

PHOTOGRAPHY, VIDEO AND AUDIO POLICY CLINICAL AND NON-CLINICAL RECORDINGS POLICY	<b>DOCUMENT TITLE:</b>	<b>PHOTOGRAPHY, VIDEO AND AUDIO POLICY : CLINICAL AND NON-CLINICAL RECORDINGS</b>
	<b>Name of Originator/Author /Designation &amp; Specialty:</b>	Jane E Taylor Head of Medical Photography & Illustration Diagnostics Directorate
	<b>Director Lead:</b>	Chief Operating Officer
	<b>Target Audience:</b>	Qualified and trainee clinical practitioners Non-clinical Trust employees Contractors or guests Patients Visiting members of the public Journalists and broadcasters
	<b>Version:</b>	5.2
	<b>Date of Final Ratification:</b>	27/08/2023
	<b>Name of Director Lead/Sponsor:</b>	Karen Kelly
	<b>Review Date:</b>	30/09/2024
	<b>Registration Requirements Outcome Number(s) (CQC)</b>	Safe, Effective, Caring, Responsive, Well Led
	<b>Relevant Documents /Legislation/Standards</b>	The Access to Personal Files Act 1987 (repealed 1.3.2000) The Access to Health Records Act (1990). The Children Act (1989 and 2004). The Copyright, Designs and Patents Act, (1988). The Criminal Justice and Public Order Act (1994). The Data Protection Act (2018). The Mental Health Act (1983). The Obscene Publications Act (1959). The Protection of Children Act (1978 and 1999). The Video Recordings Act (2010). Professions Supplementary to Medicine Act (1960). Human Rights Act 1998.
<b>Contributors</b>	Quality and Safety Co-ordinator Senior Medical Photography & Illustration Specialist Practitioner Patient Access and Health Records Manager	

#### CHANGE HISTORY

Version	Date	Reason
1.0	June 2005	This is a new document

2.0	June 2009	Reviewed and updated
3.0	March 2016	Full Review - Updated into the new Trust format
4.0	March 2019	Full review
5.0	August 2021	Inclusion of Appendix 8
5.1	August 2022	Minor amendment for paediatrics and neonates in appendix 8, box 1, 3 and 6. Addition of appendix 9.
5.2	August 2023	Change reflects minor addition of point 18.1 to bring in line with the July 2023 ratification of the Creation and Management of Patients Health Records Policy.

**A translation service is available for this document. The Interpretation/Translation Policy, Guidance for Staff is located on the intranet under Trust-wide Policies.**

<b>Contents</b>		
<b>Section</b>		<b>Page Number</b>
1	Introduction	4
2	Statement of Intent /Purpose	4
3	Definitions	5
4	Duties	7
5	The Role of The Medical Photography & Illustration Department	8
6	Trust-Wide Image Database – Medical Image Management System (Mims)	8
7	General	11
8	Consent	11
9	Patient Dignity	18
10	Confidentiality/Data Protection	19
11	Copyright	20
12	Publication of Clinical Recordings	21
13	Collaborative Practice - Clinical Recordings Undertaken by Clinical Practitioners Other Than Academy of Healthcare Scientists Practitioners	23
14	Achieving Quality Imaging	24
15	Logging And Storage of Images	24
16	Security	26
17	Image Destruction	28
18	Private Patients	29
19	Exceptions To This Policy - Clinical	29
20	Exceptions To This Policy – Non-Clinical	29
21	Training Support	32
22	Process for Monitoring Compliance	34
23	Equality	35
24	References	35
Appendix 1	Summary Sheet	36
Appendix 2a	Consent Form - General	38
Appendix 2b	Consent Form - Ophthalmology	40
Appendix 3	Application to Register a Photographic Device	42
Appendix 4	<a href="#">Patient Information Leaflet</a>	47
Appendix 5	Informed Consent and Guidance – Level C	52
Appendix 6a	Patient and Public Consent Form for Press, Promotion and Marketing Purposes	54
Appendix 6b	Staff Consent for Press, Promotion and Marketing Purposes	55
Appendix 6c	Consent For Specific Non-Clinical Purposes	56
Appendix 7	Audit Questionnaire: Photography, Video and Audio Recording Policy	58
Appendix 8	Clinical Photography Process for Images taken in Community Settings and Out of Hours in the Trust	59
Appendix 9	Paediatric Department Out of Hours Camera Use and Documentation pathway	62

# THE DUDLEY GROUP NHS FOUNDATION TRUST

## PHOTOGRAPHY, VIDEO AND AUDIO POLICY CLINICAL AND NON-CLINICAL RECORDINGS

### 1. INTRODUCTION

Clinical photography, video, audio, and similar non-clinical recordings occur routinely in this Trust. Unlike many other healthcare recordings and diagnostic medical images, the general public can easily understand clinical photographs, video, and audio recordings.

This policy outlines the methods of best practice for undertaking and managing subsequent clinical and non-clinical recordings (photography, video, and audio).

The aim is to make all Trust employees, contractors or guests aware of their responsibilities when undertaking any form of photography, video and audio recording upon Trust premises. In part, it reinforces the Trust's clinical policies refer to: a) [Consent Policy](#) and b) [Information Governance and Data Protection Policy](#).

A number of Acts of Parliament pertain to the recording of patients. The Trust is committed to ensuring that all photography, video and audio recordings undertaken on its premises and of its patients, visitors and staff conform to all current legislation, which provides patients, visitors and staff with rights of confidentiality, consent and protection against the unlawful processing of data.

Ensure local department inductions for clinical staff contains the policy summary sheet ([Appendix 1](#)) and guidance on local clinical photography, video, and audio recordings (including community and Trust out-of-hours processes ([Appendix 8](#)).

### 2. STATEMENT OF INTENT/PURPOSE

The purpose of the policy is to ensure that clinical photographs are fit for clinical purpose, obtained and managed by appropriate staff and that consent and working systems are used to protect staff, patients and the organisation from the consequences of misuse or loss.

Ensure Trust employees are aware of the procedures to be followed in relation to all clinical photography in this Trust and give guidance to staff who order, make, use, and store clinical recordings of a patient.

This policy applies to all clinical recordings undertaken by the Medical Photography & Illustration Department staff and all clinical recordings undertaken or supervised by the clinical practitioner of patients under the care of the Trust.

### **The intent and purpose of the policy is:**

- To clarify the procedures to be followed in relation to undertaking clinical recordings.
- To identify who may undertake clinical recordings.
- To ensure that all clinical recordings are retained securely.
- To ensure that appropriate consent is obtained for all clinical recordings.
- To ensure that recordings are only used or shared when appropriate consent has been obtained.
- To ensure that recordings are stored, distributed appropriately and securely.
- To ensure that copyright guidelines are adhered to.
- To ensure that quality is achieved.
- To clarify the procedures to be followed in relation to undertaking recordings not related to medical care.

This policy covers visual and audio recordings of patients and staff made and used in any circumstances; this includes recordings made:

- On healthcare premises and in the community setting.
- As part of the assessment, investigation or treatment of patients' condition or illness.
- For 'secondary purposes' such as teaching, training or assessment of clinical practitioners and students, research, or other health-related uses, which are not designed to benefit the patient directly.

### **3. DEFINITIONS**

**Blanket consent** Is an all-encompassing consent to the effect "I authorise recordings taken in the course of my clinical treatment to be used for any purpose". Blanket consent is not valid. Consent must be informed and specific. It is accepted nationally that there is no blanket consent for clinical recordings. A patient ticking the publication box on the consent form does not entitle a clinical practitioner to publish the resulting recordings in any publication. BMA takes the view that consent is not blanket permission and should be renewed each specific publication, giving the option to withdraw material from use or limit its future use. (BMA, 2019, p.40)

**Clinical Photographer Qualified Healthcare Scientist** is an Academy for Healthcare Science Registered Medical Illustrator, working within the Trust's Medical Photography & Illustration service.

**Clinical Photography** All diagnostic photography, video, and audio recordings of patients, which illustrate a patient's condition or an aspect of treatment, which is an integral part of that patient's medical record; essential to clinical care pathway to map progress or deterioration or provide evidence. Restrictions are contained in this policy regarding secondary consent for education and publication.

**Clinical Practitioners** All healthcare professionals / clinical staff groups working in the organisation within this policy will be referred to as the “Clinical Practitioners” (including doctors, nurses, midwives, allied health professionals, health care scientists, registered, national or voluntary registered individuals working with patients, in clinical situations, wards, departments, anaesthetic room, outpatients and in the patient’s home and other community settings).

**Medical Image Management System (MIMS)** MIMS exists for clinical purposes to provide a facility for healthcare professionals to comply with all local and national health records policies in connection with the management of clinical photography images.

[MIMS](#) is the Trust wide online database, which is the central repository for digital clinical photographs taken after Jan 2015.

**Non-clinical recordings** All recordings not related to medical care

**Publication** Clinical recordings, which are accessible outside a restricted secure medical environment. The situation includes members of the public / lay people being able to view, copy or download and use recordings; non-encrypted recordings leaving the Trust; publication on the Internet, including password protected sites; or in paper format; used in a learning environment widely accessible to public media (television, radio, internet, print) outside the Trust.

**Recording equipment** includes standalone devices such as mobile telephones, cameras or any other digital or analogue recording or capture device / media.

**Recording(s)** For the purpose of this policy, the term ‘**recording**’ or ‘**illustrative recording**’ refers to all photographic images, video, and audio recordings, regardless of format or recording medium, conventional or digital format.

**Referring clinician** can be any of the following staff who are conversant with this policy and include:

- Any medical staff member
- AHP/nurse/midwife band 6 or above
- Academy of Healthcare Scientists (AHCS) registered staff band 6 or above

**Secondary purposes** Clinical recordings for staff and patient teaching & education, training or assessment of healthcare practitioners and students, research, or other health-related uses in closed or outside a restricted medical environment, which are not designed to benefit the patient directly, are described as ‘secondary purposes’ in this policy.

**Sponsor** A sponsor is entrusted to authorise users to have access to a system and define the level of access required for that system. Sponsors are identified as being suitable persons by virtue of their status and role. Sponsors will be staff with sufficient seniority to understand and accept

the responsibility required. This is normally a Clinical Director or Clinical Head of Service or Matron.

**Restricted or closed medical environment** secure setting restricted to appropriate health professionals and healthcare students.

**Teaching & education purposes** are situations where clinical practitioners and students, not necessarily directly involved in the patient's care will view clinical recordings within a secure restricted medical environment. The situation must exclude members of the public being able to view these recordings.

#### 4. DUTIES (RESPONSIBILITIES)

- 4.1 **The Chief Executive** has ultimate responsibility for ensuring the Trust complies with its legislative requirements.
- 4.2 **The Senior Information Risk Owner (SIRO)** is responsible for managing Information Risk within the Trust.
- 4.3 **Caldicott Guardian** must agree proposals outside of the policy
- 4.4 **The Head of IT / Chief Information Officer (CIO)** is responsible for advising the Trust on all aspects of information security and providing support where necessary to the above roles.
- 4.5 **Chief Clinical Information Officer (CCIO)** is responsible for advising the Trust on all aspects of clinical information security and providing support where necessary to the above roles.
- 4.6 **Clinical Directors/Heads of Service/Matrons** are accountable for the communication about compliance with Trust policy and ensure that there are systems in place in their area of responsibility for all relevant staff to know of the policy and its contents (e.g., by ensuring the topic is covered at induction/on-going professional development sessions, etc.).
- 4.7 **The Head of Medical Photography & Illustration** is responsible for overseeing the implementation of this policy through appropriate local processes within Medical Photography & Illustration. This individual will also be responsible for monitoring and auditing Trust adherence to the policy. To provide advice and guidance as required and to ensure that any further relevant developments are incorporated into the policy.
- 4.8 **The Medical Photography & Illustration Team** is responsible for providing service support in order to implement this policy.
- 4.9 **Health Records Staff** under the management of the Patient Administration Manager are responsible for the management of 'Access to Health' disclosure requests from patients, designated representatives or third parties where there is a legal duty to do
- 4.10 **All staff** are responsible for ensuring that they comply with the provisions of this policy and to abide by the policy and acknowledge their associated responsibilities. Only clinical practitioners employed by the Trust who are registered (Medical staff; AHP/Nurses/Midwives band 6 and above; AHCS registered staff band 6 and above), are allowed to request clinical recordings related to medical care. Non-compliance will be deemed as a serious breach and will be dealt with via a disciplinary procedure.
- 4.11 **Ron Grimley Undergraduate Centre (RGUC) Media Team** are responsible for making non-clinical photographs, video and audio recordings for the

RGUC Teaching Academy. <http://thehubv2/undergraduate-centre/SitePages/Home.aspx>

#### 4.12 Sponsor Responsibilities\*:

Verify the identity of a User by personally vouching that they know the User to be who they say they are.

Be familiar with and ensure that local policies and processes are adhered to.

Complete the appropriate parts of the Request Form.

Report any system related incidents onto DATIX.

\*This is normally a Clinical Director or Clinical Head of Service or Matron.

## 5. THE ROLE OF THE MEDICAL PHOTOGRAPHY & ILLUSTRATION DEPARTMENT

5.1 Wherever possible, patients should be referred to the Medical Photography & Illustration Department for clinical photographs or video recordings to be taken by qualified clinical photographers (AHCS Registered Medical Illustrator’).

A continuous “no appointment” service for outpatients is offered from 9.00am to 4:30pm each weekday (4.00pm Friday). Inpatients will be recorded either on the ward or in the department by arrangement, usually on the day of request.

The contact number for the Medical Photography & Illustration Department is extension 3398.

5.2 Before referring a patient to the Medical Photography & Illustration Department, the Clinical Photography request and consent documentation should be completed and signed by the requesting clinical practitioner and countersigned by the patient. ([Appendix 2](#))

The Medical Photography & Illustration Department will store all such documentation and should be the first point of contact when tracking images.

5.3 The Medical Photography & Illustration Department manages the Medical Image Management System (MIMS), which is a purpose-built database solution that allows clinical practitioners to access clinical images online.

There is a mandatory requirement from the ratification date of this policy for the Medical Photography & Illustration Department to upload all clinical photographs to the Trust’s Image Database MIMS, which is the central repository for all clinical photography images.

5.4 The Medical Photography & Illustration Manager will maintain the Trust’s register of clinical practitioners who are non-Medical Photography & Illustration staff but undertake illustrative recordings of patients. Those individuals may do so only after being sponsored prior to approval. Nursing staff are **sponsored** by Matrons. All other clinical staff are **sponsored** by their Clinical Director or Head of Service. ([Appendix 3](#))

Non-clinical Trust employees, assistant practitioners, contractors, guests, and students of all clinical disciplines must not undertake clinical recordings or store clinical recordings of patients under any circumstances, unless the Caldicott Guardian agrees an exception.

The registration process will ensure that equipment used, and resultant images produced are fit for purpose and that the issue of consent and confidentiality and image management is understood.

