

Gedling Borough Council Working Documents relating to Body Worn Video Camera

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Part 1

Gedling Borough Council Policy Guidelines for the use of Body Worn Video Cameras by Council Employees.

Introduction

This document sets out Gedling Borough Councils (GBC) Policy Guidelines for the use of Body worn Video Cameras (BWVC) by Council Employees (CE) and outlines the associated benefits to CE and the general public.

The use of BWVC can provide a number of benefits which include a deterrent to acts of aggression or verbal and physical abuse towards CE and providing evidence to support Police and council investigations. It is also anticipated that the use of the BWVC will reduce complaints against CE and act as a deterrent measure. It will also provide greater transparency and encourage professionalism from CE at all times.

BWVC forms part of CE Personal Protective Equipment. It will be used in an overt manner and emphasized by CEs wearing clear identification that it is a CCTV device. Prior to commencement of any recording, where possible, CE will give a clear verbal instruction that recording is taking place.

1. Legislation

1.1 The integrity of any video data recorded will be considered in accordance with the following legislation:

Data Protection Act 2018

The General Data Protection Regulations 2018

Freedom of Information Act 2000

Human Rights Act 1998

British Standard 8539:2017

1.2 Data Protection Act 2018

The Information Commissioner's Office is the regulator for the Act and has given guidance with regard to CE use BWVC equipment. This legislation regulates the processing of 'personal data' or 'special categories of personal data' whether processed on computer, CCTV, BWVC, still camera or any other media.

Any recorded image that is aimed at or may identify a particular person is described as 'personal data' and covered by this Act and will include images and audio

Any recorded image that is aimed at or may identify a particular person is described as 'personal data' and covered by this Act and will include images and audio captured using WVC equipment. The use of BWVC in this guidance is 'overt use' meaning that equipment is not to be worn or used in a hidden or covert manner.

Where an individual asks to view footage, this is called a 'Subject Access Request'. The requester is only allowed to see footage of themselves and anyone who has provided consent for their images to be viewed by them. More information is available by contacting the Community Protection Manger at Gedling Borough Council

1.3 Freedom of Information Act 2000

This Act grants a general right to access information held by public bodies, which is not personal data. Information released under FOI can include statistical and other non-personal information.

1.4 Human Rights Act 1998

Article 6 provides for the right to a fair trial. All images captured through the use of a body worn device have the potential to be used in court proceedings and must be safeguarded by an audit trail in the same way as any other evidence.

Article 8 of the Human Rights Act 1998 concerns the right for private and family life, home and correspondence. Recordings of persons in a public place are only public for those present at the time and can still be regarded as potentially private. Any recorded conversation between members of the public should always be considered private and users of BWVC equipment should not record beyond what is necessary when recording a confrontational situation.

1.5 Widely advertised that BWVC equipment is used by its CEs

Gedling Borough Councils website and Facebook page also promote that BWVC is in operation in areas of the Borough with an opportunity for members of the public to get in touch with the council and share their views.

The Council will further ensure that the use of BWVC is emphasized by CEs wearing it in a prominent position (normally on their chest) and that its forward facing display is visible to anyone being recorded. Additionally, CEs will wear identification that it is a BWVC device and make a verbal announcement, where practicable, prior to commencement of any recording. The Council will adhere to the principles of British Standard 8539:2017.

The purpose of issuing a verbal warning is to allow a member of the public to modify any unacceptable confrontational or aggressive and threatening behavior.

A specific form of words to be used in any warning to a member of the public has not been prescribed, but CE's should use straightforward speech that can be easily understood by those present such as:

'I am wearing a body worn video camera, and I am now recording'

1.6 Storage of Data

All the data retained will be kept until all investigations have been completed or a prosecution has taken place.

Any other data not required for evidential purposes will be deleted between 28 and 32 days.

1.6 Requests for Footage

All details on requesting personal data be made to the Community Protection Manager, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU

Part 2

Gedling Borough Councils Procedure for the use of Body Worn Video Cameras by Council Employees.

Part one- General Procedure Items

Introduction

1.1 This procedure is considered the minimum standard in the use of Body Worn Video Cameras (BWVC) devices by Gedling Borough Council's Employees (CE)s.

1.2 All images recorded are the property of Gedling Borough Council and must be retained in accordance with Council procedures. They are recorded and retained for the council purposes of preventing and detecting crime and will not be shown or given to unauthorised persons other than in accordance with specified exemptions.

Procedure Statement

2. Objectives

2.1 BWVC is an overt method by which officers can obtain and secure evidence at the scene of incidents and crimes. These procedures are intended to enable officers to comply with legislation and guidance to create evidence including in the use of court proceedings.

