

Body Worn Video (BWV)

Contents

Policy Statement	2
Principles	3
Responsibilities – Officers and Staff	8
Responsibilities – Others	10
Additional Information	12

Policy Statement

Summary

West Yorkshire Police have been utilising body worn video (BWV) since 2016. Over time, the technology and the policing landscape have changed dramatically.

BWV provides the opportunity to accurately capture evidence, delivers reassurance and deters criminality and anti-social behaviour.

BWV supports the legitimacy of policing and offers accountability like never before, whilst complementing our desire to continuously improve.

BWV recordings deliver benefits to policing. Reasons for using BWV might include:

- An incident has occurred requiring the police to attend.
- The user's continued presence is required to prevent a breach of the peace or injury to any person.
- To secure best evidence of any offences that have occurred. Video evidence is accurate and of a higher quality, and therefore in the interests of all parties.
- Recording will safeguard both parties as a true and accurate recording of any significant statement made by either party, and of the scene.
- An incident may re-occur in the immediate future.
- Continuing to record will safeguard the BWV user against potential allegations.

The purpose of this policy is to ensure that officers and staff comply with legislation and Force requirements and are aware of their responsibilities in relation to securing and preserving best evidence and maintaining the integrity of captured digital images, in readiness for use in criminal, civil or complaint proceedings.

This policy has been agreed by the Chief Constable of West Yorkshire Police and, as such, the directions within are a lawful order. Failure to adhere to this policy may be considered a breach of the Standards of Professional Behaviour, and may result in misconduct proceedings.

Scope

This policy applies to all police officers, special constables, police staff and police community support officers (PCSOs). There is no distinction made between posts, roles or ranks. Where the term 'individual', 'employee' or 'staff' is used in this policy, this means all of the above.

This policy relates only to the use of BWV and should not be confused with the deployment of public order trained evidence gatherers.

Principles

General

- Body worn video (BWV) will be activated **immediately** when responding to any Emergency incident, capturing driver safety, NDM verbalisation and dynamic risk assessments. BWV will remain recording for the duration of officer deployment on the incident.
 - BWV will be activated **immediately** upon arrival at a planned 1, standard incident or when assisting others. BWV will remain recording for the duration of officer deployment on the incident.
 - BWV will be activated in all cases where **policing powers** are being utilised. This includes, but is not limited to, stop and account, stop search, vehicle stop checks and searches, seizing exhibits/returning property, public order encounters, use of force, house searches, arrests and arrest enquiries. BWV will remain on for the duration of the interaction or action.
 - BWV will be activated when responsible for the **welfare of a detained person**. This includes conveying to or from a custody suite/medical centre/hospital and hospital guard duties. If a detainee is immobile or sedated, consideration may be given to cease recording. Custody cameras provide sufficient coverage of cells and circulation areas within all suites. Consideration must be given to using it when on Level 4 Close Proximity (POL1) where the cell is not covered by CCTV.
 - BWV will be activated when seizing or returning property.
 - BWV will be activated during **every** interaction with a member of the public, except for those cases where individuals engage in general conversation, for example confidence building interactions in neighbourhoods or providing directions.
 - BWV will be activated **immediately** when involved in a spontaneous incident or when an escalation occurs.
 - **All** officers present/deployed in the circumstances outlined above must adhere to the policy. All BWVs must be set to record. Each user must take individual responsibility in ensuring that their device is recording in accordance with this policy.
 - As per the Mental Health Units (Use of Force) Act 2018, individuals are required to wear a body camera, if reasonably practicable, when entering and assisting staff in a mental health unit.
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Record of non-compliance

- If the individual considers that the use of BWV will significantly affect a police objective, taking into account both this policy and the scenario, they must record in the pocket notebook (PNB) **as soon as it is practically possible** the reason for non-compliance, using the NDM.
- In the case of a decision to cease recording, this must **also** be verbalised before the end of the recording.
- If departmental/operational heads are required to authorise non-compliance with this policy for a specific policing purpose, e.g. HMET staff deployed in specific area/task, Silver Commander at events (needs to be

endorsed on briefing and planning documents) etc., a record of this decision must be made and reviewed periodically.