## 6. TRUST-WIDE IMAGE DATABASE – MEDICAL IMAGE MANAGEMENT SYSTEM (MIMS)



- 6.1** The Medical Image Management System (MIMS) is a purpose-built database solution that allows clinical practitioners to access clinical images online at workstations in their clinics or ward. Click here to go to [MIMS](#)

The Medical Image Management System (MIMS) allows registered clinical users secure access to view and share clinical photographs from any networked Trust PC or laptops to support patient care. The system is available at Russells Hall Hospital, Corbett Outpatient Centre and Guest Outpatient Centre. There is currently no access to the MIMS system from community sites.

All clinical photographs taken since 12<sup>th</sup> December 2014 will be available to view through MIMS. Referrals prior to this date will be in the patient's case notes.

To protect patient confidentiality, the contents of the Medical Image Management System (MIMS) should be viewed, in a manner that precludes accidental observation of the screens.

## **6.2 Purpose**

MIMS exists for clinical purpose, primarily to allow relevant Trust employees to access clinical images on a strict need-to-know basis.

All MIMS users' actions are stored as a recorded audit trail. Therefore, once logged on to the system, users must not allow others to access the system. On no account should username and passwords be shared. This is a breach of the Trust's: refer to IT Acceptable Usage Policy (AUP). Any abuse will be traced and reported for investigation.

Clinical photographs are searchable by patient unit number, making it easy to view images related to a patient without needing to request and wait for case notes. The system also allows images to be shared securely with clinical colleagues from within the Trust to obtain specialist clinical opinion.

Employees should be aware that unauthorised access would be deemed as a breach of the Data Protection Legislation by the Trust and appropriate action will be taken.

MIMS enables secure sharing of clinical images across Trust sites and access to specialist opinion at a distance from the patient.

## **6.3 MIMS application form**

Permanent consultants are registered users and will receive their login once mandatory MIMS training has been completed.

Locum consultants in post after January 2015, and other clinical staff need to request an account by printing and completing an application form.

Eligible staff require a **sponsor**. This is your Clinical Director or Clinical Head of Service or Matron.

Staff wishing to access the MIMS will need to register by completing an application form available from Medical Photography & Illustration Department and submitting it to the Medical Photography & Illustration Department. N.B. Only clinical practitioners will have access to the images and patient demographics unless the Caldicott Guardian and Medical Photography & Illustration manager agrees an exception.

#### 6.4 Other General information about MIMS and storage for consideration

Clinical Photography images should ideally be stored on the Trust's central clinical image database, which can be accessed by approved clinical practitioners from any computer in the Trust.

MIMS images are classified as medical records and only the Medical Photography and Illustration Department have the rights to download or print images upon request. Subject to compliance with this policy and the consent provided by the key clinician and patient, parent or guardian prior to clinical images being obtained. The consent levels are as follows:

- Clinical images marked with consent '**Case notes only**,' may be ordered from the Medical Photography & Illustration Department for use outside of the secure MIMS environment and or The Dudley Group NHS Foundation Trust closed medical environment via a written 'access to medical records request' or written access request for on-going clinical care.
- Clinical images marked with consent '**Restricted educational use**' may be ordered by the named consultant from the Medical Photography & Illustration Department and used for clinical teaching in a closed medical environment.
- Clinical images marked with consent level C '**Open Publication**' may be ordered from the Medical Photography & Illustration Department by the named consultant and used in the public domain for example in clinical teaching outside a closed medical environment, in a journal, on a poster, in a medical textbook or on a web site. **N.B.** Under no circumstances may any clinical images be used in the public domain unless express permission has been obtained from the patient, parent, or guardian for **each individual publication episode**.

Further information about MIMS can be obtained from the Medical Photography & Illustration department.

All MIMS records shall be kept securely in accordance with national legislation, policies and guidelines, and local policies and protocols.

MIMS records will only be made available to those who have a legitimate right to see them.

Access to the MIMS records by the patient will only be made in accordance with current statutory provision.

It is essential that all clinical photography images taken after January 2015 be contained within the Trust's Image Database MIMS, which is the central repository for such images and provides a facility for healthcare professionals to comply with all local and national health records policies in connection with the management of clinical images. This system enables images to be viewed by clinicians anywhere on the Trust network (with suitable security and access rights).

MIMS is extremely easy to access and use and eliminates the need for printed images in patients' medical records. This results in secure, fast availability of patient images to facilitate efficient delivery of care.

The Medical Photography & Illustration Department will upload files to MIMS for approved and registered clinical practitioners.

A minimum set of data should be supplied using The Trust's Clinical Photography request and consent documentation ([Appendix 2](#))

The Trust's IT Department is responsible for the management and backup of the entire MIMS database and has systems in place for disaster recovery of the data contained therein.

Clinical images should only be printed in exceptional circumstances.

- 6.5 Where archive clinical photographs prior to January 2015 are stored as printed copies within the medical records, these should be filed in accordance with the Trust's: [Creation and Management of Patients Health Records Policy](#)

Clinical recordings that are used for secondary purposes (subject to confirmation of appropriate consent) can be ordered via MIMS and are distributed securely by the Medical Photography & Illustration Department.

It is not permitted for clinical practitioners or any other member of staff to keep collections of patient recordings, which are not sufficiently consented or documented.

Reproduction copies of recordings may be provided to clinicians for teaching collections providing sufficient consent has been sought.

Such collections must be transported securely and always stored on Trust approved drives.

## 7. GENERAL

There must be a fully justifiable purpose for a recording to be carried out. Clinical recordings are undertaken for one or more of the following reasons:

- A - Medical records only
- B - Medical records and 'secondary purposes' teaching & education in a secure closed medical environment restricted to appropriate health professionals and healthcare students.
- C - Medical records, 'secondary purposes' teaching and recordings shared outside a closed medical environment and used anywhere, seen by the general public, widely accessible public media, television, radio, internet, print.

## 8. CONSENT

### 8.1 Informed Consent for Clinical recordings (see also [Consent Policy](#))

The patient's consent must be obtained to make a recording that forms part of the investigation of a condition, or contributes to the patient's care, except in the circumstances described in ***Exceptions to This Policy (8.14)***

An explanation must be given to the patient as to why a recording would assist their care, what form the recording will take, and that it will be stored securely.

An explanation must be given in regard to possible secondary uses of the recording (including teaching in a closed medical environment and use in the public domain) when seeking consent to have a recording made.

Key elements of the discussion must be documented in the patient's medical record.

### 8.2 Consent documentation

Printed 'Clinical Photography request and consent form' DW9465\* ([Appendix 2](#)) (order via stock stationary requisition pad).

Patient Information video:

[Patient Information leaflet: Clinical photography, video and audio recording \(Appendix 4\).](#)

Consent Form DW9465 ([Appendix 2](#)) should be completed each time a clinical photograph, video or audio recording is ordered for a patient for level **A** Medical records and level **B** 'secondary purposes' teaching & education within in a closed medical environment (on-line requesting and electronic consent not currently available).

If clinical recordings are required for any form of publication level **C**, including on a web site, a separate consent form is available from the Medical Photography & Illustration Department ([Appendix 5](#)). This form must be completed for each individual incidence of publication. Blanket consent for any publication is not permitted. This form should be completed and signed by the patient or patient's representative, named key consultant / author for any recordings submitted for publication in a medical or scientific journal, conference, web site or book or RGUC production.

The end publication and full title of the article should be given, and the form signed and dated prior to submission. Photocopies should be made of the completed form for the patient notes. The original is held in Medical Photography & Illustration Department.

Copies of clinical recordings may only be made with the permission of the key clinician and within the constraints of consent as laid out in this document.

### **8.3 Informed consent best practice**

The process of gaining informed consent for clinical recordings is recognised as conforming to 'best practice.' The Trust has organisational policies to support this including a requirement to obtain a signature from the patient / legal representative as evidence that an informed consent process has taken place.

The responsibility of obtaining informed consent and assessing the capacity of the patient to understand, rests with the treating clinician and is not a function of the clinical photographer or delegated assistant. However, the clinical photographer or delegated assistant has a duty to ensure that such informed consent has been obtained prior to undertaking clinical photography and in all cases of recording.

If recordings are used in the context of secondary purposes, patients have the right to withdraw consent for use of their recordings at any time. However, in the case of withdrawing consent for publication, it should be made clear to the patient that once a recording is in the public domain, there is limited opportunity for effective withdrawal of the recording.

The clinical practitioners initiating the request must give a full explanation to the patient of how the recordings will be used. At all times, the patient should be invited to ask any questions.

The patient, or the patient's representative holding an Enduring Power of Attorney (EPA) or Lasting Power of Attorney or if a child, the patient's parent or representative, has a right to give informed consent to recordings and to any future use to which the recordings might be put.

**Important Note:** The cut-off to make an EPA was the 1st of October 2007. From October you will no longer be able to make an EPA and will have to make a Lasting Power of Attorney. All EPAs made before the cut-off date remain valid. You can find information here about the new Lasting Power of Attorney below.

<http://www.lastingpowerattorney.co.uk>

## 8.4 Recordings

**8.4.1** Recordings made for clinical purposes form part of a patient's record. Although consent to certain recordings, such as x-rays, is implicit in the patient's consent to the procedure, clinical practitioners should always ensure that they make clear in advance if any photographic, video or audio recording will result from that procedure.

**8.4.1** A recording, which is made for treating or assessing a patient, must not be used for any purpose other than the patient's ongoing clinical care or the audit of that care within the Trust without the express consent of the patient or a person with parental responsibility for the patient. The exception to this principle is set out in ***Situations when consent is not required***.

**8.4.2** If anyone wishes to publish a recording in the public domain, they must seek consent in writing ([Appendix 5](#)), ensuring that the person giving consent is fully aware of the possible uses of the material. In particular, the person must be made aware that they may not be able to control future use of the material once it has been shared outside the Trust or placed in the public domain. If a child is not willing for a recording to be used for any purpose other than for on-going clinical care, it must not be used, even if a person with parental responsibility consents to use for secondary purposes.

**8.4.3** If anyone wishes to undertake a recording of a patient specifically for education, research or publication purposes, they must gain written consent (or where appropriate that of a person with parental responsibility) using the ([Appendix 2 a, 2b, 5](#))

Patients must know that they are free to stop a recording at any time.

**8.4.4** Before deciding whether to give consent to its use for secondary purposes, patients are entitled to view the recording, if they wish, with their key clinical practitioner. This is considered good practice especially before sharing the recording in the public domain.

**8.4.5** As with recordings made with therapeutic intent, patients must receive full information on the possible future uses of the recording, including the fact that it may not be possible to withdraw it once it is shared outside the Trust or placed in the public domain. It should always be made clear to patients that refusal to give consent for secondary purposes will not affect the treatment they receive.

**8.4.6** A patient, parent, or representative's (holding Enduring Power of Attorney) refusal to permit any recording must be respected. Such refusal in itself must not be allowed to prejudice a patient's care. However, in some cases e.g., where accurate diagnosis, progress or deterioration is dependent on a clinical recording, for example, Fundus Fluorescein Angiography (FFA), it may be judged that refusal of consent will adversely affect their clinical care and will require full documentation in the medical notes. There may also be legal reasons for undertaking recordings without consent.

**8.4.7** In all cases, it is strongly recommended that informed consent for a justifiable clinical recording to be undertaken, has been obtained, the Clinical Photography Request and Consent Documentation ([Appendix 2](#)) is used, and the episode recorded in the patient medical records.

**8.4.8** Recordings must not be used for any purpose other than that which the original consent was granted, until retrospective consent for secondary purposes is obtained.

## **8.5 Informed Consent for Clinical recordings of minors (children)**

Children or young people under 16 who have the capacity and understanding to give consent for a recording (Gillick competent) may do so, but you should encourage them to involve their parents in the decision making. Where a child or young person is not able to understand the nature, purpose, and possible consequences of the recording, you must get consent from a person with parental responsibility to make the recording.

In the case of minors, person with parental responsibility should sign the consent form however there are some exceptions to normal consent procedures involving children.

**8.5.1** Records of children should be made only if there are specific features that need recording for clinical reasons (e.g., safeguarding, assessing the progression of a skin lesion) or teaching (e.g., an important clinical sign that might only be seen rarely).

Records should only include the specific areas of interest. Whole body shots should not be taken unless completely necessary.

A child must also give their assent even if they are not competent to give consent.

**8.5.2** The child or young person may decide, after consent has been obtained, and prior to or during the recording session, that he or she does not want to be photographed. In this situation, the photographer must refer back to the requesting clinician to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

**8.5.3** Non-Accidental Injury (NAI) cases involving a minor may be photographed at the written direction of Trust clinicians, without consent, where it is unlikely that the person with parental responsibility will give consent and the recording of injuries is demonstrably to the patient's benefit of care.

**8.5.4** Recordings of minors must only ever be undertaken with 2 staff members present, one taking images, the other as chaperone, at all times during the imaging session, and at the written direction of Trust clinicians. Parents or carers of a child should not be used as a chaperone.

**8.5.5** Young People aged 16-17 should be treated as adults when gaining consent.

## **8.6 Patients temporarily unable to give consent**

The situation may sometimes arise whereby a recording is required of a patient, but the patient is temporarily unable to give or withhold consent because, for example, they are unconscious. In such cases, a recording may be undertaken or requested, but the requesting clinical practitioner must seek consent as soon as the patient regains capacity. The recording must not be used for any purpose other than immediate on-going clinical care of the patient until the clinical practitioner has received consent.

**8.6.1** Recordings of unconscious patients must only ever be carried out with a chaperone present.

**8.6.2** In cases of temporary incapacity where it is impossible to obtain consent prior to the recording (e.g., photography of an unusual finding in the course of an operation where the patient is under anaesthetics or where the patient is otherwise unconscious), the recording can be made but should be



quarantined by the Medical photography & Illustration department until consent is subsequently obtained when the patient regains capacity.

- 8.6.3** The patient must be told that the recordings have been taken. If such a patient does not consent retrospectively then the records must be quarantined for the same retention period as the patient's health record (i.e., the images will be removed from the individual's medical record and retained within the archive but not be accessible to view in MIMS).

## **8.7 Patients unable to give consent**

### **8.7.1 Mental capacity and consent for clinical recordings Level consent.**

- Where patients who appear to lack mental capacity to give informed consent the Trust [Assessing Mental Capacity Policy](#) should be followed.
- If an adult patient has been assessed as lacking mental capacity to give consent, clinical practitioners can still request a clinical recording of a patient if it is felt to be in their best interests.
- The requesting clinical practitioner should use the section for level A consent and write 'lacks capacity - beneficial to on-going clinical care'
- Clinical recordings of patients that lack capacity must only ever be undertaken with a chaperone present.
- The decision needs to be documented in the patient medical record.
- Preferably, the decision would include the views of a patient representative.

