

## RECORDING, VIDEOING AND PHOTOGRAPHY POLICY

This policy should be read in conjunction with the  
 Confidentiality and Data Protection Policy  
 Information Security Policy  
 Information Governance Policy

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Relevant Staff Group/s:	Staff taking recordings, photographs or videos.

**This document is available in other formats, including easy read summary versions and other languages upon request. Should you require this please contact the Equality and Diversity Lead on 01278 432000**

## DOCUMENT CONTROL

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<b>Amendments</b>	New Trust Policy Nov 2017 – Change of Chief Executive (name update) see Appendix G.		
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<b>Intended Recipients:</b> All members of Trust staff, patients/service users, carers and agencies with which the Trust is involved.			
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## **1 INTRODUCTION**

- 1.1 The policy takes account of the Data Protection Act 1998, the Freedom of Information Act 2000, The Human Rights Act 1998 and guidance from the General Medical Council and Department of Health. It also links to Outcome 2 of the Care Quality Commission core outcomes regarding consent to care and treatment and to Outcome 21 regarding record keeping.
- 1.2 Confidentiality is the patient's right and may usually only be waived by the patient, or by someone legally entitled to do so on their behalf. Breach of patient confidentiality may amount to serious professional misconduct with inevitable disciplinary consequences.
- 1.3 Somerset Partnership NHS Foundation Trust has therefore adopted the policy that informed written consent to photography must be obtained from all patients and in all cases (exemptions noted at section 3.1.5). Written consent is also required for any additional use other than the direct care of the patients, such as teaching or publication.

## **2 PURPOSE AND SCOPE**

- 2.1 The purpose of this policy is to ensure that the management of recording, storing and appropriate use of photographs/images/recordings will comply with the requirements of the Data Protection Act 1998, Professional Code{s} of Conduct, and the Caldicott Guardian Standards.
- 2.2 This policy has been introduced to protect the images/recordings and control its storage and particular care must be taken to ensure we are protecting the rights of individuals against the Data Protection Act 1998.
- 2.3 It is recognised that some pieces of Medical equipment can and do hold data, which cannot necessarily be secured in the same way. Where this is the case, Information Delivery Team should be contacted so that advice on best practice can be given.
- 2.4 In all images or recordings, care must be taken to respect the dignity, ethnicity and religious beliefs of all patients, visitors and staff.
- 2.5 This policy applies to a wide cross section of staff, working in many different departments and environments who take photographs, videoing or audio recordings in their role within the organisation.
- 2.6 Additionally this applies to all staff, and people not employed by the Trust but working on behalf of the Trust, for example in integrated teams, secondees, agency and temporary staff. 'Staff' from here on in this policy includes all these people.

### **3 DUTIES AND RESPONSIBILITIES**

#### **Caldicott and Information Governance Group (CIGG)**

- 3.1 The CIGG is the Governance Group with responsibility for approving further development of this document and will subsequently monitor its effectiveness.

#### **Clinical Effectiveness Team**

- 3.2 Where a service implements a new or additional process of recording or photographing clients or patients, the Clinical Effectiveness team will provide an initial process and ethical assessment.

#### **Director of Governance and Corporate Development**

- 3.3 The Director of Governance and Corporate Development has delegated responsibility for this policy.

#### **Service Manager**

- 3.4 Where a team are routinely recording or photographing patients, the service manager shall be responsible for ensuring compliance with this policy, and where possible, monitoring through regular operational or best practice groups. Any breach or concerns should be reported through line management to the Information and Records Manager.

#### **Information and Records Manager**

- 3.5 Will monitor all reported incidents relating to Information Security and provide a report to the CIGG each quarter.

#### **All staff photographing, videoing or audio recording patients**

- 3.6 All staff are responsible for ensuring that they comply with the provisions of this policy and their own professional code of conduct.
- 3.7 All clinicians have responsibility for the security of patient images, audio and video recording and their delivery to a secure location.
- 3.8 Where a patient objects to photographs, video or audio recordings being used or the patient withdraws consent, the clinician is responsible for ensuring a note is made within the electronic health record to that effect.

### **4 EXPLANATIONS OF TERMS USED**

**RiO** Electronic health record system used by the mental health services in Somerset

### **5 GENERAL PRINCIPLES**

- 5.1 When making audio, video or photographic recordings you must take particular care to respect patients' autonomy and privacy since individuals may be identifiable to those who know them, from minor details you may

overlook. The following general principles apply to most audio, video or photographic recordings; although there are some exceptions (see section 6.1.5).

