course of an investigation. Such images may be used as evidence in court proceedings and therefore will be governed by separate evidential procedure rules. You are advised to seek advice from the Council's Legal Section in relation to the storage and use of such images.

## **Section 2: Photographs taken by members of the public**

### **2a. Casual users of the Council facilities.**

Historically, photography and video use has taken place in community and council facilities to record events. However, modern digital photography and mobile phones offer unprecedented opportunities for miss-use. The magnification and manipulation which is now possible, together with the fact that there is no need for a third party to develop images is a cause for concern for the Council, particularly from a child protection point of view. Whilst the Data Protection Act does not prevent individuals from taking photographs, the Council has a shared responsibility for the protection and safety of children and young persons and vulnerable adults using its facilities.

The Council does not wish to restrict photography in its parks and open spaces and in any event, would be unable to require third parties taking photographs to seek permission. However, anyone found to be taking photographs which are intrusive or inappropriate will be asked to cease doing so immediately and will be reported to the Police and the Parish Clerk by way of a report of concern (regarding child protection issues). Such concern must be reported by completing a Child Protection Referral Form which is included as an Appendix to the Council's Child Protection Policy.

The Council does however wish to exert control over photographs taken in the Social Centre which are likely to be considered an intrusion into the activities taking place and may offend other users. As a result, photography is not allowed in any part of the building without permission of the Parish Clerk / Social Centre Duty Caretaker. This includes all types of photography i.e. cameras, mobile phones, videos etc.

Casual users of the Council facilities are permitted to take photographs/films on the premises, providing permission from the Parish Clerk / Social Centre Duty Caretaker is obtained on one of the Council's Casual User Consent Forms. The Parish Clerk / Social Centre Duty Caretaker is responsible for retaining a copy of each completed Casual User Consent Form on file at the facility.

Photography is not permitted in toilets or any other area that the Parish Clerk / Social Centre Duty Caretaker may decide upon at their discretion.

Persons found to be taking photographs without permission will be stopped immediately, and informed of the correct procedure. Persistent offenders will be requested to leave the premises and the incident reported to the Parish Clerk.

Anyone found to be taking photographs without permission which are intrusive or inappropriate will be reported to the Police and the Parish Clerk by way of a report of concern (regarding child protection issues). Such concern must be reported by completing a Child Protection Referral Form which is included as Appendix 2 to the Council's Safeguarding and Protecting Children and Young People Policy.

## **2b. Photography at private functions/events held on Council premises**

The Data Protection Act does not prevent individuals from taking photographs for their families, friends and colleagues. In fact, photographs taken purely for personal use are exempt from the provisions of the Act.

The Council does not wish to prevent individuals from taking photographs or filming for their own use at private events held at the Council's premises. The Council's standard terms and conditions of hire give consent for photography and filming at exclusive use parties, functions and events. The hirer is responsible for the control of such photography and filming.

In view of the fact that the Data Protection Act does not apply, the Council does not require the hirer to obtain the consent of the individuals being photographed or filmed. In addition the hirer is not required to sign a photographic/filming indemnity form.

### **2c. Photography for coaching, publicity or commercial purposes on Council premises**

The Data Protection Act may apply to photographs or films taken by third parties for coaching, commercial or publicity purposes on council premises. Compliance with the Act is the responsibility of the person taking and storing those photographs and films.

However, individuals using the council's facilities may not wish their images to be taken and used by a third party in this way. In addition, the Council has a responsibility to take precautions to protect children using its facilities.

The Council therefore requires permission to be obtained before photography/filming can take place. Should permission be granted the Council would make it clear that it is the responsibility of the photographer to obtain permission from individuals being photographed or filmed. The Council does however require the photographer to provide an indemnity to protect it against any legal action.