



Life after the Police

PHOTOGRAPHS, IMAGES AND OTHER MEDIA OF PEOPLE - NARPO MAGAZINE, NEWSLETTERS, WEBSITES AND SOCIAL MEDIA

Photographs are taken in many different situations and then used for another purpose. There is often a concern about breaching copyright or the data protection legislation. In addition, there is the risk or concern about disclosing, albeit unwittingly, confidential or sensitive information.

Copyright

The original photographer will usually have the rights to the copyright in the photograph so it is important to have their consent to reuse the photograph. The original photographer may not be the copyright owner in situations in which they were employed by another to take photographs.

If the person who took the photograph is passing this to NARPO then it can be presumed they are giving consent to the use of that photograph.

If the photograph is given by someone other than the original photographer they should be asked whether they are able to pass across copyright.

If someone is in a class or group photo posts it on a website (or sends it for publication elsewhere) they do not need permission from the other subjects if it is clear that all were aware each of them would be able to have a copy of the photo. Normally a group photo is for the benefit of all the subjects, for all of them to receive a copy and be able to use that copy.

Data Protection

Data Protection legislation does not apply to photographs taken by an individual for purely personal or household purposes with no connection to a professional or commercial activity.

Data protection only applies to living individuals so photos of those who have died is not within the legislation.



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If, therefore, the original photographer took the photograph for a personal reason then data protection does not apply. Examples may assist: -

- A family member takes a photograph of a relative or friend at an event to record the moment in time. The passing of that photograph to others at the event or other family members or friends who did not attend the event would not fall within the data protection legislation.
- The passing of that photograph by the person who appears in the photograph to another person or even for publication does not fall within the data protection legislation.

In other situations, data protection will apply and the test is usually whether the person being photographed was aware of how the photograph would be used, but if not, it may still be within the data protection legislation and possible to use the photo. Again, examples may assist: -

- A member of NARPO takes photographs at an event and these are published on a NARPO website or in a newsletter. If the photographer asks for permission to take the photograph and those attending are aware that they may appear in a newsletter then this will not breach data protection legislation. Here it would be sensible to check that the photographer did ask for permission to take the photo and made those in the photo aware of how it would be used;(or there was a simple sign saying photos for future use are being taken).
- A NARPO member sends in a photograph of other members for publication in the newsletter or on the website. Here we need to check that the member can use the photo (copyright) and that those in the photo are aware it is being sent for use by NARPO.
- A photo of an event in the past and of historic interest – for example of police officers who have retired – it is still important to check copyright and ask whether there is information on those in the photo giving their consent and being aware this is being sent into NARPO. If there is uncertainty on consent or awareness of the use of the photo tread more carefully. Consider:
 - If the photo has been published elsewhere and is publically available then only copyright needs to be checked as the personal data is in the public domain.
 - If the individual providing the photo has a right to it (they attended the course/event and are in the photo or they have been given the photo by a relative) then NARPO will similarly have a right (or what is called a lawful reason) and provided they act within the data protection legislation they can publish.
 - Most photos will have been taken for a personal reason and consent of the subject in the photo is not needed.



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- Even in commercial situations - think of the photo of a crowded beach on a hot summers day taken by a journalist to go on the front page to show the weather. He does not need the consent of the 400 people on the beach. Provided copyright is not an issue NARPO could use that photo on its website.
- You enlarge the photo, of the beach, on your Ipad and see someone who claims to be elsewhere on that day. The photo is passed to an organisation. They have a lawful right to it and can use that photo.
- We are all regularly the subject of CCTV. There is usually a notice telling us that images are being taken but consent is not asked for.

Checks to be made

Simple checks should be made: -

1. Ask the person who is providing the photograph whether they have rights to the copyright. If they cannot confirm this be wary about using the photo.
2. If the person supplying the photo is the sole person in the photo and is aware that it will be used on the NARPO website or in a newsletter then consent is not needed. They will be aware if they are sending in the photo for publication and in addition the NARPO Privacy Policy says photos supplied will be used in magazines, newsletters and on websites.
3. If it is a group photo and the person supplying the photo is in the photo and is aware that it will be used on the NARPO website or in a newsletter then consent is not needed. They will be aware if they are sending in the photo for publication and in addition the NARPO Privacy Policy says photos supplied will be used in magazines, newsletters and on websites.
4. If a NARPO member attends a NARPO formal or social event they should ask for permission before taking someone's photo or there should be sign saying photos will be taken for publication. Before publishing ask whether this took place.
5. When a NARPO member or non-member supplies a photo, they should be made aware it will be published and the sender asked whether those in the photo consented to its use. If no, review the situation. It is sensible to make a record of the information given.
6. If in doubt speak to NARPOs Data Protection Officer.

Rights of the data subject

If data protection applies, a data subject (the person in the photo) can ask for the photo to be removed. This will apply even if they were aware that it was being taken and that it would be published. If this type of request is made then consideration will be given to the request and the assistance of the data protection officer sought.