- 5.2 For the purpose of medical treatment you must seek the patient's written permission to make the recording before any recording/photography takes place and also get additional written consent for any extra use or disclosure such as teaching or publication (Appendix D and E).
- 5.3 If making a recording for the purpose of public relations or a media promotion, you must seek the patient's written permission before any photography takes place (Appendix F).
- 5.4 Give patients adequate information about the purpose of the photographic recording when seeking their permission.
- 5.5 Ensure that patients are under no pressure to give their permission for the photographic recording to be made. For example, a nurse or clinician should make such a request, not a photographer or journalist.
- 5.6 Stop the audio, video or photographic recording if the patient asks you to, or if it is having an adverse effect on the consultation or treatment.
- 5.7 Do not participate in any audio, video or photographic recording made against the patient's wishes.
- 5.8 Ensure that the audio, video or photographic recording does not compromise patients' privacy and dignity. If in any doubt do not make the recording.
- 5.9 Do not use audio, video or photographic recordings for purposes outside the scope of the original consent for use without obtaining further written consent.
- 5.10 Recording equipment, including digital cameras, must have the date and time set correctly so that Somerset Partnership NHS Foundation Trust can guarantee the image is of a particular patient.
- 5.11 Digital audio, images and digital video recordings must be uploaded daily. Where the image or recording forms part of the clinical record, recordings or images should be uploaded to RiO (i.e. tissue viability). Otherwise, the images should be uploaded onto a main Somerset Partnership NHS Foundation Trust drive (i.e. P: drive or similar) or a specific digital storage system (i.e. diabetic retinal screening). Once uploaded the images must then be deleted immediately from the camera.
- 5.12 If a daily upload is not possible, recordings must be transferred to a temporary secure storage, preferably a Trust encrypted laptop, or failing that an encrypted USB memory stick. Digital recordings of patients must not be stored on any system or local device that is not encrypted. While Trust

iPhones and Blackberry handsets are encrypted, patient recordings or photographs should not remain on the handset any longer than 72 hours.

- 5.13 Old (non-digital) collections of images (transparencies, negatives etc) or non-digital video recordings must be kept in a locked storage system and destroyed as confidential waste when no longer needed (see DoH publication Records management: NHS Code of Practice for period of retention.)
- 5.14 Recordings or images taken using cameras owned by Somerset Partnership NHS Foundation Trust or by individuals which illustrate a patient's condition or an aspect of the treatment form a part of that patient's medical record and are protected by law in the same way as any other medical record.
- 5.15 All staff recording audio, video or taking photographs of patients must be registered to do so (Appendix C)
- 5.16 In every case, such audio, video or photographs must only be taken after informed written consent has been obtained. The only exception to this would be if a patient was unconscious or unable to give consent (section 3.5)
- 5.17 Copyright of all such photographs is vested in Somerset Partnership NHS Foundation Trust (section 5).
- 5.18 Original audio and digital camera files must be logged and stored in line with this policy. Digital camera images must not be modified in any way (including compression) before storage (section 6). Any modification may only be done when downloading the image after the original has been safely stored.
- 5.19 It is recognised that whilst digitally originated audio, video or images are intrinsically no different to traditional photographs, they are easier to copy in electronic form and therefore more at risk of both image manipulation and inappropriate distribution. Particular care must be taken to protect the original image and maintain its integrity (section 5 and 6).

## **6 CONFIDENTIALITY AND CONSENT**

- 6.1 In order to ensure that the patient's right to confidentiality is preserved, Somerset Partnership NHS Foundation Trust requires the following consent procedure to be followed:
  - 6.1.1 The Consent Policy applies
  - 6.1.2 When audio, photography or video recording of patients is carried out by Somerset Partnership NHS Foundation Trust personnel for the purposes of a patient's medical care, the date and time on the camera must first be set accurately. Written consent must be obtained from the patient (Appendix C or D). This consent form provides the opportunity for the patient to consent to further additional use (e.g. teaching) at the time of the original photography and such extra use should be explicit. The form is

countersigned by the patient or parent/guardian of a patient under the age of 16. If using digital photography, the signed form is then photographed before any photography of the patient takes place. The photograph of the signed form will then accompany the photographs of the patient into the image storage system as described in 2.11. A hard copy of the signed form must also be placed in the patient's records for future reference.