- Officers will be required to justify, in significant detail, the rationale for any non-compliance in the exceptional circumstances where body worn video is not activated, and be prepared to do so to a supervisor, Professional Standards Directorate (PSD), Chief Officer Team (COT), Magistrate, Crown Court judge or the IOPC.

Use of BWV when speaking with children

- Individuals must be cognisant of Ministry of Justice/NPCC guidance when speaking with children and utilising body worn video.
 - Specifically, attention should be drawn to the section entitled “Initial Contact with Victims and Witnesses”.
 - This guidance also supports users if the use of body worn video is causing distress to a child thereby impacting a policing objective, ABE 2022 states: *“2.44 Enquiries should be carried out in such a way as to minimise distress to the child and to ensure that families are treated sympathetically and with respect.”*
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Training

- All frontline staff are trained in the use of the equipment, ensuring that the devices are used in compliance with legislation and codes of practice. Additional training has been provided with focus on necessity and proportionality, including community sensitivities and issues around diversity and disability.
 - Officers and staff must complete all training to become authorised and able to self-issue the equipment.
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Using to record incidents

- BWV is only to be used in an overt capacity.
- Individuals must always consider the circumstances and the people involved, for example vulnerable persons.
- Individuals may not indiscriminately record entire duties or patrols. Recordings must be **incident specific, legitimate, proportionate and necessary**.
- All recordings can be used in evidence, even if it appears to the individual at the time of the incident that this is unlikely. All recordings must be treated as evidential until it is confirmed otherwise.
- To comply with the Data Protection Act and Human Rights Act, individuals must restrict recording to the areas and persons necessary to obtain evidence and intelligence relevant to the incident. Individuals must always attempt to minimise collateral intrusion on those not involved.
- In accordance with the Data Protection Act, announcements must be made to those present at the time of activation, or as soon as practicable during or after the incident, which can easily be understood by those present, e.g. *“I am wearing and using body worn video, I just need to tell you that I am recording sound and pictures”*.

- All significant comments **must** be recorded in writing in a PNB and offered to the individual to sign, even if they are recorded using BWV (PACE Act 1984).
 - When not in use, BWV equipment will be securely stored in the docking stations in the designated rooms in secure shared premises or police premises.
 - Contrary to previous policies, initial accounts from **victims of serious sexual offences** must be captured and must be treated as sensitive material.
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Exemptions from use

- The WYP expectation is that BWV will be used as outlined above.
 - BWV **will not** be used for:
 - Personal purposes;
 - Recording conversations between staff and supervisors;
 - To record legal privilege material; or
 - During PolSA led searches utilising Licensed Search Officers (LSOs). This is due to the following reasons:
 - It may lead to the disclosure of confidential search tactics; and/or
 - Some BWV cameras have a live-streaming capability which would pose a risk as the RF from any transmission could initiate any devices (IED etc.);
 - To capture evidence of **indecent and prohibited images of children**. A digital forensic specialist must be requested, however if it is deemed necessary for the prevention and detection of crime, the following exemption/defence MAY be relied upon –

“If the officer can evidence that they took the recording for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings, and that they had a legitimate reason for distributing or showing the photographs or pseudo-photographs or having them in their possession, then they will lawfully be allowed to record and upload to the Video Management Solution. It is important that any such platform has robust and mature accountability and audit recordings so all interactions with these files can be evidenced if required”.

To prevent deletion/alteration may be sufficient justification; and
 - **Court premises**. The camera must not be turned on within the court premises unless there is an ongoing incident. Once the incident has been concluded, the camera must be turned off.
 - In relation to incidents within the court room while it is in session, officers must not switch the camera on unless directed to do so by the judge or magistrates. Failure of officers to follow this guidance may mean they breach s41 of the Criminal Justice Act 1925 and s9 of the Contempt of Court Act 1925.
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Objections to recording

- The police service has the power to record images under common law.
- In principle, individuals are not required to obtain the expressed consent of any person being filmed.

