



**Policy name:** Body Worn Video Cameras (BWVC) Policy Framework

**Reference:** N/A

**Issue Date:** 20 September 2022

**Implementation Date:** 20 September 2022

**Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:**

- PSI 04/2017 Body Worn Video Cameras

**Introduces amendments to the following documents:** None.

**Action required by:**

X	HMPPS HQ	X	Governors
X	Public Sector Prisons	X	Heads of Group
	Contracted Prisons		The Probation Service
X	Under 18 Young Offender Institutions		Other providers of Probation and Community Services
	HMPPS Rehabilitation Contract Services Team		

**Mandatory Actions:** All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions.

Governors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

Section 6 of the Policy Framework contains guidance to implement the mandatory requirements set out in section 6 of this Policy Framework. Whilst it will not be mandatory to follow what is set out in this guidance, clear reasons to depart from the guidance should be documented locally. Any questions concerning departure from the guidance can be sent to the contact details below.

**How will this Policy Framework be audited or monitored:**

Mandatory elements of this Policy Framework must be subject to local management checks. Existing processes of regular HMPPS audits of compliance with BWVC, continue to apply under this framework.

**Resource Impact:**

The identified resource impact for this Policy Framework document relates to staffing within establishments fulfil specified roles within the Policy Framework Guidance, section 7 pages 26 – 28. The initial creation of revised LSS and roll out will impact in terms of time and staff resource within prisons for training. Also, an impact on managers ensuring there is effective monitoring and assurance of processes in place in line with this policy.

The increase in resource can be offset against the current time spent dealing with standalone, dated equipment and creating physical media for disclosure which will all see a drastic reduction in time and resource to complete.

The National Pexilation Team have plans to proactively monitor any increase in demand and resource and make recruitment decisions where necessary.

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**Approved by OPS for publication:** Sarah Coccia, Join Chair, Operational Policy Sub-board, June 2022

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## 1. **Purpose**

- 1.1 The purpose of this policy is to regulate the management, operation and use of Body Worn Video Camera (BWVC) systems across Her Majesty's Prison and Probation Service (HMPPS).
- 1.2 HMPPS has produced this policy in line with the Information Commissioner's Office (ICO) CCTV Code of Practice and the Home Office Surveillance Camera Code of Practice, which includes the use of BWVC.
- 1.3 When used effectively a BWVC allows first person audio and visual images to be captured to provide a clear and irrefutable record of events. With proper use the introduction of this technology will assist with:
- Allowing for more detailed examination of the events leading up to and management of incidents
  - Enhance evidence capture
  - Promoting positive behaviour and interaction between staff and prisoners
  - Developing effective rehabilitative staff/prisoner relationships; supporting transparency, trust and confidence between staff and prisoners

## 2. **Evidence**

- 2.1 When BWVCs are used transparently, consistently, and fairly they can have a positive impact on staff and prisoners' perceptions of safety. Positive perceived impacts included:
- staff and prisoners reported increased levels of perceived safety
  - potential deterrence and effective de-escalation of incidents
  - an increase in how fairly authority is perceived to be exercised
  - provision of evidence that protects both staff and prisoners and that helps to build open and trusting relationships
  - potentially support to the development of a rehabilitative prison culture.<sup>1</sup>
- 2.2 In producing this policy, due regard has been given to the following:
- UK General Data Protection Regulation
  - The Data Protection Act 2018
  - The Freedom of Information Act (FOI) 2000
  - The Code of Practice for surveillance cameras and personal information produced by the Information Commissioner's Office
  - The Prison Rules 1999
  - Young Offenders Institution Rules 2000
  - Protection of Freedoms Act 2012
  - The Regulation of Investigatory Powers Act (RIPA) 2000
  - The Home Office Surveillance Camera Code of Practice 2013
  - Human Rights legislation

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<sup>1</sup> [Body Worn Video Camera Pilot Evaluation](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882361/body-worn-video-camera-pilot-evaluation.pdf) Body Worn Video Camera Pilot Evaluation  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882361/body-worn-video-camera-pilot-evaluation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882361/body-worn-video-camera-pilot-evaluation.pdf))

- The Health and Safety at Work Act 1974
- The Management of Health and Safety at Work Regulations 1999
- The Police and Criminal Evidence Act (PACE) 1984

### **3. Outcomes**

3.1 BWVC will only be used for overt recording and to support: -

- De-escalation of conflict or confrontation
- Prevention, detection and investigation of crime or disorder
- The apprehension and prosecution of any person who has committed a crime within a prison (including the use of images as evidence in criminal proceedings and internal disciplinary hearings)
- Effectively dealing with breaches of Prison and YOI rules.
- Safe resolution of internal staff disciplinary investigations
- Interest of public, employee and offender Health and Safety
- The protection of staff, visitors, and prisoners
- Safeguarding the security of the establishment
- Development of staff skills through use of operational footage for training purposes
- General good management of HMPPS, to safeguard the security, good order and discipline of the establishment.

### **4. Requirements**

#### Data Retention and Management

4.1 The use of BWVC for surveillance purposes within HMPPS must be in accordance with the UK General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018 (DPA). Additionally, BWVC use for surveillance purposes within the Prison Service must also be in accordance with the Prison Rules 1999 and the Young Offender Institution Rules 2000. The UK GDPR sits alongside the DPA. Article 5 of the UK GDPR sets out six key principles relating to the processing of personal data. These principles guide how personal data is used for general processing purposes. Personal data is information that relates to an identified or identifiable individual.

4.2 Article 5(1) requires that personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to individuals ('lawfulness, fairness and transparency');
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes ('purpose limitation');
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');

- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals ('storage limitation'); and
- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')."

4.3 Article 6(1) of the UK GDPR and Part 2 of the DPA require there to be a lawful basis in order to process personal data. Art 6(1) lists six lawful purposes for which personal data can be processed which sit alongside some additional requirements set out in Part 2 of the DPA.

