

## **Guidance on phones, photography, changing room policy and child abuse images**

<http://www.swimming.org/swimengland/wavepower-child-safeguarding-for-clubs/>

phones, 68-77:

guidance, 70-71, 72, 75;

photography: consent form, 116; guidance, 76-77;

refusal of consent form, 117;

Please refer to the **ASA Changing Room Policy (p. 65)** in addition to the guidance on **child abuse images on p. 67** and on the **use of electronic information on p. 70**.

### **ASA Photography Guidance (Wavepower Page 77)**

This guidance applies to all images and videos taken on any type of camera or recording device (including mobile phones). It applies to all training sessions, activities and events run by an ASA affiliated organisation. It should be acknowledged that although the majority of images taken are appropriate and in good faith, images can be misused and children can be put at risk if common sense procedures are not observed.

#### **Aims**

The ASA Photography Guidance aims to help organisations avoid three potential sources of child abuse:

- The use, adaptation, sharing or copying of images for child abuse purposes, either electronically or in print.
- The possible identification of a child when an image is accompanied by significant personal information, which can lead to the child being 'groomed'.
- The identification and locating of children where there are safeguarding concerns; such cases would include, for example, children who could be compromised by an image because:
  - They have been removed from their family for their own safety.
  - There are restrictions on their contact with one parent following a parental separation.
  - They are a witness in criminal proceedings.
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#### **Recommended best practice**

The publishing of a photograph of a member under 18, either on a notice board or in a published article or video recording (including video streaming) of a competition ('Publication') should only be done with parental consent and in line with ASA guidelines.

A parent or guardian has a right to refuse to have their child photographed.

- The exercise of this right of refusal should not be used as grounds for refusing entry into a competition. Therefore, any photo that may go to press or on a notice board, be it through a member of the organisation or an official photographer, should receive parental consent before being published or displayed, preferably in writing. A suggested template allowing parents to indicate refusal of consent is provided on p. 117
- In the case of any event or competition where the host organisation has an official photographer, all parents of members who are attending should be made aware of this in the event details. If photos are to be published anywhere, each individual parent should be given the opportunity to withhold their consent. Their right to do so should be specifically drawn to their attention.

The ASA guidelines state that **all photographs for publication** must observe generally accepted standards of decency, particularly:

- Action shots should be a celebration of the sporting activity and not a sexualised image in a sporting context.
- Action shots should not be taken or retained where the photograph reveals a torn or displaced swimming costume.
- Poolside shots of children should be above the waist only in a swimming costume, though full length tracksuit shots are approved.
- Photographs should not be taken from behind the starting blocks or that show young participants climbing out of the pool.

Published photographs may identify the individual by name and organisation but should not state the member's place of residence or school attended. The ASA does not wish to stop parents photographing their child if they wish, but all organisations must ensure they do all they can to safeguard each child's wellbeing.

### **The official photographer**

In some cases, the organisation will ask a member or officer to act as an official photographer for an event and in some cases they may employ a specialist photographer. Their role is to take appropriate photos that celebrate and promote aquatics. When taking any image, they should be asked to:

- Focus on the activity rather than the individual child.
- Include groups of children rather than individuals, if possible. Wavepower 2016–19 77 2.4
- Ensure all those featured are appropriately dressed.
- Represent the broad range of youngsters participating in swimming – boys and girls, children with disabilities, members of minority ethnic communities, etc.
- Organisations should screen applicants for their suitability (just as they would check any other member of staff or volunteer working with children) and then provide training and information on the organisation's child safeguarding policies and procedures.
- The official photographer (whether a professional photographer or a member of staff) should receive clear instructions, preferably in writing, from the organisation at an early stage.
- The organisation should provide them with a copy of this guidance and a clear brief about what is appropriate in terms of content. • Images should not be allowed to be taken outside the activity being covered.
- The organisation should determine who will hold the images recorded and what is to be done with them after they have served their purpose.

### **Guidance on filming children during training sessions**

The filming of children during training sessions is not recommended. The requirement for any filming must be justified by the organisation, (e.g. to assist in stroke development). Assuming filming is justified, written consent is required from the parents of each child who should then be invited to attend the filming and to subsequently view the video. The individual who is responsible for filming should exercise caution when recording and ensure the content of the footage is appropriate, following the advice outlined above. Filming should cease and/ or the footage destroyed should any concerns be raised or if consent is withdrawn. Once the footage has served its purpose, it should always be destroyed, unless the need to keep it can be justified.

