

WILTSHIRE POLICE FORCE PROCEDURE



Body Worn Video

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BODY WORN VIDEOS – KEY CONSIDERATIONS:

Body Worn Video **MUST** be worn by **all** officers & recording when:

- tasked by the CCC to any incident,
- happening upon any incident or
- conducting stop and search

The expectation is that Body Worn Video **WILL** be used in any circumstances where an audio visual recording could provide valuable evidence.

The threshold for deciding whether the recording of an incident will be of evidential value is a low threshold.

Users **MUST** commence recording at the earliest possible opportunity **or at the point of being tasked** when attending incidents:

The user **will** activate recording when accepting a call, thus allowing recording of any information or intelligence updates received whilst 'en route.'

It is better to have recorded the footage and not need it than not to have recorded anything.

BWV should not be used where officers conduct a search where intimate parts of the body are exposed. The camera should be covered or directed away from the person. Audio recording should remain activated.

Where the user decides that a recording is not appropriate or where recording does not take place:

The user **MUST** be able to justify why in their statement and/or pocket note book or other record of the incident as appropriate.

PROCEDURE OVERVIEW

This document is intended to form the operational guidance for the use of Body Worn Video devices (BWV) within the Wiltshire Police.

The relevant legislation covering the police use of BWV can be found in the following Acts of Parliament:

- Data Protection Act 2018 / General Data Protection Regulations (GDPR) - covering the processing, retention and management of personal data.
- Criminal Procedures and Investigations Act 1996 - covering the disclosure of material in criminal cases.
- Freedom of Information Act 2000 - covering the right of individuals to access recorded information held by public authorities.
- Human Rights Act 1998 - Specifically Art 6 ECHR (Right to a fair trial) and Art 8 ECHR (Right to respect for family and private life)
- Regulation of Investigatory Powers Act 2000 - covering covert directed or intrusive surveillance.
- Police and Criminal Evidence Act 1984 - specifically in respect of identification (Code D) and S64 (Power to photograph without consent)
- Protection of Freedoms Act 2012

For the purpose of this procedure the following definitions apply:

- **BWV** - Any body-worn device worn in an overt capacity for the primary purpose of recording video and audio evidence. (Therefore equipment such as smartphones or hand held video cameras would not fall into this definition.)
- **User** - A member of Wiltshire Police trained and authorised to use BWV equipment in an operational capacity.
- **Photograph** - S64A PACE allows for the photograph of certain persons without their consent. This photograph has been held to include video footage.

Overarching Principles for the operational use of BWV

- BWV is a useful means for recording evidence and for demonstrating transparency in respect of police actions at incidents, however, **BWV should only be used to corroborate and not replace evidence from other sources such as police officers or eye witnesses.**
- BWV is an overt system and should not be used for covert recording except in exceptional circumstances and where the necessary authorities have been granted.
- The use of BWV must be proportionate and necessary to the situation. BWV use should be 'incident specific.'

RELATED POLICIES, PROCEDURES and OTHER DOCUMENTS

[BWV SharePoint Site](#)

[BWV Review Evidence Guidance](#)

[BWV User Upload Guidance](#) (Niche/BWV OEL)

[BWV Camera User Guide](#)

[Force Records Retention Schedule](#)

[College of Policing Body Worn Video Guidance 2014](#)

Information Commissioner's code of practice for the use of CCTV systems in public places 2013

[Information Commissioner's guidance for the police, criminal justice and border sector.](#)

[Office of the Surveillance Commissioner - advice and guidance notes](#)

[Tri-Force Specialist operations Standards Operating Procedures](#)

[Form 808: Body Worn Cameras – Operational Risk Assessment](#)

AUTHORISED PROFESSIONAL PRACTICE AREAS

[Information Management](#)

[Stop and Search](#)

DATA PROTECTION

Any information relating to an identified or identifiable living individual recorded as a consequence of this procedure will be processed in accordance with the Data Protection Act 2018, General Data Protection Regulations and the [Force Data Protection Policy](#).

FREEDOM OF INFORMATION ACT 2000

This document has been assessed as suitability for public release.

MONITORING and REVIEW

This procedure will be reviewed every two years in light of any national policy or procedural change or due to changes to law or Force strategy or at such other times as may become necessary and may be subject to amendment or revision as a result changes or developments in technology or equipment as may occur from time to time.

WHO TO CONTACT ABOUT THIS PROCEDURE

The Head of Crime, Standards and Justice is responsible for this procedure. All queries relating to this procedure should be directed to Crime, Standards and Justice Dept. or the Force Policy Officer.

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1. OPERATIONAL USE of BWV

1.1 When to start recording

When tasked to any incident by the CCC, BWV MUST be worn by Officers attending and switched on to record. In addition, BWV MUST be worn and recording in the following circumstances when not responding to a tasking by CCC:

- Attending any scene or person where it is likely that evidence (physical, visual or audible) is available that may be moved, altered, damaged or destroyed prior to proper recording and/or seizure.
i.e. flagged down by public due to an RTC, happening upon the aftermath of a violent incident or finding a person apparently unconscious through illness or intoxication.
- When executing any stop/search powers of persons and/or vehicles (see [section 2.1](#) below).
BWV recording must commence as soon as sufficient grounds are present to request compliance with the search.
- Dealing with any member of public where there is a suspicion that an allegation will be made against Police or there is a history of allegations against Police.

It is clear that there may be occasions where BWV recording cannot be activated due to the immediate urgency of the situation an Officer is faced with (e.g. risk of escape, immediate violence or resistance, risk to life/property or crime in progress). In these circumstances, recording should be activated as soon as it is safe and practicable to do so.

BWV should not be used where officers conduct a search of subjects where intimate parts of the body are exposed except in the most exceptional of circumstances. The camera should be covered or directed away from the person and, where possible, audio recording should remain activated.

Where the user decides that a recording is not appropriate, or where recording does not take place in the circumstances outlined above, users should be able to justify why in their statement and/or pocket note book or other record of the incident as appropriate.

Users should consider Art 6 ECHR (right to a fair trial), Art 8 ECHR (right to private/family life), Article 10 ECHR (right to freedom of expression) and any vulnerability factors in relation to persons present when assessing whether the use of BWV is a proportionate tactical option for evidence gathering.

Users must be mindful that the use of BWV does not replace existing requirements, procedures or policy obligations in respect of recording admissions, statements or declarations.

The threshold for deciding whether the recording of an incident will be of evidential value is a low threshold. The recording of the incident may be required as evidence in other proceedings such as civil actions, complaints against police, ASB proceedings or in relation to ongoing investigations that may not be immediately apparent to the user. It is better to have recorded the footage and not need it than not to have recorded anything and subsequently finding that evidence was missed.

The rules for retention of recordings - evidential / non-evidential – must be followed. Therefore if the recording is not evidence for the case it is subject to or any immediate matter known or related to that case the recording should be retained within the rules and marked 'non-evidential' (see [section 4 Post Recording](#) below).

Officers must not record footage from CCTV systems using mobile cameras or video recorders. This is not an acceptable process for recovering CCTV data for evidential use, and is only condoned in a situation where there is an immediate risk to life to get a quick image for identifying an offender at large and in those circumstances for intelligence use only. This must then be followed up evidentially with a validated download of the data.

1.2. During recording

Users must be mindful that BWV is an overt recording mechanism. If used in a covert manner without necessary authorities, then there is a risk of evidence being ruled inadmissible and being excluded at court.

Therefore, when users activate their BWV equipment they should, unless it is impracticable to do so by reason of the situation, behaviour or condition of those present, make a verbal announcement, in plain language, to the following effect:

- That video and audio recording is taking place

It is also good practice to explain the nature of the incident or the reason why the recording has been activated.

Recording that has begun prior to arrival at the scene of an incident (for example whilst en route) then the user should inform those present, unless it is impracticable to do so by reason of the situation, behaviour or condition of those present, as to the fact that they are equipped with BWV and that audio and video recording is taking place. This should be in straightforward language.

Recording should, where practicable, be restricted to those individuals and areas where it is necessary in order to provide evidence or intelligence relevant to the incident. It is important that, where practicable, users minimise collateral intrusion on those not involved in the incident.

There are certain areas where there is a higher than usual expectation of privacy - for examples; toilets, changing rooms or treatment areas in hospitals. When considering the use of BWV in these areas, users must be mindful of the increased justification that will be required in respect of intrusion into the privacy of those being recorded.

Recording should be uninterrupted from the beginning of the incident until the time the user decides it is no longer proportionate or necessary to continue recording.

In cases where formal Post Incident Procedures (PIP) are taking place or are likely to take place, users should continue to record until instructed otherwise by the post incident manager.

There may be circumstances however, where selective capture of parts of the incident may be necessary. This may be at lengthy incidents where nothing of evidential value is likely to occur or because of the need to isolate confidential details (such as victim or witness details) from other footage. Users should be mindful that such selective capture could lead to potential challenges at court if care is not exercised.

The user must therefore justify any such selective capture in their pocket note book or statement. Prior to any temporary suspension the user should make a verbal announcement explaining the reason for the suspension.

On recommencing recording, the user should again announce to those present that video and audio recording has restarted.

There may be occasions where the recording is inadvertently stopped during an incident - examples include the BWV being knocked off in a struggle, technical failure or the view of the camera and/or microphone becoming obscured. In these circumstances users should be prepared to explain why in their pocket books or statement.

1.3 Objections and requests for/against recording

There may be occasions where a person objects to being recorded. Users may record overt video and audio without consent if this recording is for 'Law Enforcement Purposes'. Authority to do this should not be confused with a power to take photographs without consent.

The decision to continue recording should remain with the user, who should consider the objections made by the person in respect of the recording. The presumption should be, however, that recording should continue unless the objections made override the need to record an evidential encounter.