The six lawful purposes are listed below;

- a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
- b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- c) processing is necessary for compliance with a legal obligation to which the controller is subject;
- d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.

4.4 Data sharing for law enforcement purposes as defined in section 31 DPA is subject to a different regime under Part 3 of the DPA – in particular see sections 34 to 42 DPA. For the purposes of Part 3, "the law enforcement purposes" are the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Section 35 of Chapter 2 of Part 3 of DPA 2018 requires that the processing of personal data for any of the law enforcement purposes is lawful only if and to the extent that it is based on law and either—

- (a) the data subject has given consent to the processing for that purpose, or
- (b) the processing is necessary for the performance of a task carried out for that purpose by a competent authority.

In addition, where the processing for any of the law enforcement purposes is sensitive processing, the processing is permitted only in the two cases set out in subsections (4) and (5).

(4) The first case is where—

- (a) the data subject has given consent to the processing for the law enforcement purpose as mentioned in subsection (2)(a), and
- (b) at the time when the processing is carried out, the controller has an appropriate policy document in place

(5) The second case is where—

- (a) the processing is strictly necessary for the law enforcement purpose,
- (b) the processing meets at least one of the conditions in Schedule 8, and
- (c) at the time when the processing is carried out, the controller has an appropriate policy document in place

4.5 Section 36 of Chapter 2 of Part 3 of DPA 2018 provides the second data protection principle is that—

- (a) the law enforcement purpose for which personal data is collected on any occasion must be specified, explicit and legitimate, and
- (b) personal data so collected must not be processed in a manner that is incompatible with the purpose for which it was collected.

Personal data collected for a law enforcement purpose may be processed for any other law enforcement purpose (whether by the controller that collected the data or by another controller) provided that—

- (a) the controller is authorised by law to process the data for the other purpose, and
- (b) the processing is necessary and proportionate to that other purpose.

Personal data collected for any of the law enforcement purposes may not be processed for a purpose that is not a law enforcement purpose unless the processing is authorised by law.

4.6 Section 37 of Chapter 2 of Part 3 of DPA 2018 provides the third data protection principle is that personal data processed for any of the law enforcement purposes must be adequate, relevant and not excessive in relation to the purpose for which it is processed.

4.7 Section 38 of Chapter 2 of Part 3 of DPA 2018 provides the fourth data protection principle is that—

- (a) personal data processed for any of the law enforcement purposes must be accurate and, where necessary, kept up to date, and
- (b) every reasonable step must be taken to ensure that personal data that is inaccurate, having regard to the law enforcement purpose for which it is processed, is erased or rectified without delay.

In processing personal data for any of the law enforcement purposes, personal data based on facts must, so far as possible, be distinguished from personal data based on personal assessments.

In processing personal data for any of the law enforcement purposes, a clear distinction must, where relevant and as far as possible, be made between personal data relating to different categories of data subject, such as—

- (a) persons suspected of having committed or being about to commit a criminal offence.
- (b) persons convicted of a criminal offence.



- (c) persons who are or may be victims of a criminal offence.
- (d) witnesses or other persons with information about offences.

All reasonable steps must be taken to ensure that personal data which is inaccurate, incomplete or no longer up to date is not transmitted or made available for any of the law enforcement purposes.

For that purpose—

- (a) the quality of personal data must be verified before it is transmitted or made available,
- (b) in all transmissions of personal data, the necessary information enabling the recipient to assess the degree of accuracy, completeness and reliability of the data and the extent to which it is up to date must be included, and
- (c) if, after personal data has been transmitted, it emerges that the data was incorrect or that the transmission was unlawful, the recipient must be notified without delay.

- 4.8 Section 39 of Chapter 2 of Part 3 of DPA 2018 provides the fifth data protection principle is that personal data processed for any of the law enforcement purposes must be kept for no longer than is necessary for the purpose for which it is processed.

Appropriate time limits must be established for the periodic review of the need for the continued storage of personal data for any of the law enforcement purposes.

- 4.9 Section 40 of Chapter 2 of Part 3 of DPA 2018 provides the sixth data protection principle is that personal data processed for any of the law enforcement purposes must be so processed in a manner that ensures appropriate security of the personal data, using appropriate technical or organisational measures (and, in this principle, “appropriate security” includes protection against unauthorised or unlawful processing and against accidental loss, destruction or damage).
- 4.10 Proportionality is defined as the means used to impair the right or freedom of another are no more than is necessary to accomplish the objective.
- 4.11 The use of BWVC within HMPPS must also adhere to the ICO Code of Practice for surveillance cameras and personal information.
- 4.12 Governors must ensure that they review their Local Security Strategies (LSS) to ensure they are in accordance with the instructions set out in this Policy Framework and agreed with the Prison Group Director.
- 4.13 Governors must ensure that contingency plans and incident management are reviewed to include the necessity to secure all digital footage promptly.
- 4.14 Governors must ensure robust management of the BWVC equipment, system and data management, including have sufficient and competent local resource for the system management identified roles within the policy guidance (such as Administrator, Approval Officer, System Owner).

#### Professional Standards

- 4.15 Users should not intentionally obscure the camera lens or fail to record all or part of an incident without exceptional cause/justification. Governors may wish to consider whether an obvious and intentional action, including the misuse of the equipment/software, may render the user liable to internal investigation/disciplinary action.

