



# **BEAN PARISH COUNCIL**

## **BODY WORN VIDEO POLICY**

**(Adapted from Dartford Borough Council's Policy)**

**Approved.....Keith Burgin  
Chair of Bean Parish Council  
14<sup>th</sup> February 2022**

## **POLICY STATEMENT:**

1.1 Body worn video (BWV) is a portable system that provides audio and visual record of activities undertaken by the wearer. Sound and images are recorded on a tamper proof storage device, thereby ensuring a secure chain/custody of evidence.

1.2 This policy establishes a framework with respect to the planning, introduction and use of BWV devices by BWV wearers and provides guidance on the applicable legislation, management and retention of audio and visual data produced by BWVs.

1.3 This policy brings together all the elements required for effective use of BWV technology. It seeks to enable BWV wearers to comply with legislation applying to BWV recording.

1.4 BWV technology has a number of benefits and the aim is to achieve and promote improved communication between BWV wearers and the public. In particular, it covers a number of specific objectives, namely:

- good quality evidence of conversations with the public, which will assure fairness, transparency and accountability supporting trust and confidence between BWV wearers and the public;
- provision of reliable evidence of conflict or confrontation, contraventions and any other matters that might lead to complaints;
- allowing for more detailed examination of the events leading up to and management of incidents;
- enhanced evidence capture;

promoting positive behaviour and interaction between BWV wearers and members of the public etc.

1.5 BWV will be used to support:

- de-escalation of conflict or confrontation;
- the prevention or detection of crime and disorder in the parish of Bean;
- criminal and civil action in the courts (including the use of images as evidence in proceedings);
- the appropriate enforcement authority such as the police by providing for example, BWV footage of street/road incidences;
- the protection of staff;
- dispute resolution eg: complaints against staff;
- the emergency services (the Council has a duty to support emergency services in the undertaking of their duties);
- partners, in the prevention of anti-terrorism (the Prevent Duty);
- the development of staff skills through use of operational footage for training purposes.

1.6 This policy confirms the Council's position of zero tolerance against all types of abusive, threatening words or actions and hate crime against its staff, which in all cases, will to be reported to the police with a view to prosecution.

1.7 This policy applies to all staff who use BWV – Authorised Officers (AO's).

1.8 The policy has regard to the Information Commissioner's guidance 'In the picture: A data protection code of practice for surveillance cameras and personal information' and the Home Office 'Working Technical Guidance for Body Worn Video Devices'.

## **2. THE LEGAL FRAMEWORK:**

2.1 Criminal Procedure and Investigations Act 1996 (CPIA 1996) - covering the disclosure of material in criminal cases. Images that are relevant to an investigation must be retained in accordance with the Code of Practice issued under Section 23 of the CPIA 1996. Any generated digital images should be accompanied by a full audit trail, from the point of capture of the image throughout the whole management process – including when they are passed to the Council's legal team or the Crown Prosecution Service or the defence or if there is any supervised viewing.

2.2 Human Rights Act 1998 - the use of BWVs must be shown to be proportionate, legitimate, necessary and justifiable in relation to the 1998 Act. In addition, use of the BWV device should address a 'pressing social need'.

Article 6 of the European Convention on Human Rights (ECHR) provides for the right to a fair trial. BWV footage has the potential for use in court proceedings e.g. where disclosed to the defence or prosecution. Images must therefore be safeguarded by an audit trail, the same way as any other evidence retained for court in accordance with the CPIA 1996.

Article 8 of the ECHR is right to respect for private and family life, home and correspondence. The Council is required to consider this Article when dealing with recorded images, both in public and in private. Recorded conversations between members of the public should always be considered private. The right to privacy should not be interfered with except where necessary for the prevention of disorder or crime. BWV wearers must not record beyond what is necessary and must also consider whether the recording is necessary to achieve the intended purposes, for example to capture evidence of an assault.