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

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

2.4 BWVC material remains the property of Gedling Borough Council and may be reviewed in support of a complaint, misconduct or criminal investigations in order to confirm or refute whether wrongdoing has occurred.

2.5 BWVC footage may be used by line managers for use in training, debriefing and staff development purposes. It may also be viewed to identify good practice and to inform good work reports.

3. Equipment

3.1 The BWVC equipment is a body mounted camera with built in microphone. The camera stores digital files which, once recorded, cannot be deleted or amended by

3.2 To support the camera systems, a locally based computer with appropriate software has been purchased for the downloading and storage of digital video files. The computer and the software will provide a full audit trail ensuring evidential continuity is maintained. The software will be known as Digital Evidence Management Software (DEMS).

4. Upkeep of Equipment

4.1 It will be the responsibility of the Community Protection Manager to keep records of the serial numbers and location of the cameras.

4.2 Any malfunction of the equipment must be reported immediately to the Community Protection Manager.

5. BWVC Issue

5.1 CE will be issued their own personal BWVC and will wear it at appropriate times whilst on shift.

5.2 Responsibility for issue BWVC Cameras

The following is applicable when the CE is on duty:

- CE must ensure their BWVC camera is available to them at the start of the shift and is ready for use.
- Where BWVC cameras are lost or damaged beyond economical repair, the CE will be asked to provide an account of the circumstances for the loss or damage.
- CEs must ensure that the battery has sufficient charge for an extended shift or is charged prior to the shift.
- CEs must ensure that the date and time on their camera is correct. Cameras MUST be docked with DEMS at the end of each working period to ensure the images held on the mobile unit are downloaded and that the date and time are updated.
- CEs must not loan the BWVC cameras to any unauthorised individual and must ensure they are not used in any inappropriate activity
- CEs must ensure that any malfunction or damage is reported to Community Protection Manager.
- Individuals must not carry their BWVC cameras with them when not on duty (other than to and from their place of work) unless they have been specifically asked to do so.

6.1 Security of BWV Cameras

- The safe keeping of the BWVC camera is of paramount importance. Loss of a handheld BWVC camera could lead to a breach of security and a data breach and must be reported immediately to the Community Protection Manger and Data Protection Officer no later than one hour after a loss is discovered. If a BWVC camera is found to be missing/lost it is a requirement of the holder

to report the loss to the Community Protection Manger who in turn advises the Data Protection Officer and any Corporate Director at Gedling Borough Council.

- Individuals must ensure the security of their BWVC camera. BWVC must be stored within the secure area of the Public Protection Offices at Gedling Borough Council and must be returned to the secure location and placed in the docking station at the end of each working period

6.2 Faulty, Damaged or Lost BWV Cameras

- Officers should report damaged, lost or faulty cameras to the Community Protection Manger.
- Where there is evidence that an individual has caused willful or negligent damage or shown a lack of care, disciplinary procedures may be instigated.

6.3 Battery Charging

BWV cameras will only be charged at the docking station provided by Gedling Borough Council.

6.4 Return of Equipment

The BWVC cameras always remain the property of Gedling Borough Council

7. Training

7.1 All CEs will be trained and have access to BWVC.

7.2 Training in the use of the BWVC device will be provided by the provider (Zycomm Ltd) or a suitable trained Council Employee.

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

1. Legal implications
2. Practical use issues (including when to use the BWVC)
3. Evidential continuity
4. Health and safety
5. Diversity issues
6. Professional standards

8. Equipment Issue

8.1 When not in use all BWVC must be stored in the docking station provided.

8.2 Only CEs who have received the appropriate training will be able to 'self-issue' the equipment.

Part two- Instructions on recording and incident

When using BWVC to record incidents the Council Employee must consider the following:

1. Decide

Guiding principles are.

- CEs will only wear BWVC when on duty
- The camera should be switched on when footage might support 'professional observation' or would corroborate what would be written in a pocket notebook (PNB) or a incident report on AssessNet.
- The decision to record or not to record any incident remains with the user.
- The user should be aware that failing to record incidents that are of evidential value may require explanation both as part of supervision and 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 Incident report on AssessNet, 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 confirm 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 the 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 camera".