If the user decides to continue recording despite the objections of an individual, they should make a note as to why they have decided to do so. They should also take steps to advise the individual as to the following:

1. The reason for the recording taking place - usually this will be for the prevention and detection of crime
2. Non evidential material will only be retained for a maximum of 31 days as prescribed by the DPA
3. Footage is subject to the DPA and can be applied for by making a subject access request. Information on making a request can be found on the Wiltshire Police website under Advice, Your Data.
4. Any material is restricted and will only be disclosed to 3rd parties in accordance with the law.
5. The recording is being made in order to act as a corroboration of the encounter and thus can be used to back up the accounts of each party at an incident.

Equally, users may encounter members of the public who specifically request that any encounter or interaction is recorded, even if the user does not feel that there is any evidential reason to do so. Unless there are clear reasons to do otherwise, the user should record such an encounter, but should remind the person requesting the recording that, unless there is an evidential reason to retain the footage, it will be automatically weeded in line with existing guidelines (currently 31 days.)

2. SPECIFIC OPERATIONAL SCENARIOS

Notwithstanding the general situations where recording should take place as detailed above, the expectation is that users must activate Body Worn Video to record events in the following specific circumstances unless there are legal or operational reasons not to do so or it is clear that to do so would significantly hinder communication. Any such reasons must be recorded.

1. When a user decides to use statutory powers to stop a motor vehicle in order to engage with one or more of the occupants
2. When users attend premises in order to affect an arrest.
3. Prior to entering any land, premises, vehicle, vessel or aircraft in pursuance of any legal power in order to search those premises and for the duration of the search.
4. When a user stops a person in a public place in order to ask them to account for their actions in order to establish their possible involvement or otherwise in an offence.
5. When a user decides to conduct the search of a person, premises, land, vehicle, vessel or aircraft in accordance with code A Codes of Practice for PACE or any other statutory power.
6. When a user believes an interaction presents or is likely to present a risk to the safety of the user or other persons present.
7. Where a user is or may be required to exercise the use of force against persons or property.
8. Where a user gives a direction to an individual or group under any statutory power.

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In circumstances where a user would have been expected to have recorded the incident as per the circumstances above and BWV is not used, the user must record why this did not happen in their statement/ pocket book or other record of the incident as appropriate.

2.1 Stop and Search

Users should be aware that stop and search encounters can attract complaints and have a significant impact on community confidence. All stop and search encounters must be conducted in line with the Stop and Search Policy.

BWV recording must commence as soon as sufficient grounds are present to request compliance with the search. BWV should be activated so as to capture all relevant information in the time leading up to the person being detained for a search, the conduct of the search itself and the subsequent conclusion of the encounter.

Users must be aware that the conduct of any stop and search process must always comply with relevant legislation and codes of practice. A BWV recording does not replace the need for a written record of the search/encounter to be completed by the searching officer and given to the subject either at the time or within any specified period.

Users must conduct stop and search encounters with due regard to the sensitivities of the person being stopped and with regard to any local community issues regarding the use of such powers by police.

BWV should not be used where officers conduct a search of subjects where intimate parts of the body are exposed except in the most exceptional of circumstances. The camera should be covered or directed away from the person and, where possible, audio recording should remain activated. The officer should explain to the person that the recording is for the protection of all parties and reassure them that intimate parts will not be filmed.

Whilst there is no specific power within PACE to take a photographic or video image of a person during a stop and search, such action is not explicitly prohibited. However, users must consider Art 8 HRA (right to private life) and consider, if requested to stop recording by the subject, whether it is necessary to continue to do so. The presumption would be that recording a stop and search encounter is likely to be proportionate unless overriding circumstances to the contrary exist.

2.2 Domestic Violence

The use of BWV can be very beneficial at domestic incidents. The benefits of capturing evidence of demeanour, language, the scene and the behaviour of those present can be used to support domestic violence investigations.

This recording can provide evidence to support grounds for a prosecution where a victim or witness is reluctant to provide a written statement.

Users must be mindful that, even in non-crime domestic incidents, BWV footage may be required as evidence in future or civil proceedings to prevent further incidents. The advice of the relevant Domestic Abuse Investigation Team (or officers with equivalent expertise) should be sought when determining whether such footage is needed to be retained on police servers in these cases.

When recording at domestic incidents, users should consider whether victims or witnesses are 'vulnerable.' If the user feels that they are, the user should only record the initial account and their actions at the incident. In depth questioning of vulnerable victims or witnesses on camera may amount to a 'witness interview' and should be conducted using Achieving Best Evidence (ABE) principles.

2.3 Use of force by police

At incidents where users use force or where there is a likelihood that the use of force may be necessary, the use of BWV is a proportionate means of corroborating the facts of the incident for later presentation as evidence and can also demonstrate transparency in respect of police actions. Where it is impossible to commence recording prior to force being used - for example, when users face spontaneous and/or unexpected violence, the user should activate recording as soon as it is reasonably practicable to do so.

In such circumstances, users must explain why recording was impracticable in their statements and/or pocket note books.

Users must be mindful that the BWV is unlikely to capture the whole circumstances of any incident.

BWV recordings cannot justify, in isolation, any use of force. Users must still justify their actions, perceptions and decisions based on their honestly held beliefs at the time of the incident.