### **8.7.2 Mental capacity and consent for clinical recordings for secondary purposes.**

- If the patient is likely to be unable to give or withhold consent for a recording to be made for secondary purposes, the clinical practitioner should seek the views of someone close to the patient.
- Recordings should not be undertaken or used that might not be in the best interest of the patient.
- Clinical recordings should not be used if there are recordings of patients who can consent available that could equally meet clinical practitioners need.

### **8.7.3 Adult patients who lack capacity – disclosure and use of recordings made as part of care**

- Where a recording has already been made as part of the patient's care but may also be of value for a secondary purpose, you should seek the agreement of anyone with legal power to make decisions on behalf of the patient.
- If there is no person appointed, the law permits the key clinical practitioner to decide whether the recording can be used. Whoever makes the decision; it should be made in the public interest and accordance with the relevant legislation or common law.

## **8.8 The Deceased Patient**

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 with the exception of access to health records legal requests.

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.

- 8.8.1** The duty of confidentiality survives the death of the patient. The Trust can be prosecuted under the Access to Health Records Act (1990).
- 8.8.2** Clinical recordings of deceased patients should not be used if there are pictures of living patients who can consent available that could equally meet the clinician's need.
- 8.8.3** If a consenting patient subsequently dies, within the normal length of time medical records are retained, written permission should be sought from the person legally representing for any new use outside the terms of the existing consent.
- 8.8.4** Where pursuance of consent from grieving relatives is inappropriate, the recording should only be used for the consent level A.

### **8.9 Still Births/Post-natal Deaths/ young person and adult deaths**

Clinical recordings and photographs of stillbirths and post-natal deaths must have parental consent. It must be remembered that in such circumstances the situation must be handled with sensitivity and respect.

Clinicians, nurses and midwives should refer to the local directorate policy on the issue of clinical recordings of stillbirths and neonatal deaths.

Nurses and Midwives should refer to the local directorate policy on the issue of non-clinical bereavement recordings taken by parents for grieving purposes.

Clinical practitioners must contact the Lead Biomedical Scientist on duty in Histopathology for guidance in respect to requests from relatives wishing to make medico-legal or non-clinical bereavement recordings of young persons or adults for personal use when visiting the of Chapel of Rest.

### **8.10 Situations when consent is not required**

When an illustrative recording of evidence can be demonstrated to be beneficial to the patient's welfare and on-going clinical care, recordings can be made in special circumstances without consent provided the authority of the treating clinician is obtained and the consultant is satisfied that this is in the vital interests of the patient to do so.

In these circumstances, recordings should be used for medical record use only (Level A consent) or documentation is received confirming there is a legal duty to disclose. Examples of such instances are:

- Strong suspicion of non-accidental injury in conjunction with the Safeguarding adults and Safeguarding Children policies.
- Visual evidence for legal reasons.
- Deceased patients whose next of kin is not known.
- Victim of neglect - protection procedures apply for children and vulnerable adults, including the elderly, the disabled, people with learning disabilities and mental health problems are unable to consent for recording or disclosure themselves.
- There is a legal duty to do so or if it is in the public interest.
- At the direction of the clinical lead coordinating a Major Incident
- Where provision of care or diagnosis is dependent on making a recording.

Clinical practitioners must record the decision in the health records.

### **8.11 Historical Images**



Clinical recordings must not be used for a secondary purpose, of which there is no record that specific informed consent was obtained.

Where there is doubt concerning whether images should continue to be used, the Head of Medical Photography & Illustration Department should be consulted.

## **8.12 Withdrawal of Consent**

All clinical recordings (consent A) should be kept for the same period of time as health records generally.

Recordings that form part of the healthcare record cannot be destroyed except under the Trust Policy [Creation and Management of Patients Health Records Policy](#).

Where accurate diagnosis is or was dependent on a clinical recording, it may be judged that withdrawal of consent (level A) will adversely affect clinical care or record keeping.

There may also be legal reasons for retaining a clinical recording without consent.

**8.12.1** The patient, a deceased patient's next of kin, a patient's representative holding an Enduring Power of Attorney or a child's parent or representative, has the right to withdraw consent for secondary purposes at any time by writing to the Health Records Department.

Similarly, when a minor reaches the age of 16 or is at the point when s/he is deemed capable of making a decision about consent, the consent B/C previously obtained from parents can be withdrawn.

**8.12.2** In the case of publication, it should be made clear to the patient at the onset that once the recording is in the public domain (web, internet, printed media etc) there is limited opportunity to withdraw use.

**8.12.3** Patients have the right to informed consent and to know what happens to their recordings. To ensure that the patient's right to confidentiality is preserved, the Trust requires that the patient must be informed about the intended use of the recording and written consent must be obtained and documented in the medical records.

**8.12.4** Further use of a recording other than stated in the original consent form, will need additional permission in writing, even if the additional recording of the patient will be non-identifiable.

**8.12.5** Reproduction of radiographic images must be dealt with in the same manner as all other recordings and health records and it is extremely important that copyright is retained with the Trust, and not transferred to a third party.

**8.12.6** However, if a patient's condition or case history is highly unusual or unique and where a patient may be identified from such images for these reasons, it cannot be assumed that the images, even if they fall within the categories covered by this section, are non-identifiable. In such cases, the patient's consent must still be obtained to use the images for secondary purposes.

## **8.13 Permission to make recording of pathology slides or internal organs.**

To ensure that the patient's right to confidentiality is preserved further use of a recording other than stated in the original consent form, will need additional permission in writing, even if the additional recording of the patient will be non-identifiable.

The recordings can be used provided that, before use, the recordings are effectively anonymised by the removal of any identifying marks.

**8.13.1** In the case of procedures using recordings for diagnosis e.g., endoscopies, the usual consent procedure is to be used, but the clinical practitioner carrying out the procedure must ensure that they make it clear in advance that photographic or video recordings will be taken during the procedure.

Images of the operative field during surgical intervention may be deemed non-identifiable; however un-consented photography of an unconscious patient is not appropriate under the Human Rights Act 1998 and therefore retrospective consent must be gained.

**8.13.2** The general Trust 'Patient agreement to investigation or treatment' forms include the following statement which the patient signs: *'I understand that if tissue is removed during the procedure, small samples may be retained and/or photographed for my ongoing care. I agree that these may also be used for teaching/research purposes (delete, if permission is withheld).'*' This allows for photographs of small samples taken during surgery to be made without asking the patient to sign a further form. When appropriate, the possibility of sample collection and photographs of those samples should be included in the general discussion of the procedure with the patient.

## **8.14 Consent - Clinical Exceptions**

Recordings for which separate consent is not required

- Consent to make the recordings listed below will be implicit in the consent given to the investigation or treatment and does not need to be obtained separately.
  - Images of pathology slides.
  - Laparoscopic and endoscopic images.
  - Recordings of organ functions e.g., video-fluoroscopy.
  - Ultrasound images.
  - Radiology images.
- However, if there are any possible **secondary** uses of the recording it must be explained when seeking consent to undertake the investigation. Clinical practitioners must record the key elements of the discussion in the patient's medical record.

### **8.14.1 For post-mortem and histology recordings**

- Recordings may form an integral part of a postmortem examination and separate consent is not needed for making recordings of organs, body parts, or pathology slides to assist in the determination of the cause of death.
- However, information for relatives about the post-mortem examination should include an explanation of why a recording may need to be made.
- If recordings of the body, organs or tissue are made during a post-mortem examination for a secondary purpose such as teaching or research, consent should be sought at the same time as consent to undertake the examination.
- For coroner's post-mortem examinations, check with the coroner before taking images of tissue during a post-mortem examination for purposes other than those authorised.
  - Clinical practitioners must contact the Lead Biomedical Scientist on duty in Histopathology for guidance in respect to requests from relatives wishing to make medico-legal or non-clinical bereavement recordings of young persons or adults for personal use when visiting the of Chapel of Rest.

## 9 PATIENT DIGNITY

All parties undertaking clinical recordings shall respect the dignity, religion, nationality, and individual sensibilities of the patient. They shall be aware of and act appropriately upon the need for chaperones.

A private area should be available for the clinical recording to take place.

The Trust Chaperone Policy must be followed.

### 9.1 Chaperones

It is recommended the health care professional must offer the use of a chaperone before undertaking a recording of all patients. If the patient has capacity and does not wish to have a chaperone this must be documented on the form ([Appendix 2 a, 2b](#)) It is advised that a chaperone must be used in the following situations:

- Any child (under the age of 16 years)
- Any unconscious/semi-conscious patient
- Any vulnerable adult (those in need of care because of mental or other disability, age, or illness)
- Any prisoner (likely to be chaperoned by a prison officer)
- Any health care professional recording fully or semi-naked patients
- Any health care professional recording intimate anatomy, physical signs, symptoms, or examinations

## 10 CONFIDENTIALITY/DATA PROTECTION

Clinical Photographers shall ensure the confidentiality and security of information and images acquired in the course of their professional practice.

Clinical recordings of patients will be made only in accordance with local procedures for obtaining informed consent.

- 10.1** The disclosure of confidential information should be on a 'need to know basis' in line with the Seven key Caldicott principles (section 5.8 of the [Information Governance and Data Protection Policy](#)).

Records will normally only be shared with the knowledge and consent of the patient.

- 10.2** Clinical recordings form part of the patient's medical records. All recordings should be dealt with under the normal rules of confidentiality, in accordance with Data Protection Act 2018 (Access to Health Records 1990).

The patient must be informed about the intended use of the recording and written consent must be obtained and documented in the medical records.

Further secondary use of a recording other than stated in the original consent form, will need additional permission in writing, even if the additional recording of the patient will be non-identifiable.

- 10.3** A patient's recording may not be altered in any way to achieve anonymity in order to avoid the need for written consent. Blacking out of the eyes or blurring identifiable features in a recording is not an acceptable means of anonymity.

- 10.4** The Caldicott Report notes care should be taken when judging whether a person's identity can be established from an illustrative recording (DOH 1997 section 4.1.1). For example, clues to the patient's identity include tattoos, posture, rare conditions, physical signs & symptoms and distinguishing

features (especially when used in conjunction with pseudonymous case history presentations). It is not sufficient to rely on a lone clinical practitioner's judgment that a particular patient is unlikely to be identified from a particular recording. You should seek the joint views of the Caldicott Guardian and the Head of Medical Photography & Illustration.

- 10.5** Misuse of clinical recordings is considered a breach of confidentiality [Disciplinary Policy](#). Failure to comply with current UK legislation with regard to data protection is an offence and is punishable by law.
- 10.6** Confidentiality is Trust policy and the patient's right under the Data Protection Act 2018 and may only be waived by the patient or by someone legally entitled to do so. In order to ensure that the patient's right to confidentiality is preserved, the Trust requires that only authorised copies be made. The recordings, especially on video, of psychiatric patients require particular care.
- 10.7** The Department of Health [Common Law Duty of Confidentiality](#) guidance states that confidential information may be lawfully disclosed in the following situations:
- Where the individual to whom the information relates has consented.
  - Where disclosure is in the public interest.
  - Where there is a legal duty to do so, for example at the direction of a coroner or court.

## **11 COPYRIGHT**

Copies of clinical recordings may only be made with the permission of the key clinician and within the constraints of consent as laid out in this document.

- 11.1** The Dudley Group NHS Foundation Trust holds the copyright of all recordings made of its patients including recordings for education and R & D. It is important that in any contract for publication of recordings, the copyright remains with the Trust and does not pass to the publishers on first publication. This allows the Trust to continue to protect the patient.
- 11.2** Those signing contracts with book or other publications have a responsibility to **delete from the contract or submission forms** any suggestion that the copyright of recordings will pass to the publishers. They must also delete any sections on a copy of the master specific journal consent forms requesting identifiable patient data (e.g., patient signature) before submission.
- 11.3** Clinical practitioners acquiring copies of recordings for secondary purposes in the course of their duties may not retain these once they have left the Trust.
- 11.4** Clinical practitioner's must make sure that they understand their contractual or other rights to hold and use recordings, particularly if they change roles, employer or contracting body.
- 11.5** It is the clinical practitioner's responsibility in all cases to obtain permission to publish recordings from the patient. This written consent must be documented in the patient's case notes.
- 11.6** All parties undertaking clinical recordings on Trust premises in Trust-employed time should be aware that, since the Copyright, Designs and Patents Act of 1988, full copyright and reproduction rights have been assigned to the Trust, based on the level of consent obtained from the patient.
- 11.7** All recordings taken in the course of an employment, belong to The Dudley Group NHS Foundation Trust (Copyright, Designs and Patents Act 1988 "Ownership belongs to the employer"), and are classed as part of the patient's

medical record. All recordings should be dealt with, in accordance with Data Protection Act 2018 (Access to Health Records 1990).

- 11.8** Copyright of all clinical recordings of patients is held by the Trust in perpetuity, irrespective of whether the image is taken on a Trust or personal device.
- 11.9** All Clinical recordings, when published (e.g., digital images on a website), must be accompanied with a copyright statement assigning copyright to the Trust and displaying the conventional copyright symbol ©.
- 11.10** The Copyright, Designs and Patents Act (1988) makes it clear that copyright in any artistic work is vested in the original creator, e.g., photographer, videographer, or artist. However, for those working as employees, the copyright remains with the employer.
- 11.11** The copyright of patient record material cannot be assigned to another party, such as an external contractor and remains with the authority responsible for the patient's care. This is not, itself, a provision of the Copyright, Designs and Patents 1988 Act, but is a reasonable assumption because of the need of the authority to retain control over confidential medical material.

## **12 PUBLICATION OF CLINICAL RECORDINGS**

- 12.1** Copies of clinical recordings may only be made with the permission of the key clinician and within the constraints of consent as laid out in this document.
- 12.2** In deciding whether a recording is anonymous, you should bear in mind that apparently insignificant details may still be capable of identifying the patient.
- 12.3** Clinical practitioners should be particularly careful about the anonymity of recordings before using or publishing them in journals and other learning materials, whether they are printed or in an electronic format.
- 12.4** Clinical practitioners will need to consider whether the patient's family confidentiality will be breached if example, a recording includes information about a genetic condition or other information about the patient's family.
- 12.5** Contracts with publishers and freelance organisations should be made so that the copyright on all clinical recordings remains with the Trust. Professional freelance photographers and filmmakers commissioned by the Trust must be made aware of this policy, patient confidentiality and associated rights.
- 12.6** It is prohibited to lend, sell or hire any clinical recordings to external bodies without permission. In this respect, all staff are reminded that breach of copyright is punishable by law. It is important to remember that simply being in possession of material that has been reproduced without consent is an offence.
- 12.7 Recordings for use in widely accessible public media (television, radio, internet, print)**

In general, the considerations set out in this policy also apply to recordings for use in widely accessible public media that are intended for a broad public audience; for example, to inform or educate the general public.

There are, however, some issues set out below that are specific to recordings used in this context.

- 12.7.1** Clinical practitioners must get the patient and staff consent, usually in writing, to make a recording that will be used in widely accessible public media, even if the clinical practitioner considers the patient will not be identifiable from the recording.