- 4.16 Any line managing member of staff, with express permission from the Governor may access the footage for professional standards or related purposes where there is a clear and justifiable need to do so, including for:
- Specific quality assurance purposes (such as Use of Force oversight review meetings) or oversight requirements.
  - Conducting supervision or assisting with training and professional development
  - Identifying establishment-wide or individual training needs
  - Investigating specific allegations, specific patterns of complaints and conducting disciplinary investigations
  - Where specific intelligence has been received that would indicate that viewing of BWVC footage is proportionate and necessary
- 4.17 Governors must ensure there is not a practice of routinely reviewing recorded footage, without a clear and justifiable need to do so. Such action is not within the stated purpose and outcomes of the policy, can create mistrust in the use of BWVC by staff and could lead to complaints under DPA (2018) and ICO regarding how data is processed within HMPPS. Such misuse of the equipment/software may render the reviewer liable to internal investigation/disciplinary action.
- 4.18 Any potential corruption or misconduct issues captured by BWVC must be reported on the Intelligence System or by submitting an Intelligence Report and reported in line with Counter Corruption and Reporting Wrongdoing Policy Framework and PSI 6/2010 – Conduct and discipline.
- 4.19 Any incidental footage captured indicating staff misconduct obtained without the express knowledge of the subject cannot be reasonably ignored or disregarded by HMPPS and in any event this will be retained and processed in line with the data management requirements set out within this policy, DPA and other obligations.
- 4.20 The investigating member of staff must consider the requirements of PSI 06/2010 – Conduct and discipline, in respect of the requirements to disclose relevant BWVC material to the member of staff under investigation.
- 4.21 When reviewing material in any of these circumstances' the designated investigating member of staff must make a note of the fact that they have done so within the retention justification documentation and record their reasons for reviewing the material on the retention justification documentation.
- 4.22 The use of BWVC must be wholly overt only but nonetheless there may be occasions when unintentional footage is captured, for example an unintentional activation during an incident. If during any review of material there is any indication of further wrongdoing by any party including potential staff misconduct then the matter must be dealt with in accordance with current procedures for such wrongdoing and the footage may be accessed to inform any disciplinary investigation or be disclosed to the Police for criminal investigation.
- 4.23 Governors must consider whether intentional covert recording, may render the user liable to internal investigation/disciplinary action.
- 4.24 BWVC users must consider the de-activation of the 'pre-record' function of the camera when entering sensitive staffing areas (such as staff locker room, places of worship, showers or toilet) as these areas could be captured within the 'pre-record' function of the camera if activated shortly thereafter.

## Camera Operation

- 4.25 Governors must ensure that the capabilities of BWVC equipment are clear to staff, prisoners, and the public. This signage must include its ability to capture audio as well as visual imagery. The Physical Safety Team can assist with procuring signage as required.
- 4.26 Staff must complete the required training and understand the principles on use of BWVC equipment within 90 days of first drawing a camera.
- 4.27 As a minimum all operational staff within band 3 – 5 within the closed estate must collect a camera from the camera docking station at the beginning of their shift. When removed from the camera docking station the camera will enter 'stand-by' mode and commence a 'pre-record' function, the footage captured by 'pre-record' will only be saved when camera recording is activated by the user.
- 4.28 Within the open estate, those roles designated by the Governor with the LSS as being required to wear a BWVC must collect a camera from the camera docking station at the beginning of their shift. When removed from the camera docking station the camera will enter 'stand-by' mode and commence a 'pre-record' function, the footage captured by 'pre-record' will only be saved when camera recording is activated by the user.
- 4.29 When worn, BWVC must be turned on and set in the pre-record mode. An officer can record an event immediately through touch activation of the record button. In pre-record mode BWVC records on a rolling buffer. When the camera is activated by the operator, video and sound recording starts and automatically includes the back-captured buffer video.
- 4.30 Where Governors consider it necessary and proportionate to deploy BWVC's to other roles, including none-operational roles, within their establishment, where there are sufficient surplus cameras available, the rationale for deployment of BWVC should be recorded within LSS.

## Point to start recording

- 4.31 Staff should recognise when a situation is beginning to escalate and must consider starting to record as early as possible, which may act as a de-escalation tactic. Staff should make a verbal announcement that they have begun recording to ensure those captured by the camera lens/microphone are aware they are now being recorded.
- 4.32 All users must be reminded that the use of BWVC does not replace the need for written statements, Incident Reports or Use of Force statements and any other form of written report. BWVC footage is to support and not replace written statements. All users will be reminded that they must record the justification for the use of the camera in the daily log and any supporting documentation be that Adjudication, Use of Force, Incident Report System or Intelligence Report.

## During recording

- 4.33 Users must always ensure that BWVC is only used as an overt audio or overt visual recording mechanism and is not intentionally used covertly. BWVC are designed to operate with notifications (such as lights, beeps, and physical vibrations) so that both staff, prisoners and the public are aware that a camera is present and may be recording audio and images.
- 4.34 Upon activating their BWVC, users must make a clear verbal announcement to anyone in the vicinity that the recording of both audio and visual images is taking place. This must

take place as soon as it is possible and safe to do so. If the BWVC is activated prior to arriving at the scene of an incident, then the announcement must be made to those at the scene once it is possible and safe to do so. An agreed establishment wide standard form of words covering these points can be adopted for continuity purposes. For example: for your safety and the safety of others you need to be aware that everything you say and do will be recorded.

- 4.35 Recording must, where practicable, be restricted to those individuals and areas that are necessary to record to obtain material relevant to the incident or event. It is important that users minimise the risk of collateral intrusion on those not involved in the incident wherever possible. However, and importantly, this must not be at the expense of failing to obtain enough coverage of the incident/event or restricting the user's movements and ability to manage the incident.
- 4.36 The use of BWVC in areas where there is a higher than usual expectation of privacy (such as toilets, showers, changing rooms, search areas and medical treatment rooms), will require compelling reasons for doing so, for example in response to an incident where the safety or security of others is at risk. Where footage is recorded in these areas' consideration should be given to placing restrictions on viewing the recording or pixilating the recording at the earliest opportunity (see pixilation section).
- 4.37 Users will be further aware of the sensitivity of using BWVC in places of worship where this may be viewed as disrespectful and will require compelling reasons for doing so, for example in response to an incident where the safety or security of others is at risk.
- 4.38 Any footage or recording must generally be uninterrupted from the beginning of the incident until the end.
- 4.39 Where incidents or events are protracted and there are lengthy periods of inactivity or because of the need to isolate confidential details such as victim details or witness details from the footage, there may be cause to conduct selective filming. Users should be aware that this could lead to challenge and must ensure that explanation and justification is given for selective recording in the accompanying documents. If using selective recording due to inactivity and where multiple BWVC are available users should consider having one camera continuing to record whilst others stop recording and explain their rationale for using selective recording on camera before switching any camera off.

