

BODY WORN VIDEO (BWV's) STAFF USER GUIDE



AUGUST 2022



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INTRODUCTION – BWV STATUTORY FRAMEWORK

The Council's Corporate Policy and Procedure for the use of Body Worn Video Devices (BWV Policy)¹ has been approved by the Council's Cabinet² and sets out the statutory framework and procedures that permit the Council's lawful use of this overt surveillance technique, whilst ensuring the Council complies with the Surveillance Camera Code of Practice and all relevant legislation to ensure its use does not infringe a person's rights under Article 8 of the Human Rights Act 1998 (HRA). BWVs are an overt portal system which provide an audio, video or photographic record of activities undertaken and/or witnessed by a BWV Officer.

This Staff User Guide provides a practical guide for Council staff to ensure their correct use of BWV in line with Councils overarching BWV Policy.

BWV OFFICERS

- Only trained and authorised staff known as BWV Officers³ are permitted by the Council to use BWV and they must have read this staff guide and received training from a BWV Authorised Officer⁴.

BWV AUTHORISED OFFICERS

- BWV Authorised Officers are responsible for day-to-day management and have access to the securely retained BWV footage.

BODY WORN VIDEO PROCESS

BWV SYSTEM

- The Council's BWV system is "Reveal"
- The BWV process is managed by the Parking Operations Team Leader and Local Operations & Parking Manager
- BWV Officers are provided a specific device which is electronically allocated to them during the one-off user set up.

START OF SHIFT PROCEDURE

- BWV Officers to collect their pre-issued device from the docking station at the commencement of their shift. The Reveal software will automatically make a log of the equipment being booked out by the user.

UNIFORM & POSITIONING OF BWV

- BWV Officers uniform should visually indicate they are wearing a BWV device
- The BWV device should be positioned on the chest with a forward-facing display visible to persons being recorded

MAINTENANCE OF EQUIPMENT

- BWV Officer to ensure device is in working order before commencing duty
- Any malfunction of equipment must be reported.⁵

¹ [Insert link to BWV Policy](#)

² 15 September 2022

³ Appendix 4

⁴ Appendix 2

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- Checks should ensure:
 - the unit is correctly assembled;
 - recording picture is the right way up;
 - sound recording level is appropriate to use and operator adjustable settings are made appropriately
 - the system time and date settings are correct
 - the internal battery is fully charged

DECISION TO RECORD AN INCIDENT

- To decide to record, use of BWV must be:
 - i. Legitimate Aim: Used in the pursuit of a legitimate aim such as public safety or the prevention or detection of crime
 - ii. Necessary: For a pressing need
 - iii. Proportionate: The purpose of the deployment must be proportionate to what is sought to be achieved
- Recordings must be incident specific
- Only record where BWV Officer user would previously have made a written record of the encounter for example in their pocket notebook and/or within a statement
- Do **not** record beyond what is necessary for their deployed specified purpose in order to ensure the recording is not excessive.

GENERAL PATROLLING

- Do not record general patrolling duties or entire patrols unless it is part of a specific operation/incident
- When reviewing the footage consideration must be given to whether any redactions are required of the visual and/or audio content (see Redactions)

WHEN TO START RECORDING

- Recordings should commence at the start of any deployment to an incident and should continue uninterrupted until the incident is concluded, either because of resumption of normal patrolling or because recording has commenced through another video system (e.g., town centre CCTV)

VERBAL ANNOUNCEMENT PRIOR TO RECORDING

- Prior to switching on the BWV, the Officer must wherever possible/practicable verbally announce to the data subject(s) of an encounter:
 - the date, time, and location;
 - video and audio recording is/is going to take place using BWV;
 - purpose(s) for which the footage is intended to be processed/nature of the incident to which the user is deployed;
 - confirmation to those present that the incident is now being recorded using both video and audio;
 - Any further information that is necessary for processing to be fair
- If not practicable due to an on-going incident, then the announcement should be made as soon as possible afterwards.
- If the recording has started prior to the officer's arrival at the scene of the incident, they should as soon as practicable announce to those present that recording is taking place and that their actions and sounds are being recorded.