6.1.3 The General Medical Council state that 'The practice of obtaining the patient's consent only in the case of full length or facial video or photographs, from which the patient can easily be identified is not sufficient. It is sometimes possible for people to be identified from other categories of photograph, e.g. showing a tattoo or other distinguishing mark. Nor is it sufficient to rely on the photographer's judgement that a particular patient is unlikely to be identified from a particular photograph.'

6.1.4 When photography or video recording of patients is carried out by Somerset Partnership NHS Foundation Trust staff as part of a public relations exercise or media promotion, written consent must be sought (Appendix E)

6.1.5 Situations where the General Medical Council advises that consent is not required before a photograph or audio/video recording is taken includes

- Images taken from pathology slides
- Laproscopic images
- Images of internal organs
- Ultrasound images

6.1.6 Staff recording audio or video of clients or patients must have signed APPENDIX C and have read and accept the contents of this policy. In doing so, staff accept that recordings taken may include their voice or image and consent that the Trust may use the recordings in accordance with this policy.

## **6.2 Images or recordings taken for teaching, research or publication**

Before recording audio, video or taking photographs specifically for teaching, research or for any other use than described in section 3.1.5, written consent must be obtained (Appendix C). If the recordings are to be used for medical research or publication in journals, books or elsewhere, written consent for this should be obtained at the same time.

6.2.1 Where recordings of patients are used in teaching or other presentations, written consent must have been obtained beforehand from the patient. It is the responsibility of the person who gives the presentation to ensure that no images of patients remain stored on conference electronic systems after the presentation is over.

6.2.2 The General Medical Council give advice about existing collections used for teaching purposes. 'Such collections may have a significant value for teaching purposes. You may continue to use recordings from which the patient is not identifiable, and which were made for teaching purpose prior to 2004. You should, however, seek to replace such recordings at the earliest



opportunity with similar recordings for which permission can be shown to have been obtained.'

### **6.3 Media Photography within Somerset Partnership NHS Foundation Trust**

Before taking photographs and video recordings for promotional, news or media purposes, written consent must be obtained from any patient or member of the public to be photographed. Verbal consent must also be acquired from all staff who will be photographed.

6.3.1 A specific media request form must be signed which outlines the patient's rights and the responsibilities of the organisation (Appendix E).

6.3.2 Individuals must be advised that in the case of media photography (including video recording), the copyright cannot be retained by the organisation and on rare occasions the images may be used again as archive footage.

### **6.4 Recordings or photographs of minors (patients under the age of 16)**

In the case of patients under the age of 16, the person with parental responsibility should sign a consent form (Appendix E). However, if the young person is not willing for a recording to be used, you must not use it even if the person with parental responsibility consent. If the young person is deemed competent to sign the form they may do this themselves (Fraser Competency).

### **6.5 Recordings or photographs of patients who are unable to give consent**

Photographs of an unconscious patient, a patient undergoing emergency treatment who is unable to give consent, or a patient considered by clinicians to be too vulnerable to give consent may be taken if permission is given by two clinicians involved in the patient's care. These photographs may only be used as part of the patient's treatment plan. The patients must be told that the photographs have been taken and the appropriate written consent should be sought before such photographs are used for any other purpose.

### **6.6 Covert video surveillance**

A decision to use covert video surveillance would only be instigated following discussions with all agencies involved and following permission for the Chief Operating Officer.

### **6.7 Requests from Police or other authorities**

Any request from the police or any other authority to have access to patient identifiable photographs without patient consent would be dealt with on its individual merits and the photographs would only be made available once proper legal procedure has been satisfied.

### **6.8 Patients requesting photographs of themselves**

The General Medical Council provides guidance. 'If patients ask for photographs to be taken of themselves they must be informed that the responsibility to keep such photographs confidential rests with them. Staff have the right to refuse to be photographed by patients. Staff must ask the patient to be mindful of the right to confidentiality of other patients and must

try to make certain that no other patient or confidential material will be captured by any photograph taken by or at the request of a patient.'

## **6.9 Use of mobile phones to take photographs of patients**

Mobile phones must only be used to take audio, video or images in wards, clinics or patients' homes, where they have been specifically issued to do so. While many Smart phones provide added levels of security to recordings, only Trust issued and approved mobile phones may be used.