2.4 Victim statements

BWV should be used to capture the first accounts of victims and/or witnesses at incidents.

The first account is principally about determining any action that is immediately necessary. Only such questions should be asked as are necessary to:

1. Establish whether an offence has been committed
2. Assess current risk(s) to victims and/or witnesses and
3. Identify and prioritise areas of the investigation

In the case of serious sexual offences, the user must seek the victim's explicit permission for the BWV recording of such an account. This should, ideally, be 'on camera.'

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

In situations with multiple victims and/or witnesses, users should, where possible, separate the individual accounts by 'bookmarking' footage.

Subsequent to an incident, witnesses may be shown footage directly relevant to them in order to refresh their memory of the encounter. They should only be shown footage where they are directly concerned and no other footage should be shown.

A record of any such showing, including the time frames of any video should be made. It is strongly recommended that, wherever practicable, such showings take place under controlled conditions. This will minimise any allegations that witnesses were coached or shown other footage.

Users should bear in mind that any questioning of witnesses beyond the parameters laid out above may lead to them inadvertently conducting an 'ABE' interview. This is especially important when speaking to witnesses who are juvenile, vulnerable or otherwise in need of extra support (e.g. an appropriate adult).

2.5 Pre-planned operations

When planning policing operations, the officer in charge of planning the operation should consider the circumstances in which BWV will be used on the operation and their decision should be recorded in the planning log or other record of the operation.

Officers in charge of planning police operations should also ensure that their decisions around the deployment of BWV on the operation are communicated to users prior to the start of the operation in question.

2.6 Other scenarios

BWV users must be careful to respect legal and/or journalistic privilege and must not record material that is, or is likely to be, subject to such protections unless exceptional circumstances apply.

The use of BWV in establishments such as prisons, military establishments or other areas where the BWV may capture sensitive or restricted data subject to the provisions of the Official Secrets Act or other similar legislation must be approved by the Governor, Officer in charge or individual with similar responsibility or their representative.

3. STOPPING RECORDING

As the decision to record rests with the user, so too does the decision to stop recording. However, users should be satisfied that, in making the decision to stop recording, the risk of not capturing evidential material is minimised.

Users should, under normal circumstances, cease recording in the following instances:

1. It is no longer justifiable or proportionate to record - e.g.: if, after investigation, there is no likelihood of evidential material being recovered or used.
2. The incident has concluded
3. A different recording system takes primacy - e.g.: when an arrested person arrives in custody, the BWV user should cease recording as the custody cameras will take primacy for recording the encounter with the subject.

Users may render themselves open to criticism or challenge if they cease recording too early or whilst an incident is ongoing. Therefore, recording should continue until it is clear from the footage that the points above are satisfied - for example by users recording themselves clearly leaving the scene or by making an announcement that a different recording system has taken over.

In cases where formal Post Incident Procedures are taking place or are likely to take place, users should continue to record until instructed otherwise by the Post Incident Manager.

If on private premises, users should only record if they are lawfully allowed to be present e.g.: if officers enter a premises at the invitation of the owner and subsequently that invitation is withdrawn, officers should cease the use of BWV until they return to a public place unless a statutory power allows them to remain on that premises without the consent of the occupier.

4. POST RECORDING

The use of BWV generates a large amount of digital material that must be stored appropriately, retained, reviewed and deleted. To ensure compliance with the above, Wiltshire Police will initially use the Reveal (DEMS) video management system to store all recorded footage, which will be automatically uploaded and managed subject to the above. It will be available, subject to access restrictions, on all Wiltshire Police network computers.

All BWV footage should be uploaded onto a secure server as soon as practicably possible. This will ensure that the footage and evidential continuity is secure.

Once a recording has been completed, the recorded data becomes police information and is subject to the ACPO (2005) Code of Practice on the Management of Police Information (MoPI).