- 12.7.2** Before making any arrangements for individuals or organisations to record patients, their relatives, staff or their visitors in a healthcare setting or context, clinical practitioners must get agreement from the Trust.
- 12.7.3** Within the NHS, a contract with the filmmaker will normally be required. If in doubt, clinical practitioners should seek advice from the Communications Department, Medical Photography & Illustration or the Caldicott Guardian or equivalent.
- 12.7.4** If clinical practitioners are involved in recording patients for broadcast media, they should satisfy themselves that the patients' and staff consent has been obtained in accordance with this guidance, even if clinical practitioners are not responsible for getting that consent or do not have control of the recording process.
- 12.7.5** [The Ofcom Broadcasting Code, 2020](#), which covers all UK broadcasters, requires consent to be obtained in a way that is consistent with this guidance.
- 12.7.6** In addition, clinical practitioners should check that patients and staff understand that, once they have agreed to the recording being made for broadcast, they may not be able to stop its subsequent use.
- 12.7.7** If participants wish to restrict the use of material, they should be advised to get agreement in writing from the programme maker and the owners of the recording, before recording begins.
- 12.7.8** Particular vigilance is required in regard to recordings involving patients and staff who may be vulnerable to intrusions in their privacy and dignity.
- 12.7.9** If clinical practitioners believe that the recording is unduly intrusive or damaging to the patient's or staff interests, clinical practitioners should raise the issue with the patient, staff, and the programme makers, even where the patient and staff have consented to the recording. If clinical practitioners remain concerned, they should withdraw co-operation.
- 12.7.10** If a recording includes information about the patient's family, consideration should be given whether the information will breach the patient's family's privacy rights.
- 12.7.11** When deciding whether to make a recording for use in widely accessible public media, clinical practitioners must follow the guidance in this policy.
- 12.7.12** Clinical practitioners must not participate in making or disclosing recordings of children or young people who lack capacity, where clinical practitioners believe that they may be harmed or distressed by making the recording or by its disclosure or use.

## **12.8 Patients, 'representatives,' outside agencies medico legal request for copies of recordings**

- 12.8.1** Patients / representatives have the right to obtain copies of their clinical notes under the Data Protection Act (2018) in the case of living patients, and the Access to Health Records Act (1990). In relation to the records of deceased patients please refer to the Trust Policy for the Creation & Management of Patients Health Records.
- 12.8.2** Following all requests by patients' / representatives for access to their notes and other hospital-held information the Medical Photography & Illustration Department should also be contacted to ascertain whether any original recording to which they are entitled a copy of is held.
- 12.8.3** Copies of a patient's clinical recordings can be released upon receipt and completion of an Access to Health Records Request form and or processes



described in the Trust Policy for the Creation & Management of Patients Health Records.

Access to Health Records Request form can be obtained by writing to: The Access to Health Records Team, Health Records Department, The Dudley Group NHS Trust, Russells Hall Hospital, Dudley, West Midlands. DY1 2HQ or telephone Team Access 01384 456111 extension 1390.

- 12.8.4 Health Records Staff under the management of the Patient Administration Manager are responsible for the management of 'Access to Health' disclosure requests from patients, designated representatives or third parties
- 12.8.5 Always inform the Health Records Team Access Staff, the Trusts Named Nurse for Children or Adult Safeguarding before disclosing information relating to or sharing clinical recordings relating to safeguarding to a third party (Police, Social & Care services, etc.) in conjunction with the Safeguarding Adults and Safeguarding Children and Policy for the Creation & Management of Patients Health Records. policies.
- 12.8.6 Health Records Team Access Staff Responsible for advising and checking validity of written requests, before disclosing or sharing information relating to clinical recordings to a third party where there is a legal duty to do so, for example police requests, safeguarding, at the direction of a coroner or court.

### 13 COLLABORATIVE PRACTICE - CLINICAL RECORDINGS UNDERTAKEN BY CLINICAL PRACTITIONERS OTHER THAN REGISTERED MEDICAL ILLUSTRATION PRACTITIONERS

Clinical recordings of patients should be made in the first instance by qualified Medical Photography staff (AHCS Registered Medical Illustrator' Clinical practitioners) must only undertake those tasks for which they are competent within the scope of the remit of their professional practice or for which competency has been assessed and documented.

- 13.1 In the interests of patient care, teaching and research, subject to the Caldicott Guardian and Medical Photography & Illustration manager's agreement, clinical practitioners with a need to make clinical recordings outside Medical Photography & Illustration service will be given advice on equipment, training, and how to use a registered recording device. ([Appendix 8](#)) describes the process for staff to follow.
- 13.2 Out of hours registered recording devices should be used only when the Medical Photography & Illustration service is unable to undertake clinical recordings i.e., during the evenings, nights, or weekends or at satellite locations, following the process described in ([Appendix 8](#))
- 13.3 For patients who require recordings out-of-hours for safeguarding, wound care management or other purposes please refer to ([Appendix 8](#))
- 13.4 AHCS Registered Medical Illustrators will provide basic training on the process of undertaking clinical recordings on registered recording devices
- 13.5 The Medical Photography & Illustration service will manage the devices and subsequent recordings.
- 13.6 In extreme circumstances, (i.e., vital to the immediate and ongoing clinical care) a clinical practitioner may use their **own camera** to make recordings.
- 13.7 Any personal recording device must be securely quarantined until the recording can be given to Medical Photography Department to manage.
- 13.8 All clinical recordings taken within the Trust form part of the medical record of the patient irrespective of the ownership of the device that takes the image.

- 13.9** Clinical practitioners likely to be undertaking clinical recordings as part of their scope of practice should contact the Medical Photography & Illustration Department for advice.
- 13.10** The correct process of consent as documented in this policy must be followed for clinical recordings carried out by clinical practitioners outside of the Medical Photography & Illustration service.
- 13.11** Staff using personal or departmental cameras must register each individual camera with the Medical Photography & Illustration Department; registration forms are available for this purpose ([Appendix 3](#))
- 13.12** Any clinical photographs taken on personal or departmental cameras are subject to the conditions of use as stated on the reverse of the registration form.

[\(Appendix 8\)](#) describes the process to ensure that these conditions are met.

**13.13 The Role of the Ron Grimley Undergraduate Centre (RGUC) Media team**

The RGUC Media team are responsible for developing educational visual media for use in undergraduate medical education and developing educational learning content in co-ordination with medical education providers within the Undergraduate Centre. This includes film, print, photographic content, presentation and web-based output. In addition, the Media team undertake various web, e learning, and graphics-based projects for the undergraduate centre. Link to the RGUC Media team specific information and consent documentation. <http://thehubv2/undergraduate-centre/SitePages/Home.aspx>

## **14 ACHIEVING QUALITY IMAGING**

All clinical photographs taken by clinical practitioners, whose images are managed by Medical Photography, will be quality checked by a registered medical illustration practitioner prior to uploading to the Trust wide web database system (MIMS).

- 14.1** Image editing has the potential to harm image data to an extent that any evidential worth of an image is open to question in law.
- 14.2** Clinical photographs should be edited within prescribed processes as described in ([Appendix 8](#))
- 14.3** Only AHCS Registered Medical Illustrators may make alterations to clinical recordings made with therapeutic intent.
- 14.4** It is recognised that clinical practitioners undertaking clinical recordings are not trained photographers and therefore alterations to these photographs by registered medical illustration practitioners may improve the appearance.
- 14.5** Reasons for alteration are to improve the quality of an image, not to alter the appearance of physical signs e.g., lightening/darkening, white balance.
- 14.6** Alterations are made to an exact copy – the master images are stored as captured.
- 14.7** Any alterations must be auditable and will be recorded in the notes section of the Job Management System (JMS) in Medical Image Management System (MIMS) by the Medical Photography & Illustration Department.

### **14.8 External processing**

- 14.8.1** In the interests of confidentiality, the processing and reproduction of clinical recordings should, wherever feasible, be kept within the direct control of the Trust.



**14.8.2** Where external processing facilities are used contractual arrangements must be made with the head of the Trust's procurements service to ensure that secure arrangements are in place to prevent any misuse of patients' clinical recordings.

## **15 LOGGING AND STORAGE OF IMAGES**

**15.1** All clinical photographs taken by the Medical Photography & Illustration department prior to 12 December 2014 are filed in patient medical records or are available for viewing in the Medical Photography & Illustration Department by authorised clinical practitioners.

**15.2** Photographs taken by clinical practitioners outside the Medical Photography & Illustration department should be sent securely to Medical Photography & Illustration for uploading into the Trust database.

**15.3** Images/recordings on cameras should be downloaded and stored on the secured Trust drives as a matter of priority, as soon as practical after the image has been taken.

**15.4** Exceptions to this are made when capturing a recording is an implicit part of a diagnostic procedure and a recording is stored and saved on the diagnostic tools hard drive e.g., Fundus Fluorescein Angiography, Laparoscopy. The recording must meet with Trust regulations for storage and retrieval. The Trust IT department can provide advice on this process.

**15.5** Since any medical records have to be available for disclosure if required, it is essential that every recording be correctly documented.

**15.6** Subject to agreement, if Medical Photography & Illustration department does not manage recordings, practitioners must ensure an effective audit trail is documented in the case notes including who to contact if additional copies are required, a catalogue reference and the location of the master recording.

**15.7** All clinical recordings should be stored in their original format without manipulation to preserve their integrity. Proof of the integrity of the original may be required, for example, where photographic evidence is required in a court case.

**15.8** Original digital image files should be transferred to a secure file server in their proprietary camera format prior to any processing.

**15.9** Each image must be assigned a file name incorporating the Catalogue Number/Patient Initials / NHS number/ Date of Episode.

**15.10** Files should be deleted from portable media as soon as transfer to a secure Trust drive is complete.

**15.11** In the case of a digital picture files, the original camera image, or high-quality file (fine jpeg or tiff or RAW) - with no manipulation or compression applied must be stored in a secured place and catalogued.

**15.12** The Trust wide database system (MIMS) is used for the storage of digital clinical photography recordings taken by Medical Photography & Illustration from 12 December 2014 onwards.

**15.13** Consultants can use MIMS to access a searchable legacy collection containing details of film based clinical photography episodes that were filed and catalogued prior to December 2014.

**15.14** Once this policy is fully implemented ALL clinical photography recordings must be stored, viewed and accessed via this system unless the Caldicott Guardian deems another Trust system more suitable for clinical use.

- 15.15** Images produced by Non-Medical Illustration staff will be quality assessed to ensure that they are fit-for-purpose and training will be offered to users where required Employees, whose recordings are deemed to be poor quality will have their recording device registration suspended.
- 15.16** Equipment and staff must be registered with the Medical Photography & Illustration Department.
- 15.17** All recordings must be stored within an approved secure data base e.g., MIMS or an allocated Trust approved secure storage area.
- 15.18** If recordings are not stored within MIMS then the person responsible for the recording must keep their own record of recordings and store each recording appropriately, as patients have “right to access” to the recordings under the Access to Health Records Act (1990). Any known breaches will be dealt with via a disciplinary procedure.
- 15.19** All clinical recordings should be kept for the same period of time as health records generally
- 15.20** Video recording, the original recording and final master should be stored in an allocated Trust approved secure storage area and catalogued.
- 15.21** It should be remembered that digital recordings are intrinsically no different to traditional recordings, but they are easier to copy in electronic form and are therefore more at risk of both image manipulation and inappropriate distribution.
- 15.22** All clinical recordings stored should be password and or encryption protected and not emailed unless protected by mandated NHS standard of encryption
- 15.23** Clinical recordings should be processed and stored safely to prevent accidental loss, unauthorised viewing or damage. In this respect, all parties must be aware that clinical recordings should be treated with the same level of security and confidentiality as traditional medical images.
- 15.24** Commercial laboratories or agencies that have not been approved by the head of Trust procurements must not process clinical recordings.
- 15.25** All personal data associated with clinical recordings must be kept so that it conforms to the standards stipulated by the Data Protection Act 2018.
- 15.26** The Trust provides the facilities for you to store clinical digital photographs securely on MIMS or an approved encrypted or secure “Drive”.
- 15.27** To ensure an effective audit trail, all clinical recordings must be stored on Trust premises or computer systems using minimum data set and should not be taken or transferred electronically off Trust premises without ensuring they are securely password protected or encrypted.
- 15.28** It is not acceptable for clinical photographs and recordings to be stored at your home on your personal PC, on a shared drive, Cloud drive, and non-encrypted device or in paper format.
- 15.29** Advice and procedures for ensuring the security of data are available as separate documents on the Hub, for example the [IT User Acceptable Use Policy \(AUP\)](#)

## **16 SECURITY**

- 16.1** If a clinical recording or device is lost or stolen it must be reported on [Datix](#). Guidance can be found within the Trust’s Incident Reporting Policy.
- 16.2** All recordings shall be kept securely in accordance with national legislation, policies and guidelines, and local policies and protocols.

- 16.3** Recordings will only be made available to those who have a legitimate right to see them (need to know basis).
- 16.4** Access to the records by the patient will only be made in accordance with current statutory provision.
- 16.5** Reference should be made to current codes of practice and other national and local guidance on access to personal health records.
- 16.6** A recording of the patient, by patients, their relatives or friends is forbidden in designated critical clinical areas and while undergoing tests, treatment, and procedures.
- 16.7** Any unauthorised photography is potentially a criminal act breaching not only the Data Protection Act 2018 but also potentially Section 2 or Section 8 of the Human Rights Act. If any unauthorised photography does take place, those taking the photographs will be asked to delete the images. If this request is not met, security may be called and if necessary, security will call the police. Incidents must be reported on DATIX (refer to [Incident Reporting and Management Policy \(Including Serious Incidents\)](#))
- 16.8 Transfer, sharing and transportation of clinical recordings**
  - 16.8.1** Where recordings are required for use outside of 'MIMS' transfer or transportation of recordings can be made using the following methods:
    - 16.8.1.1** Emailed from an nhs.net account to an nhs.net account including the patient demographic data.
    - 16.8.1.2** Downloaded onto an encrypted portable drive and use a door-to-door Trust approved courier, or Royal Mail's Special Delivery service, in a secure envelope marked "confidential – addressee only" with the sender's address on the back to enable undelivered mail to be returned. Password information must be sent separately to the recordings.
  - 16.8.2** In all incidences where clinical recordings are transported outside of the MIMS system, they require inclusion of an email or letter detailing the recipient's responsibilities of appropriate use, confidentiality, and safe storage.
  - 16.8.3** Hard copy prints, which are reproduced but need not be posted externally, should be collected from Medical Photography department. Internal mail should not be used.
  - 16.8.4** Recordings of patients that are transferred outside the Trust for the ongoing clinical care or in connection with research projects must be encrypted and have the appropriate level of consent.
  - 16.8.5** Such photographs can be transferred between nhs.net accounts, on an encrypted memory stick or encrypted laptop and must never be transferred to an unsecured storage device.
  - 16.8.6** Email distribution using other than nhs.net is not a secure means of transmitting patient specific data (see Information Governance policy).
  - 16.8.7** For advice on sharing or secure transfer and encryption of radiology images contact the PACS manager via the IT helpdesk, Radiology office manager or out of hour's duty radiographer.
  - 16.8.8** Mobile phones and devices must not be used to transfer, clinical photographs, PACS / x-rays, videos, audio or any other medical record.
  - 16.8.9** With approval from Medical Photography & Illustration Department, selected clinical photographs can be transferred from an approved internal sender via nhs.net email account to Medical Photography & Illustration Department's nhs.net email account.
  - 16.8.10** All digital clinical images that have consent to be shared or transferred to another person or hospital, outside @nhs.net can only be e-mailed via a

nhs.net account to another nhs.net account.

