

# ETHICS GUIDANCE

## ETHICAL CONSIDERATIONS IN VISUAL OR VOCAL RESEARCH

The [ESRC Framework for Research Ethics](#) states that the following research examples may involve more than minimal risk and require a full ethics review:

- Research where participants or other individuals may be identifiable in the material used or generated may involve more than minimal risk and require a full ethics review. For example, visual or vocal methods producing images or sound recordings, or interviews with people holding high office (elite interviews) who may be identifiable.

The guidance on Visual Ethics below is taken from ESRC National Centre for Research Methods Review Paper - Visual Ethics: Ethical Issues in Visual Research. To read full paper visit: <http://eprints.ncrm.ac.uk/421/1/MethodsReviewPaperNCRM-011.pdf>

There is considerable overlap between visual and vocal ethics guidance especially when using film/video, therefore sections A: Visual Ethics and B: Vocal Ethics should be read in conjunction.

### A) VISUAL ETHICS

Visual data include photographs, film, video, drawings, advertisements or media images, sketches, graphical representations and models created by a range of creative media.

This guidance focuses on the ethical issues associated with photographs, and video images rather than other visual methods. That is, the types of visual data which produce visually identifiable (or potentially identifiable) individuals where the core ethical issues of consent, confidentiality and anonymity apply.

Researchers using visual methods should consider research ethics frameworks, professional guidance, regulation and legal rights and duties, to shape their ethical decision making.

### LEGAL ISSUES

Visual research is subject to legal considerations which relate to both the taking of images and how they are subsequently used. It should be noted that whilst there is a close relationship between law and ethics, not everything that is legal is ethical.

#### Public Spaces

UK law enables individuals to film or take photos of places or individuals from or in a public place, including taking photos of private property. However, photographing someone in a place where they have a reasonable expectation of privacy might be considered to be an invasion of privacy. Persistent or aggressive photography could also come under the legal definition of harassment.

The situation is complicated by the difficulties in defining what constitutes a public space. Managers of shopping malls and public service organisations (such as hospitals, Local Authority leisure centres or libraries) may not view their organisations as public places for the purposes of researchers wishing to take images, although this may be largely dependent on what images are being made. There is also the issue that some areas of public places might be viewed as more private than others. Researchers should make themselves familiar with their legal right to take images in public places before doing so.

#### Copyright (still and moving images)

In UK copyright law copyright rests with the person taking the image:

Researcher-generated images	Copyright rests with the researcher or their employing institution. A research participant who gives consent has no legal rights over the subsequent use or re-use of their image.
Participant-generated images	Copyright rests with the participant and it is necessary for them to assign copyright to the researcher for their subsequent use.

However, a case could be made for a respondent retaining rights over the words spoken in a video recording as the copyright for their words rests with them. It is advisable to request that interviewees assign copyright to the researcher.

### **Images of Children**

The law around the process of consent for children to participate in all types of research is complex and relates to the notion of capacity or competence. The United Nations Convention on the Rights of the Child (UNCRC) defines a child as everyone under 18 unless, "under the law applicable to the child, majority is attained earlier".

Generally speaking children who are able to understand the implications of participation in a research project are viewed as having 'capacity' to make a decision about whether or not to take part in research. However researchers should ensure they follow the University guidance on [Working with Children & Young People](#) and appropriate guidelines for the area of research they are undertaking as consent differs depending on risk of harm. For example the Medicines for Human Use (Clinical Trials) Regulations prohibit children under the age of 16 from giving consent to take part in a Clinical Trial of an Investigational Medicinal Product (CTIMP).

Therefore, regardless of a child's capacity to consent, it is considered good practice to seek consent from children, parents and any other gatekeepers (e.g. teachers) to safeguard researchers from any problems that might arise. DBS checks are also necessary for researchers working with children and with other groups deemed 'vulnerable'.

Researchers should be aware that they may be committing a crime if they are in possession of certain images of children. For example, it is an offence under section 160 of the Criminal Justice Act 1988 for a person to be in possession of an indecent photograph of a child. That is, the offence is committed by simple possession, unless the researcher is able to prove that he or she has a satisfactory defence

Images or data of serious crime involving children should be handed over to the police. Serious crime in this context comprises images of physical, sexual or psychological abuse. Researchers need to clarify how the disclosure of such information will be managed as part of the informed consent process with children. There is no law relating to actions in the case of images or data of less serious crime and researchers are left to make their own decisions on appropriate actions, if any.