#### Cessation of Recording

- 4.40 In the same way that a user will record their decision to activate BWVC so too will the decision to cease recording be documented. In making this decision users must be satisfied that the risk of not capturing further helpful material is minimised.

Under normal circumstances users must cease recording either when:

- The incident has concluded to a safe and secure position; or
- It is no longer justifiable, necessary, or proportionate to continue recording.

#### Post Recording

- 4.41 Once recording has been completed the data must be retained and handled as 'official sensitive' in accordance with:
- this Policy Framework;

- [Information Requests Policy Framework](#);
- [PSI 04/2018](#) – Records information management policy: PSI 04/2018, PI 02/2018; and
- Established procedures of the establishment as set out in the Local Security Strategy (LSS).

- 4.42 Users will at the end of their duty return the BWVC to the docking station.
- 4.43 Post incident/event users will complete supporting documentation in the form of Use of Force, Incident report, Intelligence report or adjudication paperwork or digital tools in the usual way and indicate whether BWVC was activated.
- 4.44 Where the camera was successfully used to de-escalate a situation then users must make an entry on CNOMIS case notes to that effect.
- 4.45 Post incident/event Duty Managers must ensure that when recording an incident on the Incident Report System (IRS) that the presence of BWVC footage is recorded within the report. Additionally, the presence of BWVC footage should be noted in a prisoner's case notes on CNOMIS and any resulting Intelligence Report - BWVC will be used to corroborate and not replace evidence from other sources.
- 4.46 Where more than one BWVC is present at the scene of an incident, or the area is also covered by CCTV the system administrator and designated Approval Officer must ensure that all available material of the incident is secured as evidence in anticipation of any defence argument that may be presented.
- 4.47 All BWVC material should be uploaded on to the secure server as soon as practicably possible; this is completed automatically when the camera is placed in the docking station and will ensure that the audio and visual data is secure.
- 4.48 Users must justify their actions, perceptions, and decisions as per normal within their written Use of Force statement. The writing of UoF statements must be completed before any captured footage is viewed, this will enable staff to detail the threat perceived at the time of the incident and not on reflection having viewed any footage. Staff must reference BWVC footage was captured within the UoF statement. The use of BWVC is a tool to support and not replace written statements. If footage is viewed following the writing of the UoF statement and the user wishes to make a further statement, this can be provided as an addendum to the original statement, clearly stating this is being provided following viewing the footage.

#### Deletion of unintentional recordings

- 4.49 A BWVC user may unintentionally record footage of no evidentiary value by inadvertently activating the BWVC record button, or by forgetting to return a BWVC to standby mode following an incident which required camera activation.
- 4.50 If a user becomes aware that they have unintentionally recorded something, then they must notify their line manager. The line manager will submit a Request for deletion / amendment of body-worn video recording form (Annex A) to the local system administrator for review. If the local system administrator agrees that a recording should be deleted, they should record the deletion on the BWVC data retention log and attach a copy of the request form to the retention log.

## Partial recording

- 4.51 If users attend an incident and are recording the scene or any part of the incident/location using BWVC then the entire incident should be recorded unless there are exceptional reasons not to do so or a manager instructs them to stop filming. The reasoning for ceasing to record should be captured on camera before the recording is stopped.

## Transcripts

- 4.52 Where a transcript is produced it should be treated as evidence and handled in accordance with evidence handling processes for the establishment and relevant policy framework, the accompanying footage will be retained, and a note made on the retention log cross referencing the details of the transcript.

## Dealing with objections to being filmed

- 4.53 Any objection by a prisoner(s), visitor(s) or other person to the use of BWVC to record, must be addressed by the BWVC user with a clear and concise explanation why recording is taking place. The user must explain to the prisoner(s)/visitor(s) the benefits of recording the encounter, which may include explaining that the recording is to safeguard all parties by ensuring an accurate reflection of any action or comments made by either party. Where the objection is within the establishment users may also direct visitors to the signage which explains that BWVC/CCTV is used in the establishment and in the case of a complaint advise to write to the Governor.
- 4.54 The user may also explain that non-evidential material is only retained for a maximum period of 90 days and that any access to the material is both limited and controlled; BWVC material is restricted and any disclosure of personal information in relation to living young persons, young adults and adult offenders must not be disclosed even to close relatives without the offender's consent. In the event of disclosure to third parties, (such as the police or courts, this would be in line with the Data Protection Act 2018 (DPA). Further guidance can be found in [Information Requests Policy Framework](#).
- 4.55 If the prisoner or visitor continues to object, then the user must decide based on the circumstances of the incident or event. Stopping filming at the request of a prisoner would however be an exceptional occurrence and the normal policy would be to continue to film and to record the prisoner's objections on film and within the accompanying written document.
- 4.56 An example of such an objection may be where filming captures a prisoner's intimate body parts. Whilst it may not be appropriate to film a prisoner's intimate body part, there may be occasions where a prisoner is either in a sensitive area such as the showers or is partially clothed, but their behaviour is violent, aggressive or the nature of the incident involves a prisoner intentionally exposing intimate body parts (such as indecent exposure or 'flashing') and where the over-riding requirement is to record what took place. Such circumstances will be exceptional, and, in each case, the accompanying paperwork must set out the justification for recording such images.
- 4.57 Where such footage contains intimate body parts, consideration must be given to pixilation of the footage where there is a need for copies to be made or for it to be made available for viewing (such as part of an adjudication). It is important that the master copy remains "unchanged" on the system. Please consult the redaction / pixilation section of this guidance for further information.