**16.8.11** NHS Mail (NHS.net) is a secure service and is mandated for the transfer of patient data as long as the recipient is also on NHSmail or other secure service: i.e., their email address would be in the form name@nhs.net. NHS mail is only available for NHS employees, and email transmissions between individuals on NHSmail remain on the NHS Network, rather than transferring to the Internet.

## **17 Information Governance**

Information Governance Department hold a list of hospitals this Trust can share information with. To securely transfer data via email, see the safe emailing information on the Hub.

If in any doubt about disclosure, contact the Information Governance Manager or the Health Records Patient Administration Manager.

**17.1** It is important to realise that NHSmail can also be used to send email to anyone on the Internet, and hence it is important that any patient data is only transferred to someone with a valid NHSmail account. Sending this data to any other addresses such as a Hotmail email account for example will transfer it from the secure NHS network to the Internet.

**17.2** Transferring images or recordings of genital and intimate areas, especially children, should be clearly defined by clinical need and documented in detail in the medical record justifying why transferring images or recordings are necessary. Such images should be only used for the ongoing clinical care or essential closely controlled clinical teaching in a closed medical environment.

**17.2.1** Extreme caution should be used if such images need to be published or presented at clinical conferences or venues external to the Trust premises and outside a closed medical environment. Under no circumstances should such images be emailed or sent in electronic presentations in advance of the event or included in conference handouts or websites.

**17.2.2** Health Records Staff under the management of the Patient Administration Manager are responsible for the management of 'Access to Health' disclosure requests from patients, designated representatives or third parties

**17.2.3** Always inform the Health Records Team Access Staff, the Trusts Named Nurse for Children or Adult Safeguarding before disclosing information relating to or sharing clinical recordings relating to safeguarding to a third party (Police, Social & Care services, etc.) in conjunction with the Safeguarding Adults and Safeguarding Children and Policy for the Creation & Management of Patients Health Records. policies.

**17.2.4** Health Records Team Access Staff Responsible for advising, supporting staff, logging and checking validity of written requests, before disclosing or sharing information relating to clinical recordings to a third party where there is a legal duty to do so, for example Police requests, safeguarding, at the direction of a coroner or court.

## **17.3 Multimedia Messaging Service (MMS) Picture Phones**

**17.3.1** It is not permitted to make clinical recordings of any patient in this Trust on any recording device such as mobile phone.

**17.3.2** With the increasing availability of camera phones with still, audio and video capability, the Trust has had to make a decision on their use in the clinical environment. The particular risks with using camera phones are:

- Interception when sending to an e-mail address via the Internet.
- User typing the wrong number when sending to another phone.

- Phone operators sending messages over an insecure link.
- The phone being lost or stolen with images remaining in the memory.
- Mobile devices, phones, smart phones may cause interference to sensitive medical and scientific devices/equipment.
- Mobile phones, smart phones which include cameras are a risk to patient confidentiality
- Automatic uploading to Cloud storage and or social media pages

**17.3.3** In balancing the confidentiality of patient information with the potential benefits of any new technology, the Caldicott and Information Governance Group has decided that this type of equipment should not be used within the clinical environment.

**17.3.4** Incidences arising from making clinical recordings of any patient on any recording device such as mobile phone are not supported by the Medical Defense Union

## **18 IMAGE DESTRUCTION**

Head of Medical Photography & Illustration Department should be consulted about safe and secure destruction in regard to any clinical recording that is no longer required. The material is not the property of individual staff.

Before leaving the employment of the Trust, staff must erase any images of patients from their Trust computers and secure drives unless specific permission to retain images for this is obtained from the Medical Director or nominated representative.

### **18.1 Destruction of Images**

These should be destroyed in line with the risk based destruction process detailed in Appendix 5 of the Trust [Creation and Management of Patient's Health Records Policy](#). The appendix follows regulations stipulated by NHSX records Management Code of Practice 2021 and includes any local investigations where images will need to be retained.

## **19 PRIVATE PATIENTS**

Unlike NHS patients, for private patients the ownership of clinical photographs transfers to the patient, and they have a right to have a printed image, or an image burnt on a CD-R for their personal use. A charge will be made for the clinical photography service of private patients.

**19.1** Private Patients are required to complete the Trust Private Patients agreement form available from General office.

**19.2** Private Patients are required to give informed consent to the taking of any clinical recordings and be aware of all photographs that have been taken in the course of their care. Private Patients must give informed consent to the storage of clinical recordings on the Medical Image Management System.

**19.3** If a private patient has an image taken by the Medical Photography & Illustration Department and does not give permission for the use of the photograph for any other purpose than for clinical reference by their consultant, then the Medical Photography & Illustration Department will arrange for the photograph to be stored on the MIMS but not be either visible or available to any other clinician or staff member

## **20 EXCEPTIONS TO THIS POLICY - CLINICAL**

### **20.1 Recording telephone calls**

Telephone calls from patients to healthcare organisations may be recorded for legitimate reasons, for example, for medico-legal purposes, staff training, and audit provided you take all reasonable steps to inform callers that their call may be recorded.

Given the sensitive nature of calls to medical advice lines or similar services, you should pay particular attention to ensuring that callers are aware that their call may be recorded.

You must not make secret recordings of calls from patients or staff.

### **20.2 Making recordings covertly**

Covert recordings should be undertaken only where there is no other way of obtaining information that is necessary to investigate or prosecute a serious crime, or to protect someone from serious harm. This might arise in cases where there are grounds to suspect that a child is being harmed by a parent or carer.

**20.2.1** Before any covert recording can be carried out, authorisation must be sought from a relevant body in accordance with the law. In most circumstances, the police should carry out covert recordings.

**20.2.2** If you consider making covert recordings, you must discuss this with colleagues, your Caldicott Guardian, and relevant agencies.

**20.2.3** Covert recordings will fall within the scope of the Regulation of Investigatory Powers Act 2000, where a public body, such as an NHS body, uses it or those contracted to, or employed by, an NHS body. If circumstances arise where you might be involved in covert recordings, you must ensure that you comply with the requirements of the relevant Act.

### **20.3 All recordings not related to medical care**

**20.3.1** No person identifiable recordings or recordings of the Trust environment should be placed in the public domain without explicit permission.

**20.3.2** The Dudley Group NHS Foundation Trust holds the copyright of all recordings made irrespective of whether the image is taken on a Trust or personal device.

**20.3.3** It must first be made clear that there is a possibility of such recordings being seen or downloaded by someone other than the intended recipient and that once such images are in the public domain, there is no effective means of withdrawing consent.

### **20.4 Informed Consent for public relations purposes and non-Clinical recordings**

Informed consent is also required to make recordings of patients and staff for press, promotion, marketing and public relations purposes. Separate Communications Team corporate consent forms are available for this purpose ([Appendix 6a](#) and [6b](#))

([Appendix 6c](#)) should be used for specific non-clinical recordings of patients and for staff when photography is arranged through the Medical Photography & Illustration Department. As in all photography, the subject can opt out or withdraw consent at any time.

**20.4.1** It is best practice to time limit or review public relations illustrations after two years from point of capture to ensure accuracy. For example, staff uniform, equipment and the environment may have changed, staff may have left the Trust or change roles, patients' clinical conditions may have resolved or worsened. The Trust may undertake to contact the legal representative of the



deceased person for continued permission as they may feel it is a tribute to their loved one to see the image continue to be used

## **20.5 Informed Consent for non-clinical photography and minors**

**20.5.1** Due to safeguarding issues, even though a minor may be competent, written consent is required from the parent/guardian of children or young people under the age of 18.

**20.5.2** It should always be explained what the photography is for and how the recording will be used, including timescale.

**20.5.3** Library images should be used for controversial subjects such as drugs, abuse etc.

**20.5.4** Where a young person could be identified through a school or uniform their full name should only be published with consent and if it is integral to the story.

**20.5.5** Images that could be used inappropriately should not be published.

**20.5.6** Contact details of a minor should never be published.

**20.5.7** Any staff wishing to undertake public relations recordings, involving patients, visitors or staff must do so through the Communications Department and in line with the Trust Communications Department Access to patients for VIPs, celebrities, media and non-Trust registered volunteers Policy.

## **20.6 Journalists, broadcasters, and other organisations**

Any individual wanting to film, take pictures or make any visual recording around the Trust must contact the Communications Department to seek explicit permission.

**20.6.1** Journalists, broadcasters, and other organisations must:

- Follow advice and be accompanied by a member of the Communications Department team when undertaking media photography and filming around the Trust.
- Work with NHS staff to ensure that patient privacy, dignity and confidentiality is not breached.
- Be made aware of the Trust Communications Department Access to patients for VIPs, celebrities, media, and non-Trust registered volunteers Policy

**20.6.2** Freelance professional photographers or videographers employed by the Trust, to make recordings, may only be allowed on the Trust premises with approval from the Communication Department and Clinical Director concerned.

**20.6.3** Contracts with “outside” professionals for public relation recordings must ensure that they waive ownership of copyright and moral rights in the recordings they prepare, although they may still be allowed to retain the right to reproduce the recording.

**20.6.4** Written patient and staff permission can also be obtained for the Trust to use recordings using ([Appendix 6a](#), [6b](#) or [6c](#)) regardless of whether external agencies additionally obtain their own permissions.

**20.6.5** The individual commissioning such images for the Trust must be responsible for ensuring that the resultant images are fit-for-purpose and are compliant with Trust Policy. Such images should be made available to the communications team for upload to their image database along with the necessary consents/model releases.

**20.6.6** An external TV company (excluding news) must first ask the Trust to sign a release form to film on our location and also each participant (staff or patient) must be asked to sign a release form to give permission to appear in the film.

## 21 EXCEPTIONS TO THIS POLICY NON-CLINICAL

This policy does not cover:

- Communications activities and events that are **solely coordinated by the communications department and as described** in the non-clinical policies Communications policy section of the Hub, for example the [Social Media Policy](#). Anyone wishing to make press, promotion, and marketing, corporate and patient information recordings, such as Trust staff, visitors, press reporters, photographers and film crew must seek permission and advice from the Communications Manager before doing so.
- Audiotapes used for clinical dictation.
- ‘Recordings’ in this guidance means originals or copies of photographs, video, audio recordings, and other visual images of patient’s medical records that maybe made using any recording device, including mobile phones. It does not cover copies of written records made by the Health Records Department.
- CCTV – Refer to [Safe and Secure Environment Policy](#)
- This policy does not cover CCTV recordings of public areas in hospitals and community, which are the subject of separate [video surveillance \(including guidance for organisations using CCTV\) guidance](#) from the Information Commissioner’s Office.

**21.1** There are some circumstances where mobile telephones are permitted for capturing images for domestic purposes, i.e., non-clinical images. An example of this might be where parents are permitted to make recordings of their own children using mobile phones. Such domestic images are exempt. The Information Commissioner’s Office (2022) defines domestic purpose as personal data processed in the course of a purely personal or household activity, with no connection to a professional or commercial activity, is outside the UK GDPRs scope. This means that if you only use personal data for such things as writing to friends and family or taking pictures for your own enjoyment, you are not subject to the UK GDPR.”

**21.1.1** A recording of the patient, by patients, their relatives or friends is normally forbidden in designated critical clinical areas and while undergoing tests, treatment, and procedures.

**21.1.2** The senior member of staff will only permit the recording if the patient has consented and it is clearly, for a justifiable domestic purpose. Trust posters ask people to respect the privacy of others. Any permitted recording must be carried out in a private or screened area to ensure that no other patients, members of staff or person identifiable data are accidentally recorded.

**21.1.3** NHS Choices guidance on use of mobile phones for patients - Can I use my mobile phone in an NHS hospital?

### **21.2 Linked Facilities Contractors and Private Finance Partnership (Pfi) Policies**

**21.2.1** Photographic evidence must be taken of any vehicle that is parked inappropriately and has been issued with a Penalty Charge Notice (PCN) by Interserve (Facilities Management) Ltd. The photograph must clearly show the circumstances of the inappropriate parking and the vehicle registration. It is not permissible for the photographs to include irrelevant person identifiable data, for example, recognisable images of people. In addition, the image capture date and time must be accurate.



**21.2.2** Secure storage of unaltered photographic evidence / person identifiable data must be put in place and be made available by Interserve (Facilities Management) Ltd, and their relevant administration agency or subcontractor as agreed with the Trust for review by the Trust to confirm compliance with The Data Protection Act, the Trusts Photography and Video Recordings and Car Parking Policies.

## **22 TRAINING/SUPPORT**

Clinical Practitioners must only undertake those tasks for which they are competent within the scope of the remit of their professional practice or for which competency has been assessed and documented.

The Medical Illustration Department will assist in developing suitable protocols for safe practice.

- 22.1** Basic training is provided by Registered Medical Illustration Practitioners to junior doctors working in child protection and other key clinical staff, enabling them to make basic out of hours recordings. This session explains basic capture, device functions and the requirements for confidentiality, consent, copyright, storage of clinical photographs taken out of hours.
- 22.2** Clinical practitioners who delegate duties to others, such as support workers, must be satisfied that the person is a registered camera user and competent to undertake that duty under direct supervision.
- 22.3** Clinical practitioners delegating duties will remain with and retain responsibility for the patient or clients at all times and abide by the policy.
- 22.4** Training is provided in the use of the Trust-wide image database MIMS

## **23 PROCESS FOR MONITORING COMPLIANCE**

See table below

## COMPLIANCE MONITORING CHECKLIST

**MONITORING THE EFFECTIVENESS OF THIS POLICY-** As a minimum the following will be monitored to ensure compliance:

	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Incidents arising from failing to comply with this policy are reviewed and investigated	Head of Department Medical Photography	DATIX	Monthly	Diagnostics Governance meeting	Area lead	Team meetings / Directorate meetings if appropriate
Audit trails of staff accessing the MIMS image database will be kept	Head of Department and Deputy Head of Department Medical Photography	MIMS audit tool	Monthly	Information Governance lead	Area Lead	1:1s, Team meetings / Directorate meetings if appropriate
Images produced by Non-Medical Illustration staff will be quality assessed to ensure that they are fit-for-purpose and training will be offered to users where required	Deputy Head of Department Medical Photography	MIMS QA	At point of upload	1:1 with user	Area Lead	1:1s , Training sessions, Team meetings / Directorate meetings if appropriate
Medical Illustration staff will assess understanding of policy and practice	Head of Department Medical Photography	Audit and Training Q & A	Yearly	Diagnostics Governance meeting	Area Lead	Team meetings / Directorate meetings if appropriate

## 24 EQUALITY

The Dudley Group NHS Foundation Trust is committed to ensuring that, as far as is reasonably practicable the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

## 25 REFERENCES

There is a substantial amount of legislation and guidance relating to illustrative recording in the clinical setting.

