

Policy Document:

Title: Body Worn Video

Policy

1 Introduction

- 1.1 This policy is required to ensure police officers using Body Worn Video (BWV) equipment as part of their operational duties are aware of their responsibilities in relation to its use to secure 'best evidence' and to safeguard the integrity of the digital images captured should they need to be produced for evidential purposes.

2 Application

- 2.1 This policy is effective immediately and applies to all police officers and police staff who use BWV or come into contact with the material recorded by BWV.

3 Purpose

- 3.1 The purpose of this policy is to ensure BWV is used correctly so that the Force gains maximum benefit from the operational use of BWV, and that all staff coming into contact with either the equipment or the images are able to comply with legislation and Force requirements.

4 Scope

- 4.1 This policy covers all aspects of the use of BWV equipment by members of staff and the subsequent management of any images obtained.

5 Policy Statement

- 5.1 **X Police** is committed to making the best use of its resources to capture best evidence by taking full advantage of new technology and the use of Body Worn Video in all appropriate circumstances.

6 Benefits

- 6.1 This policy will facilitate the use of BWV to;
- Enhance opportunities for evidence capture
 - Increase early guilty pleas, reducing officer case preparation and court time
 - Assist police officers and PCSOs to control anti-social behaviour
 - Reduce protracted complaint investigations by providing impartial, accurate evidence
 - Give greater insight into service delivery and identifying good practice

7 Responsibilities

- 7.1
- This policy will be monitored and reviewed by **X Department**.
 - The practical implementation of this policy at local level will be monitored by the Divisional Operations Chief Inspectors, District Single Point of Contacts (SPOCS) and supervisors of

the BWV users.

Procedure (all procedures are ****RESTRICTED****)

1 Introduction

- 1.1 The use of BWV devices must complement the use of other video and digital evidence gathering devices within the Force. These Procedures should be considered a minimum standard for the use of BWV devices.
- 1.2 These procedures have been designed with regard to the current legislation and guidance for the use of overt video recording of police evidence.
- 1.3 All images recorded are the property of the Force and must be retained in accordance with force procedures and the Association of Chief Police Officers (ACPO) Practice Advice on Police Use of Digital Images. They are recorded and retained for policing purposes and must not be shown or given to unauthorised persons other than in accordance with specified exemptions.

2 Objectives

- 2.1 BWV is an overt method by which officers can obtain and secure evidence at the scene of incidents and crimes. These procedures are intended to enable officers to comply with legislation and guidance to create evidence for use in court proceedings.
- 2.2 When used effectively BWV can promote public reassurance, capture best evidence, modify behaviour, prevent harm and deter people from committing crime and anti-social behaviour. Recordings will provide independent evidence that will improve the quality of prosecution cases and may reduce the reliance on victim evidence particularly those who may be vulnerable or reluctant to attend court.
- 2.3 Using recordings can also impact on the professionalism of the service and in the professional development of officers. Officers, trainers and supervisors can utilise the equipment to review and improve how incidents are dealt with.
- 2.4 The use of BWV relates to crime reduction and investigation strategies and should NOT be confused with the deployment of Public Order trained Evidence Gatherers, which is the subject of other Policies.
- 2.5 **Professional Standards Department and line management will not routinely search the back office system for misdemeanours or offences committed by users, but if a complaint is received interrogation of the system can be an appropriate line of enquiry.**

3 Equipment

- 3.1 The BWV equipment is generally a body mounted camera with built in microphone. The camera stores digital files which, once recorded, cannot be deleted or amended by the operator. Each file carries a unique identifier and is time and date stamped throughout.
- 3.2 To support the camera systems, 'stand alone' computers and appropriate software have been purchased for the downloading and storage of digital video files. These provide a full audit trail ensuring evidential continuity is maintained.

4 **Upkeep of Equipment**

- 4.1 It will be the responsibility of X supported by Single Points of Contact (SPOC) to keep records of the serial numbers and location of the cameras on their division.
- 4.2 Any malfunction of the equipment must be reported immediately to the SPOC for that Division.
- 4.3 The Divisions will be responsible for the upkeep of the cameras, including the cost of any repairs or damage to equipment.
- 4.4 Any new equipment must be purchased via the divisional SPOC.
- 4.5 It will be the responsibility of Divisional Support Services Managers to ensure that there are sufficient DVDs available for use. If staff notice that resources are running low they should notify the Divisional Support Services Manager accordingly.