- 4.58 If at any time the user considers it inappropriate to continue to record specific events the user could take the decision to end recording and in doing so explain verbally before the recording is stopped. The user must then also record the rationale for the decision in the accompanying paperwork/report.
- 4.59 Equally users may be approached by a prisoner or other person with a request to film an encounter or situation. It is for the User to decide if this is appropriate and consider the reasons for the prisoner's request, however there should be a presumption in favour of doing so. The user's decision will be explained to the prisoner. If they do refuse to switch the camera on, then BWVC users must log the refused request using the system in place at the individual establishment and submit an Intelligence Report.

#### Staff development, Allegations, Complaints, and Investigations

- 4.60 All allegations and complaints received from prisoners, staff or visitors regarding the conduct of others must be dealt with in accordance with the establishment's own procedures.
- 4.61 BWVC users must inform the appropriate manager investigating a complaint of the presence of BWVC material at an early stage so that a decision can be made whether the footage should be tagged and how any material will be used.
- 4.62 The investigating member of staff must consider the requirements of PSI 06/2010 – Conduct and discipline, in respect of the requirements to disclose relevant BWVC material to the member of staff under investigation.
- 4.63 BWVC material may be shown to the complainant and noted in the relevant record. However, only the specific material relating to the incident/complaint subject matter must be reviewed and consideration must be given to obscuring/redacting images of non-connected person(s) and the decision to obscure/redact or not disclose should be recorded.
- 4.64 BWVC material must be retained on the system and marked as required for an investigation/complaint until it is confirmed that all potential uses of it, including appeal mechanisms have been completed.

#### Post Incident procedures

- 4.65 Post incident procedures may include a number of routine working practices such as cell clearance, where the occupant was involved in an incident and has subsequently been relocated. Whilst BWVC must not be used to record routine working practices, however in the direct aftermath of an incident it may be appropriate to record such procedures. Such recordings must only be made on the clear instruction of the Incident Manager and factors requiring this clearly set out in the accompanying written statements.
- 4.66 When dealing with incidents involving Potential Traumatic Events (PTE) (which is defined as an event that may cause acute stress reactions afterwards.) Incident Managers and supervisors must consider the potential effect reviewing those involved in the incident reviewing captured footage and the possible impact of re-traumatisation. It is not possible to identify here every scenario which has the potential to give rise to post trauma stress reactions in all cases, as such reactions are very personal and individual. Incident Managers can refer to [Post Incident Care Policy Framework](#) for further information and guidance on this.

## Scenes of Crime/Preservation of evidence

- 4.67 Prison staff must focus on direct management of the incident at hand and not assume any of the investigatory role which remains to be the role of the police.
- 4.68 In responding to incidents users may arrive at a potential “crime scene” and footage captured may prove useful for any subsequent police investigation. It is important when capturing a “crime scene” the user must not interfere, move or change any element therein, in line with the requirements of the Management and Handling of Evidence Policy Framework and the [crime in prison protocol](#).
- 4.69 It is extremely important that all staff understand that it may harm a police investigation or prosecution if BWVC is used to pursue lines of investigation where significant statements are obtained in the absence of a caution particularly where the suspected perpetrator is interviewed. Audio and visual recording of suspect interviews may be completed in certain limited circumstances, to be considered by officer in charge of the investigation, however staff should limit the initial questioning in order to:
- Identify if an offence has been committed
  - Identify and mitigate against any ongoing or further risks – manage the incident and those involved
- 4.70 Establishments must set out in their local contingency plans the necessity to secure all digital footage, which can be achieved by prompt uploading of the footage to the networked solution.

## Staff Training and development

- 4.71 When BWVC footage is being considered for use in training, staff must first consider whether any alternative methods would serve the same purpose, other than using BWVC footage.

The following are points of consideration:

- Is anyone in the footage identifiable (also from anyone’s knowledge of the incident)? (If so, the footage must be pixelated)
  - What is the setting of the incident recorded and is it contentious (such as toilets, showers, or places of worship)? This would point against using the footage for training purposes.
  - Is the footage being used informally in a debrief setting, or is the footage going to be used as part of a larger/more formal training event? Use of footage for training and de-briefs should be carefully considered to ensure that only the minimum detail necessary is included and consider the potential effects of Potential Traumatic Events (PTE) or acute stress reactions in those reviewing the footage. These considerations are even more significant if the footage is going to be shown to large numbers of people or retained for a long period of time.
- 4.72 HMPPS could suffer reputational damage whenever personal information is being used or shared incorrectly. Considerations of the use incident footage which may create PTE or acute stress reactions in those who view the footage. If no alternative is viable or appropriate, then BWVC footage can be used, subject to the requirements in the policy framework would apply to its use. But this must be considered on a case-by-case basis.



4.73 Showing footage for training which is highly emotive, challenging or distressing has the potential to cause harm to both prisoners, staff and in some circumstances prisoner's family members. Governors must consider the sensitivity of any footage used in any training and development scenario.

4.74 If you have considered the above and these cannot be met, using this footage for training purposes could be high risk in terms of data protection, and you should complete a Data Protection Impact Assessment (DPIA) to consider the risk and determine if its use is justifiable. Information on DPIAs can be found via the below link:

<https://intranet.justice.gov.uk/guidance/knowledge-information/protecting-information/privacy-reform/data-protection-impact-assessments-dpias/>

For more information on individual cases, please refer to the Information Security and Services Team ([FMB](#)).

4.75 Staff captured in the footage must give their express permission for its use in training and this must be recorded in the risk assessment for retention of material. Staff may agree but conditional to the images being redacted but where staff decline this permission then the footage must not be used. Similarly, if staff withdraw their consent for the use of footage containing their images the footage must be withdrawn from training.

4.76 Where the intended use is external to the prison or for prisoner training then the prisoner must either give permission or the images must be pixelated.

#### Legal Privilege/confidential communications

4.77 Users of BWVC must be careful to respect legal privilege/confidential communications and must not deliberately record material that is or is likely to be subject to legal privilege or to which confidential access has been given (further details on this type of material can be found in the Authorised Communications Controls and Interceptions Policy Framework). Where images are inadvertently captured, and the footage is to be retained (for example incidents involving use of force) then these images must be edited, redacted, or pixelated.