Researchers should familiarise themselves with the University Safeguarding and Prevent statement <https://www.wlv.ac.uk/staff/media/departments/office-of-the-vice-chancellor/documents/Safeguarding-and-prevent-statement-April-2019.pdf>

### **Possession of Unlawful Images**

Researchers should be mindful that in some circumstances they may be committing a crime if they are in possession of certain images. For example, it is an offence to be in possession of an 'extreme pornographic image' under section 63 of the Criminal Justice and Immigration Act 2009 and the onus is on the researcher to prove a defence. There are also certain strict offences concerned with the possession of items related to terrorism".

### **Images of Unlawful Activity**

Researchers should think through the implications of giving people cameras to take images reflecting their lives and how they will manage being presented with images that portray some form of unlawful or morally questionable activity. In the case of adults, there is no law that obliges researchers to pass images or data of adults engaged in criminal activity to the legal authorities. However, researchers should be aware that research data given in confidence is not privileged in law and may be the subject of a court order.

### **Data Protection Act**

All researchers are also subject to the Data Protection Act which demands that data is kept securely and does not lead to any breach of agreed confidentiality and anonymity. Providing researchers have consent for the use and re-use of images, visual data does not provide any additional challenges in relation to data protection than those posed by other forms of research.

## **CONSENT ISSUES**

### **Researcher-generated images**

When taking images of identifiable individuals, whether in public or private spaces, then it is polite and good ethical practice, where practicable, to seek consent.

Consent entails express agreement of the individual(s) concerned not only to take or make visual images but also consent to use images subsequently. This may involve gaining express consent for the particular images used and the specific formats and contexts in which they are to be used.

Signed consent forms are viewed as safeguarding researchers and their employing institutions, making issues of consent clear to research participants and ensuring attention to issues of copyright. However, using signed consent forms does not negate the necessity of explaining the research to potential participants and for what precisely their consent is being sought to do and does not give researchers the right to use images in unrestricted ways.

### **Participant-generated images**

Where researchers ask participants to take images of their lives, identity or communities or to conduct video diaries, purely for data elicitation purposes then issues of consent are relatively unproblematic.

If researchers wish to include these photos in dissemination then consent for the subsequent use of an image in relation to issues of copyright can be managed with negotiation with the participant.

There are additional issues around consent for any subjects of images that a research participant takes. While legally the image taker owns the image, and can assign copyright to the researcher if they wish to do so, the people in the images have not necessarily given their consent to the image. Even if they have, they are unlikely to know the purposes to which the image may be put.

At the very least, researchers should consider the implications of the images they might be presented with by participants and brief them about seeking permission and explaining the purpose prior to taking images of others. Researchers are advised to consider whether or not someone might be at risk of harm or moral criticism as a result of use of the image. It may be possible to ask for subsequent consent from the individual portrayed in relation to the specific use to which the image is to be put via the research participant who took the image.

Similar issues emerge in relation to research which focuses on images owned, or in the possession of, research participants. For example, albums may contain photos taken by the participant of various individuals for whom issues of consent may arise, or may also contain photos taken by others, and therefore in copyright terms, not 'owned' by the participant.

## **ANONYMITY AND CONFIDENTIALITY**

The use of visual material makes the anonymisation of individuals or locations problematic if not impossible. This presents a dilemma for visual researchers; on the one hand the purpose of using visual data is because the image is able to reveal more than text alone so, in the interests of research, there is a drive to publish and present unadulterated visual images but on the other, there may be pressure from regulatory bodies to uphold the principle of anonymisation. The situation is complicated by the fact that individuals appear commonly to want to be identified in their visual images. This appears to be particularly the case in relation to visual research with children and young people and people with disabilities who have argued for their right to be made visible.

### **Images identifying individuals**

Researchers should carefully consider the implications of using images they have collected for individuals and the institutions or communities of which they are part. They also need to consider how the research, and indeed the images, may be used in the future. This may sometimes mean making the decision not to use aspects of visual data. In other cases, participants may ask for their image to be obscured or not used.

The implications of identification may not always be clear to researchers but it is crucial that researchers seek to understand the political, social and cultural contexts in which images will be viewed and interpreted. Consideration should be given to:

- Internal confidentiality - between members of a specific community or group. People who are interconnected can easily identify others in images from jewellery, clothes, gestures or gait, even when attempts have been made to anonymise individuals.
- Confidentiality of Participant-generated images - ensuring the confidentiality of images taken for the purposes of a research project. As the copyright owner these images can be used by the participant as they see fit which may not align with the aims of the project, i.e. participants sharing images on social media.

