



BRIEFING PAPER FOR RENFREWSHIRE SCRUTINY BOARD

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POLICE SCOTLAND USE OF BODY WORN VIDEO (BWV)

1. Purpose

The purpose of this report is to provide the Renfrewshire Scrutiny board with an overview of Police Scotland's use of Body Worn Video (BWV), how it will be used operationally, how recorded data will be captured, stored, maintained and shared. This document will also highlight the legal frameworks being considered

2. Background

Armed officers will be equipped with Body Worn Video (BWV) ahead of the COP26 climate change summit to be held in Glasgow later this year. The initial roll-out will be followed by a national programme to provide all officers and staff in appropriate roles with BWV. Chief Constable Iain Livingstone supports an accelerated roll-out of BWV to all officers and staff across Police Scotland as quickly as funding allowed. He believes there is a "pressing, critical, ethical and operational imperative" to ensure armed officers were equipped with the devices in time for the major international summit which is scheduled to be held in November.

3. Intention

Police Scotland is committed to delivering excellence in service and protection and a key strand of the Policing 2026 programme is to invest in our use of information technology. The Digitally Enabled Policing Programme has been established to support improvements in operational service delivery, maximising both visibility and the time officers spend in their communities. It will enable a cultural shift, predicated on the creation of a technically enabled workforce.

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The use of BWV cameras and supporting Digital Evidence Management (DEM) software for the storage and processing of digital evidence aims to support this by:

- Increasing the use of technology within criminal justice for more efficient and effective justice for victims,
- Improved officer safety,
- Increasing public confidence by offering greater transparency, and
- Reducing and resolving complaints against Police officers.

The use of BWV cameras and supporting Digital Evidence Management (DEM) software will benefit Police Scotland, the public and partners by:

- Offering greater transparency of police practises
- Providing valuable evidence to assist police officers in the investigation of crime,
- Supporting victims by capturing evidence, providing a visual record of scenes, documenting injuries a victim has sustained and showing the demeanour of and distress suffered by victims of crime,
- Providing the Crown Office and Procurator Fiscal Service with high quality evidence to support investigations and prosecutions, and
- Supporting investigations by Police Scotland and the Police Investigations and Review Commissioner (PIRC) in respect of investigations concerning the policing response to a particular matter.

4. Community Impact

It cannot be underestimated that this new technology together with the negative perception of being recorded may cause public concern. Police Scotland recognises that there may be public concern in terms of impact on an individual's privacy. As such a survey was produced to engage with the public to ensure prior to implementation with nearly 9,000 responses highlighted results detailed as follows,

- A large majority of respondents (73%) reported that the use of BWV would help respondents feel "much safer" (58%) or "slightly safer" (15%), a quarter reported it would make them feel "neither more or less safe";
- Nine in ten respondents reported that BWV should be used "always" (74%) or "often" (16%);
- 78% of respondents reported that knowing interactions with the public are recorded would increase their trust and confidence in Police Scotland.

5. Recording

The Police Scotland expectation is that Body Worn Video **should** be used in any circumstances where:

- It may assist in providing a record of evidence in respect of the investigation of any crime or suspected crime.
- When the use of BWV would provide transparency of an encounter (for example stop and search, use of force, etc),
- When users would have been expected or required to have completed a written record or report of an encounter or incident, or

Any other occasion when the user thinks a recording relates to a clear policing purpose which may be of evidential value in the future and to make a recording is proportionate and lawful in the circumstances.

6. Declaration of use

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

“Video and audio recording is taking place”

If recording began whilst en route to an incident, then upon arrival the user should inform those present, that they are equipped with BWV and that audio and video recording is taking place unless it is impracticable to do so by reason of the situation, operational necessity or the behaviour/condition of those present.

Recording should, where practicable, be restricted to those individuals and areas where it is necessary in order to provide evidence relevant to the incident. Users should consider taking steps to minimise collateral intrusion for any individuals present who are not involved in the incident, particularly in areas where there is a higher than usual expectation of privacy, e.g. changing facilities. When considering the use of BWV in such areas, users must be mindful of the increased level of justification that is required.

7. Objections and Requests For/Against Recording

There may be occasions where a person objects to being recorded. Users may record overt video and audio without consent if it is for 'a policing purpose' as previously described. The decision to continue recording will remain with the user, who should consider the objections made by the person in respect of the recording. The presumption should be, however, that recording should continue unless the objections made override the need to record an evidential encounter.

If the user decides to continue recording despite the objections of an individual, they should state why they have decided to do so. They may also consider taking steps to advise the individual of the following:

- The reason for the recording taking place (usually this will be for the prevention and detection of crime).
- Non evidential material will only be retained for a maximum of 31 days as prescribed by the Data Protection Act 2018.
- Footage is subject to the Data Protection Act 2018 and can be applied for on request in writing via the Police Scotland subject access procedures.
- Any material is restricted and will only be disclosed to 3rd parties in accordance with the law.
- The recording is being made in order to act as a corroboration of the encounter and thus can be used to support the accounts of all parties at an incident.

8. Storage

The BWV camera system will be docked upon completion of the officer's duties. All camera footage will automatically be downloaded via the police network to Digital Evidence Management (DEM) software and stored on a central storage system within Police Scotland's secure network.

There will be no external transfer or cloud based storage of the data obtained. Upon download of any recordings, the software system will erase the footage from the camera, which once charged will be available for the next user. The management of the stored footage will comply with Police Scotland procedures and be used only for legitimate policing purposes.

Data will be retained for a maximum of 31 days, in accordance with the Police Scotland retention policy, unless it is required for evidence, disclosure or other policing purpose. The need to retain footage must be justified on each occasion.

9. Digital Evidence Management

The data is stored on an “on-premises” storage basis via a secure browser based system, which can only be accessed by a Police Scotland authorised user via Police Scotland devices.

The DEM software provides accountability, transparency and preserves the integrity of the evidence as the original data file is never altered. It can be used to store data and also manage users and BWV cameras. It provides authorised users with the ability to playback, redact, make clips, and securely share evidence with partner agencies.

BWV footage and digital evidence will be shared with the Crown Office and Procurator Fiscal Service (COPFS), and third parties where there is a legal requirement and clear policing purpose. The data is shared by burning to disc or by an encrypted USB stick. On each occasion a data file is downloaded, a full audit trail of all actions and activities carried out for that file can be produced.

10. Legal Frameworks

The relevant legislation and guidance covering the use of BWV by armed policing can be found as follows:

- Common Law
- Data Protection Act 2018
- Freedom of Information (Scotland) Act 2002
- Human Rights Act 1998, Specifically Article 6 (Right to a Fair Trial), Article 8 (Right to Privacy) and Article 10 (Freedom of Expression)
- Regulation of Investigatory Powers (Scotland) Act 2000
- Police and Fire Reform (Scotland) Act 2012
- Authorised Professional Practice for Armed Policing

11. Conclusion

Body Worn video has been used previously but this national roll out will ensure a uniformed approach to recording, retention and sharing of video providing a greater transparency of policing practices and interactions.

As stated within this paper the initial roll out will be to armed officers prior to COP26 but it is highly anticipated that if funding allow there will be an accelerated national roll out to all appropriate officers and staff thereafter.

There will be significant work to ensure there is public understanding, engagement and support and full regard for the legal, ethical and human rights considerations which arise.

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