#### Data Management

4.78 Establishments must have one or more managers and an identified deputy to take on the role of Approval Officer for retention of footage past the 90-day point, whose role will also include management of the process and overall system in accordance with all necessary obligations. These roles and responsibilities must be communicated to staff in the establishment and set out in the establishments LSS.

4.79 BWVC footage must be classified as official-sensitive; it must therefore be managed robustly and all access, use and movement must be documented in the establishment's evidence log. This log will provide an audit trail for the Information Commissioners Office at point of inspection.

4.80 Users who have recorded any BWVC material must not be given IT authority to delete any data. In situations where the system administrator is also an operational member of staff who also uses a BWVC, the system administrator must seek approval from the Head of Security to manually delete any data they themselves have recorded. Details of this approval must be recorded.

## Data Retention and Deletion

- 4.81 All staff need to be aware that under the Data Protection Act 2018 (DPA) – personal data processed and held for any purpose must not be kept for longer than is necessary for that purpose. The DPA does not contain any interpretation of that principle, but the retention periods and justification requirements set out in this instruction have taken the requirements of the DPA into consideration.
- 4.82 Establishments must maintain clear decision logs for the retention of all BWVC footage.
- 4.83 Once uploaded BWVC material will be routinely stored on the system for a period of up to 90 days at which point unless the footage is tagged it will be automatically deleted.
- 4.84 To retain footage past the 90 days, a designated Approval Officer or designated manager will complete a risk assessment setting out the justification for retaining the footage in line with the DPA.
- 4.85 The justification assessment will include a brief description of the content, details of the person capturing the footage, date time and place and the reason for retention i.e. Adjudication, Use of Force, Police Referral, Prisons and Probation Ombudsman (PPO) investigation, Disciplinary Investigation, litigation.
- 4.86 Guidance on retention periods for potential litigation purposes are listed below:
- BWVC footage which relates to personal injuries, sustained by a prisoner or member of prison staff, should be retained for 3 years 4 months. This is in line with limitation periods for personal injury claims.
  - BWVC footage relating to all prisoner on prisoner assaults, even those which result in low-level injuries, should be retained for 3 years 4 months; unless Control & Restraint was used where it should be retained for 6 years.
  - BWVC footage relating to Use of Force incidents should be kept for 6 years, in line with the retention requirement for Use of Force forms.
  - Once the retention justification is made the footage can be stored on the storage system for a maximum period of 6 years from date of incident.
- 4.87 The DPA requires that the decision for necessity to retain is periodically reviewed, and HMPPS considers a review every 3 months as a minimum review to be appropriate, to ensure that the justification remains. These review periods are set in order to provide assurance that the justification, necessity and proportionality of retaining the footage is considered at appropriate intervals.
- 4.88 Where the footage is to be disclosed to external partners such as the Police, the Independent Monitoring Board (IMB), the PPO etc. – the footage must be retained onsite physically or electronically (where available) when providing copies to external colleagues, More information on the PPO can be found in PSI 58/2010 The Prison and Probation Ombudsman
- 4.89 Any copies of BWVC material that are produced during any investigation and subsequent legal proceedings, if any, must be retained until the conclusion of proceedings and any appeal routes. When there remains no justification to retain then all copies must be securely disposed of and in accordance with chain of custody, the Management and Handling of Evidence Policy Framework and the DPA 2018.

4.90 There may be exceptional circumstances where retention is required for intelligence or identification purposes.

In such cases a member of the senior management team, a Band 7 or above, must complete a justification assessment setting out the necessity, proportionality, and justification for keeping the footage. This risk assessment will set out:

- Why the circumstances are exceptional
- Why retention is necessary and proportionate
- Regular review intervals; at least every three months; from date of retention
- At each review the rationale for continuing retention.

4.91 The designated Approval Officer will authorise the retention of data and set the review date to consider ongoing justification for retention, at periods no longer than three monthly from date of first retention.

4.92 As soon as it is assessed as no longer necessary, proportionate or justified to retain the material then any copies must be destroyed, and it must be deleted from the system in accordance with routine deletion processes.

#### Disclosing footage for criminal evidential purposes

4.93 Where material is being disclosed to the Police pursuant to a criminal investigation; evidence should be shared digitally where possible; where this is not possible, a secure courier service should be used. Two copies of the material must be burned to a disc or USB flash drive, one labelled “Master Copy” and sealed in a signed evidence bag and one “Working Copy” also sealed in a separate signed evidence bag– the two copies must be recorded in the establishment evidence log, detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate copies
- The full name of the person sealing in the evidence bags

4.94 Having stored the evidence in a secure store the evidence log must maintain an accurate log of the time, date, and location of storage.

4.95 When the copies are handed to the police, they must be signed out of the evidence store and the log duly notated with names/shoulder numbers of the person taking the evidence.

4.96 The onward storage location of the discs must also be recorded in the establishment evidence log for Information Commissioner’s Office audit purposes.

4.97 The original footage must be tagged and stored until conclusion of any court process and subsequent appeal; the risk assessment for retention will evidence the need for criminal investigation.

#### Disclosing footage for Intelligence purposes

4.98 Where material is being disclosed to the Police for intelligence purposes; evidence should be shared digitally, via the secure sharing feature within digital data management platform; where possible. Where this is not possible one copy of the material must be burnt to a disc or USB flash drive and sealed in a signed evidence bag and recorded in the establishment evidence log detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage.
- The full name of the person sealing in the evidence bags

4.99 The material can be handed to the police as a voluntary disclosure or via an Operating Partnership Team 1 application and a note made in the evidence log.

4.100 All requests must be authorised by the relevant Head of Regional/Tactical/Strategic/Agency Intelligence (Band 9 or above) and the following details should be provided:

- How the material will be used
- How it will be disclosed (and to whom)
- How it will be stored
- How long it will be stored

The Head of Intelligence (Regional/Tactical/Strategic/Agency) will assume responsibility for ensuring that the material is stored, used, and shared appropriately (in full consideration of any handling restrictions imposed by the Governor).