- 6.9.1 *'The information Commissioner's Office states that all public and private organisations are legally obliged to protect any personal information they hold. In relation to this, any individual who takes a photograph of another individual using the camera on their mobile phone, subject to exceptions such as for limited household purposes, will be processing personal data and must comply with the Data Protection Act 1998 in relation to the circumstances in which the photograph is taken and the use of that photograph.'*
- 6.9.2 *'The use of camera phones and other photographic devices can result in the creation of sensitive personal data...Therefore, NHS Trusts should consider how they will effectively monitor the use of mobile phones with cameras.'* Somerset Partnership NHS Foundation Trust secures and maintains mobile phones and tablets using Mobile Device Management. All devices must remain encrypted and comply with required policies.
- 6.9.3 'Where a photograph contains sensitive personal data, it will generally be necessary for the individual being photographed to give their explicit consent to the photograph being taken and they should also be notified of all the purposes for which the photograph will be used.' DoH 2009, Using mobile phones in NHS hospitals

## **7 NON CLINICAL PHOTOGRAPHY**

- 7.1 In cases where the patient is incidental to a photograph i.e. where the photograph is set up to illustrate a particular piece of equipment, written consent to appear in the photograph is still required from any patient or member of the public and verbal consent is required from members of staff.
- 7.2 Accidental photography (or video recording) of patients, staff or members of the public who have not given appropriate consent must be avoided. Pictures of a patient which inadvertently include another patient who has not consented should not be used under any circumstances. The photograph should be destroyed unless it is deleterious to the care of the patient.
- 7.3 Any individuals wishing to record audio, video or take photographs who are not employed by Somerset Partnership NHS Foundation Trust should only be allowed to do so with express permission of a Director.

## **8 COPYRIGHT**

- 8.1 Somerset Partnership NHS Foundation Trust owns the copyright to all the recordings taken of its patients by Somerset Partnership NHS Foundation Trust staff as part of their provision of clinical care to that patient.
- 8.2 It is important that in any contract for publication, the copyright for the recordings described in section 5.1 remains with Somerset Partnership NHS Foundation Trust and does not pass automatically to the publishers on first publication, otherwise Somerset Partnership NHS Foundation Trust may find itself unable to protect patients' interests by exercising control over further publication of such photographs.
- 8.3 Those signing contracts with book or other publishers have a responsibility to delete from the contract any suggestions that the copyright of such photographs will pass to the publishers.
- 8.4 Contracts with freelance photographers must ensure that they waive ownership of copyright and moral rights in the images they prepare, although they may still be allowed to retain the right to reproduce the image.
- 8.5 Where copies of recordings are given to clients or patients, it should be made clear that copyright for the recording (whether audio or video) is owned and rights are retained by Somerset Partnership NHS Foundation Trust. The client or patient only has permission to use it for their own private use. Any public display or posting to social networking (or any other Internet based form) will be treated as a breach of copyright.

## **9 LOGGING AND STORAGE**

- 9.1 Since any medical record has to be available for disclosure if required, it is essential that every recording is properly logged in the case notes.
- 9.2 In the case of photographic negatives or old (non-digital) video recordings, these must be securely stored in the originating area for the appropriate length of time and then destroyed as confidential waste (DoH publication: Records Management: NHS Code of Practice for retention schedules.)
- 9.3 In the case of a digital picture file or digital video, the original file – with no manipulation or compression applied – must be uploaded daily into a safe data storage environment (not a local PC or laptop) as per section 2.11. The images must then be deleted immediately from the camera. No digital images may be stored on any other systems except for such images covered under section (3.1.5). Please see Somerset Partnership NHS Foundation Trust Information Governance System Security Policy and Procedures for further information.
- 9.4 Staff undertaking storage and retrieval of digital images must be trained in these procedures.

- 9.5 Where specific storage arrangements exist (ie. Child and Young Persons IAPT - Meganexus) digital videos and recordings must be uploaded to the central system as soon as possible after recording.

## **10 DIGITAL PHOTOGRAPHY OF PATIENTS**

- 10.1 In order to maintain the integrity of the image, manipulation may only be carried out to the whole image, and must be limited to simple sharpening, adjustment of contrast and brightness and correction of colour balance. This must only be done on a copy of the original image.
- 10.2 Recordings or images of patients may only be transferred to Somerset Partnership NHS Foundation Trust PCs for preparation of teaching materials or in connection with ethical committee approved and data registered research projects.
- 10.3 No digital image of any patient may be stored on any other system other than as detailed in section 2.11 except images detailed under 3.1.5.