5 **Training**

- 5.1 All uniform frontline Officers and PCSOs will be trained and have access to BWV.
- 5.2 Training in the use of the BWV device will be available via an eLearning package on NCALT. Additional guidance on the X software has also been produced by L&D and is available via the Neighbourhood Policing Branch intranet site (part of the Communications Department).
- 5.3 In order to use BWV equipment officers should receive training in all necessary technical aspects of the specific equipment being used and its use. A training package for the equipment will include:
 - 1. Legal implications
 - 2. Practical use issues
 - 3. Evidential continuity
 - 4. Health and safety
 - 5. Diversity issues
 - 6. Professional standards
- 5.4 The eLearning may be completed individually or as a team led by a supervisor. Once a supervisor is satisfied that a member of staff has completed the eLearning, details of authorised users will be supplied to the SPOC who will issue the necessary log on details.

6 **Equipment Issue**

- 6.1 When not in use all equipment must be securely stored in a suitable location within the police station.
- 6.2 Only officers and PCSOs who have received the appropriate training will be able to 'self issue' the equipment. Priority will be given to Neighbourhood Response Team (NRT) officers, with any remaining cameras available for issue to Local Support Team (LST) or Neighbourhood Policing Team (NPT) staff.
- 6.3 Cameras will be signed out by the user using their network login and BWV password on **X software**.
- 6.4 The user must ensure it is working correctly prior to leaving the station, check that the battery is fully charged and the date and time stamp is accurate.

7 **Recording an Incident**

- 7.1 The following is guidance on the use of BWV when recording incidents.

1. Decide

Guiding principles are;

- NRT officers will wear BWV when on operational response duty
- The camera should be switched on when footage might support 'professional observation' or would corroborate what would be written in a pocket book.
- The decision to record or not to record any incident remains with the user.
- The user should be mindful that failing to record incidents that are of evidential value may require explanation in court.

2. Start recording early

It is evidentially important to record as much of an incident as possible; therefore recording should begin at the earliest opportunity from the start of an incident.

3. Recordings to be Incident Specific

Recording must be incident specific. Users should not indiscriminately record entire duties or patrols and must only use recording to capture video and audio at incidents that would normally be the subject of PNB entries or as 'professional observation', whether or not these are ultimately required for use in evidence. There are a few instances where recording should not be undertaken and further guidance on when not to record is included later in this section.

4. Talk

At the commencement of any recording the user should, where practicable, make a verbal announcement to indicate why the recording has been activated. If possible this should include:

- Date, time and location
- Confirmation, where practicable, to those present that the incident is now being recorded using both video and audio

5. Inform

If the recording has commenced prior to arrival at the scene of an incident the user should, as soon as is practicable, announce to those persons present at the incident that recording is taking place and that actions and sounds are being recorded. Specific words for this announcement have not been prescribed in this guidance, but users should use straightforward speech that can be easily understood by those present, such as, "I am wearing and using body worn video".

6. Collateral intrusion

In so far as is practicable, users should restrict recording to areas and persons necessary in order to obtain evidence and intelligence relevant to the incident and should attempt to minimise collateral intrusion to those not involved.

7. Private dwellings

In private dwellings, users may find that one party objects to the recording taking place; for example where domestic abuse is apparent. In such circumstances users should continue to record and explain the reasons for recording continuously. These include:

- That an incident has occurred requiring police to attend
- That the officer's presence might be required to prevent a Breach of the Peace or injury to any person
- The requirement to secure best evidence of any offences that have occurred, whether this is in writing or on video and the video evidence will be more accurate and of higher quality and therefore in the interests of all parties
- Continuing to record would safeguard both parties with true and accurate recording of any significant statement made by either party
- An incident having previously taken place may reoccur in the immediate future
- Continuing to record will safeguard the officer against any potential allegations from either party

8. Sensitivities connected with faith.

The filming in domestic circumstances could be an issue with some faiths. An example may be where the female may not have a face covering within the home. Officers should be aware of this fact and be sensitive to the wishes of those involved in these cases.

9. Do not interrupt filming.

Unless specific circumstances dictate otherwise (see below) recording must continue uninterrupted from commencement of recording until the conclusion of the incident or resumption of general patrolling.

10. Concluding filming.

It is considered advisable that the officer continues to record for a short period after the incident to clearly demonstrate to any subsequent viewer that the incident has concluded and the user has resumed other duties or activities.

Recording may also be concluded when the officer attends another area such as a custody centre where other recording devices are able to take over the recording.

Prior to concluding recording the user should make a verbal announcement to indicate the reason for ending the recording this should state:

- Date, time and location
- Reason for concluding recording

11. Don't delete!

Once a recording has been completed this becomes police information and must be retained and handled in accordance with the Code of Practice on the Management of Police Information.