- If any person requests that the BWV be switched off, the individual must advise the subject that:
 - Any non-evidential material is not retained for any longer than necessary;
 - This material is restricted and cannot be disclosed to third parties without the subject's express authorisation, unless prescribed by law; and
 - Recorded material is police information and can be accessed on request in writing, in accordance with a subject access request in accordance with the Data Protection Act.
- Additionally, there is likely to be sound and reasonable justification:
 - An incident has occurred requiring the police to attend;
 - The individual's continued presence might be required to prevent a breach of the peace or injury to any person;
 - There is a requirement to secure best evidence of any offences that have occurred, and video evidence is more accurate and of a higher quality and, therefore, in the interests of all parties;
 - Continuing to record will safeguard both parties as it is a true and accurate recording of any significant statement made by either party and of the scene;
 - The incident may re-occur in the immediate future; and/or
 - Continuing to record will safeguard the individual against any potential allegations from either party.
- There must always be a tendency to record, within the confines of legislation, unless circumstances dictate otherwise.
- An individual who fails to record an incident will be required to justify their actions, as outlined above.
- If the individual deems it necessary to turn off their BWV, but events subsequently develop that require further investigation or proceedings, they must:
 - Immediately resume recording to capture any potential evidence;
 - Make the appropriate verbal announcements; and
 - Record the circumstances (in the same way as they would for a partial recording).

Private dwellings

- Individuals must consider Article 8 of the Human Rights Act 1998 – the right to private and family life – if conducting recordings in dwellings, and must not record beyond what is necessary for the evidential requirements of a case.
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Handling cash, drugs, firearms and/or valuables

- The utilisation of BWV must be seen as best practice when handling property, to ensure integrity and continuity and to safeguarding against complaints.
- Seizures and returning must be recorded on BWV and retained as evidential/unused material.

- When seizing cash, filming must include placing of cash (counted or uncounted) into an evidence bag. This must clearly show the serial number and that it is sealed. On return of cash, the serial number must be filmed and show that the bag is intact. Individuals must continue to film and count the money in front of the recipient. For further information, refer to the Cash Handling policy.
 - Adoption of this procedure also applies to drugs.
 - Firearms are lethal weapons and all stages of seizure, examination, placing in stores, removal from stores and return to owner must be recorded on BWV.
 - Consideration must also be given to cases that involve key evidence or items that are considered valuable or sentimentally valuable.
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BWV for suspect interviews

- On 17th March 2020, the Chief Officer Team authorised BWV suspect interviews for summary offences. This authorisation also includes:
 - Retail theft (shoplifting) contrary to section 1 of the Theft Act 1968 – combined value of goods below £200.
 - Criminal damage to property contrary to section 1(1) of the Criminal Damage Act 1971 – value of property below £5000.
 - Common assault and battery contrary to section 39 of the Criminal Justice Act 1988, except for assaults relating to domestic abuse.
 - Possession of a controlled drug contrary to section 5(2) of the Misuse of Drugs Act 1971, if the drug is cannabis as defined by that Act and in a form commonly known as herbal cannabis or cannabis resin.
 - Use for any either way or indictable offences is NOT authorised and would therefore be a breach of PACE.
 - Appropriate adults and interpreters must be used where necessary.
 - The suspect must be offered their Rights and Entitlements at the earliest opportunity.
 - Officers and staff must read the guidance document on conducting these interviews.
 - Officers and staff must also comply with the Voluntary Attenders policy.
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Software and images

- Video Manager software is used:
 - To allocate the device;
 - To upload and manage the footage; and
 - For audit use.
- Each image file carries a unique identifier and is time and date stamped. Once recorded, footage **cannot** be amended or deleted by the user.
- All images recorded are the property of the Force and will only be uploaded via purpose built docking stations and retained on the West Yorkshire Police storage network.
- Non-evidential recordings will be uploaded and retained for **90 days** in line with West Yorkshire Police guidance. During that time, they are searchable and can be retrieved and retained as evidence or unused material by

creating an incident. If unmarked, the footage will be deleted automatically after this 90-day period and will not be retrievable.