### Legislation

[The Access to Personal Files Act 1987 \(repealed 1.3.2000\) \(legislation.gov.uk\)](#)

[The Access to Health Records Act \(1990\).](#)

[The Children Act \(1989 and 2004\).](#)

[The Copyright, Designs and Patents Act, \(1988\).](#)

[The Criminal Justice and Public Order Act \(1994\).](#)

[The Data Protection Act \(2018\).](#)

[The Mental Health Act \(1983\).](#)

[The Obscene Publications Act \(1959\).](#)

[The Ofcom Broadcasting Code \(2020\)](#)

[The Protection of Children Act \(1978 and 1999\).](#)

[The Regulation of Investigatory Powers Act 2000.](#)

[The Video Recordings Act \(2010\)](#)

[Professions Supplementary to Medicine Act \(1960\).](#)

[Clinical Negligence Scheme for Trusts \(2001\).](#)

[Human Right Act 1998](#)

### References

BMA Medical Ethics Department. (2019) Taking and using visual and audio recordings of patients.

[https://www.mysurgerywebsite.co.uk/website/IGP217/files/takingusingvisualaudiorecordings2019%20\(1\).pdf](https://www.mysurgerywebsite.co.uk/website/IGP217/files/takingusingvisualaudiorecordings2019%20(1).pdf) [accessed 26<sup>th</sup> September 2022].

BMJ Ethics Committee. Consent to Publication. 2003.

<https://www.bmj.com/about-bmj/advisory-panels/ethics-committee/consent-publication> {accessed 26th September 2022].

British Photographers' Liaison Committee. (1999) The ABCD of UK Photographic Copyright. [https://mlimages.co.uk/wp-content/uploads/2018/03/ABCD\\_of\\_copyright-1.pdf](https://mlimages.co.uk/wp-content/uploads/2018/03/ABCD_of_copyright-1.pdf) [accessed 26th September 2022].

Department of Health. (2009) Reference guide to consent for examination or treatment, 2<sup>nd</sup> edition.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/138296/dh\\_103653\\_1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/138296/dh_103653_1.pdf) [accessed 26th September 2022].

Department of Health. (2003) Confidentiality: NHS Code of Practice.

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/>

[attachment\\_data/file/200146/Confidentiality - NHS Code of Practice.pdf](#)  
[accessed 26th September 2022].

Department of Health. (2007) Information Security Management: NHS Code of Practice.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200506/Information\\_Security\\_Management\\_-\\_NHS\\_Code\\_of\\_Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200506/Information_Security_Management_-_NHS_Code_of_Practice.pdf) [accessed 26th September 2022].

Department of Health. (2007) NHS Information Governance: Guidance on Professional and Legal Obligations.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200702/NHS\\_Information\\_Governance\\_Guidance\\_on\\_Legal\\_and\\_Professional\\_Obligations.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200702/NHS_Information_Governance_Guidance_on_Legal_and_Professional_Obligations.pdf) [accessed 26th September 2022].

General Medical Council.(2013) Making and Using Visual and Audio Recordings of Patients. [https://www.gmc-uk.org/-/media/documents/making-and-using-visual-and-audio-recordings-of-patients\\_pdf-58838365.pdf](https://www.gmc-uk.org/-/media/documents/making-and-using-visual-and-audio-recordings-of-patients_pdf-58838365.pdf)  
[accessed 26th September 2022].

Information Commissioner's Office. (2022) Guide to the General Data Protection Regulation (GDPR). <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/exemptions/#ib2> [accessed 26<sup>th</sup> September 2022]

Institute of Medical Illustrators. (2014) A Code of Professional Conduct for Professional Members. [https://www.imi.org.uk/wp-content/uploads/2018/12/CodeofConductOct14FINAL\\_2.pdf](https://www.imi.org.uk/wp-content/uploads/2018/12/CodeofConductOct14FINAL_2.pdf) [accessed 26th September 2022].

Department of Health (2003) Confidentiality: NHS Code of Practice. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200146/Confidentiality - NHS Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200146/Confidentiality - NHS Code of Practice.pdf)  
[accessed 26th September 2022].

## 26 APPENDICES

**\*Appendices 1, 3,4, 5, 6c, please go to Medical Photography & Illustration Department document page on the Hub to download these documents.**

**\*Appendices 6a and 6b, please go to the Communications Department document page on the Hub to download these documents.**

**Appendix 1: Summary sheet: Photography, Video and Audio Policy: Clinical and non-Clinical recordings policy V5.1 August 2022**

Acceptable	NOT Acceptable
<a href="#">Full policy Hub page</a>	
Contact the <a href="#">Medical Photography &amp; Illustration Department</a> for guidance or to request or trace clinical and non-clinical photographs, video and audio recordings. Section <b>5</b>	It is not acceptable to make unauthorised clinical photographs for personal or local collections.
Contact the <a href="#">Communications Team</a> for guidance, to request or trace, press, promotion, and marketing, corporate and patient information recordings. Section <b>20.1</b>	It is not acceptable to authorise press calls or commission corporate promotion, marketing and patient information without consulting the Communications Team.
Contact the <a href="#">Ron Grimley Undergraduate Centre</a> (RGUC) Team for guidance, to request or trace photographs, video, and audio recordings for the RGUC Teaching Academy. Section <b>4.12</b>	It is not acceptable to commission undergraduate projects without consulting the Head of the RGUC Teaching Academy.
Clinical recordings form part of the patient's medical records. All recordings should be dealt with under the normal rules of confidentiality, in accordance with Data Protection Act 2018 (Access to Health Records 1990). Section <b>10.5</b>	It is not acceptable to breach the Data Protection Act 2018 (Access to Health Records 1990).
Register and get permission to use any Trust or personally owned capture device. Section <b>13.13 and Appendix 3</b>	It is not acceptable to use unregistered personally owned capture devices such as personal mobile phone. ICO hub med photo page Section <b>13.13</b>  It is not acceptable to record and store personal collections by using a device such as personal mobile phone.
Document informed clinical consent. <b>8.2 level A, B Appendix 2 a, 2b</b> <b>8.2 Level C Appendix 5</b> <a href="#">Medical Photography</a>	It is not acceptable to not ask permission or documenting written consent.
Copies of clinical recordings may only be made with the permission of the key clinician and within the constraints of consent as laid out in the policy. Section <b>8.2.7</b>	It is not acceptable to make copies of clinical recordings for personal use.
Consider mental capacity, safeguarding and consent. Section <b>8.6</b>	It is not acceptable to not assess capacity to give consent or not record physical signs when there is a strong suspicion of non-accidental injury or neglect.
Use of a chaperone. Section <b>9.4</b>	It is not acceptable not to offer or use chaperone

Acceptable	NOT Acceptable
<p>Clinical recordings only made available to those who have a legitimate right to see them (need to know basis). Section <b>10.3</b></p> <p>Contact Health Records Team Access Staff who are responsible for advising, supporting staff, logging and checking the validity of written requests, before disclosing or sharing information, relating to clinical recordings, to patients, patient representatives or a third party where there is a legal duty to do so, for example Police requests, safeguarding, at the direction of a coroner or court. Section <b>12.8.5</b></p>	<p>It is not acceptable to make unauthorised clinical photographs for personal or local collections.</p> <p>It is not acceptable disclose information or share clinical recordings without a formal written request from a third party seeking permission.</p>
<p><b>Medical Image Management System (MIMS)</b> is the Trust wide online database, which is the central repository for digital clinical photographs taken after Jan 2015. <a href="http://10.2.1.18:9001/medical/">http://10.2.1.18:9001/medical/</a></p> <p>Store clinical digital photographs securely and centrally on the Medical Image Management System. Section <b>15.26</b></p> <p>Recordings must be transferred securely section <b>16</b></p>	<p>It is not acceptable for personal clinical photographs and recordings collections to be stored at your home on your personal PC, on a shared drive, Cloud drive, and non-encrypted device or in paper format.</p> <p>It is not acceptable for patient identifiable data to be stored, accessed and distributed on internet based storage services; non Trust VPN protected or unencrypted devices no matter what security is in place.</p>
<p>Document on-going informed consent for press, promotion and marketing recordings Section <b>20.1 and Appendix 6a, 6b</b> Communications</p> <p>Or informed 'limited' non-clinical consent <b>19.4 and Appendix 6c</b> Medical Photography</p>	<p>It is essential to ask permission and document written or verbal consent.</p>
<p>All employees are responsible for complying with the Social Media Policy Section <b>20.1</b></p>	<p>Non-compliance with the photography, video and audio inclusions in the Social Media policy is not acceptable</p>
<p>Patients, their relatives or friends and staff must ask permission to make recordings for domestic use and respect the privacy of others. Section <b>20.2.3</b></p> <p>Patient Choices</p>	<p>It is not acceptable for recordings for domestic use of patients, staff and the environment, to be made on personal devices by patients, their relatives, friends or staff in designated critical clinical areas and while undergoing tests, treatment and procedures or where there is a potential to affect the privacy or dignity of other patients or staff members.</p>
<p>It is best practice to provide patients or their representatives' information about clinical recordings during discussions Appendix 4. Medical Photography</p>	<p>It is not acceptable not explain or offer information about clinical recordings prior to referral.</p>

## Appendix 2a

Please order Appendix 2a via stock stationary requisition

### Clinical Photography, Video and Audio recording request

The consent and requester section on the reverse of this form must be completed before this request can be actioned by the Medical Photography & Illustration Department.

<p><b>Please attach hospital sticker</b></p> <p>Patient's surname <input type="text"/></p> <p>Patient's first name <input type="text"/></p> <p>Registration number <input type="text"/></p> <p>NHS number <input type="text"/></p> <p>Date of birth <input type="text"/></p> <p>Patient's address (if an out patient appointment is required) <input type="text"/></p>		<p>Initial and or secondary diagnosis <input type="text"/></p> <p>Views required and features to be recorded <input type="text"/></p>
<p>Consultant <input type="text"/></p> <p>Requested by (if different) <input type="text"/></p> <p>Referral Date <input type="text"/></p> <p>Speciality <input type="text"/></p> <p>Hospital                  Russells Hall <input type="checkbox"/> Corbett <input type="checkbox"/>                  Guest <input type="checkbox"/></p> <p>Location                  Ward Name <input type="text"/>                  Theatre <input type="checkbox"/> OPD Clinic <input type="checkbox"/>                  Studio <input type="checkbox"/> Day case <input type="checkbox"/>                  In patient <input type="checkbox"/> Other <input type="checkbox"/>                  Out patient <input type="checkbox"/></p>		<p>Please mark area to be recorded</p> <p>Are any special precautions required? <input type="text"/></p>
		<p>Please indicate level of consent discussed and sign reverse of form</p> <p><input type="checkbox"/> A - Case notes only  <input type="checkbox"/> B - Restricted education use  <input type="checkbox"/> C - Open publication</p>
		<p><b>Medical Photography and Illustration Department</b>                  West Wing, 2nd Floor                  Russells Hall Hospital                  The Dudley Group NHS Foundation Trust                  Pensnett Road                  Dudley                  West Midlands                  DY1 2HQ</p> <p>Telephone: 01384 456111 extension 3398 via switchboard                  Direct line: 01384 244398</p>

**For use by The Medical Photography and illustration Department Staff only**

Date of recording : \_\_\_\_\_  
 Time: \_\_\_\_\_ Photographer: \_\_\_\_\_  
 Data base number MIMS: \_\_\_\_\_  
 Data base number FileMaker: \_\_\_\_\_  
 Consent to Chaperone: \_\_\_\_\_  
 Chaperoned by: \_\_\_\_\_

Notes:


February 2016 V4 DW9465



## Clinical Photography, Video and Audio Consent form

### Informed patient consent to clinical photography, video and audio recording

A photograph, video and or audio recording can be an important part of your clinical records.

With your permission, the recording/s can play a key role in the training and education of medical staff which benefits future patients.

If you do not fully understand any discussion or any part of this form, please ask.

If in future, you wish to withdraw this consent you have the right to do so at any time by writing to the Trust, however, when consent is given for open publication, full recovery of the image may not be possible.

Your choice of consent level, or refusal to give consent for **B** and **C** (see below), will not affect your treatment within the Trust in any way.

<b>A</b>	<b>Consent type A: Case notes only</b> I understand that the recording/s requested, to which I have agreed, will form part of the confidential treatment records. Signature: ..... Date: ..... Name of patient: ..... Name of signatory (if different): ..... Status: Status: patient - legal representative - other
	<b>Consent type B: Restricted educational use</b> I understand that the recording/s requested may be useful for the purpose of clinical teaching and education and in view of the explanation given to me, I agree that the recording/s will only be used within a secure setting within The Trust, the NHS, relevant universities and professional healthcare organisations and will only be seen by healthcare professionals and healthcare students. Signature: ..... Date: ..... Name of patient: ..... Name of signatory (if different): ..... Status: Status: patient - legal representative - other
	<b>Consent type C: Open publication</b> As a result of a discussion, I understand I may be asked either now, or at any time in the future, to sign an additional consent form for images to be shared, published or presented outside a restricted medical environment, for example, in a journal, textbook, a display, information leaflet, at a conference or on a website. I also understand that the recording/s may be seen by the general public and be available worldwide on the Internet and that recognition from the recordings and supplementary clinical information is possible. Therefore, full confidentiality and or anonymity are not guaranteed. <input type="checkbox"/> <b>OPT IN</b> In view of the explanation given to me, I <b>agree</b> to be asked either now, or at any time in the future, to consider signing an additional consent document for the recording/s to be published for a specific purpose. <input type="checkbox"/> <b>OPT OUT</b> In view of the explanation given to me I <b>do not</b> wish either now, or at any time in the future, to for the recording/s to be published.

### To be filled out by requester

I confirm that I have explained the purpose of the photographs and, where appropriate, discussed the possibility of their use either now, or at any time in the future.

Name: ..... Signature: ..... Date: .....

Job title: ..... Speciality: .....

### Photographs taken by

- Clinical Photography - original request / consent information and digital files will be located in the Medical Photography and Illustration department and the Trust's Medical Image and Job Management System (MIMS and JMS)
- Other - please state name: ..... original request / consent information and digital files will be located in: .....