Therefore any recorded image must not be deleted by the recording user and must be retained as required by the procedures. Any breach of the procedures may render the user liable to disciplinary action or adverse comment in criminal proceedings.

7.2 Stop & Search

All 'stop and search' encounters should be recorded unless the search is an 'intimate search' or 'strip search' or if the search requires removal of more than outer clothing.

A video recording does not replace the need for a 'record of search' to be completed by the officer.

There is currently no specific power within PACE to take a photographic or video image of a person during a stop search, although such action is not explicitly prohibited.

8 **Selective Capture and Bookmarking**

- 8.1 Selective capture does not involve deletion of any images, merely the user making a choice of when to record and when not to record. It also describes the process of temporarily stopping and restarting recording in order to 'bookmark' the recorded footage.

There are no circumstances in which the deletion by the user of any images already recorded can be justified and any such action may result in legal or disciplinary proceedings.

8.2 **Selective Capture**

In general the BWV user should record entire encounters from beginning to end without the recording being interrupted. However the nature of some incidents may make it necessary for the user to consider the rationale for continuing to record throughout entire incidents.

For example the recording may be stopped in cases of a sensitive nature or if the incident has concluded prior to the arrival of the user. In all cases the user should exercise their professional judgement in deciding whether or not to record all or part of an incident.

In cases where the user does interrupt or cease recording at an ongoing incident they should record their decision in a PNB or similar log including the grounds for making such a decision.

8.3 **Bookmarking**

In recording an incident it is likely that BWV users will encounter victims, offenders and witnesses as well as recording the visual evidence at the scene itself. Bookmarking is a means by which users may separate encounters with each of these types of person or occurrence in order to allow for easier disclosure at a later time. For example if a police officer has recorded an encounter with a witness including disclosure of their name and address this section should not be shown to the suspect or their legal representative.

It is recognised that bookmarking is not always practicable due to the nature of incidents and therefore this should only be attempted if the situation is calm and the operator is easily able to undertake this procedure.

Prior to any temporary suspension for the purpose of bookmarking the user should make a verbal announcement for the purpose of the recording to clearly state the reason for suspending recording. The user should also announce that they have recommenced

recording at the same incident as before.

The bookmarking process will be demonstrated on the final whole recording by a missing section of a few seconds. In creating the master disk exhibit for court the user must include all bookmarked sections for the incident as one complete master recording of the incident.

9

Witness First Accounts

- 9.1 If the BWV user is approached by victims or witnesses who are giving their first account of the crime the user may record the encounter using BWV but this should be considered against the needs of the individual with due sensitivity to the nature of the offence being reported. Any initial disclosure from victims and witnesses recorded by BWV should be treated as an evidential recording and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.2 **Such recordings do not replace the need for formal written statements from victims or witnesses but they can be used as supporting evidence for the statements and can also be considered as hearsay evidence and used in accordance with the provisions of the Criminal Justice Act 2003.**
- 9.3 If this recording amounts to the victim's first notes or initial description of suspects they may refer to the relevant section of the video when making their written statement. Care must be taken to ensure that only the witnesses account is reviewed by the witness and they must not be allowed access to other sections of the recording. The extent of any review by the witness to assist with making their statement must also be recorded in their statement.
- 9.4 Care should be taken to ensure that should a victim or witness provide a 'first description' of the offender on video, that this fact should be recorded and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.
- 9.5 In the case of victims of serious sexual offences the user must consider the guidance in ACPO (2009) Guidance on Investigating and Prosecuting Rape. The victim's explicit permission for video recording of the initial disclosure should be sought and if the victim is in any way unsure of the need for the recording to be made or is uncomfortable with the thought of being recorded then the user should not record using video.
- 9.6 If the victim does not consent to being video recorded the user may consider the option to divert the camera away from the victim, or obscuring the lens and then record the encounter using the audio only facility. Again in these circumstances the explicit consent of the victim must be obtained prior to audio only recording.
- 9.7 Initial accounts from the victim should be **limited** to asking about:

- Need for medical assistance
- Nature of the incident (to ascertain if a Sexual Offences Liaison Officer is required)
- Identity of the suspect (if known)
- Location of the suspect (if known)
- First description of the suspect (for circulation if appropriate)
- Time of the offence in order to prioritise action
- Location of the crime scene(s)
- Identification of forensic opportunities, including information for forensic medical examinations
- Activities since the offence took place (to establish forensic evidence opportunities)
- Identity of any other person(s) informed of the incident by the victim (to ascertain early complaint)
- Identity or existence of any witness(es) to the offence or to events immediately prior to or after the offence

10 **Recording of Interviews**

- 10.1 BWV should not be used to record interviews of suspects under caution which occur at a police station. It may be used to record interviews which take place other than at a police station. However, recording of interviews under such circumstances does not negate the need for them to be recorded contemporaneously. There is no provision within the Police and Criminal Evidence Act 1984 for this.
- 10.2 BWV can and should be used to capture hearsay evidence. An example of this is where a store detective gives his account of a suspected shoplifters' actions to an investigating officer, in the presence and hearing of the suspect.