- Evidential recordings and unused material will be retained in line with APP Information management and the Criminal Procedures and Investigations Act 1996.
- Images are recorded and retained for policing purposes and as such will not be shown or given to unauthorised persons.

Post incident procedures/ post incident management

- Under certain circumstances, generally serious injury or death of a member of the public following police contact, a post incident procedure (PIP)/post incident management (PIM) may be declared by a senior officer.
- All individuals in attendance of the initial incident will be instructed by radio to either keep recording continuously or to start recording and not stop until told to do so. This will be given in conjunction with a verbal non-conferring notice. The purpose is for transparency and to assist any IOPC investigations.

Disciplinary action

- Individuals have a statutory duty to collect the best available evidence.
- Individuals must consider the four Rs from CPIA and Disclosure – make a *Record* of the material, *Retain* the material, *Review* the material applying the disclosure test and *Reveal* materials to the prosecutor. Officers could face disciplinary action if they fail to do so.
- Completed recordings must be retained and handled in accordance with APP Information management. Any breach of APP or this policy may render the individual liable to disciplinary action and/or adverse comment in criminal proceedings.
- This policy has been agreed by the Chief Constable of West Yorkshire Police and, as such, the directions are a lawful order.
- Failure to adhere to the policy may be considered a breach of the Standards of Professional Behaviour and this may result in misconduct proceedings.
- Individuals must not intentionally fail to record an incident, turn the unit away from the area of focus without good cause or otherwise deliberately obstruct the camera lens/microphone.

Responsibilities – Officers and Staff

Start of Duty

Officers and staff are responsible for:

- Ensuring BWV equipment is booked out correctly via the card reader;
- Ensuring that the device is working correctly before leaving police premises, including a visual check to ensure that the lens is clean, there are no cracks in the casing, the mount is correctly inserted, and that the recording mechanism is working. A brief test recording at the start of a shift is perfectly acceptable; and

- If the device is found to be faulty, reporting the fault via the Digital Policing Service Manager portal and District Custodian.
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At the Incident

Officers and staff are responsible for:

- Activating the BWV cameras as per above and in order to enhance officer safety, achieve best evidence and provide public reassurance;
 - Ensuring they provide a rationale for their decision making (based on the NDM) and recording this as commentary with the footage;
 - Making a verbal announcement, where practicable/safe, at the start of a recording to indicate why the recording has been activated. This must state confirmation that the incident is now being recorded using both the sound and picture facilities;
 - If the recording starts before they arrive at the scene of the incident, announcing to those present at the incident that the BWV is being used and that an audio and video recording of the actions and sounds is being made. Otherwise, this must be done as soon as practicable;
 - Avoiding collateral intrusion by restricting the recording to areas and persons necessary in order to obtain evidence and intelligence relevant to the incident;
Recording continuously, i.e. without interruption, from the start of the incident to its end and the resumption of normal duties. Alternatively, the bookmarking button can be used on top of the camera; and
 - Where the recording of an ongoing incident is interrupted or stopped, recording their decision in a PNB or similar log and including their rationale.
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Post Incident

Officers and staff are responsible for:

- Making a verbal announcement to indicate the reason for ending the recording;
 - Updating the occurrence OEL accordingly to assist any subsequent investigation and including a copy and paste of the footage metadata or URL to assist with Video Manager searching by colleagues; and
 - Ensuring that any confidential personal information is not revealed at the disclosure or interview stage to the suspect or solicitor.
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Exhibits and Statements

Officers and staff are responsible for:

- Uploading all footage recorded on the device to the server via the docking station to Video Manager;
- Identifying and preserving evidential footage and unused materials by creating an incident in Video Manager:
 - Niche and Storm references must be entered into the corresponding fields.
 - The title must include a brief description of the event, i.e. Fail to stop pursuit of Silver BMW ABC123D.

