

Policy and Operational Procedural Guidelines for the use of Body Worn Video

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1. Introduction

- 1.1. This document sets out the Council's policy and procedural guidelines for the use of body worn video (BWV) by in-house staff, contracted staff or other authorised representatives, hereinafter termed 'User'. It will enable Users to comply with the relevant legislation relating to video recording and outline the associated benefits to users and the general public. It also documents best practice procedures with regard to integrity of data, images and video as well as its security and use.
- 1.2. The use of BWV can provide a number of benefits which include a deterrent to acts of aggression or verbal and physical abuse, and providing evidence to assist in the resolution of complaints or to support criminal investigations.
- 1.3. BWV forms part of an officer's personal protective equipment and is provided primarily for health and safety purposes. It will be used in an overt manner, emphasized by the clear display of identification that a CCTV device is worn. Prior to commencement of any recording, where possible, Users will give a clear verbal announcement that recording is to take place.
- 1.4. Nothing in this document will prevent a User from making recordings, for appropriate use by relevant others, relating to the following as a proportionate response to events in progress:
 - Criminal acts
 - Anti-social behaviour
 - Byelaw/PSPO contravention
 - Situations likely to result in a dispute or complaint about conduct

2. Legislation

- 2.1. The use of BWV and management and use of any product from such will be considered in accordance with the following legislation and guidance:
 - Data Protection Act 1998
 - Freedom of Information Act 2000
 - Human Rights Act 1998
 - IC CCTV Code of Practice 2015
 - Protection of Freedoms Act 2012
 - SCC Surveillance Camera Code of Practice 2013

2.2 Data Protection Act 1998

- 2.2.1 The Information Commissioner's Office is the regulator for the Act and has issued guidance with regard to use of body worn cameras. This legislation regulates the processing of 'personal data' or 'sensitive personal data' whether on computer, CCTV, still camera or any other media. Any recorded image from which an individual can be identified constitutes 'personal data' and is covered by this Act, and the majority of product from BWV will fall into this category. The use of BWV cameras in this guidance is 'overt use' meaning that

equipment is not to be worn or used in a hidden or covert manner; as otherwise the 'fair processing' requirement would not be met.

- 2.2.2 Where an individual asks to view footage this is called a 'Subject Access Request'. The 'Data Subject' is only allowed to see footage of themselves and anyone who has provided consent for their images to be viewed by them.

2.3 **Freedom of Information Act 2000**

- 2.3.1. This Act grants a general right of access to information held by public bodies, which is not personal data. Information released under FOI can include statistical and other non-personal information. It is unlikely that applications for access to body worn CCTV recordings will be made or be appropriate under this legislation.

2.4 **Human Rights Act 1998**

- 2.4.1. Article 6 provides for the right to a fair trial. All images captured through the use of a body worn device have the potential to be used in court proceedings and must be safeguarded by an audit trail in the same way as any other evidence. Article 8 of the Human Rights Act 1998 concerns the right for private and family life, home and correspondence. Occurrences involving persons in a public place are only public for those present at the time and can still be regarded as potentially private. Any recorded conversation between members of the public should always be considered private and Users should not go beyond what is necessary when recording a confrontational situation.
- 2.4.2. The Council will ensure that the use of BWV is mentioned on the relevant pages of its web site.
- 2.4.3. The Council will ensure that BWV is worn in a prominent position (normally on the chest) and that forward facing displays are visible to anyone being recorded. Additionally, the device or a supplementary badge will warn of BWC use and Users will make a verbal announcement, where practicable, prior to commencement of any recording. The Council will adhere to the IC CCTV Code of Practice 2015 as this covers best practice concerning interference with privacy rights.

2.5. **Protection of Freedoms Act 2012**

- 2.5.1. The Surveillance Camera Commissioner (SCC) has issued a Code of Practice to assist users of CCTV comply with this legislation. Also available is a Self-Assessment Toolkit which guides users of CCTV through the requirements, highlighting best practice along the way, and enabling compliance action plans to be developed.
- 2.5.2. For each application of BWV the Council shall have on record a completed self-assessment, documenting among other things the justification for use in accordance with the 'pressing need' concept. Where new potential uses for BWV are identified, use shall not commence unless the justification has been adequately demonstrated and any concerns arising from a privacy impact assessment have been addressed.
- 2.5.3. A documented annual review shall be conducted for each application to ensure that continued use of BWV remains justified.

3. Operational Guidance and Best Practice

3.1. Training

- 3.1.1. All Users will receive training in the use of BWV CCTV. This training will include practical use of equipment, operational guidance and best practice, when to commence and cease recording and the legal implications of using such equipment.