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; for example, where domestic abuse is apparent. In such circumstances users should use their discretion on whether to continue to record and explain the reasons for recording continuously. These include:

- That an incident has occurred requiring CEs to attend
- That the CEs presence might be required to prevent a Breach of the Peace or injury to any person
- 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 officer against any potential allegations from either party

8. Witness First Accounts

8.1 If the BWVC user is approached by victims or witnesses who are giving their first account of the incident the user may record the encounter using BWVC but this should be considered against the needs of the individual with due sensitivity to the nature of the incident being reported. Consideration should be given to dealing with the victim in a similar manner to that described in 10.5 and 10.6 if appropriate. Any initial disclosure from victims and witnesses recorded by BWVC should be treated as an evidential recording and submitted to the investigating officer. This is important to ensure compliance with statutory identification procedures under PACE Code D.

8.2 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.

8.3 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.

8.4 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. This is important to ensure compliance with statutory identification procedures under PACE Code D.

9. Recording of Interviews

9.1 BWVC should not be used to record interviews of suspects under caution which occur at the Gedling Borough Council, Civic Centre. It may be used to record interviews which take place other than at the Civic Centre. However, recording of interviews under such circumstances does not negate the need for them to be recorded contemporaneously. There is no provision within the PACE Act 1984 for this.

9.2 BWVC can and should be used to capture hearsay evidence.

10. Limitations on Use

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

10.2 The following examples of where the use of BWVC 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 – whilst use of video at the scene of domestic violence incidents is covered in other sections, 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, BWVC cameras could cause electrostatic interference which may trigger explosive devices. Therefore, BWVC equipment **MUST NOT** be used in an area where it is believed that explosive devices may be present.

13. Audit Trail and Retention

13.1 The use of Gedling Borough Council BWVC must meet public expectations with regard to confidentiality and comply with the General Data Protection Regulation. Information should, therefore, be handled so as to preserve the integrity of core CE business whilst maintaining availability for operational purposes and in line with the full requirements of the Data Protection Act; and this must happen throughout the delivery chain.

13.2 BWVC recordings should be retained in accordance with the General Data Protection Regulation 1998.

13.3 However, with regard to the retention of footage that will not be used as evidence, it is the data controller's responsibility to devise a flexible policy that takes into account the ongoing relevance of different types of footage. It will be a matter of judgement in each case.

13.4. Recorded footage that is initially considered to be 'non-evidential' should not be retained beyond the time where it is reasonably expected that it may be identified as being part of any investigation.

14. Production of Exhibits

14.1 Officers should ensure all footage recorded to the BWVC device is downloaded at the end of shift.

14.2 Evidential footage downloaded will be saved on the relevant stand-alone BWVC computer. It will be identified by exhibit number, incident type, name(s) of any accused person(s) and an Ecins reference may also be used if appropriate.

14.3 Evidential footage will be considered any data that is:

- Evidence of an offence (footage will then be offered to the police for them to investigate if appropriate)
- Evidence of anti-social behaviour that may be a breach of an order i.e. Public Space Protection Order, non-compliance with sanctions or civil powers such as a Criminal Behaviour Order
- Supporting evidence for any process - i.e. Fixed Penalty Notice, utilising appropriate tools and powers
- Assist the Community Safety Section in defending accusations made against them

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

15. Complaints

15.1 If a complaint is made against an officer and BWVC footage is available, but they have not yet viewed it, they should not view it until the investigating officer or person locally resolving the complaint is satisfied that they have a sufficient first account of the officer's view of what happened.

15.2 The officer should only view the footage before providing their initial account if there is a good reason for this. This reason should be recorded clearly.

15.3 In many circumstances, a complaint will not be received immediately after an incident and officers involved may have viewed the BWVC images by the time the complaint is received. Where an officer has viewed BWVC images before giving their first account of an incident, their account should state that they have viewed the footage. It should also include the reasons for this and, if appropriate, distinguish between what they are saying as their honestly held belief and what is a reflection of what they have viewed on the footage.

15.4 In some circumstances, BWVC footage may provide sufficient evidence for the person locally resolving a complaint to respond to it without the need for an account from the officer the complaint is about. However, this should not prevent an officer being given the opportunity to comment on a complaint about them that is being locally resolved.

15.5 Where an officer is the subject of a criminal or misconduct investigation, or it appears possible that they may become subject to such an investigation, regardless of whether a notice of investigation has yet been served, they should only be allowed to view any BWVC footage as determined by the investigating officer. For example, this may be part of staged disclosure during an interview.

15.6 If the footage has already been viewed before the criminal investigation starts or notice of investigation is served, this should be recorded in the officer's account and/or taken into account in any subsequent interview.

15.7 As soon as the Community Protection Manager becomes aware of a conduct incident that requires further investigation, they should establish whether any of the officers present were wearing BWVC and, if so, whether they recorded any footage. If footage does exist, then it should be secured as quickly as part of the post incident process.