



**South
Derbyshire**
District Council

**Environmental &
Development
Services Committee
19th November 2015
APPENDIX B**

**Policy and Procedure
in relation to Body
Worn Video Cameras**

Ref 32 (SNW)



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Introduction

This policy details how and when Body Worn Video (BWV) should be utilised for overt video recording of evidence and how the evidence captured should be secured to protect the integrity of the images for potential use in criminal proceedings.

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

Application

This policy is effective immediately and applies to all staff that use BWV or come into contact with the material recorded by BWV.

Purpose

The purpose of this policy is to ensure BWV is used correctly so that South Derbyshire District Council gains maximum benefit from the operational use of BWV, and that all staff coming into contact with either the equipment or the images are able to comply with legislation and the Authority's requirements.

Scope

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

Policy Statement

South Derbyshire District Council is committed to making the best use of its resources to capture best evidence by taking full advantage of new technology and the use of Body Worn Video in all appropriate circumstances.

Benefits

This policy will facilitate the use of BWV to;

- Enhance opportunities for evidence capture;
- Increase early guilty pleas, reducing officer case preparation and court time;
- Assist Wardens to control anti-social behaviour;
- Reduce protracted complaint investigations by providing impartial, accurate evidence;
- Give greater insight into service delivery and identifying good practice.

Responsibilities

This policy will be monitored and reviewed by the Environment Health Manager. The practical implementation of this policy at local level will be monitored by the Senior Neighbourhood Warden, nominated and trained Single Point of Contacts (SPOCS) and supervisors of the BWV users.

Procedure

1 Introduction

The use of BWV devices must complement the use of other video and digital evidence gathering devices within the Authority. These Procedures should be considered a minimum standard for the use of BWV devices.

These procedures have been designed with regard to the current legislation and guidance for the use of overt video recording of evidence.

All images recorded are the property of the South Derbyshire District Council (SDDC) and must be retained in accordance with the Authority's procedures. They are recorded and retained for evidential and intelligence gathering purposes and must not be shown or given to unauthorised persons.

2 Objectives

BWV is an overt method by which authorised users can obtain and secure evidence at the scene of incidents and crimes. These procedures are intended to ensure users comply with legislation and guidance in order to create evidence for use in court proceedings.

When used effectively BWV can promote public reassurance, capture best evidence, modify behaviour, prevent harm and deter people from committing crime and anti-social behaviour. Recordings will provide independent evidence that will improve the quality of prosecution cases and may reduce the reliance on victim evidence particularly those who may be vulnerable or reluctant to attend court.

Using recordings can also impact on the professionalism of the service and in the professional development users. Officers, trainers and supervisors can utilise the equipment to review and improve how incidents are dealt with.

3 Equipment

The BWV equipment used by SDDC is a body mounted camera with built in microphone. The camera stores digital files which, once recorded, cannot be deleted or amended by the operator. Each file carries a unique identifier and is time and date stamped throughout.

To support the camera systems, 'stand-alone' computers and appropriate software is used for the downloading and storage of digital video files. These provide a full audit trail ensuring evidential continuity is maintained. The software will be referred to in this procedure as Digital Evidence Management Software (DEMS).

4 Upkeep of Equipment

It is the responsibility of the Senior Warden and/or the Environmental Health Manager to keep records of the serial numbers and location of the cameras in use within their service.

Individual Safer Neighbourhood Wardens will be issued with their own BMV. Any malfunction of the equipment must be reported immediately by the Warden to either the Senior Safer Neighbourhood Warden or the Environmental Health Manager.

The Environmental Health service will be responsible for the upkeep of the cameras, including the cost of any repairs or damage to equipment.

It will be the responsibility of Senior Neighbourhood Warden to ensure that there are sufficient recordable DVDs available for use. If staff notice that resources are running low they should notify the Senior Neighbourhood Warden accordingly.

5 Training

All Safer Neighbourhood Wardens will be trained and have access to BWV.

Training in the use of the BWV device and DEMS will be available via the Environmental Health Manager or Senior Safer Neighbourhood Warden.

In order to use BWV equipment officers should receive training in all necessary technical aspects of the specific equipment being used and its use. A training package for the equipment will include:

- Legal implications
- Practical use issues
- Evidential continuity
- Health and safety
- Diversity issues
- Professional standards

6 Equipment Issue

When not in use all equipment will be securely stored in the evidence cupboard maintained by the Environmental Health service.

Individual BWVs will be allocated to specified Safer Neighbourhood Wardens. A record will be kept of the date when the device is issued and a signed receipt record will be retained.

The user must ensure it is working correctly prior to leaving the station, check that the battery is fully charged and the date and time stamp is accurate.

7 Recording an Incident

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

1. Decide

The guiding principles for BWV uses are;

- Safer Neighbourhood Wardens will wear BWV when on operational duty.
- The camera should be switched on when footage might support 'professional observation' or would corroborate what would be written in a pocket book.
- The decision to record or not to record any incident remains with the user.

- The user should be mindful that failing to record incidents that are of evidential value may require explanation in court.

2. Start recording early

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

3. Recordings to be Incident Specific

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

4. Talk

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

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

5. Inform

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

6. Collateral intrusion

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

7. Private dwellings

In private dwellings, users may find that one party objects to the recording taking place. In such circumstances users should make a judgement about whether to continue based on the specific circumstances. Considerations in reaching this decision will include;

- That an incident has occurred requiring Wardens or other Authorised Officers to attend;
- The requirement to secure best evidence of any offences that have occurred, whether this is in writing or on video and the video evidence will be more accurate and of higher quality and therefore in the interests of all parties;

- Continuing to record would safeguard both parties with true and accurate recording of any significant statement made by either party;
- An incident having previously taken place may reoccur in the immediate future;
- Continuing to record will safeguard the user against any potential allegations from either party.

8. Sensitivities connected with faith.

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

9. Do not interrupt filming.

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

10. Concluding filming.

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

Recording may also be concluded when the user attends another area where other recording devices are able to take over the recording.

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

- Date, time and location
- Reason for concluding recording

11. Don't delete!

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

8 Selective Capture and Bookmarking

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

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

Selective Capture

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

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

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

Bookmarking

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

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

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

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

9 Witness First Accounts

If the BWV user is approached by victims or witnesses who are giving their first account of the incident the user may record the encounter using BWV but this should be considered against the needs of the individual with due sensitivity to the nature of the offence being reported. Any initial disclosure from victims and witnesses recorded by BWV should be treated as an evidential recording and submitted to the investigating officer.

Such recordings do not replace the need for formal written statements from victims or witnesses but they can be used as supporting evidence for the statements and can also be considered as hearsay evidence and used in accordance with the provisions of the Criminal Justice Act 2003.

If this recording amounts to the victim's first notes or initial description of suspects they may refer to the relevant section of the video when making their written statement. Care must be taken to ensure that only the witnesses account is reviewed by the witness and they must not be allowed access to other sections of the recording. The extent of any review by the witness to assist with making their statement must also be recorded in their statement.

Care should be taken to ensure that should a victim or witness provide a 'first description' of the offender on video, that this fact should be recorded and submitted to the investigating officer.

If the victim does not consent to being video recorded the user may consider the option to divert the camera away from the victim, or obscuring the lens and then record the encounter using the audio only facility. Again, in these circumstances the explicit consent of the victim must be obtained prior to audio only recording.

Initial accounts from the victim should be limited to asking about:

- Nature of the incident
- Identity of the suspect (if known)
- Location of the suspect (if known)
- First description of the suspect
- Time of the offence in order to prioritise action
- Location of the incident scene(s)
- Activities since the offence took place
- Identity of any other person(s) informed of the incident by the victim
- Identity or existence of any witness(es) to the incident or to events immediately prior to or after the offence

10 Recording of Interviews

BWV should not be used to record interviews of suspects under caution which occur at the Councils premises. It may be used to record interviews which take place other than at Authority premises. However, recording of interviews under such circumstances does not negate the need for them to be recorded contemporaneously. There is no provision within the Police and Criminal Evidence Act 1984 for this.

BWV can and should be used to capture hearsay evidence. An example of this is where a witness give his/her account of a suspected fly tippers actions to an investigating officer, in the presence and hearing of the suspect.

11 Scene Review

An additional use of BWV is to record the location of objects and evidence at the scene of a crime or incident.

If reviewing a scene this should be treated as an evidential recording and where possible the officer should provide a running commentary of factual information to assist later viewers.

12 Limitations on Use

BWV is an overt recording medium and can be used across a wide range of incidents. There are a few examples of situations where the use of BWV is not appropriate. In all cases users and supervisors must use their professional judgement with regard to recording.

The following examples of where the use of BWV is not appropriate are for guidance only and this list is not exhaustive.

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

Private dwellings - users must consider the right to private and family life, in accordance with Article 8 of the Human Rights Act, and must not record beyond what is necessary for the evidential requirements of the case.

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

13 Audit Trail

An audit trail is covered by use of the DEMS.

14 Production of Exhibits

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

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

Evidential footage will be considered any data that is:

- Evidence of an offence
- Supporting evidence for any process - i.e. criminal charge, Fixed Penalty Notice, etc.
- Footage that is required for a relevant and proportionate enforcement purpose - i.e. Footage of youths involved in Anti-Social Behaviour to be passed on to Policing partners.

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

DEMS will be used to book out BWV units.

Data downloaded as non-evidential will be stored on DEMS for 30 days. During that time it is searchable and can be retrieved and marked as evidential. After this period it will be automatically deleted.

As soon as reasonably practical, the user will make two DVD copies. The first will be a 'master copy' which will be sealed, labelled and entered into the secure evidence store. The second will be a 'working copy' for investigation and file preparation purposes. DVDs should be retained in line with Authority policy.

If the 'working' copy contains any sensitive information, i.e. witness details, and has not been sanitised, it will be clearly marked it 'Do not disclose'.

BWV is supporting evidence and users will be required to provide written statements which must include the audit trail for the capture of the footage and the subsequent production of the master disc/DVD. This can be complied with through DEMS. A separate statement detailing evidence not captured on BWV should be supplied to the investigation.

For details of what to include in a statement users should consult with the Senior Neighbourhood Warden or Environmental Health Manager or Legal Services.

In order that the recorded evidence can be presented in court the master copy must be preserved as an exhibit. It is recommended for reasons of security that this takes place as soon as practicable after the footage is recorded. Users should wipe the BWV memory at the end of a working shift or prior to starting the next working shift.

Where more than one BWV device is present at the scene of an incident or the area of the incident is also covered by a CCTV system the officer in the case (OIC) must ensure that all available footage of the incident is secured as exhibits in consideration of any defence arguments that may be present.

Latest version

Version Number	Date of Issue	Author(s)	Brief Description of Change(s)
1	10/09/2015	MHO	First version

Storage Location(s) S:\Health\SNW\Body Worn Cameras