11 **Scene Review**

- 11.1 An additional use of BWV is to record the location of objects and evidence at the scene of a crime or incident. This can be particularly beneficial in allowing the Senior Investigating Officer an opportunity to review scenes of serious crime or in effectively recording the positions of vehicles and debris at the scene of a serious road traffic collision.
- 11.2 If reviewing a scene this should be treated as an evidential recording and where possible the officer should provide a running commentary of factual information to assist later viewers.

12 **Limitations on Use**

- 12.1 BWV is an overt recording medium and can be used across a wide range of policing operations. There are a few examples of situations where the use of BWV is not appropriate. In all cases users and supervisors must use their professional judgement with regard to recording.
- 12.2 The following examples of where the use of BWV is not appropriate are for guidance only and this list is not exhaustive.

Intimate searches – BWV must not be used under any

circumstances for video or photographic recording to be made of intimate searches.

Legal privilege – users must be careful to respect legal privilege and must not record material that is or is likely to be subject of such protections.

Private dwellings – whilst use of video at the scene of domestic violence incidents is covered in other sections, users must consider the right to private and family life, in accordance with Article 8 of the Human Rights Act, and must not record beyond what is necessary for the evidential requirements of the case.

Vulnerable Witness interview (VWI) - the use of BWV is not a replacement for VWI and vulnerable victims must be dealt with in accordance with force policy 1130/2012 - Investigative Interviewing Policy.

Explosive devices - like many electrical items, BWV cameras could cause electrostatic interference which may trigger explosive devices. Therefore, BWV equipment **MUST NOT** be used in an area where it is believed that explosive devices may be present.

13

Audit Trail

13.1 An audit trail is covered by use of the **X software**.

14

Production of Exhibits

14.1 All footage recorded to the BWV unit will be downloaded at the end of the officer's tour of duty. Officers should return the units to their home station.

14.2 Evidential footage downloaded will be saved on the relevant stand-alone BWV computer as per the approved procedure. It will be identified by exhibit number, incident type, name(s) of any accused person(s) and the Storm reference, if appropriate.

14.3 Evidential footage will be considered any data that is:

- Evidence of an offence
- Supporting evidence for any process - i.e. charge, Fixed Penalty Notice, Penalty Notice for Disorder etc
- Footage that is required for a relevant and proportionate policing purpose - i.e. footage taken of an overcrowded town centre taxi-rank to highlight the need for an extended facility to Local Authority partners
- Footage which is revealable under The Criminal Procedure and Investigations Act 1997

14.4 Data will not be downloaded to any device other than the dedicated stand-alone BWV computer provided.

14.5 **X software** will be used to book out BWV units.

14.6 Data downloaded as **non-evidential** will be stored on DEMS for 31

days. During that time it is searchable and can be retrieved and marked as evidential. After this period it will be automatically deleted.

- 14.7 As soon as reasonably practical, the user will make two DVD copies. The first will be a 'master copy' which will be sealed, labelled and entered into the G83. The second will be a 'working copy' for investigation and file preparation purposes. DVDs should be retained in line with force policy 610/2012 - Audio and Video Unit Procedures Policy.
- 14.8 If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitised, clearly mark it '**Do not disclose**'.
- 14.9 BWV is supporting evidence and officers will be required to provide written statements which must include the audit trail for the capture of the footage and the subsequent production of the master disc/DVD. This can be complied with through **X software**. A separate statement evidencing arrests or evidence not captured on BWV should be supplied to the investigation.
- 14.10 For details of what to include in a statement refer to the File Preparation Guidance on the Force intranet.
- 14.11 In order that the recorded evidence can be presented in court the master copy must be preserved as an exhibit. It is recommended for reasons of security that this takes place as soon as practicable after the footage is recorded and that users do not start duty with a recording device that contains evidence of cases from a previous duty or day.
- 14.12 Where more than one BWV device is present at the scene of an incident or the area of the incident is also covered by a CCTV system the officer in the case (OIC) must ensure that all available footage of the incident is secured as exhibits in consideration of any defence arguments that may be presented.