Throughout, the principle objective is ensuring that any interference with the rights of parties can only be justified if it is:

- necessary
- in pursuit of a legitimate aim – such as the prevention of crime
- in accordance with the law

2.3 Data Protection Act 2018 applying the General Data Protection Regulation (Data Protection Legislation) – regulates the processing of 'personal data', including 'sensitive personal data' whether processed on computer, still camera or any other media. Any recorded image that is aimed at or may identify a particular person or learning about their

activities is described as 'personal data' and is covered by the Data Protection Legislation - this is therefore likely to include all images and audio captured using BWV.

Sensitive personal data consists of information as to the commission or alleged commission, by a person, of any offence. Footage and audio recordings of a member of the public assaulting or behaving in a threatening way towards BWV wearers may be sensitive personal data, because such behaviour could amount to a criminal offence.

Under the Data Protection Legislation, personal data or sensitive personal data must be processed for lawful purposes. Processing could include storing the footage and audio from the BWV and then disclosing it to third parties, such as the police or the Traffic Penalty Tribunal.

Any information relating to an identified or identifiable living individual recorded as a consequence of the use of a BWV must be processed in accordance with the Data Protection Legislation.

Where the use of BWV includes both video and audio recording, these two types of data processing are considered as separate data streams and consideration is given to controlling them separately to ensure that irrelevant or excessive data is not obtained and held.

Where the BWV cannot record audio and video separately, it will only be used where the recording of audio and video together can be justified. This is important, as there will be situations where either audio recording or visual recording will be more intrusive (generally audio recording is likely to be more intrusive but visual recording may be more intrusive in particular situations, for example, planning enforcement action on private premises). BWV wearers should therefore assess both visual and audio recording for privacy intrusion.

The information is stored in such a way so that recordings relating to a specific individual or event can be easily identified, located and retrieved. Data is also stored in a way that remains under the Council's sole control, retains the quality of the original recording and is adequate for the purpose for which it was originally collected.

Under the Data Protection Legislation, individuals that have been recorded on BWV are entitled to copies of the footage on a subject access request. The Council's subject access request procedure will be applied.

Where footage has been obtained for the detection of a criminal offence committed by the person captured on the footage, the Council may not have to comply with a subject access request where it would prejudice the detection and prosecution of the crime for which the footage was taken. When the Council is considering withholding disclosure for this reason, advice should be obtained from the Data Protection Officer.

2.4 Freedom of Information Act 2000 (FOIA) - covers any recorded information that is held by the Council, such as printed documents, computer files, letters, emails, photographs, and sound or video recordings.

The FOIA does not give individuals access to their own personal data (information about themselves). If a member of the public wants to see information that the Council holds about them, they should make a subject access request. When an individual makes a request for information that includes someone else's personal data, Officers will need to carefully balance the case for transparency and openness under the FOIA against the data subject's right to privacy under the Data Protection Legislation and decide whether they can release the information without infringing the Data Protection Legislation. The Information Commissioner's guidance - 'In the picture: A data protection code of practice for surveillance cameras and personal information' states 'It is generally unlikely that this information can be disclosed in response to a freedom of information request as the requester could potentially use the information for any purpose and the individual concerned is unlikely to expect this. This may be unfair processing in contravention of the DPA'.

In cases where recordings of individuals have taken place either coincidentally or by intended conversations from either party, this evidence/recording is only to be seen by person(s) recorded.

2.5 Regulation of Investigatory Powers Act 2000 (RIPA) - BWV must not be used for covert recording except in exceptional circumstances and only where the necessary authorities have been granted.

As BWV can be quite small or discreet and could be recording in fast moving or chaotic situations, individuals may not be aware that they are being recorded. Clear signage must be displayed, for example on the BWV wearer's uniform, to show that recording is taking place and whether the recording includes audio. If necessary, BWV wearers will announce the use of BWV.

Individuals who wish to find out more information about the Council's use of BWV, should be directed to the Council's Privacy Notice for Community Safety including CCTV, Body Worn, on its website.

2.6 Protection of Freedoms Act 2012 (PoFA) and the Surveillance Camera Code of Practice (SCCP) - Section 29(6) of the PoFA provides that the SCCP covers 'any other systems for recording or viewing visual images for surveillance purposes'. This would include BWVs.