### **Obscuring identity in images**

Methods of obscuring people's identity include increasing the pixelation of facial features in order to blur them, the use of specific anonymisation software that converts visual images into cartoons or drawn images and blocking out eyes, faces or other distinguishing features.

Obscuring facial features alone may not be adequate to ensure anonymity. It is recognised that there are some groups or types of images that necessitate the identities of individuals being obscured. Certainly caution needs to be exercised in the ways that images of children are used and stored. However obscuring or blurring images raises a number of issues:

- It obscures certain important details, such as people's facial expressions, which makes the purpose of collecting visual images questionable. This affects readers' ability to make sense of visual data because faces are necessary to enable them to interpret physical, psychological, social and emotional aspects of individuals.
- It makes no sense in certain contexts. Many studies using visual data, especially in sociology, focus on aspects of people's identity; people are photographed or filmed dressed in particular clothes or displaying particular aspects of themselves which represent their identities.
- It objectifies people and removes their identity.
- It has negative connotations which may be communicated to people in their viewing of the research. Pixelation of images has associations with crime; it is a commonly used device in the media when talking with 'criminals' or 'victims' of crime who fear being identified
- It can be difficult to do well with some visual data (e.g. where there are a number of people present) and may involve a substantial amount of work on the part of the researcher.
- It also raises questions about the impact on the integrity of the data and whether the result of changing visual data results in 'sanitised' findings.
- It limits the potential for data to be reused.

## **Identifying people in images**

The more common approach is to present visual data in its entirety, with consent, and not to attempt to anonymise individuals, so pseudonyms are not generally used. This usually involves showing participants the images prior to wider publication or presentation and allowing them to comment

Researchers should first give consideration to the political, social and cultural contexts in which images will be viewed and interpreted. They should then ensure that participants understand the implications of identifiable images being disseminated and that they are carefully negotiated with study participants.

Participants should be aware of the:

- range of ways that visual research can be disseminated - public exhibitions, film showings or events, the use of digital media (or more conventional forms of dissemination through presentations at conferences or meetings and book or journal publications which present different implications for study participants in relation to anonymisation and identification.
- longevity of images in the public domain and the potential for future uses of images - an individual may be happy for a specific image of them to be made public at one point in their lives but they may be less so in the future as their circumstances change, yet once an image enters the public domain it may be difficult or impossible to remove it.

Visual data lend themselves to means of dissemination other than conventional academic publications, such as video diaries and observational film. Consideration of ways of restricting access to these is likely to be important, especially if images involve children. The internet offers considerable opportunities for global dissemination but, without restricted access to sites, raises the possibilities that images can be copied and reproduced in contexts other than those for which they were obtained. These may have negative or harmful consequences for the people represented.

## **Images of place**

Even if anonymised still images or videos of private or public places or locations may be easily recognisable and could be used to identify where a study is located and therefore the individuals or communities taking part in the research.

## **FURTHER ETHICAL ISSUES**

These issues are not exhaustive and researchers should consider additional ethical issues that emerge within the specific contexts of individual research projects.

### **1) The construction of images**

There are various ways in which researcher and/or participant contribute to the construction of images:

- Researchers may 'set up' a specific image or alter it in order to illustrate a specific point.
- Participants may choose to present themselves in ways that differ from their everyday reality.

Ethical research demands that researchers are explicit about the methods and contexts in which the image has been created; it is unethical to use images to knowingly deceive or give a false impression.

Researchers also need to provide reflexive accounts to enable others to make sense of the visual data presented.

### **2) How images are consumed**

Researchers should consider how the image or film will be interpreted and, in order to minimise misinterpretation, use visual data with text to make explicit the intended meaning.

There are two aspects which influence the ways in which images are viewed: the social practices in which images are viewed and the social identities of the viewer. Visual researchers need to carefully consider these issues in order to take seriously the promises they have made to their study participants.

## **B) VOCAL ETHICS**

In designing a research project to ethically address issues pertaining to recorded information, the researcher should consider the need to clearly explain the following questions:

- What recordings will be made and what methods will be used?
- To what use will the recordings be put?
- How long will the recordings need to be retained?
- What is the approved method of erasing/destroying/deleting the recordings?
- Where will the recordings be stored?
- Who will have access to recordings?
- Will the recordings be used for other, non-research purposes, for example, in publications?
- Are there any commercial or legal considerations applying to the proposed use of recordings?
- Are there special cultural considerations relevant to the audio or visual recordings?
- Will participants be invited to review and agree to the storage of their recorded information?