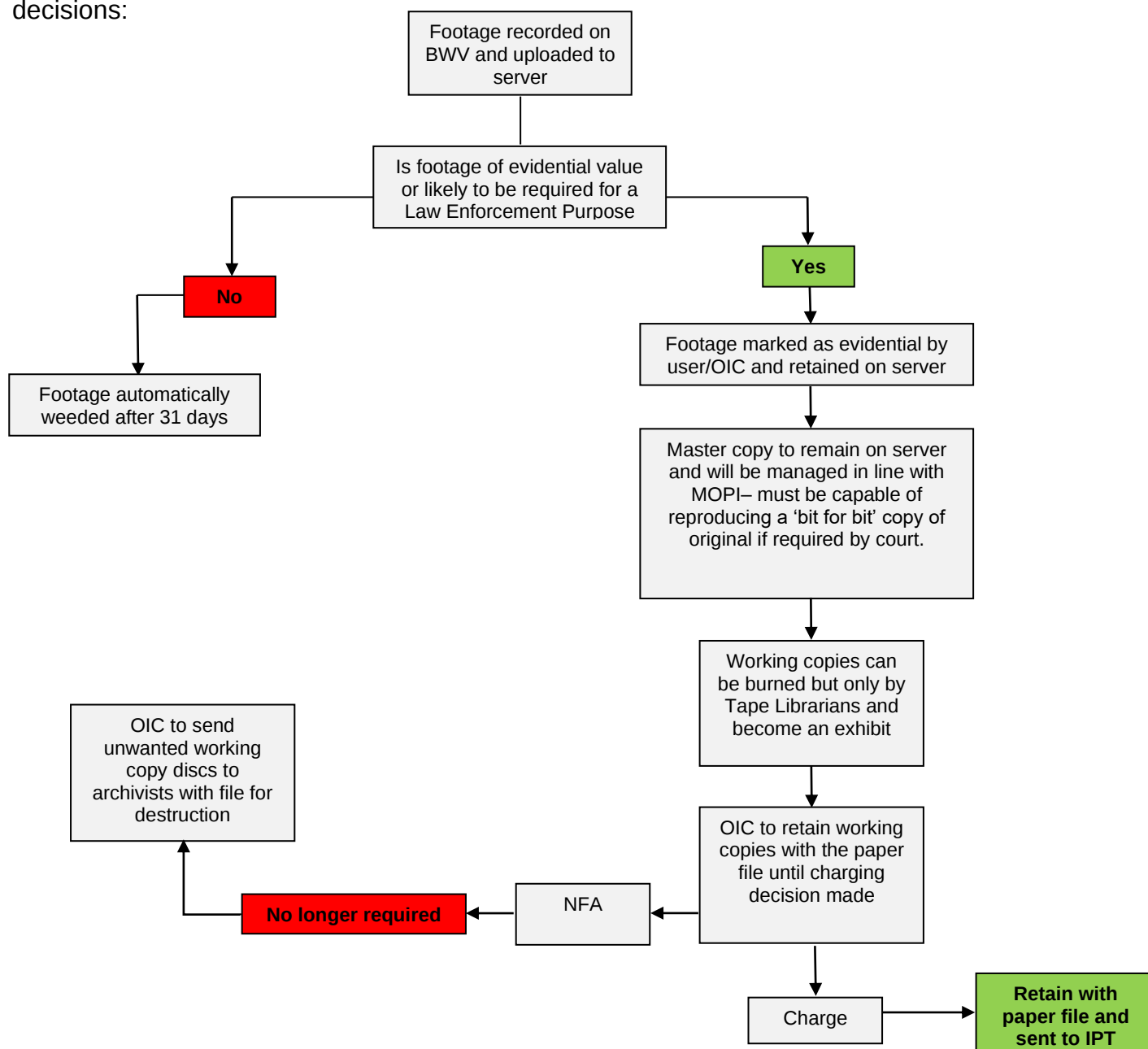
Once the footage is uploaded, the user must decide as to whether the footage is likely to be required at a future point, either as evidence or for some other Law Enforcement Purpose. If the footage is evidential, the inputting officer or OIC must mark the evidential tick box to ensure it's retained for the correct time period. Evidential footage will be retained for a minimum of 6 years (in line with MOPI guidelines).

BWV should be marked as 'evidential' only when the continued retention is necessary to support an investigation/operation. It must not be marked evidential for the sole purpose of professional development.

If the footage is **not** required as evidence then the inputter or OIC will mark the footage as non evidential and it will be deleted after 31 days. Where there is a requirement for BWV to be viewed / referenced for personal professional development purposes, this should be completed within the 31 days for non- evidential and in accordance with MoPI if marked as evidential.

The Reveal (DEMS) video management system has a full audit capability enabling review of such aspects as search, metadata entry and playback all BWV footage should be uploaded to DEMS as soon as possible. This will assist in proving evidential integrity. Footage cannot be deleted from the device prior to the uploading process.

The following process map should be consulted when considering post recording and retention decisions:



The retention of footage is in line with MoPI, once a case has concluded then see process chart above.

Where an investigation is taken over by a “secondary investigator” the responsibility as to whether the continued retention of footage is required will pass to that investigator or officer in the case (OIC).

The need for retention must be justifiable and tangible. Simply retaining footage in case it may be required is not a strong enough test and the investigator or OIC in each instance must be capable of justifying why footage needs to be retained on a case by case basis.

It is expected that supervisors will, on an ongoing basis, intrusively supervise their officers and ensure that any footage retained is being kept for a justifiable and objective purpose. Likewise regular dip sampling of footage is expected of supervisory officers to provide guidance and feedback where appropriate.

Any working copies of BWV that are produced by Tape Librarians during the course of an investigation should be retained until the conclusion of proceedings (including any known appeals process if applicable).

Each working copy will be given an exhibit number and continuity of that exhibit becomes the responsibility of the OIC. When no longer required, such copies must be securely disposed of by the Tape Librarians.

It is not necessary to burn a ‘master’ copy on each occasion. The master copy is the first complete viewable footage of any upload and should be retained on the server. If required by the court, a ‘bit-for-bit’ copy of the original footage must be burned and provided as required.

In order to prove the authenticity of recordings required as evidence in a trial at court, it may be necessary for evidential continuity statements to be produced. Such statements confirm that any securely stored master copy (as above) has not been tampered with in any way and thus must include the following content:

1. The equipment serial number or unique reference number
2. The day, date, time and location that the user took possession of the equipment (Time ‘A’)
3. The day, date, time and location that they commenced recording (Time ‘B’)
4. The day, date, time and location that they concluded recording (Time ‘C’)
5. The day, date, time and location that the master copy was created and retained securely on the server (Time ‘D’)
6. Whether any other person had access to or used the equipment between times A, B or C and time D - if so, a statement will be required from that person.

BWV footage may be retained for Law Enforcement Purposes. For clarity, this is defined in MoPI (Management of Police Information) guidance as:

1. Protecting life and property
2. Preserving order
3. Preventing the commission of offences
4. Bringing offenders to justice
5. Any duty or responsibility of the police arising from common or statute law

BWV footage that is retained by police for Law Enforcement Purposes must be held in accordance with the principles and guidance set out in MoPI.

Users and investigators must remember that where cases are prosecuted, BWV footage is 'material gathered' during an investigation and therefore may be subject to disclosure responsibilities. BWV footage in these cases should be retained as 'unused material' even where the user considers there may be no immediate evidential value in the footage. Failure to do so may lead to an abuse of process argument being lodged.

Footage may be shared with other partners if a) It is proportionate and necessary for Law Enforcement Purposes and b) the other partner is a signatory to an authorised information sharing protocol between them and the Wiltshire Police.

The release of BWV material to the media for publicity purposes or appeals should be proportionate and necessary for the purpose intended. Existing Wiltshire Police procedures in respect of release of photographic and/or video material to the media must be followed. In cases of doubt, the advice of Force Press Office should be sought.

4.1 Road Traffic Offences

Because there is a lengthy period of time before a Road Traffic Offence is referred to court, it is often the case that the BWVC has been deleted as the 31-days non-Evidential period has expired.

For all Road Traffic Offences, please adopt the following process in DEMS:

1. Officer updates DEMS as TOR in the notes and selects "Evidential – Needs MOPI Grading".
2. The Tape Librarians will MOPI grade this as 6 - Previously Marked as Evidential – Not Appropriate after Review. If a summons has been raised it is unlikely that the process would take longer than a year and the BWV would have been copied in that time.
3. In the event that the footage needs retaining longer than a year, it is up to the OIC to notify the Tape Librarians for regrading for a longer period.

5. CLOAKING

Cloaking the footage makes it available to a select group of people. If an item is cloaked it may disappear from the current search if the user does not belong to the group of users that can view cloaked material. Cloaking of BWV Footage MUST only be done in compliance with the criteria stated below.

If BWV Footage has been cloaked accidentally the officer uploading the footage must email the Project Mailbox (DEMS@wiltshire.pnn.police.uk) immediately for support with uncloaking the footage.

Restricting access to BWV footage may cause potential risk to individuals and the organisation as footage ceases to be visible to parts of the workforce (which may include the officer uploading the footage). The request to cloak records will therefore need to be justified with a fully documented rationale and authorised as stated below.

Tape Librarians will highlight if there are any 'cloaked' videos that do not have 'Authorised by.....' written in the notes as part of their daily MOPI review. The officer cloaking the footage will then have 7 days to update the notes with the justification and authorisation or the footage will be uncloaked.

5.1 Authorisation to Cloak Footage

Any decision to cloak BWV Footage MUST be authorised by the SIO, Duty Inspector or FIM. Authorisation will only be given where there is a clear justification for the footage to be cloaked. This justification must be a fully documented in the notes.

This decision must then be ratified by a Superintendent within 24 hours. Such authorisation will only be given when certain circumstances apply. These will be as follows:

- Footage involving high-profile, public figures where there would be considerable media interest
- Footage containing extremely sensitive material that relates to a current or recent Police Officer/Staff member
- Exceptional circumstances*

***Exceptional Circumstances**

What constitutes “exceptional circumstances” will be judged on a case by case basis by the SIO, Duty Inspector or FIM authorising the cloaking of BWV footage. What constitutes an exceptional circumstance would need to be more serious and sensitive than the above examples.

5.2 Reviews of Cloaked Footage

The authorisation and justification for cloaking BWV footage, along with the rationale for giving authorisation and a clear objective to review and remove the ‘cloak’, **MUST** be recorded in the ‘Notes’ Field against each video.

The SIO, Duty Inspector or FIM, who gave the authorisation, is responsible for carrying out a review of the decision to cloak the footage not more than 72 hours from time authorisation was given.

A further review **MUST** be conducted within 48 hours of the first review. Any extension beyond this period **MUST** be further authorised and then regularly reviewed by a Superintendent.

Following the conclusion of an operation/investigation, the SIO, duty inspector or FIM, who gave the authorisation, must record that a full final review of cloaked BWV Footage has been undertaken and provide a rationale for retaining the cloaked status if that is the decision. The decision to retain **MUST** be ratified by a Superintendent.

Cloaked footage will only be retained in line with the retention requirements stated in section 4 above.

If, at any time, the decision is made to remove the ‘cloak’ notification of this must be sent to the Superintendent.

6. DOCUMENTATION

The use of BWV does not replace the need to write statements or complete records of encounters such as stop and search records.

Notes of incidents that have been recorded on BWV should clearly state this fact and should also include whether the footage has been reviewed prior to the writing of any notes. Those writing notes should also include whether any other persons were present at such viewings.

In cases where formal Post Incident Procedures are taking place or are likely to take place, any viewing of BWV footage should only take place under the direction of the Post Incident Manager in consultation with the investigating officer.

It should be clear that whilst BWV footage will provide supplemental evidence and in many cases can shorten the statement writing process (e.g.: by covering descriptions and words used at incidents), it will still be incumbent on those present to justify their decisions and actions at incidents, regardless as to how obvious they may appear to be on the footage.

Users will comply with the [Niche/BWV OEL procedural guidelines](#).

All footage, whether 'used' or 'unused' material, must be disclosed in criminal proceedings, either on the MG5 or MG6 series depending on whether the material is used or unused. BWV footage that contains sensitive information or details should still be logged on the MG6E.

When initially disclosing the existence of BWV material to the defence, a suitable summary of the evidence contained therein will suffice. It should only be necessary to provide copies of the BWV to the defence in the case of actual or anticipated not guilty pleas. It is important to ensure that resources are not wasted through the provision of materials that will not be used.

Where BWV footage forms key evidence at Court or other Judicial Proceedings, case files and documentation must be clearly marked to this effect, together with notes of the relevant timing for key points in any footage.

7. INVESTIGATIONS

The use of BWV to support criminal investigations is encouraged. Investigators should inform Evidential Review Officers or Prosecutors of the presence of BWV footage at an early stage, so that a decision can be made as to whether and how any footage will be used in proceedings.

7.1 Identification

Code D of the PACE Codes of Practice applies to any identification procedures and this includes the showing of BWV footage for witnesses in respect of identification proceedings.

7.2 Suspect Interviews

Due to recent changes to Code E of PACE, the use of BWV devices to record suspect interviews is not recommended at this time. This is due to the definition of 'audio' recording as written in the Codes and the current advice is that the use of BWV will be insufficient in this regard to record a suspect interview away from a police station.

Users must remember that suspects who are under arrest must be brought to a designated police station for interview in line with PACE provisions.

7.3 Professional Standards

BWV footage can be important in resolving complaints. Footage from incidents can be used to identify poor performance and learning opportunities. BWV footage can be used to quickly resolve complaints and avoid lengthy investigations.

Investigators should only access footage for professional standards purposes where there is a clear and justifiable need to do so. Examples of this include - specific investigations, identified patterns of complaints in respect of a particular officer or where specific intelligence has been received that would indicate that viewing of BWV footage is proportionate and necessary.

It is expected that supervisors should consider reviewing BWV footage relating to their officers as a supervision tool and as a means of improving performance or to identify training needs. This is especially important in areas such as stop & search, where improved performance will increase community confidence.

When reviewing footage in these circumstances, supervisors and/or investigators should make a note in their PNB of the fact they have done so and a brief reason for reviewing the particular piece of footage.

Where there is a requirement for BWV to be viewed / referenced for personal professional development purposes, this should be completed within the already agreed and defined timescales; e.g. 31 days for non- evidential and in accordance with MoPI if marked as evidential.

BWV footage is subject to the principles outlined in the Data Protection Act. This prohibits the random dip sampling of retained footage other than for supervision and/or investigation purposes as outlined above. Open access to any database or server containing BWV footage for reasons other than this will not normally be granted unless exceptional circumstances exist and authority is given by the Director of Professional Standards.

Any viewing of footage by complainants should be recorded by the investigating officer. In such circumstances, consideration should be given to considering whether non-connected persons on the material should be obscured.

8. DATA PROTECTION, SUBJECT ACCESS and FREEDOM OF INFORMATION REQUESTS

BWV footage should be considered as 'police information' and as such the data protection principles as outlined in MOPI (Management of Police Information) should be followed.

Users should be aware that requests for BWV footage may come about as a result of Freedom of Information Act (FOIA) requests or by individuals or their agents asking for footage concerning them under the Data Protection Act and/or General Data Protection Regulations (also known as Subject Access requests).

Existing Wiltshire Police policies and practices should be followed in respect of these requests. Users should be aware of the rights of individuals to request footage or information held by police. They should be prepared to explain how individuals can access footage. These details will be publicised on the Wiltshire Police external internet site.

If a subject access request is received, the person receiving the request should, where practicable to do so, take immediate steps to preserve the footage in order to fulfil the request. However, a request for subject access is not, in itself, reason to retain footage that would otherwise be weeded or removed from the MPS system. Users must therefore be careful to remind those enquiring in respect of subject access or FOIA requests of the time limits around weeding of non-evidential footage. In cases where footage would otherwise have been weeded, once the subject access request has been completed, the footage should be weeded as normal.