2.7 Surveillance Camera Commissioner: Self-Assessment tool testing the compliance with the following 12 guiding principles of the SCCP:

(1) Use of a surveillance camera system must always be for a specified purpose, which is in pursuit of a legitimate aim and necessary to meet an identified pressing need

This principle is met by:

- The use of BWV in public places for a clearly defined purpose or purposes it was established to address and for no other purpose eg: public safety and the prevention of disorder or crime);
- the ability to switch the BWV on or off and to know when and when not to record;
- providing further justification (evidenced by a DPIA) when considering video and /or audio recording in more sensitive areas, such as private dwellings etc.

(2) The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified

This principle is met by:

- not using BWV to record conversations unless it can be justified with robust supporting evidence eg: a matter of personal safety;
- deploying BWV in public places to address a problem that cannot be addressed by less intrusive means;
- BWV deployment being subject to regular review, to ensure it remains necessary and proportionate.

(3) There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints

This principle is met by:

- publishing information on the use of BWV on the Council's website
- implementing the Council's Complaints Procedure when addressing issues raised in connection with the use of BWV.

(4) There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used

This principle is met by:

- publishing the Council's Complaints Procedure on its website;
- sharing information about the nature of complaints with the Surveillance Camera Commissioner as and when requested, on an anonymised basis.
- this policy which outlines the Council's governance arrangements, responsibility and accountability guidelines for the use of BWV;
- the information being stored in such a way so that recordings relating to a specific individual or incidences can be easily identified, located and retrieved;
- data being stored in a way that remains under the Council's sole control, retains the quality of the original recording and is adequate for the purpose for which it was originally collected.

(5) Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them

This principle is met by:

- this policy which aids in the effective management and use of BWV and also ensures that any legal obligations affecting the use of BWV are addressed and complied with;
- the Parish Clerk being responsible for the induction and ongoing professional training and development of all BWV system users.

(6) No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged

This principle is met by:

- not storing any more images or other information than required for the stated purpose and publishing the retention period on the Council's website in compliance with the Council's Data Retention and Disposal Policy;
- information being deleted automatically after 30 days, unless required for evidential purposes;
- consideration being given to whether all of the footage captured by BWV should be retained, or whether extracting short clips would be more appropriate;
- having a robust tracking process, which demonstrates how data is moved from the Council to those using it for an investigation.

(7) Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes

This principle is met by:

- compliance with Data Protection Legislation subject access procedures;
- compliance with FOIA procedures;

(8) Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards

This principle is met by:

- complying with the Home Office 'Working Technical Guidance for Body Worn Video Devices' and other approved standards informing good practice which may be published from time to time.

(9) Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use

This principle is met by:

- complying with the data security measures referred to in the Home Office 'Working Technical Guidance for Body Worn Video Devices';
- limiting review of footage to dealing with complaints against and/or assaults on staff and occasionally, for training and quality assurance purposes;
- the connection of BWV devices and data download, to a single designated computer;
- not transferring BWV data from the single designated computer to a BWV device;
- password protection, encryption and restricted access;
- restricted access to the single designated computer - authorised staff only;
- the review of footage in a secure or private location.

(10) There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published

This principle is met by:

- the review of the BWV system on a regular basis, to ensure it remains necessary, proportionate and effective in meeting its stated purpose for deployment;
- the periodic auditing (by Internal Audit) of the Council's systems, processes, services and departments.

(11) When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value

This principle is met by:

- working with partner agencies to improve the effectiveness of operations relating to crime within the community;
- sharing intel with the police to deliver reductions in crime within the community;
- having effective safeguards such as those highlighted in section 7 of this policy to ensure the forensic integrity of recorded images and information and its usefulness for the purpose for which it is intended to be used;
- recorded material being stored in a way that maintains the integrity of the image and information.

### **3. GENERAL PROCEDURES OF OPERATION:**

3.1 BWV is likely to be more intrusive than the more 'normal' CCTV style surveillance systems because of its mobility. Before deciding to deploy such a device, its use must be justified and consideration given to whether or not its use is proportionate, necessary and addresses a pressing social need. If audio recording is to be used as well as visual recording, the collection of audio and video needs to be justifiable. A Data Protection Impact Assessment must be undertaken in consultation with the Data Protection Officer to demonstrate that this is the case.