4.101 Where material is being disclosed to the National Intelligence Analysis Unit evidence should be shared digitally, via the secure sharing feature within digital data management platform; where possible. Where this is not possible one copy of the material must be burnt to a disc and sealed in a signed evidence bag and recorded in the establishment evidence log detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage
- The full name of the person sealing in the evidence bags

#### Disclosing footage to the Prisons and Probation Ombudsman (PPO), Her Majesty's' Inspectorate of Prisons (HMIP) or the Independent Monitoring Board (IMB).

4.102 Where a matter is subject to an investigation and the PPO, HMIP or IMB has become involved, Governors must ensure there are systems in place to download and retain footage where a serious incident has taken place.

Incidents which should be considered as serious include, but are not limited to:

- Those involving use of force
- Where a crime may have been committed (assault, damage to property etc.)
- Prisoner indiscipline (passive and concerted)
- Hostage or barricade incidents
- Where a complaint or allegation of staff misconduct has been made

4.103 Establishments should not assume what footage will be relevant to the PPO, HMIP or IMB investigation, all footage relating to an incident should be retained to allow for PPO, HMIP or IMB investigation consideration.

4.104 Where the material is being disclosed to the PPO, HMIP or IMB as part of an investigation into a complaint, evidence should be shared digitally, via the secure sharing feature within digital data management platform; where possible. This process should be completed without causing delay to the PPO, HMIP or IMB investigator, where possible disclosure issues arise the PPO, HMIP or IMB investigator should be consulted on possible redactions or handling restrictions on the footage.

4.105 Footage must be checked to ensure it does not compromise the security of the establishment such as disclosure of keys or locks. Where a potential security compromise is found consideration to redaction or pixilation should be given with discussion with the relevant investigator on evidence handling or viewing restrictions.

4.106 Images of staff, prisoners or third parties unrelated to the incident must be redacted.

4.107 Where physical copies are being provided, one copy of the material must be burnt to a disc or USB Flash drive and sealed in a signed evidence bag and recorded in the establishment evidence log detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage
- The full name of the person sealing in the evidence bags
- The full details of the person the evidence is being sent to

4.108 The establishment must be able to demonstrate robust control of all footage and a clear audit trail to demonstrate integrity of any disclosed material.

4.109 The establishment must retain the original footage on the BWVC system until the conclusion of any investigation and any associated proceedings (such as criminal court or civil disciplinary outcomes) and relevant appeals are finalised.

#### Disclosing footage to the Prisons and Probation Ombudsman as part of a Death in Custody investigation

4.110 Evidence should be shared digitally, via the secure sharing feature within digital data management platform; where possible. Where this is not possible, a secure courier service should be used. Where the physical copies are to be produced relating to a Death in Custody two copies must be burnt to disc or USB flash drive one labelled "Master Copy" and sealed in a signed evidence bag and the other labelled "Working Copy" and sealed in a signed evidence bag two additional copies should be made and labelled "Police" and

“Prison and Probation Ombudsman”. All copies must be recorded in the establishment evidence log, detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage.
- The full name of the person sealing in the evidence bags
- The discs are securely retained in the document bundle as soon as practicable after the incident

4.111 The establishment must be able to demonstrate robust control of all footage and a clear audit trail to demonstrate integrity of any disclosed material.

4.112 All original footage located on the system must be tagged and retained until the conclusion of any investigation and any associated proceedings (such as criminal court or civil disciplinary outcomes), including relevant appeals are finalised. Justification for retention will refer to the PPO investigation.

#### Disclosing footage to an internal investigator as part of a Disciplinary Investigation

4.113 The investigating member of staff must consider the requirements of PSI 06/2010 – Conduct and discipline, in respect of the requirements to disclose relevant BWVC material to the member of staff under investigation.

4.114 Evidence should be shared digitally where possible; via the secure sharing feature within digital data management platform; where possible. Where this is not possible, a secure courier service should be used. Where material is being disclosed to an internal Investigating officer pursuant to a disciplinary investigation; two copies of the material must be burnt to a disc or USB Flash Drive, one labelled “Master Copy” and sealed in a signed evidence bag and the other labelled “Working Copy” and also sealed in a signed evidence bag. Both copies must be recorded in the establishment evidence log, detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage.
- The full name of the person sealing the evidence bags

4.115 Having stored the evidence in a secure store the evidence log must maintain an accurate log of:

- The time date and location of storage
- Access to the specific evidence

4.116 The original footage on the digital data management system will be tagged and stored until the conclusion of any investigation, associated outcomes (such as disciplinary process) and appeals are concluded; the risk assessment for retention will evidence the need for internal investigation.

### Disclosing footage as part of an adjudication hearing

4.117 Where material is required for adjudication purposes the evidence should be shared digitally where possible, via the secure sharing feature within digital data management platform. Where this is not possible one copy of the material must be burnt to a disc or USB Flash Drive and sealed in a signed evidence bag and recorded in the establishment evidence log detailing:

- The seal numbers
- The BWVC user details
- The time date of recording
- The full name of the person making the duplicate footage
- The full name of the person sealing in the evidence bags

The material can be handed to the Adjudicator and a note made in the evidence log.

4.118 Once the hearing is concluded to an outcome the disc, USB flash drive or electronic copy of footage must be retained until it is confirmed that all potential uses of it, including appeal mechanisms have been completed.

### Footage Redaction / Pixilation

4.119 When releasing material, care must be taken to review the footage and ensure that only the subject of the incident's image is revealed, and consideration given to removing the identity of staff, other prisoners, and person(s).

4.120 Care must also be taken to ensure that no footage presenting a risk to the security of the establishment is released. This could include, but not limited to, disclosure of keys, locks or anything else that may compromise security or the good order and discipline of the establishment.