February 2016 V4 DW9465



**Appendix 2b**  
**Please order Appendix 2b via the Eye clinic**

# Ophthalmic photography request form



The consent and requester section on the reverse of this form must be completed before this request can be actioned by the Medical Photography & Illustration Department.

**Please attach hospital sticker**

Patient's surname

Patient's first name

Registration number

NHS number

Date of birth

Consultant

Requested by (if different)

Referral Date

Referral time \_\_\_\_\_ weeks

Comments

Please indicate level of consent the patient signed on reverse

A - Case notes only

B - Restricted education use

C - Open publication

Prints  FFA R-L

Digital  FFA L-R

FAF R  ICG R-L

FAF L  ICG L-R

**Diagnosis**

Age Related Macular Degeneration

Diabetes Mellitus

Retinal Vein Occlusion

Glaucomatous Disc

Other

**Allergies**

**Difficulties encountered during ophthalmic photography**

Photophobic  Poorly dilated

Language difficulties  No interpreter

Poor fixation  Excessive tearing

Hazy ocular media  Other

Communication difficulties

Physical problems in positioning

Adverse reaction to fluorescein

For use by The Medical Photography and Illustration Department Staff only

Date of recording : \_\_\_\_\_

Time: \_\_\_\_\_ Photographer: \_\_\_\_\_

Data base number MIMS: \_\_\_\_\_

Data base number FileMaker: \_\_\_\_\_

Consent to Chaperone: \_\_\_\_\_

Chaperoned by: \_\_\_\_\_

**Medical Photography and Illustration Department**  
 West Wing, 2nd Floor  
 Russells Hall Hospital  
 The Dudley Group NHS Foundation Trust  
 Pensnett Road  
 Dudley  
 West Midlands  
 DY1 2HQ

Telephone: 01384 456111 extension 3398 via switchboard  
 Direct line: 01384 244398

February 2016 EYE

## Ophthalmic photography Consent form

### Informed patient consent to clinical photography, video and audio recording

A photograph, video and or audio recording can be an important part of your clinical records.

With your permission, the recording/s can play a key role in the training and education of medical staff which benefits future patients.

If you do not fully understand any discussion or any part of this form, please ask.

If in future, you wish to withdraw this consent you have the right to do so at any time by writing to the Trust, however, when consent is given for open publication, full recovery of the image may not be possible.

Your choice of consent level, or refusal to give consent for **B** and **C** (see below), will not affect your treatment within the Trust in any way.

<b>A</b>	<b>Consent type A: Case notes only</b>
	I understand that the recordings requested, to which I have agreed, will form part of the confidential treatment records.
	Signature: ..... Date: ..... Name of patient: ..... Name of signatory (if different): ..... Status: patient - legal representative - other
<b>B</b>	<b>Consent type B: Restricted educational use</b>
	I understand that the recording/s requested may be useful for the purpose of clinical teaching and education and in view of the explanation given to me, I agree that the recording/s will only be used within a secure setting within The Trust, the NHS, relevant universities and professional healthcare organisations and will only be seen by healthcare professionals and healthcare students.
	Signature: ..... Date: ..... Name of patient: ..... Name of signatory (if different): ..... Status: Status: patient - legal representative - other
<b>C</b>	<b>Consent type C: Open publication</b>
	As a result of a discussion, I understand I may be asked either now, or at any time in the future, to sign an additional consent form for images to be shared, published or presented outside a restricted medical environment, for example, in a journal, textbook, a display, information leaflet, at a conference or on a website. I also understand that the recording/s may be seen by the general public and be available worldwide on the Internet and that recognition from the recordings and supplementary clinical information is possible. Therefore, full confidentiality and or anonymity are not guaranteed.
	<input type="checkbox"/> <b>OPT IN</b> In view of the explanation given to me, <b>I agree</b> to be asked either now, or at any time in the future, to consider signing an additional consent document for the recording/s to be published for a specific purpose. <input type="checkbox"/> <b>OPT OUT</b> In view of the explanation given to me <b>I do not</b> wish either now, or at any time in the future, to for the recording/s to be published.

### To be filled out by requester

I confirm that I have explained the purpose of the photographs and, where appropriate, discussed the possibility of their use either now, or at any time in the future.

Name: ..... Signature: ..... Date: .....


Job title: ..... Speciality: .....

### Photographs taken by

- Clinical Photography - original request / consent information will be located in the Medical Photography and Illustration department Job Management System (JMS)
- Other - please state name: ..... original request / consent information and digital files will be located in: .....

February 2016 EYE

## Appendix 3

The Dudley Group   
NHS Foundation Trust

**Application to use or register a photographic, video and or audio recording device**

This form is to **use or register** Trust owned or personal **portable and standalone\*** photographic, video and or audio recording devices.

*\* The form does not cover Medical devices capable of making photographic, video and or audio recordings e.g. Endoscopic equipment.*

**Guidance:**

This document is made up of four parts as follows:

**Part 1: Applicant and Sponsor notes and guidance**

**Part 2a & 2b: Applicant declaration** is to be completed by you, the **applicant**, who requires to use or register a device.

Applicant, please print off this document and complete part 2a & 2b, and then send all parts to your sponsor.

**Part 3: Sponsor's declaration** to be completed by the **sponsor** \*.

**Part 4** –Head of Medical Photography & Illustration approval or refusal and or referral to the Chief Clinical Information Officer (CCIO), Chief information officer (CIO) and Senior Information Risk Owner (SIRO).

- Nursing staff your **sponsor** is your Matron. All other clinical staff your **sponsor** is your Clinical Director or Clinical or Head of Service.
- Non clinical staff your **sponsor** is your Director or Head of Service.

**When the applicant and the sponsor have completed Part 2 and Part 3, please submit to:**

Medical Photography & Illustration  
2<sup>nd</sup> Floor  
West Wing  
Russells Hall Hospital

**Notes:**

All applicants and sponsors must have read and agreed **Trusts Photography, Video and Audio Recording Policy**.

Using mobile telephone or cloud connected devices to make photographic, video and or audio recordings is strictly prohibited without approval from to the Chief Clinical Information Officer (CCIO), Chief information officer (CIO) and Senior Information Risk Owner (SIRO).

In accordance with the Trust Photographic, Video and or Audio recording policy, there is a mandatory requirement to upload all clinical photography images (via the Medical Photography & Illustration department) to the Trusts Medical Image Management System (MIMS).

You are not authorised to use a **Photography, Video or Audio Recording device** until you are on the register of approved users.

This form is for use: by new staff; current users to up-date registration details; for change of details.

User details must be completed in full and signed by applicant and sponsor.

If your job role changes, you will need to resubmit your application to your sponsor.

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 3

### Application use or register a photographic, video and or audio recording device

**Part 2a - Applicant declaration page 2a** is to be completed by you, the **applicant**, ( who will be using a recording device and or registering a device) and sent to your sponsor\*

\* Nursing staff your **sponsor** is your Matron. All other clinical staff your **sponsor** is your Clinical Director or Clinical Head of Service.

\* Non clinical staff your **sponsor** is your Director or Head of Service.

Name of applicants sponsor (**BLOCK CAPITALS**) .....

New user	<input type="checkbox"/>	Amend details	<input type="checkbox"/>	Delete User	<input type="checkbox"/>
----------	--------------------------	---------------	--------------------------	-------------	--------------------------

Part 2a - Applicant declaration	
Title (e.g. Dr, Mr, Mrs, etc.)	
First Name	
Family Name (Surname)	
Position / Job Title	
Department	
Work telephone number	
Trust Email address	
Are you a registered Medical Image Management System (MIMS) user	
Are you permanent or temporary staff	
Start date in post (dd/mm/yyyy)	
Temporary staff finish date in post (dd/mm/yyyy)	
Age of persons who you will be making photography, video and or audio recordings of	
Adult (over 18 years)	
Child (under 18 years)	
By signing part 2 a, I, the applicant, confirm I have read and agree to the Trusts Photography, Video and Audio Recording Policy	
Applicant's signature	
Date (dd/mm/yyyy):	

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 3

### Application to register and use a photographic, video and or audio recording device

**Part 2b** is to be completed by you, the **applicant**, who will be registering and or using a recording device and sent to your sponsor\*

Name of applicant (**BLOCK CAPITALS**) .....

New Equipment	<input type="checkbox"/>
---------------	--------------------------

Amend details	<input type="checkbox"/>
---------------	--------------------------

Delete Equipment	<input type="checkbox"/>
------------------	--------------------------

Part 2b - Applicant declaration	
Description of equipment (e.g. camera)	
Serial number	
Location of equipment	
Type of recording (photographic, video , audio)	
Intended use of the recording (e.g. research trial, clinical records, education & training, public relations)	
Will anyone else be using the equipment	
Has the equipment choice been discussed with Medical Photography & Illustration	
Has the equipment choice been approved and registered with IT, CCIO, CIO,? (tablet, ipad or similar)	
Please attach the Standard Operating Procedure / Protocol (SOP) for capture and managing the recordings	
Please add any supplementary information about the intended use of the recordings	
<b>By signing part 2b, I, the applicant, confirm that I have received mandatory training, read and agree the relevant Standard Operating Procedure / Protocol (SOP) for the device .</b>	
Applicant's signature	
Date (dd/mm/yyyy):	

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**



## Appendix 3

### Application to register and use a photographic, video and or audio recording device

**Part 3 – Sponsor's declaration** is to be completed by you, the **sponsor, which will allow you to authorise or refuse the applicants request.**

**Name of applicant you are sponsoring (BLOCK CAPITALS)**

.....

<b>Part 3 - Sponsor's declaration</b>			
Clinical staff: Matron or Clinical Director or Clinical Head of Service			
Non clinical staff : Director or Head of Service:			
Title (e.g. Dr, Mr, Mrs, etc.)			
First Name			
Family Name (Surname)			
Position / Job Title			
Department			
Trust Email address			
I confirm that the <b>applicant</b> specified in Part 2a & 2b can make recordings in accordance with the Standard Operating Procedure			
Adult (over 18 years)	Agree	<input type="checkbox"/>	Refused
Child (under 18 years)	Agree	<input type="checkbox"/>	Refused
By signing this document, I, the sponsor, also confirm I have read and agree to the Trusts Photography, Video and Audio Recording Policy			
<b>Sponsor signature :</b>			
Date (dd/mm/yyyy):			

To complete the application process please send all parts of the document to:

Medical Photography & Illustration  
2<sup>nd</sup> Floor  
West Wing  
Russells Hall Hospital

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**



## Appendix 3

### Application to register and use a photographic, video and or audio recording device

#### Part 4 Medical Photography & Illustration use only

Part 4			
Date received			
Sponsor name			
Applicants name			
SOP approval			
Register new equipment			
Register new user			
Amend - reason			
Delete – date			
Approval			
Adult (over 18 years)	Agree	<input type="checkbox"/>	Refused <input type="checkbox"/>
Child (under 18 years)	Agree	<input type="checkbox"/>	Refused <input type="checkbox"/>
Scope of approval e.g. Clinical , Non clinical			
Deferred - Reason			
Referred to Chief Clinical Information Officer (CCIO), Chief information officer (CIO) and Senior Information Risk Owner (SIRO).	Agree	Date	
	Refused	Date	
Date of applicant notified			Date

Medical Photography & Illustration HOD approved by .....	Date.....
Chief Clinical Information Officer (CCIO), Chief information officer (CIO) and Senior Information Risk Owner (SIRO) approval	
Name: .....	Date.....
<b>Added to register by</b> Medical Photography & Illustration Department <b>Date</b> .....	
<input type="text" value="New User"/>	<input type="text"/>
<input type="text" value="New Equipment"/>	<input type="text"/>
<input type="text" value="Amendment"/>	<input type="text"/>

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

**[Appendix 4 – Clinical Photography, video and Audio Recordings Patient Information Leaflet](#)**

**[\\*Appendix 4 – Link to document page on the Hub to download document](#)**

## Appendix 4

### [\\*Clinical Photography, Video and Audio Recordings -Patient Information Leaflet](#)

## Appendix 5

Appendix 5 V0.1 November 2015

### Informed consent and guidance (level C) publication of diagnostic images, clinical photographs, video and audio recordings

Please attach patient label: Surname: ..... Forename: ..... Hospital number: ..... NHS Number:..... DOB:.....	Type of recording/s Diagnostic images (X-ray, scan, histology, FFA) Clinical photographs Clinical video recordings Audio recordings containing clinical information
Description (e.g. photograph showing skin lesions on face before and after treatment)	

The clinical recording(s) described have been taken of me (or the person named above) with my permission, for medical records on:

**Date(s) of recording** .....

After discussion or correspondence with the clinical practitioner named below:

**Name** ..... **Position** .....

**Department** ..... **Date** .....

I understand that it may be helpful for the recording(s) as described to me to be published.

As a result of the discussion, I also understand that the recording(s) may be seen by the general public and be available worldwide on the Internet.

My name and details (or the person named) will remain confidential but I understand that recognition from the recordings and supplementary clinical information is possible. Therefore, full confidentiality and or anonymity are not guaranteed.

I understand that I may arrange to view the recording(s) and or article before making a decision by contacting:

**Name**..... **Telephone number**.....

I only give my consent for use in the specified publication(s) detailed as follows:

Any NHS hospital publication	Poster display	Electronic (Internet)
Journal (print and website)	Book	Patient information
Conference and presentation	Social media sites	Clinical exams
Named education production	Other (details) .....	

I understand that if the recording is to be used for publications other than those indicated above and named on page 2, further permission will be sought from me.

**Copyright of all recordings remains with The Dudley Group NHS Foundation Trust to protect patients' interests.**

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 5

Name of publication ..... Publication Date .....

Name of publication ..... Publication Date .....

Name of publication ..... Publication Date .....

Name of website(s) if applicable .....

Name of event(s) if applicable ..... Date .....

Type of clinical exams if applicable ..... Date .....

Name of education production(s) if applicable .....

Name of Ron Grimley Undergraduate Centre (RGUC) production(s) if applicable .....

I understand that I can withdraw consent at any time. However, should I wish to withdraw consent once the recordings have been submitted for publication or published in the public domain, it may not be possible to retrieve, delete or prevent recordings being copied or downloaded. In this case, the Trust would not be liable or able to fully protect my interests by exercising control over their further use.

In view of the explanation given to me I **give consent** for the recordings to be published as I have indicated above.

Full name (print) .....

Relationship if not patient .....

I confirm that I have parental / legal responsibility for (name of child / person if applicable) .....

Signature..... Date.....

**Thank you.**

**Please return to:**

Medical Photography & Illustration, The Dudley Group NHS Foundation Trust,  
2<sup>nd</sup> Floor West Wing, Russells Hall Hospital, Dudley, West Midlands, DY1 2HQ

**Office use:** PRINT X2 Copies

Medical Photography & Illustration

File in medical records

Name of key Consultant ..... Department.....

Date consent granted by Consultant ..... Journal form (e.g. BMJ) Yes – No

Documented on JMS      JMS C and M Numbers .....