1. BWV for enforcement will not be used as the primary evidential trail over other types of evidence, such as electronic notes and photographs on a digital camera taken by BWV

wearers. BWV will only be used to corroborate and not replace evidence from other sources, such as eye witnesses. BWV will be deployed where necessary e.g. to evidence a crime or a contravention where other forms of evidence gathering may not be adequate.

2. BWV will only ever be deployed by personnel trained in the use of the device and trained on the responsibility and restrictions of the device, including the use the Digital Evidence Management Software system.

3. BWV wearers must at all times, deploy BWV devices overtly and in accordance with this policy.

4. BWV wearers must wear uniform (where allocated) and a visible identification badge, which is affixed to the body camera advising their use of the BWV device and that there is audio and video recording.

5. The BWV device must be set on standby mode so that the device is ready for use as detailed in this policy.

6. BWV wearers 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.

7. Footage from BWV devices must not be recorded using mobile cameras or video recorders. This is not an acceptable process for recovering BWV 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.

8. The use of BWV does not replace the need to write statements or complete records of incidences, enforcement action, site visits etc. Notes should also include whether the footage has been reviewed prior to the writing of any notes. 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 etc., regardless as to how obvious they may appear to be on the footage.

9. The use of BWV to support criminal investigations is encouraged. 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, case files and documentation must be clearly marked to this effect, together with notes of the relevant timing for key points in any footage.

10. BWV footage should only be accessed 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 BWV wearer, or

where specific intelligence has been received that would indicate that viewing the BWV footage is proportionate and necessary. When reviewing footage in these circumstances, a note should be recorded against the footage providing the reason(s) for its review. BWV footage is subject to the principles outlined in the Data Protection Legislation. This prohibits the random dip sampling of retained footage other than for the professional standards referred to above.

11. BWV footage may be used for training purposes as a means of improving performance. If using BWV footage for training purposes, trainers must justify why this footage needs to be retained if it would otherwise ordinarily be securely destroyed. Trainers must regularly review retained 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.

Open access to any database or server containing BWV footage for any other purposes will not normally be granted unless exceptional circumstances exist and the relevant Director, in consultation with the Data Protection Officer, authorises access.

12. Any viewing of footage by complainants should be recorded in writing against the footage. In such circumstances, consideration should be given to obscuring non-connected persons on the footage.

### **3.2 Incidences**

BWV use will be 'incident specific';

- recordings should commence at the start of an interaction with a subject and should continue uninterrupted until the BWV wearer decides it is no longer proportionate or necessary to continue recording;
- 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, BWV wearers should make a verbal announcement explaining the reason for the suspension. On recommencing recording, the BWV wearer should again announce to those present that video and audio recording has resumed;
- BWV wearers must, when engaging in non-routine or potentially controversial conversations, where practicable, announce to the subject that video and audio recording is taking place; however, this should not be at the detriment to their own personal safety in the interest of health and safety;
- where BWV recording cannot be activated due to the immediate urgency of the situation or where the BWV wearer is faced with for example, immediate violence, risk to life/property or crime in progress), recording should be activated as soon as it is safe and practicable to do so;
- BWV wearers 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;
- recording should, where practicable, be restricted to those individuals and areas where it is necessary in order to provide evidence relevant to the incident. It is important that, where practicable, BWV wearers 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 example an enforcement site visit of a residential property. When considering the use of BWV in such an area, BWV wearers must be mindful of the increased justification that will be required in respect of intrusion into the privacy of those being recorded;
- BWV must only be deployed in an overt fashion. 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 BWV wearers activate their BWV device, 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; explain the nature of the incident or the reason why the recording has been activated.

#### **4. SPECIFIC OPERATIONAL SCENARIOS:**

4.1 Notwithstanding the general situations where recording should take place as detailed in this policy, the expectation is that BWV wearers must activate BWV 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 or place the BWV wearer at risk of harm. Any such reasons must be recorded in writing.