⁵ To be reported to Paul Nicolls (Parking Operations Team Leader) or Kirsten Philpot (Local Response Officer)

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- Announcements should be made using straightforward language such as:
 - I am audio and video recording you;
 - I am audio and video recording this incident;
 - Everything you say and do is being recorded;

VERBAL ANNOUNCEMENT PRIOR TO ENDING OF RECORDING

- BWV Officer should continue to record for a short period after the incident to clearly demonstrate to any subsequent viewer the incident has concluded
- Prior to concluding the recording, the BWV user should make a verbal announcement to indicate the reason for ending the recording, which should include:
 - Date, time, and location; and
 - Reason for concluding the recording;

BWV IN PRIVATE DWELLINGS

- Reasons for recording an incident at a private dwelling will have to be far greater to satisfy it is justified and proportionate.
- Verbal announcement the recording is taking place is particularly important when in a private dwelling, such as attending a home address regarding a complaint of noise nuisance or anti-social behaviour.
- The rights of individuals to respect for private and family life⁶ must be carefully considered when considering whether to use BWV in a private dwelling, as it is likely to be particularly intrusive, especially during the times of day when occupants are likely to be in bed.
- BWV Officers should exercise their discretion and only record when it is relevant to the incident and necessary for gathering evidence, where other reasonable means of doing so are not available and the recording is relevant to the incident.
- If one party objects to the recording taking place, for example where it is a noise nuisance complaint from a tenant in a shared let property, officers should continue to record while explaining the reasons for recording continuously, such as:
 - an incident has occurred requiring Council officers to attend;
 - there is a requirement to secure best evidence of any offences that have occurred whether this is in writing or on video, the video evidence will be more accurate and higher quality and therefore it is in the interests of all parties to record it, such as the level of noise created by a shared occupancy tenant playing excessively loud music over a prolonged period, in order to prove the noise is a statutory nuisance;
 - continuing to record would safeguard both parties, with a true and accurate recording of any significant statement made by either party and of the scene;
 - incident may reoccur in the immediate future;
 - continuing to record will safeguard the officer against any potential allegations from either party;
 - any non-evidential material will be retained for a maximum of 6 months only;
 - the material is restricted and cannot be disclosed to third parties without the subject's express authority, unless prescribed and permitted by law;
 - recorded material is Council information and can be accessed on request in writing in according with Freedom of Information Requests, unless and exemption applies and is also accessible by a subject access request.
- If at any point it becomes clear the incident would no longer be the subject matter of an entry in the officer's pocket notebook, then the officer should cease recording.

⁶ Article 8 ECHR

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- Footage taken in private dwellings should be deleted as soon as is practicable once it has been checked and confirmed it is not relevant to any criminal investigation/prosecution or complaint.

WITNESS FIRST ACCOUNTS

- If the BWV officer is approached by victims or witnesses who are giving their first account of the crime, the officer may record the encounter which should be treated as an evidential recording. The first account is principally about determining any action that is immediately necessary. Officers should only ask questions as are necessary to:
 - establish if an offence has been committed;
 - establish where it occurred and who was responsible;
 - assess the current risk to the victim(s) and witness(es);
 - identify and priorities areas of the investigation;
- Such recordings do not replace the need for formal written statements from victims or witnesses but are to be used as supporting evidence. If multiple witnesses wish to give their accounts to a Council officer wearing a BWV, then wherever practicable, witnesses should be kept physically separate to avoid contaminating descriptions or other evidence.
- Bookmarking process should be used so that individual accounts can be easily separated
- BWV officers are also required to produce a statement of the first account. If the victim does not consent to be video recorded, the BWV officer may consider diverting the camera away from the victim, disconnecting the camera or obscuring the lenses and recording the encounter only using the audio facility. The explicit consent of the victim must be obtained prior to beginning either form of the recording.

SCENE REVIEW AND PREMISES SEARCHING

- BWV can be used to record the location of objects and evidence at a crime scene and/or during the search of premises

LIMITATIONS ON USE

- BWV recordings are not appropriate in certain circumstances such as:
 - Legal privilege – e.g., consultation with suspect and his solicitor;
 - Private dwellings – there must be clear justification for using BWV and the user must not record beyond what is justifiable, lawful, necessary, and proportionate for the evidential requirements of the case;
 - BWV should not be used for formal investigative interviews (PACE interviews) with certain witnesses, nor may it be used for interviewing suspects;
 - Users should exercise care in using BWV where it may cause serious offence, for example during religious worship

END OF SHIFT & BACK-OFFICE SYSTEM

- BWV users must ensure any BWV footage confirmed during the course of their shift to be required for evidential purposes, is correctly bookmarked and any Incident Report is completed.
- At the conclusion of their shift, BWV officers are individually responsible for ensuring their allocated BWV device is returned to its secure location and correctly connected to the docking station to enable downloading of recordings onto the secure back-office system and charging of the device.
- Once complete the device indicates “Upload Complete,” following which the footage will automatically be deleted from the device.

REFERRAL TO POLICE

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- For incidents where the police were not in attendance a BWV Authorising Officer will review the footage in consultation with the BWV Officer to decide whether a referral to the police is appropriate.
- If a decision is made not to refer the incident to the police, the BWV footage shall be uploaded in the usual way and retained for 6 months.
- If a decision is made to refer the incident to the police it is reported via 101, including the fact there is BWV footage. If the police pursue an investigation it requests the footage via a DP2 Form, the footage is downloaded from the system onto an encrypted USB, uploaded to the standalone DEMS PC and sent to the police via DEMS. The fact of the police referral is recorded within the Council's Health and Safety Incident Record and therefore it is not necessary to maintain a separate BWV police referral register.

TECHNICAL GUIDANCE FOR BWV DEVICES

RETENTION CHECKS & PERIOD

- The BWV footage must be transferred to the Back Office System where it is retained in an incident folder for an initial period of 6 months, during which the officer must determine if the footage is required for an investigation, prosecution, complaint and/or appeal. If the footage is required as evidence, it must be marked for retention in the same incident folder for the duration of the complaint and appeal and/or investigation and prosecution in accordance with Disclosure Obligations.⁷

DELETION & DISPOSAL

- After 6 months the system will automatically delete material unless it has been retained in an Incident folder.
- Incident folders should not be deleted without authority from the officer in charge of the investigation and if required, from Legal Services.

STORAGE OF EQUIPMENT

- When allocated BWV devices are not in use by the officer, they should be securely stored in the allocated secure location.

DEVICE'S ELECTRONIC AUDIT TRAILS

- The following automatic electronic audit trails are contained and accessible from the device:

FEATURE	SUMMARY
Audit Log	Filter option by date range, user or action
Booking Log	Who booked out, location, personal issue or not
Reports	Model, date added to DEMS 360, date decommissioned if Applicable, last recording date, last booking date, current booking date, booker user and allocated location if applicable
Camera Booking Log	Activity for every camera, booking state, user, location and full booking history
User's Activity	Number of uploaded files, deleted files, burned files, exported files and snapshots created
User's Uploading Statistics	Count of following files: non-evidential, evidential, deleted, total, Total duration and total size

⁷ BWV Policy – Disclosure Duties & Obligations

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SAFEGUARDING BWV DATA

The BWV Policy⁸ provides comprehensive guidance on the safeguarding of BWV data. An overview is provided below for any officers responsible for handling BWV Data.

DATA RECORDED BY BWV DEVICES

- BWV devices capture 2 categories of information
 - i. Primary Information Intentionally recorded and relevant E.g. First Accounts
 - ii. Secondary Information Unintentionally recorded & not relevant E.g., Family photos
- Secondary Information may also be sensitive
- Be aware of and use greater discretion when recording in special locations e.g., private home where secondary information may be recorded

CONSEQUENCES OF LOST DATA

- Any data breach must be reported to the Data Protection Team⁹ who will determine whether to report it to the ICO

MASTER COPY

- BWV Officer to create a Master Copy of the BWV footage at the earliest opportunity
- Ensure Master Copy is:
 - labelled or named and kept in accordance with the exhibit protocol
 - Not used except to make further copies
 - All use and movement are logged in the audit trail

WORKING COPY

- BWV Officer must create a Working Copy which is to be used for the investigation, preparation of the prosecution file and if the matter progresses to criminal proceedings

PLAYBACK

- Playback only permitted and facilitated if formally requested in writing
- A playback record is automatically electronically recorded by the Reveal PC software

CONTINUITY

- To prove authenticity and continuity of recordings, BWV Officers must produce continuity statements¹⁰

PREPARATION OF A PROSECUTION FILE

- BWV Officers should liaise with Legal Services at an early stage
- provide Legal Services with full information accompanying any evidential digital images, this might include audit trails, maintenance logs, viewing logs and disclosure schedules;
- list and describe any unused and/or un-viewed material clearly;
- ensure that viewing logs used for moving images highlight relevant sequences;
- provide Legal Services with accurate information about the preferred format for revelation in order to reduce the loss of image quality;

⁸ BWV Policy paragraphs 121 onwards

⁹ Data Protection Team email – dp@eastleigh.gov.uk

¹⁰ BWV Policy paragraph 135 – Continuity Statement

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- consider the format in which the image is provided to Legal Services in order to facilitate viewing and replay;
- liaise with the Legal Specialist to ensure that viewing and replay is possible prior to trial. It should be noted that it is often not practical to play the native format at court

EVIDENTIAL STATEMENTS

- If the BWV footage provides better evidence than an officer's recollection, notebook entry and subsequent statement and covers the whole incident, only provide a statement of matters for example outside of the view of the camera
- Include continuity of the audit trail (see Continuity)

TECHNICAL FAILURE

- If technical failure of the equipment occurs - a traditional witness statement of the incident should be produced.