## **11 RETENTION OF PHOTOGRAPHIC IMAGES**

- 11.1 Photographs and recordings of patients form part of their medical record and as such, are subject to Somerset Partnership NHS Foundation Trust procedures on retention and destruction of medical records (DoH: Records management: NHS Code of Practice for retention schedules)

## **12 TRAINING REQUIREMENTS**

The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Mandatory Training Matrix (training needs analysis). All training documents referred to in this policy are accessible to staff within the Learning and Development Section of the Trust Intranet.

## **13 EQUALITY IMPACT ASSESSMENT**

- 13.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

## 14 MONITORING COMPLIANCE AND EFFECTIVENESS

### 14.1 Methodology to be used for monitoring

Overall responsibility for Information Governance rests with the Caldicott and Information Governance Group.

The following table outlines how the Trust will monitor compliance with the key elements of this policy.

Element to be monitored	Tool	Frequency	Reporting arrangements
Information Security Incidents	Datix	Quarterly	Caldicott
Compliance with the IGTK	National IGTK	X3 a year	Caldicott

14.2 This policy applies to a wide cross section of staff, working in many different departments and environments.

Where a team are routinely recording or photographing patients, the service manager shall be responsible for ensuring compliance with this policy, and where possible, monitoring through regular operational or best practice groups. Any breach or concerns should be reported through line management to the Information Security Manager.

14.3 Where a service implements a new or additional process of recording or photographing clients or patients, the Clinical Effectiveness team will provide an initial process and ethical assessment.

### 14.4 Frequency of monitoring

Caldicott and Information Governance Group to approve any changes. These may relate to working practices, legislation or advances in technology, on a quarterly basis.

## 15. COUNTER FRAUD

15.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

## 16. RELEVANT CARE QUALITY COMMISSION (CQC) – Regulation Standards

16.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the fundamental standards which inform this procedural document, are set out in the following regulations:

Regulation 9:	Person-centred care
Regulation 10:	Dignity and respect
Regulation 11:	Need for consent

Regulation 12:	Safe care and treatment
Regulation 13:	Safeguarding service users from abuse and improper treatment
Regulation 15:	Premises and equipment
Regulation 16:	Receiving and acting on complaints
Regulation 17:	Good governance
Regulation 18:	Staffing
Regulation 19:	Fit and proper persons employed
Regulation 20:	Duty of candour
Regulation 20A:	Requirement as to display of performance assessments.

16.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

Regulation 18: Notification of other incidents

16.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf>

Relevant National Requirements

- *Department of Health initiatives*
- *NICE and other clinical guidance*

## 17. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

### 17.1 References

Tameside Hospital NHS Foundation Trust – Photography, Video recording and filming on Trust Premises policy

adopted from 'Photography and Video recordings of Patients: Policy on Confidentiality and Consent, Copyright and Storage by Taunton & Somerset NHS Foundation Trust'

Other references need adding from the document i.e. legislation

### 17.2 Cross reference to other procedural documents

Confidentiality and Data Protection Act

Information Governance Policy

Information Security Policy

Record Keeping and Records Management Policy

Untoward Events Reporting Policy

Serious Incidents Requiring Investigation (SIRI) Policy

All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet.

## 18. APPENDICES

For the avoidance of any doubt the appendices in this policy are to constitute part of the body of this policy and shall be treated as such.

APPENDIX A	Guidance for Staff Recording, Videoing and Photographing
APPENDIX B	Process for Copying/Securely Handling Files Outside NHS Premises
APPENDIX C	Photographic Registration Form
APPENDIX D	Photographic Consent Form (Adult)
APPENDIX E	Photographic Consent Form (Under 16 Yrs)
APPENDIX F	Patient Media Consent Form
APPENDIX G	Patient Consent to Record Form for parents and young people

**Guidance for Staff Recording, Videoing and Photographing**

**1 Anonymous images**

1.1 Some images, unless associated with other details, do not identify patients, i.e. they are intrinsically anonymous when presented alone:

- Images from pathology slides
- X-rays
- Laparoscopic images
- Images of internal organs
- Ultrasound images

1.2 These recordings may be made during treatment without separate consent from patients, although it is good practice to tell patients that images are being made as part of care or treatment.