- The notes section must include exhibit number, incident type, location, vehicle registration, name(s) of any accused person(s) and any other relevant detail. Key words in the title and notes section are searchable in Video Manager.
 - Following the latest guidance from Criminal Justice to ensure that all relevant footage is edited, exhibited and meets continuity requirements. See the NPCC guidance on multimedia redaction;
 - Indicating that they have viewed the footage before writing their notes, where applicable; and
 - Producing a single witness statement in relation to the incident and including the BWV footage and subsequent handling.
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Lack of or faulty equipment

Officers and staff are responsible for:

- Reporting any malfunction of the equipment **immediately** on the Digital Policing Service Manager portal and to the District Custodian for repair and replacement; and
 - In the event of insufficient cameras, informing a supervisor and making an entry in their PNB. Cameras must be obtained at the earliest opportunity during the tour of duty. Supervisors must inform the District Custodian of shortfalls so that stock can be managed across the District/Department.
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Responsibilities – Others

**Supervisors/
Senior Leaders**

Supervisors/senior leaders are responsible for:

- Where non-compliance to the policy is authorised, ensuring that a record is made of the decision and justification;
- Enforcing the use of BWV;
- Ensuring staff are confident of their obligation to carry and use the device;
- Ensuring that all staff deployed to incidents are equipped with a BWV camera;
- Leading by example, using BWV in appropriate operational environments;
- Reviewing recordings of incidents to aid development, i.e. assessing the employee's performance and supporting improvements;
- On receiving a complaint, ascertaining if BWV was present during the incident. If yes:
 - Ensuring the recordings are preserved in an incident;
 - Informing the complainant;
 - Endorsing the incident log;
 - Making the log and the information about the use of BWV available to the person reviewing the complaint; and
 - Arranging for restriction of footage if appropriate.
- Ensuring any footage used in interview/proceedings has been considered and redacted to safeguard inappropriate disclosure of sensitive personal information. This could be during the quality assurance of file submissions.

**District
Custodians**

District Custodians are responsible for:

- Ensuring sufficient devices are available for effective deployment;
 - Compliance with fault reporting procedures; and
 - Returning broken devices to BWV Field Support, Eccleshill.
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**Single Points of
Contact District
SLT (SPOCs)**

SPOCs are responsible for:

- Ensuring the use of the devices is in line with legislation and codes of practice;
 - Collecting usage data for performance monitoring;
 - Local monitoring and reviewing operation of the policy;
 - Investigating any breaches of security and reporting them to Information Management;
 - Ensuring any newly appointed or returning officers, staff or transferees are trained; and
 - Working with the District Custodian to ensure there are sufficient devices available for effective deployment.
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**Professional
Standards
Department
(PSD)**

Professional Standards Department is responsible for:

- Conducting a review of the system upon receipt of a complaint (if deemed an appropriate line of enquiry).

Professional Standards will not routinely, or without cause, conduct checks of the system in relation to BWV to monitor policy compliance.

Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- Protection of Freedoms Act 2012
- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 2018
- Human Rights Act 1998
- Criminal Procedures and Investigations Act 1996
- Police and Criminal Evidence Act 1984
- Mental Health Units (Use of Force) Act 2018
- APP Information management
- College of Policing Code of Ethics 2014
- NPCC Body-Worn Video Guidance
- College of Policing Body Worn Video Guidance 2014
- Surveillance Camera Code of Practice 2022
- NPIA Practice Advice on Police use of Digital Images 2007
- Information Commissioners Data Protection
- Information Commissioners Code of Practice – Conducting Privacy Impact Assessments
- General Data Protection Regulation

Supporting Information

The supporting information for this policy can be accessed online.