### **1) Recording as a method of interview capture to aid data collection**

Because audio, video or digital recordings include images or voices of research participants, they pose a greater concern than data that do not have readily available identifying information. Recorded information (visual or audio) may be deleted after they have been transcribed so that only the transcribed information is stored (unless the raw recordings are required for example for acoustic analyses).

To ensure that participants and researchers are clear about the manner in which recorded information can be used for research purposes, the Consent Form should include specific provisions about the recordings, for example, the form may include wording that resembles the following:

- I understand that my interview will be recorded.
- I understand that only the research team will have access to this recording.
- I understand that the recording will be erased following transcription, OR, I understand that the recording will be retained for acoustical analyses in an anonymised form (delete which statement is not appropriate to your study).
- I consent to an extract from my recording being used in conference presentations or for instructional purposes.
- I understand that I will be shown the extracts from my recording for verification purposes.

Depending on the nature of your research, you may choose to include these and/or other specific provisions, as required.

### **Retention and Use of Recordings for Future Research**

There is potential value in retaining recordings following transcription and analysis for future research. Retention and use of recordings is ethically acceptable if the participants have consented to this use. The researcher should also consider an invitation to participants to review and verify the accuracy of any transcriptions derived from recorded information.

When seeking ethical clearance for a protocol that will involve retention and subsequent use of recordings, the ethics application should include the following information:

- How long the recordings will be retained
- Who will have access to recordings.
- The wider use(s) for which the recordings will/may be used.
- The details of participant consent for the wider use of the recording.
- An indication of whether any commercial or legal considerations apply to the proposed wider or subsequent use of recorded information.

Holding recordings indefinitely and/or for an unspecified purpose challenges the spirit of informed consent and has the potential to increase risk to participants (e.g., breach of confidentiality, damage to reputation, legal ramifications).

Any proposed use of already-archived recordings (i.e., secondary data analysis) must be reviewed. A copy of the informed consent form from the original study must be submitted with the ethics application. Ethical review will determine whether or not secondary analysis of the recordings increases risk to participants and whether or not participants were adequately informed during the original study about the use, confidentiality, and destruction of their recordings. Ethical approval may require that informed consent for secondary analysis is obtained from participants.

## **2) Recording as the Research Data**

Using audio or video recordings as research data often for example in oral histories where a first person account made by an interviewer with an interviewee both of whom have the conscious intention of creating a permanent record to contribute to an understanding of the past. The recording is preserved and made available in different forms to other users, researchers, and the public.

Participants voluntarily give their consent to be recorded and understand that they can withdraw from the interview or refuse to answer a question at any time. They may give this consent by signing a consent form or by recording an oral statement of consent prior to the interview. All interviews are conducted in accord with the stated aims and within the parameters of the consent.

Participants hold the copyright to their interviews until and unless they transfer those rights to an individual or institution. This is done by signing a release form or in exceptional circumstances recording an oral statement to the same effect. Researchers must ensure that narrators understand the extent of their rights to the interview and the request that those rights be yielded to a repository or other party, as well as their right to put restrictions on the use of the material. All use and dissemination of the interview content must follow any restrictions the narrator places upon it.

When using recordings as research data, because of the importance of context and identity, it is common practice for participants to be identified by name. There may be some exceptional circumstances when anonymity is appropriate, and this should be negotiated in advance with the narrator as part of the informed consent process.

Researchers must take care to avoid making promises that cannot be met, such as guarantees of control over interpretation and presentation of the interviews beyond the scope of restrictions stated in informed consent/release forms. Researchers should avoid stereotypes, misrepresentations, and manipulations of the participant's words.

## **3) Using Archived Recordings for Secondary Data Analysis**

Nationally and Internationally held digitised collections of recordings are made available purely for the purposes of safeguarding them and for making them available for non-commercial research, study and private enjoyment. Any misuse of the materials such as illegal file sharing, misquotation, misappropriation or decontextualisation constitutes a breach of the agreements under which the recordings are made available.

### **Cultural considerations**

Significant cultural sensitivities may apply to the use of audio-visual recordings in research. Some cultures have strong taboos against the making of such recordings. Other cultures have taboos against the retention of photographs or recordings after a person has deceased.

When making an application for ethical clearance for a project involving audio-visual recordings, a researcher should identify whether cultural considerations are likely to apply, and indicate how the design of the research will address cultural issues.

When using archive materials for research due effort should be made to ensure culturally sensitive material has been cleared for use or is removed from wider access. The researcher should take care not to reinforce stereotypes and recordings should not be altered or used in ways that might be derogatory to a culture or community