3.2. Daily Use

- 3.2.1. BWV may be switched on in circumstances where Users are subject to, or feel that they are likely to be subject to, verbal or physical abuse, or where Users judge that a situation occurring is likely to result in a complaint or dispute about their conduct.
- 3.2.2. Where possible, recordings will not commence until the User has issued a verbal warning of the intention to activate the BWV.
- 3.2.3. Recordings will not be made whilst performing normal patrolling duties or when interacting with members of the public in non-conflict situations, except as provided for in 3.2.4.
- 3.2.4. BWV may also be switched on in response to crime/ASB or byelaw related events. In these circumstances it is recognised that it may not be appropriate to give a verbal warning of recording.
- 3.2.5. For all recordings Users shall make a pocket book entry at the earliest opportunity, to providing a written evidential record of the events that have occurred.
- 3.2.5. Care shall be taken regarding the security of the BWV device and particularly so where recordings have been made.
- 3.2.6. Access to recordings will be restricted to Authorised Persons.

3.3. Start of Shift Procedure

- 3.3.1. A pool of BWV devices shall be available to specified personnel. All users are required to sign out a BWV device and ensure that the device is fully charged and, if the device allows, that the date and time displayed is correct. Any discrepancy in the date or time should be brought to the attention of the relevant Authorised Person.

3.4. Recording

- 3.4.1. Recording must be incident specific. Users must not indiscriminately record entire duties or patrols and must only use recording to capture video and audio of specific incidents, except as provided for in 3.2.4. For the purposes of this guidance an 'incident' is defined as:
 - a) an engagement with a member of the public which in the opinion of the User is confrontational, and where the User believes they may be subject to physical or verbal abuse, or

- b) where the User is approached by a member of the public in a manner perceived as aggressive, threatening or inappropriate, or
- c) where the User perceives a situation to be developing which may lead to a complaint about their conduct.

3.4.2. At the commencement of any recording the User should, where possible, make a verbal announcement to indicate why recording has been activated.

3.4.3. The purpose of issuing a verbal warning is to allow a member of the public to modify any unacceptable confrontational or aggressive and threatening behaviour. If, at any time during an incident the User considers that the use of body worn cameras or the issuing of a verbal warning is likely to inflame a confrontational situation, the User may use discretion to disengage from further discussion and withdraw from the incident. A specific form of words to be used in any warning to a member of the public has not been prescribed, but Users should use straightforward speech that can be easily understood by those present such as 'I am wearing a body worn camera and I am now recording'.

3.5. **Playback**

3.5.1. Recorded material should only be viewed in the first instance by Authorised Persons. An Authorised Person may consider it appropriate to allow others to view recorded material for legitimate reasons consistent with the official business of the Council. In some instances disclosure to other organisations as provided for in this policy or under exemptions concerning crime or civil legal proceedings may be required and this shall be managed by the relevant Authorised Person. Similarly an Authorised Person may facilitate access to a recording under the 'Subject Access' process.

3.6. **End of Shift**

3.6.1. Users should ensure that their Authorised Person is aware of any recordings made, including inadvertent recordings, so that these can be viewed and a decision made regarding their retention or disposal. Recordings for disposal shall be deleted on download. A full audit trail should be made regarding all recordings, detailing decisions and the reasons behind such.

3.7. **Storage of Data**

3.7.1. The Authorised Person shall securely store recordings to be retained.

3.7.2. For each recording the Authorised Person will ensure that appropriate written records are completed and forwarded to relevant parties within required timescales.

3.7.3. All retained data will be kept until all investigations have been completed or prosecution has taken place before deletion. All data not required for evidential purposes will be deleted after upload. Data will only be kept for a period of 31 days; thereafter it will be deleted, if it does not form part of an investigation.

3.7.4. Disposals shall be the responsibility of the relevant Authorised Person who shall maintain records of such.

3.8. Authorised Persons

Community Safety Manager
Environmental Health Manager
Head of Health and Environment

4. Requests to View Footage

4.1. DPA Subject Access Request

4.1.1. The Data Protection Act gives individuals the right to be told what personal information is held about them and to receive a copy of that information. Any application to view footage is covered by Burnley Borough Council's 'Subject Access Request' Procedure.

4.1.2. Requests must be made in writing (including emails and faxes) and sent to [\(provide weblink\)](#)

4.1.3. An online form is also available at [\(provide weblink\)](#)

4.2. DPA Exemptions

4.2.1. Organisations with bona fide powers to investigate crime may apply for access to CCTV footage under section 29(3) of the DPA. In some instances, for instance where the police have not made enquiries about CCTV in connection with a criminal matter or the material is not in police possession to release under the evidence disclosure rules, the defence may approach the Council directly under the same exemption. A full audit trail should be maintained regarding recordings released under this provision.

4.2.2. Similar provisions exist under section 35(2) of the DPA in connection with civil litigation matters. The Council must satisfy itself that requests under this provision are genuine and relevant before releasing recordings. Again a full audit trail should be maintained.

5. Definitions

BWV	Body Worn Video (video recording device which may also record audio)
User	Authorised wearer of BWV for an authorised purpose
Authorised Person	Decision maker in respect of use of BWV and the management and use of BWV product