9. INTELLIGENCE

BWV footage may be used for intelligence purposes if the footage itself is being retained for an evidential reason or judicial proceedings (e.g. ASBOs, Inquests etc) are reasonably anticipated.

In cases where BWV footage has been recorded of an individual and there would otherwise be no evidential reason to retain the footage or no judicial proceedings are anticipated, then this footage must, except in exceptional circumstances, be weeded in line with all other footage and may not be kept purely for intelligence or identification purposes.

If it is deemed no longer necessary or proportionate to retain the footage purely for intelligence purposes, then this footage must be weeded in line with all other non evidential footage.

Users must not use BWV to circumvent other statutory powers e.g.: it would be unlawful to use a stop & search power purely for the purpose of obtaining BWV footage to be used for intelligence or identification purposes.

10. DIVERSITY ISSUES

Users need to be aware that the use of BWV can be intrusive and careful consideration must be given in respect of Art 8 ECHR (Right to family and private life).

Users must be aware that there may be implications when using BWV at homophobic, racial or domestic incidents. Users must be mindful to give consideration to the needs of all persons involved at incidents and take steps to ensure that no group or individual is disadvantaged by the use of BWV.

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. Officers should be aware of this fact and be sensitive to the wishes of those involved in these cases.

Users should, where issues are raised by those present, consider whether less intrusive methods of recording incidents are appropriate, such as obscuring the lens and having an 'audio only' record or whether alternative methods are more appropriate.

Users should consider cultural issues and sensitivities when using BWV equipment, but the overriding principle must be to meet the needs of victims and the interests of justice.

11. TRAINING

Operational BWV footage may be used for training purposes. The consent of the OIC should be obtained before using footage from evidential incidents for training purposes.

If using Operational BWV footage for training purposes, trainers must justify why this footage needs to be retained if it would otherwise ordinarily be weeded.

Trainers must regularly review such retained Operational BWV footage to ensure retention is still proportionate and necessary for training purposes.

If using footage for training purposes, trainers must consider taking steps to obscure persons on the material as necessary.

BWV equipment may be used in training student officers at role plays and other non operational incidents. Trainers must be aware that the retention of such footage will still need to be justifiable.

12. HEALTH & SAFETY ISSUES

An [operational risk assessment](#) document has been drawn up concerning the use of BWV equipment within the Wiltshire Police. Users and managers should familiarise themselves with the contents of this risk assessment and implement the control measures where necessary to do so.

12.1 Suspect Devices

Current advice is that self contained BWV devices that do not transmit footage in any form may be used at the scene of suspect devices. The radio frequency (RF) energy emitted from these BWV devices has been assessed to be safe.

Some BWV devices, however, are capable of transmitting footage over data networks such as Bluetooth, Wireless, Wi-Fi or over 3G and 4G data networks. These devices should not be used at the scene of suspect devices and the same distances as shown for Wiltshire handheld airwave radios should be maintained.

If there is any doubt whatsoever on the part of the user as to whether their BWV is capable of transmitting data, then the BWV should not be used at the scene of suspect devices.

DOCUMENT ADMINISTRATION

Ownership:

Department Responsible: Crime Standards and Justice
Procedure Owner/Author: Supt Chris HANSON / Insp. Dean KNIGHT
Technical Author: Andrew IRVING (Policy Officer)
Senior Officer/Manager Sponsor: ACC Crime Justice and Vulnerability

Revision History:

Revision Date	Version	Summary of Changes
29.03.2019	3.0	New section 5 Cloaking added.
04.11.2019	3.0	More detail added to key considerations and sections 1.1 and 2.1 regarding the use of BWV during intimate body searches.
01.02.2021	4.0	Section 4.1 Road Traffic Offences added.
22.04.2021	5.0	Minor amendments to provide greater clarity on the importance of advising the public that BWV is being used, evidence capture, mental health units and the use of BWV to corroborate not replace other evidence from other sources.

Approvals:

This document requires the following approvals:

Name & Title	Date of Approval	Version
Policy Officer	19.05.2021	5.0
Supt. Crime Standards and Justice	28.03.2019	3.0
JNCC (Not required for all procedures)	N/A	

Distribution:

This document has been distributed via:

Name & Title	Date of Issue	Version
E-Brief		
Email to relevant affected Staff/Officers		
Other: <i>(state method here)</i>		

Diversity Impact Assessment:

Has a DIA been completed? If no, please indicate the date by which it will be completed. If yes, please send a copy of the DIA with the procedure.	☒ Yes ☐ No Date:
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Consultation:

List below who you have consulted with on this procedure (incl. committees, groups, etc):

Name & Title	Date Consulted	Version
Paul OATWAY, Tim PALMER,	19.02.2021	5.0
Gemma KELLY, Jo-Ann PAVELEY, Laura NORTH	05.03.2021	5.0
Michael HUGHES	05.03.2021	5.0

Implications of the Procedure:

Training Requirements

There is a plan in place to deliver training and roll out the cameras across the Force

IT Infrastructure

Reveal DEM's storage locations are available and compatible with current Force IT infrastructure.

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