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 6a

Appendix 6a V0.1 November 2015



### Patient & Public Informed Consent for Photography, Video and Audio recordings for press, promotion and marketing purposes

The images and/or recording taken of you today may be used by The Dudley Group in a variety of ways, in printed, electronic or online formats, to help promote the Trust and support health-related campaigns. Formats may include, for example, the Trust's website, social media pages (e.g. Facebook, Twitter), press articles, members' events, annual reports, recruitment packs, posters and banners. The list is not exhaustive.

You are giving your consent for your image or recording and name to be used in any format at the Trust's discretion until or unless you withdraw your consent.

Name of person being photographed/recorded:.....

Name of parent/carer (if applicable): .....

Phone number: (optional) .....

Email: (optional) .....

(NB. For children and young people under the age of 18, parents or guardians consent is required).

I am: Over 18 years  Patient  Parent  Carer  Member of public  Other

If 'other', please state .....

**I give consent for my image or recording, or the image or recording of my child, to be used for press, promotional or marketing purposes by The Dudley Group NHS Foundation Trust. I understand that material produced today will be seen by members of the general public in a variety of formats.**

Signature: .....

#### Parents or guardians consent (if applicable)

I do  I do not  give consent for my child/young person to be named alongside their image

Date: ...../...../.....

If you wish to withdraw this consent, you have the right to do so at any time by writing to the Communications Manager, 2<sup>nd</sup> Floor, South Block, Russells Hall Hospital, Pensnett Road, DY1 2HQ. Once your image/recording is in the public domain, it is not possible to withdraw consent. However, the Trust will not continue to use your image for future publications/ purposes.

Image taken by:.....

Purpose & use explained and consent obtained by: .....

**\*Appendix 6a Please go to Communications Department document page on the Hub to download this document**



## Appendix 6b

Appendix 6b V0.1 November 2015



### Staff Informed Consent for Photography, Video and Audio recordings for press, promotion and marketing purposes

The images and/or recording taken of you today may be used by The Dudley Group in a variety of ways, in printed, electronic or online formats, to help promote the Trust and support health-related campaigns. Formats may include, for example, the Trust's website, social media pages (e.g. Facebook, Twitter), press articles, members' events, annual reports, recruitment packs, posters and banners. The list is not exhaustive.

You are giving your **ongoing consent** for your image/recording and name and job role to be used in any format at the Trust's discretion until or unless you withdraw your consent.

Name of staff member being photographed/recorded: .....

Job role and title: .....

Department/ward/site: .....

Phone number: .....

Email: .....

**I give ongoing consent for my image or recording** to be used for press, promotional or marketing purposes by The Dudley Group NHS Foundation Trust.

I understand that it may be used in any format at the Trust's discretion until or unless I withdraw my consent.

\*Signature: .....

Date: ...../...../.....

\* [NB. For staff under the age of 18, parents or guardians consent is required.](#)

If you wish to withdraw this consent, write to the Communications Manager, 2<sup>nd</sup> Floor, South Block, Russells Hall Hospital, Pensnett Road, DY1 2HQ. Once your image or recording is in the public domain, it is not possible to withdraw consent. However, the Trust will not continue to use your image for future publications/ purposes.

Image taken by:.....

Purpose & use explained and consent obtained by: .....

**\*Appendix 6b Please go to Communications Department document page on the Hub to download this document**

Appendix 6 c V0.1 November 2015

**Informed consent and guidance for photographs, video and audio recordings made for specific non-clinical purposes**

Images and/or recordings taken of you today can be used by The Dudley Group in a variety of ways, in printed, electronic or online formats, to help promote the Trust and support health-related campaigns, or learn about a process or aspect of treatment. We maybe asked make video and audio recordings for the same reasons.

Formats may include, for example, the Trust’s website, social media pages (e.g. Facebook, Twitter), press articles, members’ events, annual reports, recruitment packs, posters and banners. The list is not exhaustive.

This form allows us to record you are **opting in or out** to giving your **specific** ongoing consent for your image/recording to be used as chosen until or unless you withdraw your consent.

Please be assured that this is completely your decision and we totally understand if you would prefer not to be photographed, filmed or recorded in any way.

It is also important that you understand once a recording is published, transmitted electronically or placed on a website, it is in the public domain. Therefore, the recordings subsequent use is effectively impossible to control.

**Please tick all relevant boxes to give consent for the purpose of:**

Held by the Trust communications team to use in all formats and categories below including use for press, promotion and marketing purposes (appendix 5a and 5b)	Yes	No
Use by the press or external media company (print, web, radio and TV broadcast)	Yes	No
Websites: This will include electronic versions of printed prospectus, reports, newsletters, leaflets and service documents	Yes	No
Recordings made available (where applicable) that disclose your identity e.g. staff portraits	Yes	No
I give consent to be named alongside my image (adults over 18 years)	Yes	No
Taking into account safeguarding advise, I give consent for naming alongside the image of <b>child, young person or vulnerable adult</b>	Yes	No
Use in learning, education and e-modules	Yes	No
Use on social media sites e.g. Twitter, Facebook, YouTube	Yes	No
Other (details)	Yes	No
Single purpose (details)	Yes	No

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 6c

### Consent statement

<b>Consent valid for:</b>	Up-to 6 months	Up-to 1 year	Up-to 2 years	Date .....	Indefinite
<b>Are you:</b>	Over 18 years of age	Member of public	Member of staff	Legal representative	Patient

Following discussion and or correspondence you are giving your consent for your image or recording to be used as indicated in any format at the Trust's discretion until or unless you withdraw your consent.

Name of person being photographed/recorded:.....

Name of parent/carer (if applicable): .....

Department (if member of staff) .....

Phone number: (optional).....

Email: (optional).....

**I give consent for my image or recording, or the image or recording of my child,** to be used as indicated by The Dudley Group NHS Foundation Trust. I understand that material produced today will be seen by members of the general public in a variety of formats.

Signature.....

Date: ...../...../.....

Relationship, if not person in recording .....

#### Thank you.

If you wish to withdraw this consent, you have the right to do so at any time by writing to the Communications Manager, 2<sup>nd</sup> Floor, South Block, Russells Hall Hospital, Pensnett Road, DY1 2HQ. Once your image/recording is in the public domain, it is not possible to withdraw consent. However, the Trust will not continue to use your image for future publications/ purposes

#### For completion by member of staff making the recording:

Subject and location .....

Description .....

Image taken by:.....

Purpose & use explained and consent obtained by: .....

Medical Photography Job Management System (JMS) media number ...**M**.....

**\*Appendices - Please go to Medical Photography & Illustration Department document page on the Hub to download these documents**

## Appendix 7 **Audit Questionnaire: Photography, Video and Audio Recording Policy**

### Q.1 **Are you aware of the Trusts Photography, Video and Audio Recording Policy?**

- Yes
- No

*If you are not aware of the policy, it is located on the HUB under Trust Clinical Policies.*

### Q.2 **Do you make your own clinical photography, video or audio recordings?**

- Yes
- No

### Q.3 **Do you make your own Nonclinical photography, video or audio recordings?**

- Yes
- No

### Q.4 **Who is the asset owner of the recording device?**

- Trust owned
- Personally owned equipment

### Q.5 **Is the recording device registered with the Medical Photography & Illustration department?**

- Yes
- No

*Trust staff who use portable standalone devices, to make clinical photographic, video or audio recordings, must register their Trust and or personally owned equipment on the central Trust register held by **the Medial Photography and Illustration department**.*

### Q.6 **Is written informed consent always obtained before recordings are made?**

- Yes
- No

*A request and consent form should be completed each time a recording is made of a person*

**Q.7 Are you aware that there are different levels of consent that need to be gained depending on the intended usage of clinical images. i.e., A patient record only, B Teaching within closed Medical environment or C Publication consent for use outside a closed Medical environment**

Yes

No

**Q 8 Are you aware that digital cameras, storage cards and other portable devices must not be taken out of the Trust with images still in the memory unless the device is securely encrypted?**

Yes

No

**Q.9 Do you have a Trust approved encrypted memory stick / laptop available for taking data outside the Trust?**

Yes

No

**Q.10 Are you a registered user of the Medical Image Management System Clinical Photography database (MIMS)?**

Yes

No

*The **MIMS** application form can be found on the Medical Photography & Illustration department HUB page.*

**Q.11 Do you send clinical images outside of the Trusts using the outlook email system?**

Yes

No

**Q.12 Do you send clinical images via email outside of the Trusts using secure NHS.NET to NHS.NET email system?**

Yes

No

**Q.13 How do you store and encrypt recordings**

--

**Q.14** Finally, do you have any comments or suggestions regarding the policy e.g., image security, confidentiality, consent, copyright and storage

--

**Thank you.**

Name	
Position and title	
Department	
Trust email address	
Date	

Please return to:

Head of Department

Medical Photography & Illustration

The Dudley Group NHS Foundation Trust

2<sup>nd</sup> Floor West Wing, Russells Hall Hospital, Dudley, West Midlands, DY1 2HQ



## Appendix 8

### Clinical Photography Process for Images taken in Community Settings and Out of Hours in the Trust

#### Equipment:

- Clinical Photography Request Form
- Digital Imaging Capture Device
- White/green background field (e.g., Dressing towel or clean white bedsheet)

No.	Action	Rationale
1	<p>Check that a clinical photography request form has been fully completed on both sides by the referring clinician.</p> <p><i>(Copy of 'Clinical Photography, Video and Audio recording request' is available on 'Medical Photography and Illustration Department' Hub page. The referring clinician can be any medical staff member, AHP/nurse/midwife band 6 or above, AHCS band 6 or above, who is conversant with the 'PHOTOGRAPHY, VIDEO AND AUDIO POLICY: CLINICAL AND NON CLINICAL RECORDINGS'. Exception is paediatrics and neonates where referring clinician must be a Registrar or above – see Appendix 9)</i></p>	<p>To ensure the correct patient, and the required area for photography is identified.</p> <p>To ensure consent has been obtained to comply with policy.</p>
2	<p>Confirm patient's details on the form match the patient's ID bracelet, case notes/Sunrise and/or OASIS.</p>	<p>To ensure correct patient is photographed.</p>
3	<p>Check that the patient understands the reason and purpose of the photographs; reaffirm they have consented to imaging being recorded.</p> <p>Give patient a copy of the patient information leaflet <a href="#">'Clinical photography, video and audio recordings'</a></p> <p>Offer the patient the use of a chaperone during the imaging procedure. <i>(If patient is unconscious, or is under 18 years, a chaperone must be used)</i></p> <p>If the patient is over 12 years and deemed Gillick competent, then they may sign the consent form themselves.</p>	<p>To ensure patient understands procedure, is offered a chaperone and gives valid consent.</p>
4	<p>If the patient lacks capacity, ensure the reverse of form in Section A states 'Patient assessed, lacks capacity to consent; photographs taken in best interest of patient'. Ensure entry is signed and clinical role stated.</p>	<p>Compliance with Trust policy.</p>

5	Ensure requestor has signed the reverse of Clinical Photography request form.	Accountability and authorisation of imaging.
6	<p>Out of hours:</p> <p><b>ED:</b> Contact Clinical Site Coordinator to take photographs.</p> <p><b>Wards:</b> Staff, who are trained in the use of the ward held authorised imaging equipment, can take clinical photographs. Clinical site co-ordinator can be contacted if no staff are available to use equipment.</p> <p><b>For paediatrics and neonates, only medical staff of Registrar or above grade with appropriate training can take images (see Appendix 9).</b></p> <p><b>Community:</b> Staff, who are trained in the use of the ward held authorised imaging equipment, can take clinical photographs. This covers normal working hours and out of hours.</p> <p><i>Staff own digital imaging devices <b>must not</b> be used unless there are extreme circumstances as defined in section 13.7 and 13.8 of Photography, Video and Audio policy.</i></p>	Ensure staff know how to operate imaging equipment and are conversant with this policy.
7	Where requests are received and declined by Site Coordinator; document decision, arrange referral later and/or contact Medical Photography & Illustration the next working day at 09:00.	To ensure actions are recorded and images taken at the earliest opportunity.
8	Person undertaking the photography should check the approved imaging equipment is charged and ready for use.	To ensure equipment is ready to use.
9	Review patient's care plan, noting previous care given and any alterations to imaging request.	To aid clinical assessment and recognise any significant changes.
10	All significant pressure ulcer images should ideally be taken within 6 hours of initial assessment, with images repeated if any changes are identified.	To enable monitoring of pressure ulcer deterioration or healing.
11	Take a photograph of the front of the clinical photography request form, showing the patient label/patient's name, NHS number, date of birth and unique patient identifier number and body map	To provide 'Image 1' of the patient photographs; to ensure photograph can be identified and registered to the correct patient.
12	Prepare all equipment for use	
13	Wash hands with soap and water	To reduce the risk of cross infection
14	Remove patient clothing as appropriate and prepare patient in the anatomically correct position; as defined by image requested, preserving patient's dignity at all times.	To ensure privacy and dignity of patient is maintained.
15	Position white or green background or sterile backgrounds around the image site.	To minimise shadows and any lighting flare when obtaining image.

16	Position a single use measure in proximity to the image area, ensuring a reference landmark of the body is visible.	To enable size and location of wound/mark/injury on the body to be identified.
17	Wash hands again	To prevent contamination of imaging device
18	Obtain the desired image(s); check it is clear; sharp and correctly exposed. Ensure there is an anatomical landmark to identify where the wound/mark/injury is and take close up images as required.	To ensure image provides evidence of the presenting condition and anatomical position of wound/mark/injury.
19	Take a photograph of the reverse of the clinical photography request form and switch off imaging device.	To provide the 'final image' and ensure the patient images are held between the first image and final image.
20	Make patient comfortable	To ensure privacy and dignity of patient
21	Wash hands	To reduce the risk of cross infection
22	Decontaminate imaging equipment as required.	To reduce the risk of cross infection
23	Record photographer's name; time; date; reference to areas photographed in patient's records.  Where logbooks for imaging are in use, enter the details in the book for tracking purposes.	To comply with Health Record Keeping Standards Policy. To enable teams to track progress of imaging.
24	Email Lead Nurse and Medical Photography & Illustration to inform them of images that are required to be downloaded from equipment. Do not process the images at ward/department level – Medical Photography & Illustration will do this. Store equipment in locked storage facility until images have been downloaded by medical photography.	To comply with data protection/information governance policies
25	Ensure the imaging device is taken to the Medical Photography & Illustration department the next working day at 09:00.	Prompt processing of data
26	Medical Photography & Illustration will delete images from devices once data has been retrieved; check the equipment; return to ward/department.	To ensure safe storage and disposal of confidential information
27	Wards/departments are responsible for storing the imaging device securely ready for next use.	To ensure safe storage of Trust equipment

## Appendix 9 – Paediatric Department Out of Hours Camera Use and Documentation pathway

When a decision has been made to photograph a child out-of-hours, it is imperative that the following stages are followed:

