

## Photography at FReeZA Events

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Taking photos at your FReeZA events is a good way to document the event and engage the audience. These days plenty of event photos are posted on facebook or other social media websites, where patrons can view or tag themselves and friends. Photos may also be used for reporting and promotion. However often questions arise around photography guidelines, taking photos of underage young people, and when photo consent forms are required.

This paper has been put together to provide some general guidance and direction for FReeZA workers in regards to photography at events. It should not be relied on as legal advice, and has not been adapted for general youth programs. You should also first check the privacy or photography policies of your organisation.

### 1. The official words from the Victorian Privacy Commissioner

The following is taken from the Office of the Victorian Privacy Commissioner (Taylor, 2007). Please note that all references to the Victorian Privacy Commissioner can be found at the end of the article.

The ideal approach in all cases involving photography is to obtain the informed and voluntary consent of the people in the pictures. Under the Information Privacy Act a person's consent allows for the use and disclosure of their personal information in the circumstances covered by that consent. Consent must be voluntary, informed, specific and current. The individual must have the capacity to consent. Therefore, for images of children, the consent of their parent or guardian should be sought.

Consent need not be in writing, but it is best practice to obtain written consent especially for photographs being used electronically. But it is not always possible to obtain consent, especially where a picture is part of an archive or was not taken directly by the organisation that plans to use it.

It is often possible to give notice to people attending an event that photos will be taken and used for specified purposes. Giving notice shows respect.

You can give notice in a number of ways including through the use of signs, policies on websites and in publications, and by using photographers who are clearly identifiable. Remember, too, that staff also have privacy rights and their consent to use their photo should be sought in the same way as if they were a member of the community.

Given the information provided by the Victorian Privacy Commissioner, the following are suggested guidelines to be followed for photography at FReeZA events. These are guidelines only, and should not be relied on as legal advice.

## 2. When do you need to get consent from patrons to take photos?

As mentioned, it is ideal to get consent to take photographs in all cases. Written consent is not a legal necessity, as consent may be *implied* or verbal. However if you are going to use the photos for commercial use then you will require written consent.

Consent may be implied when the punter knows they are being photographed and their reactions would be considered by a reasonable person to indicate consent. For example, if the punter has been sufficiently notified by event signage that photos will be taken, and they allow (or pose) for photos and do not object to their photo being taken, then we can reasonably consider that they have given consent. (Read about having visible signage to give notice below)

Consent can be verbal. For example the photographer may approach a group of young people and ask to take a photo, to which the individuals may accept or decline. Where there are 6 or more people (what we would consider a “crowd”), in the majority of cases you would not be obliged to ask permission from each person.

You should also clearly state what the punter should do if they do not give consent for their photo to be taken or used. For example your signage may include the line: “If you do not wish to have your photo taken, please let the photographer or a worker know.”

### ***Posting the photos online after the event***

Implied consent should not be regarded as consent for publication. If you are planning to post the photos online, you should make this clear when notifying patrons so that they understand the intention of the photos. Be mindful of posting photos which may be questionable for the audience (eg underage smoking, someone being injured in the mosh pit, patrons climbing on speaker stacks, etc).

If after posting the photos online, someone contacts you (by phone, email, facebook comment, in person, etc) and tells you that they want their photo taken down, you should respect their request.

### ***Using the photos for commercial purposes***

If the photos will be used for commercial use, then implied consent is not enough and you will require the subject to sign a photo release form. Commercial use means using the photo (or a likeness of the person) to endorse or sell a product or service. If the subject is under 18 years old, then you will need permission from their parent/guardian.

## 3. How to notify the audience that photos will be taken at the event

There are several ways in which you can notify your audience that photos are being taken, listed below. The test usually used in law is if a reasonable person would consider your actions to be adequate, therefore whichever method you choose, it should include:

- A statement that photos will be taken
- The intended purpose of the photos, eg if they will be posted online and where
- What the punter should do if they don't want to be photographed

It is courteous and respectful to have the photographer clearly identifiable, so that patrons know when they are being photographed and who to approach if required. Alternatively patrons should be able to clearly identify event workers so they can approach them instead.

### **Signage at the venue**

It is a good and easy idea to display plenty of signs around the venue (where the crowd can clearly see them) and at the point of entry. Signs should clearly state that photos will be taken at the event, inform patrons what they should do if they do not give their consent, and mention if the photos are intended for online use.

A good example of a sign is shown here →

As per the 'FReeZA 2013-2015 Guidelines and Conditions of Service Delivery' in section 7.4 Conditions of Entry, signage at the entrance to the event must outline the conditions of entry and, at a minimum, state the following:

- "under age event" or "all-ages event"
- "drug, alcohol and smoke-free"
- "safe and secure" or "fully supervised"
- "no pass outs"
- "no stage diving", and
- "no crowd surfing"

FReeZA organisations may wish to specify additional conditions, such as a photography disclaimer. However you should still display photography signs inside your event, around the venue.

### **Making announcements**

You may make an announcement during your event that photos will be taken, to see the photographer if you don't want your photo taken, and also to mention if the photos will be available after the event (such as on a facebook page).

### **Handing out notices**

Another option which is employed by Privacy Victoria when photographing at public events (though less convenient at FReeZA events) is to hand out a business card form of notice which states "What we would like to do with your photo..." and lists a disclaimer explaining what the photos may be used for and the course of action to take if the punter does not wish their image to be used.

## **5. Using event photos in reports and presentations**

At times FReeZA workers may include event photos in reports or presentations. If the patrons depicted in the photos have given implied consent to having their pictures taken, and they are not being used for commercial use, then the photos may be used without written consent.

If after submitting a report, the party accepting the report later decides to use a photo of a readily identifiable person for commercial use, they will need to obtain permission from the individual via a photo consent form.



### **Your photo will be taken here tonight**

*If you do not wish to have your photo taken, please let the photographer know*

*Like our FReeZA facebook page to see tonight's pics*

## 6. Quick tips for event photography

- **Written consent** – is not a legal necessity, as consent may be implied or verbal
- **Implied consent** – is when the punter has been notified that photos are being taken and their reactions would be considered by a reasonable person to indicate consent
- **Verbal consent** – can be given if the photographer asks to take a picture
- **Photos of crowds** – 6 or more people can be considered a “crowd” and in most cases you’re not obliged to ask permission from each person.
- **Using the photos for commercial use** – implied or verbal consent is not enough, you will require a signed photo release form
- **Posting the photos online** - Make the intention of the photos clear when notifying patrons
- **Give notice that photos will be taken** – use signs or announcements (or both!)
- **Event signage** – should be placed at the entry and around the venue. It should clearly state that photos will be taken, inform patrons what they should do if they do not give their consent, and mention if the photos are intended for being uploaded.
- **Conditions of Entry sign** – FReeZA workers may wish to add additional conditions
- **Announcements** – should mention photos are being taken, and what will happen with them, and who to see if they don’t want to be in them
- **If consent is not given** – Let the punter know what to do if they don’t want their photo taken, eg. Let the photographer or a worker know. These should be clearly identifiable.
- **After posting photos online** - If someone contacts you to take down a photo, respect their wishes
- **Public land** - You do not need permission to take photos on public land, however you should respect the wishes of the individuals.
- **Pools** – most pools have banned the use of cameras. Check with pool management first.

## 7. Sources of information

More information about Privacy Law in Victoria can be found at the following links:

*Images and Privacy* Info Sheet 01.03, Office of the Victorian Privacy Commissioner, 2003, accessed from [http://www.privacy.vic.gov.au/domino/privacyvic/web2.nsf/files/images-and-privacy/\\$file/info\\_sheet\\_01\\_03.pdf](http://www.privacy.vic.gov.au/domino/privacyvic/web2.nsf/files/images-and-privacy/$file/info_sheet_01_03.pdf)

*What we would like to do with your photo – Photography and privacy*, by David Taylor, Director Privacy Awareness, Office of the Victorian Privacy Commissioner, 2007, accessed from [http://www.privacy.vic.gov.au/domino/privacyvic/web2.nsf/files/photography-and-privacy/\\$file/david\\_taylor\\_speech\\_13\\_04\\_07.pdf](http://www.privacy.vic.gov.au/domino/privacyvic/web2.nsf/files/photography-and-privacy/$file/david_taylor_speech_13_04_07.pdf)

## 8. Examples of a Photo Release Form

(See attached)

For further information on photography at FReeZA events, please contact The Push on (03) 9380 1277 or email [push@thepush.com.au](mailto:push@thepush.com.au)



# **PHOTOGRAPHY RELEASE FORM**

I, \_\_\_\_\_, give my full permission for [ORGANISATION'S NAME] to use photographs taken of/by me at event, to be used at no cost for the purpose of documenting, promoting and other publicity activities for [ORGANISATION'S NAME] or related events. I understand that this means the photographs may be used on publicity flyers, posters and articles and advertisements in newspapers, as well as on [ORGANISATION'S NAME] website or anywhere else [ORGANISATION'S NAME] may have their programs promoted or recorded.



Organisation's details  
Organisation Name  
Contact Address  
Phone / Email  
Web Address

Participant Signature

Participant Name

Parent/Guardian Signature

Parent/Guardian Name

Date


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