



Filming & Photography Guidance Policy

Introduction

RCOT has a need to film and photograph events, interviews and record historic moments in the history of Occupational Therapy – Occupational Therapy case studies etc.

The Data Protection Act 2018 affords protection to individual's (data subjects) personal data and provides them with certain rights over their data which means RCOT employees and contractors need to take additional steps to ensure compliance going forward. This policy sets out considerations and steps RCOT needs to take to be compliant going forward.

1. Personal data under GDPR

1.1 Personal data

- Personal data is any data which can identify a living individual.
- An image of an individual would be considered to be personal data.
- An image which does not specifically identify or focus on any one individual, i.e. panning a room in a group shot, would not be considered to be personal data under GDPR.
- Opt for close-up shots, when it's in a largely public place, so those in the background will not be identifiable and therefore only the close-up is considered to be personal data.

1.2 Special Category data

Special category data is specifically defined in GDPR. RCOT need to be aware of special category data when they are filming or taking photos in case the material falls into this category. An example may be:

- Filming or photographing an individual in a way which identifies a disability either orally or visually - this will fall under the special category of 'Health' data, e.g. case studies or records of Occupational Therapy techniques.
- Filming or photographing an individual at a Union event – this falls under the special category of 'Trade Union Membership' data.

1.3 Minors

In UK law, minors are defined as any individual under 18 years old. This data merits additional policy and protection under data protection law. Additionally, if a data subject is under 13 years old, written explicit consent must be sought from their parent or legal

guardian. If this is not possible, then you must blur out their faces and anything which identifies them in any way during post production.

2. Contracts and IP

A contract and release form needs to be signed by RCOT's film/photography crew and subjects. This needs to clearly state that the individual knows and agrees to being filmed/photographed, as well as for what purpose.

3. RCOT's Data Privacy duty

RCOT has a duty to:

- Be clear and transparent with data subjects about what personal data they are collecting / processing and the reasons why (clear in location signposting and privacy policy).
- Depending on the lawful basis applied, either obtain explicit consent from the data subject or give them the ability to object to the processing (where relying on Legitimate Interest).
- Not use the data for anything other than what the data subject has been told will be done with it.
- Protect the data's integrity and destroy data in line with RCOT's retention policy. Please see individual paragraphs in section 4, for specific information related to the unique scenarios in which RCOT is filming or taking photographs.

4. Scenarios

4.1 Events

RCOT films and photographs various events for the purposes of education and publicity. Some of these events are HRH events which are recorded in the public interest.

4.2 Event attendees

The lawful basis relied upon under GDPR is Legitimate Interest.

RCOT needs to take the steps below for each and every event. HRH is a public figure and RCOT is able to film or photograph her at relevant events because it is in the public interest. So, the steps below do not apply to filmed material of HRH. However, the obligations around taking reasonable steps to protect the integrity of her data would still apply.

Signposting:

- Include the filming/photographing of events as a processing activity listed in the privacy policy.
- Highlight that the event will be filmed/photographed ahead of the event and make clear what the recording will be used for - ideally within joining instructions.
- Highlight that the event will be filmed/photographed on arrival at the event and make clear what the recording will be used for - ideally within a notice at a registration desk.

- If the venue is too public and too big to get a written consent from each individual, you can instead opt for placing huge and clear signs around the area. Do this ahead of time. When people see it, they'll know that filming/photography is ongoing and can elect to walk somewhere else.
- Provide data subjects with the ability to opt-out of being filmed/photographed, both ahead of the event and on the day.

NB. If the event being filmed/photographed could identify Trade Union membership (special category data) RCOT must get explicit consent ahead of filming/taking photos.

The filming/photography:

- Material filmed/photographed would not be considered personal data unless it focused specifically on one or two individuals – try to keep filming/photographs at a distance and group / pixilated or blurred shots.
- Opt for close-up shots, when it's in a largely public place, so those in the background will not be identifiable.

After the event:

- Keep a record of the attendees along with the recording so that you are able to identify material that is subject to a Subject Access Request more easily.
- Remove or blur out anyone who requests to not be seen on video.
- Ensure that filmed/photographed materials are stored securely.
- Ensure that filmed/photographed materials are destroyed in line with the RCOT retention policy
- Do not use the material for anything other than what you have specified in the privacy notice for the event.

4.3 Event speakers

The lawful basis relied upon is contract if the speaker is paid. If the speaker is not paid then consent is the lawful basis for GDPR purposes.

RCOT needs to take the steps below for each event.

Signposting:

- Let speakers know that they will be filmed/photographed ahead of the event and make clear what the recording will be used for – ideally within any confirmation / T&C provided.
- Depending upon the lawful basis relied upon, collect recorded explicit consent.

After the event:

- Keep a record of the speaker along with the recording so that you are able to identify material that is subject to a Subject Access Request more easily.
- Ensure that filmed/photographed materials are stored securely.
- Ensure that filmed/photographed materials are destroyed in line with retention policy.

- Do not use the material for anything other than what you have specified, without gaining additional consent.

4.4. Interviews / Occupational Therapists in action

RCOT films interviews for various purposes, including publicity, insight into Occupational Therapy as a profession, case studies to show progression in Occupational Therapists techniques and education. The lawful basis for processing this data is consent.

RCOT needs to take at least the steps below for each interview / recording. **Where special category data or data belonging to minors will be processed, a Data Protection Impact Assessment (DPIA) should also be carried out prior to the project / filming being started. Please speak to the RCOT Data Protection Officer before going ahead.**

Signposting:

- Include the filming of interviews / occupational therapy in action as a processing activity listed in its privacy policy.
- Get explicit recorded consent from all data subjects captured or to be captured in the recording ahead of the recording taking place [this will include individuals named or identified in some way, even if their image is not featured in the recording].
- Provide a notice alongside consent highlighting that the interview will be filmed, making clear what the recording will be used for, what the data subject's rights are and who to contact to action those rights.
- If the recording will identify special category data, e.g. health data, the fact that this will be the case must be clearly highlighted on the notice.
- If the recording will identify minors, explicit consent will need to be sought from their parent or legal guardian.
- Ask for permission (preferably in written form) from any member of the public that will show up in RCOT videos (wherever practical and whether or not they are in the background - background less of an issue but still advisable to get permission). Otherwise blur or pixilate.

The filming:

- For occupational therapy in action filming, ideally film in a way such that the patient is not identifiable.
- Opt for close-up shots, when it's in a largely public place, so those in the background will not be identifiable.
- Blur or pixilate any individuals for whom you have no consent who are in the background.

After the event:

- Keep a record of the data subjects in the film along with the recording so that you are able to identify material that is subject to a Subject Access Request more easily.
- Remove or blur out anyone who requests to not be seen on video.
- Ensure that filmed materials are stored securely.
- Ensure that filmed materials are destroyed in line with retention policy.
- Do not use the material for anything other than what you have specified without going back for further consent – if you are going to reference the filmed material and the

individuals in it in a case study, for example, you need to have consent for that specifically. If you are going to publish the material to your website, you need to have made that explicit at the time of consent.

Refreshing consent:

- Consent should be refreshed on a regular basis, in particular if it contains special category data or belongs to minors.
- Consent should be refreshed if processing changes in any way, i.e. if you wish to do something different with / repurpose the data, as compared to what was consented to previously – content may be static but its distribution and purpose may change.
- If you have material containing data subjects who are minors, you should refresh consent as they age – in particular minors under 13 will have had parental consent. Once they become 13, you should seek fresh consent directly from the data subject.

Contact

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