### **Mobile phones**

Mobile phones should be registered as a camera if it has that facility in order to adhere to our policy on cameras. All organisations need to make their members aware that while the ASA does not support the banning of phones, as children need them to keep in touch with parents, particularly in emergencies, we do support the requirement that phones should emit a 'noticeable sound' if the camera facility is used.

Organisations should also remind members that any photos taken should fall within our guidelines and that **if mobile phones are taken into changing rooms, the facility to take photos must not be used.**

Please refer to the **ASA Changing Room Policy (p. 65)** in addition to the guidance on **child abuse images on p. 67** and on the **use of electronic information on p. 70**.

### **Should photographs or footage of children be posted on an organisation's website?**

It is recommended that photographs or footage of individual children should not be kept on an organisation's website, and certainly not with the child's name as this could lead to the child being identified, approached and placed in a vulnerable position. The same applies to printed materials such as an organisation's annual report or kit. Many organisations will use a child's first name, surname or nickname only, with parental consent, so as not to identify them fully. Parental consent may be withdrawn at any time and the organisation should take all reasonable steps to respect the wishes of the parent/carer.

## **Guidance on child abuse images/indecent images of children**

### **Risks**

Increasingly, and with the emergence of technology, some young members have been found to have been trying to take, and succeeding in taking, images (video and still photographs) of children under 18 in the process of changing, perhaps in changing villages and under/over changing cubicles. Some young people, only known to each other through the sport, have also been sharing indecent images with each other.

An indecent image is one which is an image of an under 18 year old depicted in an indecent circumstance. These images can be used to isolate and embarrass a child amongst their peer groups, exploit them, and in serious cases, make demands of children to carry out acts against their wishes.

Any use of these child abuse images, or indeed the threat of such, can have devastating consequences for any child. It can also significantly affect the mental health and social interactions of young people, including trust amongst a peer group. Once the image is in the public domain, it is difficult to control, to know who has seen it and what they have done with it. This can lead to feelings of paranoia and isolation at a time when teenagers in particular need to build up their self-esteem during a crucial stage of their development.

The risks to victims, bystanders and perpetrators are different but all three contain a degree of risk that can leave a young person in a vulnerable state and can significantly affect their future. It is vital that children understand the legal implications and the impact on others.

Research (Finkelhor/Wolak) has identified the initial risk mainly comes from peers, friends and others in their social network rather than from strangers or adults.

Statistics from the children's charity Beatbullying suggest the following:

- Over one third (36% of males and 39% of females) have received a sexually explicit text or e-mail.
- Over a quarter of 12-15 year olds have received an offensive sexual image, of which, 85% know the identity of the aggressor.
- The majority of these aggressors are peers and only 2% indicated that it was an adult. "Recent evidence suggests that girls are more adversely affected by the risks than boys – it is not a gender neutral practice, it's something that is shaped by pre-existing gender dynamics and reinforced through the use of the technology." NSPCC – Children, Young People and Sexting May 2012.

### **Criminal Acts**

It is a criminal offence to take, make, distribute (send), upload and/or possess any indecent image of a child (including those taken/possessed by other under 18 year olds). Legislation is under the Protection of Children Act 1978 and Criminal Justice Act 1988.

It is also an offence to request a child to take, make, distribute or upload such an image, under Section 44 of the Serious Crime Act 2007, encouraging another to commit an offence.

An offence of Voyeurism may also have been committed (observing/filming another doing a private act) under Section 67 of the Sexual Offences Act 2003.

Sending may also be an offence of Malicious Communication.

The position of the Association of Chief Police Officers (ACPO) is that it does not support prosecutions of children for taking indecent images of themselves. It realises the detrimental effect especially if they are convicted. The label of sex offender that would be applied to a child or young person convicted of such offences is regrettable, unjust and clearly detrimental to their future health and wellbeing. It would also have an effect on future employment, particularly in roles in a position of responsibility, such as supervision or teaching of children.

### **Types of criminal acts and course of action**

All usage of images as detailed above are criminal offences, and, if deemed to be an 'experimental' act, then Children's Services, the MASH team and the ASA Child Safeguarding Team should be advised. If the act is deemed to be 'aggravated' then it must be reported to the police, Children's Services and the ASA Child Safeguarding Team.

#### **Experimental**

If the concern relates to a member of the organisation aged 13 or above who has voluntarily (with no suggestion of coercion/ exploitation/threats, etc.) taken an indecent image of themselves, and then shared this, we will determine whether the act may be seen as experimental (e.g. for teenagers within a relationship this might not be seen as unusual behaviour).

In this case, parents should be informed that the ASA will not be referring the concern direct to police (in line with CEOP/ACPO guidance), but will refer the matter to the relevant Children's Services/ MASH team, for assessment by them. This may be done without the absolute need for parental consent (for example, if it is a criminal offence which may lead to significant harm). This is to ensure that the professionals involved can make a suitable decision around supporting and guiding each child, based on any background information which will not be known to the ASA, and to help parents manage that behaviour.

Where both parties (sender/recipient) are at the same organisation, the welfare officers and other staff can also work with parents to monitor the children's behaviour, to prevent recurrence, in the environment of the organisation.

The request to send an indecent image (child abuse image) is also an offence. If, however, a child aged 13 or over asks another child of the same age within a relationship context for such an image, without any of the following aggravating factors, then the matter will be referred as above.

#### **Aggravated**

This term may be applied to any other situation not detailed above, such as incidents which include adult involvement, and abusive or criminal behaviour by under 18s such as sexual abuse, extortion, threats or malicious conduct arising from personal conflicts. It also includes the creation, showing or sharing of images without the knowledge, or against the will, of the young individual who is pictured.

Aggravating factors to be considered also include:

- The age of the child (or children) involved.
- The circulation of images to peers.
- The coercion or exploitation of a child by the use of rewards or threats to send/share the image.
- The number of 'victims' or repeat behaviour by any party.
- The wording or language which accompanies the image.
- The explicit or depraved nature of images beyond 'the norm'.

- Any other background information that may increase the risk of harm.

A request for an image under any of these circumstances can also be considered to be an aggravated act. In the case of an aggravated incident, the matter will be referred to police and the MASH team or Children's Services, by welfare officers or the ASA Child Safeguarding Team, according to local arrangement.

### **Action to be taken by the organisation**

Our duty to safeguard children is paramount. Therefore, if there is a strong suspicion that a particular device contains an indecent image of an under 18 year old, then the ASA suggests that:

**Where the device is available**, retain and secure the device, and follow the reporting procedures outlined on pp. 23–29. This includes reporting the act immediately to the police, if necessary, in order to secure evidence and/or protect a child from harm. Y

ou should also inform the welfare officer or the ASA Child Safeguarding Team. If, for example, a child denies they have any such image on their device or refuses to hand over the device, and you are confronting them shortly after the incident has allegedly taken place, they can be asked to produce the device, ideally with two appropriate adults present. It is vital they do not get the opportunity to delete any images or data themselves.

**Where the device is not available**, or where an incident comes to light after the event, then an immediate referral should be made to the welfare officer and the ASA Child Safeguarding Team. If the incident takes place 'out of hours', and there are concerns that the image has been, or will be shared, you should contact the police.

Keep any information limited to those who 'need to know' only. It may be prudent to advise any Leisure Centre Duty Manager of the incident, and if you are still at the location, and the concern falls under the 'aggravated' category above, a decision to contact the police should be made.

Please note, a 'device' can include mobile phones, tablets, laptops, desktop computers, any type of camera or video camera, or any type of technology. Never view or show the image to another unless there is a clear reason to do so (e.g. police request), or send, print, share, move or save the image anywhere, or allow a child to view, send or share the image capable of taking, sharing or storing images or video footage.

Please remember that it is not the responsibility of officials of the organisation to make decisions about the seriousness of the matter, nor to investigate this crime.

### **Prevention of incidents**

There are several ways that an organisation can work to reduce the risk of an incident occurring.

All members of the organisation, including employees and volunteers, should be educated about the consequences of taking, sharing or using indecent images. It reinforces that the possession or taking of indecent images is illegal, and will not be tolerated in any form.

The reinforcement of clear guidance about mobile phones or devices being taken into changing rooms is also advisable. Consultation with pool providers or operators in particular, about how changing villages/cubicles are used, may prove useful. For example, if the organisation can impose separate single sex changing areas, this will prevent the possibility of covert filming of children of the opposite sex. Pool providers may assist the organisation in creating single sex changing areas by simply moving lockers or introducing a temporary barrier, etc.

Organisations will find excellent resources from the National Crime Agency's CEOP Command (formerly the Child Exploitation and Online Protection Centre) and the NSPCC Share Aware Campaign to assist them. Further advice can be sought from the ASA Child Safeguarding Team.

## ASA Changing Room Policy

The ASA has been asked by many clubs to clearly state what responsibility the club has for young members under 18 years in changing rooms before, during and after training or an event or competition. Under the duty of care to safeguard children, the club has a responsibility for the wellbeing of children in the changing rooms.

This does not mean that parents have no responsibility, but parents are often not in the pool complex at the time when children are swimming and training to exercise their duty of care. For this reason, clubs must be clear to parents under what circumstances they require parents to remain at the pool throughout a session.

For example, with young children who require assistance with changing, or for those children with a disability who may require additional help that the club is unable to provide.

### Responsibility during a club session

The view of the ASA is that while a child is training or being taught, they remain under the responsibility and duty of care of the person who is teaching or coaching them at that time. If a member goes out of the pool area, the coach or teacher should be aware of this. If the child fails to return within a reasonable time, or appears to be upset upon leaving the poolside, the coach/teacher should request a suitable official to check on them. It is best practice for two persons to look for the member (the second person could be a senior member or a parent).

If a complaint is received about an incident that has occurred in the changing room between a member of the club and any other person, the club has a duty to act upon that concern as appropriate, following the guidance in section 2.2 (pp. 39–50). **If the incident involves a person not associated with the club, the pool manager should be made aware and consideration given as to whether the statutory agencies need informing.** The ASA is currently working with the CPSU, ASA Facilities Team and commercial facility providers, to try to encourage pool providers across the nation to separate the sexes of school-age children in mixed changing villages. We strongly recommend that clubs engage locally with pool providers to create simple barrier systems, or make use of natural barriers between cubicles (e.g. lockers, etc.) to enable mixed changing villages to be used as separate changing areas for either sex. This is likely to help prevent the crime of any covert use of cameras or phones, etc. by one person on another of the opposite sex. (See the guidance on pp. 67–69 and 76–77).

### Information for parents regarding changing facilities

- Ensure that parents are made aware that changing facilities at venues may be shared by both club members and members of the general public.
- Ensure parents are made aware of the type of changing room in use, i.e. separate for male and female or mixed changing villages.
- Ensure that the behaviour of members in changing rooms is part of the member's Code of Conduct and any behaviour contracts, where appropriate.

Masters (adult) members should be encouraged to use their own area wherever possible, when changing at the same time as children. Where this is not possible adults are to be reminded to change in an appropriate fashion, and to be mindful that they are changing with children.

- Ensure parents are aware that they should not be in the changing room whilst the children are changing, unless their child is of an age where help is required from parents or if the child requires additional specific assistance. This is generally at an age that is stipulated by the pool hirer, usually seven or eight years of age. In such circumstances, the parent must be the same gender as the child, unless the facility has family changing facilities or is a mixed changing village.
- When organising an event where other clubs or schools are involved, ensure that parents and competitors are advised (via the event information) whether or not the facilities are likely to be open to the general public at any time during the event.

The ASA does not advise that adults supervise changing facilities as that places them and the children at risk of harm and allegation. Clubs may however place an officer or appointed poolside helper on the outside of the doors in and out of the changing rooms to allow children to call for assistance if required. This approach has proved helpful to many clubs when children have reported incidents of bullying or general behaviour issues between members in the changing rooms.

### **Responsibility after a session is completed**

The view of the ASA is that each affiliated club has a reasonable duty of care to their members, which extends to an awareness on the part of the club that their junior members have been collected, in so far as is possible, at the conclusion of a session, i.e. that a member is not left unsupervised if a parent is late. This has to be age appropriate, i.e. a 17-year-old is capable of getting themselves home, but a 12-year-old is not.

However, if a club uses changing rooms that are also accessible to non-club members for public swimming lanes, it would be extreme to expect a club to search the changing areas in case a junior club member was there. Best practice would be for a club to make all junior members and their parents aware that if children are not collected by a parent, then they should make that known to the welfare officer, coach or whoever the club deems to be appropriate, and for the nominated individual to ensure that the member is supervised appropriately until a parent arrives or the parent communicates alternative arrangements. If a parent fails to collect a child, the club should follow the procedure outlined in the ASA Late Collection of Children Policy on p. 81.