

The Law Relating to Photography/Video

The information below has been taken directly from the Australian Sports Commission web site and deals specifically with photography of children. In Australia, generally speaking, there is no law restricting photography of people (including children) in public spaces as long as the images are not considered as:

- indecent (such as "up skirt" or "downblouse" photographs taken covertly in change rooms, toilets or other invasions of privacy)
- being used for voyeurism or made for the purpose of observing and visually recording the other person's genital or anal region
- protected by a court order (eg. child custody or witness protection)
- defamatory
- being for commercial purposes (person's likeness is used to entice people to buy or it appears they are endorsing a product). This may require a Model Release/Consent Form to be signed

Consensual photos of a child (including your own child) also contravene Criminal Codes and censorship laws if the child is photographed in a provocative or sexual manner.

Where a sporting event is held on a club's private property, privately owned land, a school or council owned facilities, the owners of private property or venues are able to restrict or ban photography (e.g. some council owned facilities will not allow mobile phones or cameras in change rooms or toilets).

Where a sporting event is held on private property not owned by the organisers, there needs to be a discussion with the owners to determine a mutually agreed photographing policy. There is nothing, however, to prevent a person from photographing outside the property boundary unless it is taken for indecent purposes, as previously discussed.

Many facilities do not allow the use of mobile phones (regardless of whether they have camera features) in change rooms and some local government pools require permission for photography anywhere in their venue.

If a person is taking photographs inappropriately (e.g. breaching the restrictions or ban in place for that private property or venue), then venue management can request the person to stop. If the person refuses, the police or security may be called to escort them off the property (without threatening violence, detention, or confiscation of the camera or film).

Sporting organisations may want to consider implementing one or more of the following strategies to provide all involved with a greater knowledge and an assurance that the taking and displaying of images is appropriate:

Acquiring Images

- Clearly outline what is considered appropriate behaviour in obtaining photographs and what is considered appropriate image content using a camera, mobile phone or video and publicise this information throughout the organisation.
- Do not allow photographers (professional photographers, spectators, fans, coaches or members of the media) unsupervised or individual access to children.
- Ensure the coach informs the team/athlete and parent(s) if the coach wants to video the athlete(s) as a tool to analyse and improve performance. (This practice would need to consider any photographing policy in existence for the sport and if on private property)
- Obtain the consent of parent /guardian and their agreement to be present before approving photo/video sessions outside the event venue or at the home of a child. Where possible, have the photo taken at the event venue.

- Provide details of who to contact within the club or organisation if concerns or complaints of inappropriate photographic behaviour or content are raised. Ensure that the contact person understands the application of relevant legislation and policies.
- Provide members of the media and professional photographers with an identification pass to be worn for the duration of major/large events.

Displaying images

It is not so much the taking of images that may be of concern, but how the image will be used. If your organisation is acquiring an image of a child for display:

- Consider using models or illustrations for promotional / advertising purposes.
- Obtain permission from the child's parent/guardian prior to taking the images of a child or young person. Ensure that all concerned are aware of the way in which the image is to be used and how long the image will be displayed.
- If an image is used avoid naming the child. If this is not possible avoid using both a first name and surname.
- Avoid displaying personal information such as residential address, email address or telephone numbers if images are being posted on websites or distributed in publications.
- Do not display information about hobbies, likes/dislikes, school, etc as this information has the potential to be used as grooming tools by paedophiles or other persons.
- Only use appropriate images of the child, relevant to the sport or activity, and ensure that the athlete/child is suitably clothed. Images of athletes participating in sports or activities that involve minimal clothing (e.g. swimming and gymnastics) or unusual body positions/poses could potentially be misused. The age of the child is another factor to consider when deciding if the image is appropriate.
- Reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function).
- Clearly outline in a written contract to photographers who are contracted or paid to take photos, who will retain the images taken, include arrangements made for negatives, digital file and proofs and outline any restrictions for use and sale.
- Provide details of who to contact and what to do if concerns or complaints of inappropriate image use are raised.

The intention of this information sheet is to let sporting organisations know about the issues surrounding acquiring and displaying images of children, not to restrict those people who are taking photos of children for legitimate reasons.