- in a lone worker scenario;
- enforcement in a public place - to ask individuals to account for their actions in order to establish their possible involvement or otherwise in an offence;
- where an interaction presents or is likely to present a risk to the safety of the BWV wearer or other persons present.

#### **5. STOPPING RECORDING:**

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

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

- it is no longer justifiable or proportionate to record - eg: if, after investigation, there is no likelihood of evidential material being recovered or used;
- the incident has concluded;
- a different recording system takes primacy - eg: incidences on Council owned premises where CCTV will take primacy for recording the incident.

5.2 BWV wearers (AO's) may render themselves open to criticism or challenge if they cease recording too early or whilst an incident is ongoing. Therefore, BWV recording should continue until it is clear from the footage that the points above are satisfied - for example by BWV wearers recording themselves clearly leaving the incident or announcing that a different recording system has taken over.

5.3 In cases where BWV wearers are in a position to assist the police or emergency services for example at the scene of an accident, BWV wearers should continue to record until instructed otherwise by the relevant authority.

## **6. OBJECTIONS AND REQUESTS FOR/AGAINST RECORDING:**

6.1 There may be occasions where a person objects to being recorded. BWV wearers may record overt video and audio without consent if this recording is for the purposes outlined in section 1 of this policy.

6.2 The decision to continue recording should remain with the BWV wearer, 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 objection(s) made overrides the need to record an evidential encounter.

6.3 If the BWV wearer decides to continue recording despite objections, 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:

- the reason for the recording taking place - usually this will be for the prevention and detection of crime;
- non-evidential material will only be retained for a maximum of 30 days, unless required for evidential purposes;
- footage is subject to the Data Protection Legislation and can be applied for on request in writing;
- any material is restricted and will only be disclosed to 3rd parties in accordance with the law;
- 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.

6.4 Equally, BWV wearers may encounter members of the public who specifically request that any encounter or interaction is recorded, even if the BWV wearer does not feel that there is any evidential reason to do so. Unless there are clear reasons to do otherwise, the BWV wearer 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 be retained for a maximum of 30 days and deleted thereafter.

## **7. DATA MANAGEMENT:**

7.1 BWV footage will be encrypted and managed by the fully auditable DEMS software.

7.2 Access to BWV footage will be password protected.

7.3 Access to the DEMS software will only be granted to authorised officers and strictly controlled by a systems administrator.

7.4 All access to stored data will be recorded.

7.5 The use of BWV generates a large amount of digital material that must be stored appropriately, retained, reviewed and deleted. All BWV footage will be uploaded onto a

secure server as soon as practicably possible. This will ensure the integrity and security of the data.

7.6 The stored data will be kept in a manner that allows for the BWV footage to be separate from any other BWV footage, by date and uniquely identifiable at all times.

7.7 Footage burnt for a third party must be delivered in a sealed CCTV evidence bag. The security number must be recorded; all footage must be signed for. Faces of those who are not the subject of the process for which the footage was burnt, will be obscured to maintain their right to privacy.

Once a recording has been completed, the BWV wearer must decide whether the footage is likely to be required at a future point, as evidence.

7.8 The retention of footage should be in line with that for other criminal exhibits. Once a case has concluded, then consideration should be given to the need for continued retention. The need for retention must be justifiable and tangible. Simply retaining footage in case it may be required is not a strong enough test. The Council must be capable of justifying why footage needs to be retained on a case-by-case basis, in accordance with its Data Retention & Disposal Schedule.

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

7.10 When no longer required, BWV footage should be disposed of securely.

7.11 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 has not been tampered with in any way.

7.12 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 BWV wearer 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.

7.13 The release of BWV material to the media for publicity purposes should be proportionate and necessary for the purpose intended. Existing Council procedures in respect of release of photographic and/or video material to the media must be followed. In cases of doubt, the advice of the Data Protection Officer should be sought.

## **8. DIVERSITY ISSUES:**

8.1 The use of BWV can be intrusive and careful consideration must be given to Article 8 ECHR (right to family and private life). BWV wearers should consider cultural issues and sensitivities when using BWV devices and 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.

BWV wearers must be mindful to consider 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.

## **9. MONITORING and REVIEW:**

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