1.3 Where these images are not labelled in a way that identifies the patient, it is acceptable to use them for appropriate purposes, e.g. in research, audit or teaching, or for publication, without consent, since the patients cannot be recognised from the image alone.

1.4 A patient's image may not be altered in any way to achieve anonymity and so avoid the need for consent. Blacking out of the eyes in a facial photograph is not an acceptable means of anonymising the image.

**2 Patients undergoing surgery or interventional procedures**

2.1 Where possible, consent to photography will be obtained prior to anaesthetic or sedation. It is good practice to include the fact that photographic images may be taken for the healthcare record within any written information routinely provided in advance to patients about specific operations or procedures. However, consent to the procedure does not normally provide consent to photography for record purposes, (but see below) and a consent form must be completed, indicating the purpose of the photograph (Appendix D or E).

2.2 In the case of procedures where recording is implicit (e.g. endoscopy), consent to the procedure provides implicit consent to recording, but the health professional concerned must ensure that it is clear to the patient in advance that photographic or video recordings will result from the procedure.

2.3 In certain circumstances patients may need to be informed, and their agreement obtained to the photography, after the event. For example, there may be an unexpected development and a recording would be valuable.



### **3 Unconscious patients**

- 3.1 Photographs of an unconscious patient may be taken provided consent is obtained from the patient before the photographs are stored or released. The patient must be told that the photographs have been taken.

### **4 Confused or “disturbed” patients who may “wander”**

- 4.1 There may be good practical reasons to obtain a photograph of confused but mobile patients (including adolescents) who are prone to “wander”, to aid any search. The management of confused patients, including any intention to photograph, must always be discussed with the carer or next of kin.
- 4.2 The retention of such a photograph in the medical record is not considered necessary, and thus it should be destroyed when the patient is discharged.

### **5 Lacking mental capacity to consent**

- 5.1 Where mental capacity issues arise, the normal rules concerning consent for treatment should be followed.
- 5.2 If the lack of capacity is temporary, the patient’s consent should be obtained when appropriate.

### **6 Deceased patients**

- 6.1 If a patient dies before a retrospective consent can be obtained, material by which the patient is identifiable can only be released with the consent of the deceased’s personal representatives. In addition wherever possible the consent of the next of kin or near relatives should be obtained, particularly where the personal representatives are not relatives of the deceased. The Trust notes that the duty of confidentiality survives the death of the patient.
- 6.2 If a consenting patient subsequently dies, permission should be sought for any new use outside the terms of the existing consent. In this instance the consent of both the personal representative and the nearest relative(s) is required.

### **7 ‘Accidental’ photographs**

- 7.1 Images of a patient which have inadvertently picked up the images of another patient or patients who have not consented should not be published under any circumstances. Unless harmful to the care of the subject patient, they should be destroyed

## **8 Photography without consent**

- 8.1 Photography without consent may be appropriate in certain circumstances such as, for example, suspected non-accidental injury of a child, or vulnerable adult, where it is unlikely that the parent, guardian or carer will give consent and the recording of injuries is demonstrably to the patient's benefit. Consultant authority is required in such cases.
- 8.2 Particular care must be taken with such sensitive material. Clinical staff must ensure that it is stored safely and disclosed only for the purposes intended. The normal consent form will not be used in this case, but the fact that photographs have been taken without consent must be documented in the health record.
- 8.3 Except when specifically authorised by the NHS Security Management Service using specific Directed Surveillance as stipulated in the Regulation of Investigatory Power Act 2000 (RIPA), staff must not direct cameras at an individual, their property, or a specific group of individuals. Advice should be sought from the Security Manager and the Information Governance Manager before proceeding. A decision to use covert video surveillance for example in cases of suspected induced illnesses in children, will normally be based on discussions amongst all the agencies involved, and the surveillance itself should be undertaken by the police. The Trust Surveillance Policy has more detail.

## **9 Children**

- 9.1 In the case of minors, the patient or guardian should sign the consent form.
- 9.2 A single consent will be adequate for a whole course of treatment, such as orthodontics, where the child may often attend unaccompanied.
- 9.3 If the minor reaches the age of 16 during the course of treatment or is judged to be capable of consenting in his own right ('Fraser Competency') at the start of treatment, the young person may sign the consent form.
- 9.4 Even where children are not able to give valid consent, there is a duty to seek their co-operation and to explain the purpose of the photograph if this is feasible.

**PROCESS FOR COPYING/SECURELY HANDLING  
FILES OUTSIDE NHS PREMISES**

**Process for copying files securely**

1. Files must only be copied from one Trust device to another.
2. Where the recording has been performed directly to CD or DVD then duplication of the CD/DVD should be performed using authorised software from Somerset Partnership IT Services.
3. Where the recording has been performed directly to a hard drive or network storage, duplication of the recording should be performed using authorised software from the Trust's IM&T department.
4. Once a recording has been transferred, the intermediate device storing the recording (if not CD or DVD), the recording should be deleted and the computers recycle bin emptied.
5. When trying to transfer recordings to external Somerset Partnership establishments this must be performed in a secure way. The size of the file dictates the method which can be used.
  - Files less than 10mb – This can be performed through the use of the Trusts email system where the subject heading of the email **MUST** contain the words (encrypt). This ensures that the attached recording is encrypted to NHS standards for securing sensitive information.
  - Files greater than 10mb – This will necessitate the secure transportation of the recording via encrypted methods, with the transfer being performed via special delivery arrangements. **Where these types of transfers are required then staff must contact the Information Governance and Records Manager prior to agreeing or initiating any transfer for advice and guidance.**
6. Where any advice or concern exists then staff should contact the Information Governance and Records Manager for further advice and guidance.

**Handling of equipment outside NHS Premises**

1. When staff are outside NHS buildings they must be vigilant to opportunist theft.
2. Any equipment being transported must be kept secure and out of sight.

3. Where possible equipment should be locked in glove compartments (Dictaphones, camera's, memory cards if used) or in the boot of car, and out of sight to the casual viewer.
4. Where returning to a NHS unit is not possible and equipment is taken home, the equipment **MUST** be removed from the vehicle and placed securely within the person's home, again out of sight from the casual viewer. It is a breach of Trust policy to leave equipment overnight in either a car or garage, (or locked in a car in a garage).

## RECORDING, VIDEOING OR PHOTOGRAPHIC REGISTRATION FORM

To be completed by all staff performing photography/video recording of patients

**PRINT** (name of person taking photograph).....

**JOB TITLE**.....

**WORK LOCATION AND CONTACT NO**.....

**MAKE AND MODEL OF CAMERA**.....

Data Protection Act (1998) requirements:

Photographs (still or video) – taken using a camera or secure Smart phone owned by Somerset Partnership NHS Foundation Trust or by individuals – which illustrate a patient’s condition or an aspect of the treatment – form a part of that patient’s medical records and are protected by law in the same way as any other medical record.

No unauthorised person may take any photograph of a patient. All staff who regularly, or only occasionally, take photographs (still or video) of patients must be registered to do so.

Any photography for research projects must have ethical committee approval.

- Written patient/parental consent (Appendix D or E) must be obtained when taking still, digital or video photographs that will form part of the medical record or will be used in teaching, research or publication and a copy of this signed form placed in the patient’s medical records.
- I confirm that I have read and will comply with Somerset Partnership NHS Foundation Trust Recording, Videoing and Photographic Policy
- I have read and accept the contents of the Recording, Videoing and Photographic Policy and I consent that recordings taken may including my voice or image.
- Please note that the signed consent form must be photographed before any photograph is taken of the patient and a signed hard copy of the consent form must be filed in the patient’s medical records.

Applicant’s signature		Date:
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When completed please give the form to your Service manager or Divisional Lead

**RECORDING, VIDEOING OR PHOTOGRAPHIC CONSENT FORM (ADULT)**

Consent Form for use when Somerset Partnership NHS Foundation Trust staff are photographing adult patients as part of their medical care.

Somerset Partnership NHS Foundation Trust has adopted a policy to give you the right to control the future use of photographs taken of you during the course of your treatment.

**Please note that you are not obliged to have any photograph taken if it is against your wishes.**

We would like to have some medical photographs taken for your medical case note record and/or for teaching of medical, paramedical and nursing staff as well as students in Somerset Partnership NHS Foundation Trust and other organisations, and/or for the purpose of publication.

This consent form limits the use of these photographs to these purposes only and should it be desired to use your photograph(s) in any other way, we will seek your specific written permission to do so.

**PATIENT NAME (please print)**.....

**NHS NUMBER**.....

I have read and accept the contents of the above statement and I consent to photographs being taken for the following purposes:

Medical Treatment only

Signed..... Date.....

Teaching Purposes

Signed..... Date.....

Publication

Signed..... Date.....

As explained to me by (print name).....

Signed..... Date.....

(A copy of this form should be filed in the patient's case notes)

**RECORDING, VIDEOING OR PHOTOGRAPHIC CONSENT FORM**

**(UNDER 16 YEARS OF AGE)**

Consent Form for use when Somerset Partnership NHS Foundation Trust staff are photographing minors as part of their medical care.

Somerset Partnership NHS Foundation Trust has adopted a policy to give you the right to control the future use of photographs taken of this young person during the course of their treatment.

**Please note that you are not obliged to have any photograph taken if it is against your wishes.**

We would like to have some medical photographs taken for this young person’s medical case note. If you give specific permission we might also use the photographs for teaching staff and for the purposes of publication.

This consent form limits the use of these photographs to these purposes only and should it be desired to use your photograph(s) in any other way, we will seek your specific written permission to do so.

**PATIENT NAME (please print)**.....

**NHS NUMBER**.....

I have read and accept the contents of the above statement and I consent to photographs being taken for the following purposes:

Medical Treatment only

Signed..... Date.....

Teaching Purposes

Signed..... Date.....

Publication

Signed..... Date.....

As explained to me by (print name).....

Signed..... Date.....

(A copy of this form should be filed in the patient’s case notes)

**PATIENT MEDIA CONSENT FORM**

**I (PRINT patient's name)**.....

**NHS NUMBER**.....

**ADDRESS**.....

Give consent to be filmed/photographed/interviewed (please circle) by

Media Name.....on date.....

Type of broadcast – news/documentary/feature/website (please circle)

**Patients must read the following information before signing this consent form.**

- I understand that any photography rights belong to the newspaper(s) named above and that I may not at a later point in time withdraw my consent for the photograph to be used for the purpose stated above
- I understand that I can withdraw my consent during filming
- I understand that when filming is complete, the rights of the film belong to the TV/film company and that I may not at a later point in time withdraw my consent for the film to be used for the purpose stated above.

Please note that TV companies may use clips from a programme in news, other documentaries or on their website on the same subject at a later date. Please be aware that Somerset Partnership NHS Foundation Trust has no control over this.

Signed (patient)..... Date.....

If patient is under 16 and if applicable

PRINT name of parent/guardian.....

Signed..... Date.....



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### Consent to Record Form for Parents and Young People

It is important to ensure that staff providing Cognitive Behaviour Therapy (CBT) receive supervision and that their skills are monitored to ensure quality of service to supervisees and clients. One way of achieving this is to video record sessions so that the supervisor/trainer can listen and view the session and can monitor skills and provide useful supervision.

I understand that \_\_\_\_\_ is currently undertaking specialist post-qualification CBT training and as part of this training, his/her supervisor and/or programme tutor will watch recordings of therapy sessions.

Please complete as appropriate

I am happy for my son or daughter's sessions to be recorded and for the recordings to be used for supervision and to be submitted to the programme tutors as part of the programme requirements.....**YES/NO**

I am happy for my sessions to be recorded and for the recordings to be used for supervision and to be submitted to the programme tutors as part of the programme requirements.....**YES/NO**

It is very helpful to use real examples of sessions for teaching purposes. If you are willing to give this extra consent please sign below.

I am happy for my son or daughter's sessions to be used to teach CBT skills.....**YES/NO**



Somerset  
Partnership

Chairman: Stephen Ladyman    Chief Executive: Peter Lewis

I am happy for my sessions to be used to teach CBT skills.....**YES/NO**

The recording will be kept confidential. I understand that I can withdraw my consent at any time.

Signed Young Person..... Date.....

Signed parent.....Date.....

Trainee statement

*"I certify that I have conducted this clinical work in line with appropriate professional practice guidelines, Codes of Ethics (e.g. BABCP Standards of Conduct, Performance and Ethics) and/or workplace Policies, which have been strictly adhered to in terms of making the recording and seeking permission for use. This signed consent form will accompany the recording".*

Signed (trainee) .....Date.....



Somerset Partnership

Chairman: Stephen Ladyman Chief Executive: Peter Lewis