### Spontaneous Use of Force (UoF)

4.121 Users must justify their actions, perceptions, and decisions as per normal within their written Use of Force (UoF) statement. The writing of UoF statements must be completed before any captured footage is viewed, this will enable staff to detail the threat perceived at the time of the incident and not on reflection having viewed any footage. Staff must reference BWVC footage was captured within the UoF statement. The use of BWVC is a tool to support and not replace written statements. If footage is viewed following the writing of the UoF statement and the user wishes to make a further statement, this can be provided as an addendum to the original statement, clearly stating this is being provided following viewing the footage.

4.122 BWVC footage of UoF must be tagged and retained in line with UoF paperwork.

### Use of Body Worn Video Cameras Outside of an Establishment

4.123 Where an establishment intends to deploy staff equipped with BWVC outside of the establishment itself (such as during external prisoner escort, hospital escort, bedwatch or establishment perimeter patrols) the use and rationale must be documented within the establishment LSS.

- 4.124 A BWVC can capture a large amount of sensitive information that may have no evidential value but if lost or disclosed could have a negative impact on members of the public as well as reputational damage to the organisation. The activation of cameras outside of the establishment should be used minimally and proportionately to circumstances or incident intended to be captured.
- 4.125 When using BWVC outside of an establishment the BWVC user should be conscious they are potentially capturing data (audio and video) of members of the public who may be unaware they are being recorded. To minimise the potential for this type of collateral intrusion and limit the potential requirement for footage to have to be pixelated or redacted the BWVC user should consider ceasing recording at the earliest opportunity once an incident is resolved.
- 4.126 At the point of starting to record BWVC users must ensure that they make an audible announcement that BWVC is in use and manage any objections to being filmed as soon as it is possible to do so.
- 4.127 Any objection to being filmed must be addressed by the BWVC user with a clear and concise explanation why recording is taking place. The user may also explain that non-evidential material is only retained for a maximum period of 90 days and that any access to the material is both limited and controlled and in the case of a complaint to write to the Governor.

#### Incident Response – Medical Intervention

- 4.128 The use of BWVC to record footage is mandated to be “incident related” – which is therefore likely to include incidents involving injury to or illness of a prisoner. This may also include situations where medical interventions are taking place.
- 4.129 On attending an incident involving medical intervention BWVC users must consider any sensitivities of the circumstances. This is particularly relevant when attending an incident where a prisoner is receiving lifesaving medical intervention and therefore is unable to be informed of, or consent to, being filmed. Users should conduct a dynamic risk assessment and where no threat to the safety or security of others exists users, should maintain audio capture to record any decisions and rationales during interventions, but should consider non-intrusive capturing of the medical intervention. This may be through directing the camera away from intervention.
- 4.130 The BWVC user will record the necessity, proportionality, and justification for their actions in the accompanying written documents

#### System access

- 4.131 Each establishment must ensure that all access to the data management system and recorded footage is managed, logged, and robustly controlled, with a minimised the number of people with access to footage.
- 4.132 Access levels must be carefully attributed and limited to maintain the integrity of the system.
- 4.133 Data edit functionality must be restricted to a senior member of staff as designated by the Governing Governor, the designated “Owner” of both System and recorded data.



4.134 Footage must be viewed in isolation of staff areas with obscured sight lines and where audio access is facilitated via headphones.

## **5. Constraints**

### Camera operation

5.1 BWVC must not be routinely used during the conducting of full searches due to the potential impact upon privacy rights of the person being searched. Where a safety or security incident occurs during a full search and the overwhelming proportionality and necessity requirements for recording the incident outweigh the impact on privacy of the individual (such as where Use of Force is required to be used). Once the incident is resolved, if the full search is to recommence the BWVC recording must be stopped before the search starts.

### Professional Standards

5.2 Although BWVC is a useful tool Governors and users should consider that it is not a complete answer. The coverage captured by BWVC provides only a limited view of an incident; showing only one angle; it does not record what might be happening behind the lens or behind the user who is filming; it does not record smells, feelings of tension or the atmosphere building up to; or surrounding, an incident.

5.3 Caution should be exercised as to adding undue weight to its evidential value, whilst it is potentially compelling viewing and there is a risk that other important evidence could be ignored or given less value. From a complaint handling and investigation perspective, initial written accounts are useful because they have the potential to record much more detail, including the officer's perceptions of the event and how that informed their actions and decisions. This information can be pivotal in assessing whether an action was reasonable.

5.4 Managers must ensure that users do not become overly reliant on BWVC at the expense of existing mechanisms. For example, BWVC must not be used to record a cell search in place of the required second officer. BWVC footage does not replace the need to produce an Incident Report or Use of Force documentation. BWVC is a tool to support and not replace and all other protocols must still be complied with. Further requirements on the use of BWVC during cell searches and Use of Force are contained within this policy and within the respective policy frameworks.

### Staff Training and development

5.5 BWVC footage which is still subject to any legal proceedings or where it has been used in a recent prosecution must not be used for training purposes.

### Disclosing footage as part of an adjudication hearing

5.6 Copies of BWVC footage forming part of the evidence in an adjudication must not be sent to any third party. Arrangements must be made for the accused prisoners (and legal advisors or representative where present) to view the evidence at the prison. Failure to allow such evidence to be viewed is likely to lead to any guilty finding being quashed.

5.7 However, if the risk of disclosing the information to the prisoner and their lawyer is not acceptable or appropriate for security or operational reasons then it cannot be used as evidence to support an adjudication. Also, the footage may only be disclosed where this is done in accordance with the DPA, particularly where images are captured of not only those

subject to the adjudication but anyone who is unrelated to the incident and just happen to be present in the vicinity. This would be applicable to staff, prisoners and any third party and any disclosure could require the consent of the individual concerned or editing/pixelating footage. Consideration can also be given to editing/pixilating footage to remove images of those not involved in the incident, see editing/pixilation section for further guidance.

**6. Guidance**

See Policy Framework Guidance document