EXHIBITS

- Produce the working copy as your Exhibit of the incident and if enhancements required, ensure the statement explains the reason for and nature of enhancement

TRANSCRIPTS

- Rarely required in addition to the footage e.g. if sound quality is poor

REDACTIONS

- Can be audio and/or visual
- Redactions include editing/censoring/obstructing those parts of a recording that contain collateral intrusion of non-suspects/third parties; sensitive information; expose investigatory tactics or compromise operational strategies
- Can be audio and/or visual
- May require removing sections of a recording; concealing or masking visual objects such as pixelating photos, blurring, masking or using a solid fill to completely obscure parts of the footage; removing metadata and muting parts of the audio content

COPIES

- Ensure copies are prepared in a timely manner and do not lose image quality, date or time information

THIRD PARTY DATA SHARING

- All BWV footage third party requests must be in writing via a DP2 Form unless urgent, then can be oral requests
- Access to BWV footage is restricted so the request cannot be processed by the Data Protection Team
- Record request in the BWV Team Centrally Retrievable Third party Data Sharing Register¹¹ **and** email a copy of the DP2 to the Data Protection Team¹²

DATA SHARING WITH THE MEDIA

¹¹ Appendix 5

¹² Data Protection Team email – dp@eastleigh.gov.uk

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- Automatic restriction on reporting information that identifies or is likely to identify any person under 18 who is concerned in Youth Court proceedings as a victim, witness or defendant
- Discretionary power to restrict reporting the identity of victim, witnesses and defendant under 18 who appear in the Magistrates' or Crown Court
- Where there is guilty plea and no trial, the evidence provided to the media must have been read out, shown in open court or placed before the sentencing Judge
- Officers are permitted to provide the Media prosecution material that has been served and adduced in court
- **Do not provide material to the media without consultation with and authorisation from Legal Services**

PROVIDING COPIES FOR THE DEFENCE

- A suitable summary of the evidence is sufficient to be served for the initial details of the prosecution case
- Only necessary to provide copies of the BWV footage where there is an actual or anticipated guilty plea
- Ensure all copies are provided via a secure email system

SUBJECT ACCESS REQUEST

- Subject Access Request (SAR) is a request by or on behalf of an individual (Data Subject) either orally or in writing, for information as to whether the Council is using or storing their personal information and/or to request a copy of the BWV footage which includes the Data Subject
- Be on notice there may be a live investigation/criminal proceedings and/or the footage may contain third party data and/or sensitive data which will require redactions before service
- Officer receiving SAR must refer to the Data Protection Team¹³ to ensure the request does not bypass the evidential or disclosure process and/or prejudice live proceedings

FREEDOM OF INFORMATION REQUESTS

- The public have a general right of access to recorded information held by public authorities including the digital and audio content of BWV devices
- Two exemptions relating to the information about individuals:
 - Is the information personal data of the requester? If so, exemption applies and requested should submit a SAR
 - Is the information personal information about third parties? If so, the Council will only disclose the information when 3 conditions are satisfied

UNLAWFUL DISCLOSURE TO THIRD PARTIES

- It is an offence¹⁴ for a person knowingly or recklessly –
 - (a) to obtain or disclose personal data without the consent of the controller
 - (b) to procure the disclosure of personal data to another person without the consent of the controller; or
 - (c) after obtaining personal data, to retain it without the consent of the person who was the controller or in relation to the personal data when it was obtained;

DISCLOSURE DUTIES & OBLIGATIONS

¹³ Data Protection Team email – dp@eastleigh.gov.uk

¹⁴ Data Protection Act 2018, Section 170(1)

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- In addition to considering document storage, retention and destruction, officers must also consider their Disclosure Duties & Obligations¹⁵. The statutory framework for disclosure is Criminal Procedure & Investigations Act 1996, Criminal Procedure & Investigations Act Code of Practice¹⁶ & Surveillance Camera Code of Practice.¹⁷

ADDITIONAL REQUIREMENTS

HEALTH & SAFETY

- Each team has specific Risk Assessments & Safe Systems of Work and the Council has an overarching Health & Safety Policy¹⁸

¹⁵ BWV Policy paragraphs 167 – 173

¹⁶ Last revised 2015

¹⁷ Surveillance Camera Code of Practice, Revised November 2021

¹⁸ <https://staffhub.eastleigh.gov.uk/s/article/Health-and-Safety-Policy>