

MOBILE PHONE AND CAMERA USE POLICY (1)

Author and Contact details:	Digital Health Records and Information Governance Manager	
Responsible Director:	Director of Finance and IT	
Approved by and date:	Information Governance Security Forum	May 2019
Document Type:	POLICY	Version 2.1
Target Audience:	All trust employees.	
Document Approval, History/Changes	See Appendix 1. For further information contact the Governance Department on Tel: (0151) 556 3082	

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This policy explains why it is necessary to prohibit the use of mobile phones for taking photographs of patients, and reiterates the importance of using the photographic equipment provided by the Trust.

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1. Introduction

The Trust recognises mobile phones as an effective form of communication for clinical and operational emergencies and accept they are now a part of everyday life. However, in a hospital setting they can be a nuisance to other patients and visitors and could pose a risk to privacy and dignity.

Photography is widely used in the Trust to capture images of patients or parts of patients for inclusion in their medical record, for teaching, research, presentations at conferences or publications. All photographs or recordings of patients, which illustrate a patient's condition or an aspect of treatment are part of that patient's medical record, and are protected under current Data Protection Laws. They should only ever be taken or used in line with GMC guidelines: http://www.gmc-uk.org/guidance/ethical_guidance/making_audiovisual.asp

This policy explains why it is necessary to prohibit the use of mobile phones for taking photographs of patients, and reiterates the importance of using the photographic equipment provided by the Trust.

1.1. Policy Statement

It is the policy of the Walton Centre NHS Foundation Trust that the recording, storing and the use of photographs/images/recordings will comply with the requirements of current Data Protection laws, Professional Codes of Conduct and Caldicott Standards; and all staff are required to comply with the requirements stated in this policy.

2. Scope

The policy applies to all employees (permanent, contract and temporary) and should be read in conjunction with Trust policies concerning Information Governance and Confidentiality. The policy covers the prohibited usage of mobile phones to take photographs of patients, in all instances.

3. Definitions

- **Consent** - permission for something to happen or agreement to do something. For consent to be valid, it must be voluntary and informed, and the person consenting must have the capacity to make the decision.'
- **Privacy** - "freedom from intrusion and embarrassment and relates to all Information and practice that is personal or sensitive in nature to an individual.
 - Privacy is a key principle, which underpins human dignity, and remains a basic human right and the reasonable expectation of every person." Human Rights Act, 1998
- **Dignity** - "is concerned with how people feel, think and behave in relation to the worth or value of themselves and others. To treat someone with dignity is to treat them as being of worth, in a way that is respectful of them as valued individuals, being of equal value and worth irrespective of differences such as age, race, culture, gender, sexual orientation, social background, health or marital status, disability, religion or political conviction."

4. Duties

Every employee whether permanent, temporary, contracted or working indirectly on behalf of the Trust is responsible for ensuring that all factors in relation to privacy and dignity best practice are adhered to.

All staff must be aware that if a disclosure is made which is not permitted under English Common Law, that this is breaking the law and the patient or visitor can bring legal action not only against the Trust but also against the individual responsible for the breach.

5. Process

5.1. Privacy & Dignity

Staff should remain vigilant at all times to ensure that inappropriate photographs are not taken by anyone that may compromise the privacy and dignity of patients or cause embarrassment to the Trust.

It is extremely difficult to detect whether mobile phones, most of which now incorporate cameras and video recording devices, are being used to take pictures. Additionally, with built in email transmission capability such pictures can be transmitted anywhere within moments of taking them therefore causing a potential risk to both the patient and the Trust. Also, the frequency of loss or theft of mobile telephones in everyday life indicates a greatly increased risk of loss of patient information, whether this is “confidential” (i.e. identifiable) or not (e.g. photographs of scans, internal organs etc).

The Healthcare Commissions Core Standard C13a stated that “Healthcare organisations should ensure that systems are in place to protect patients’ privacy and dignity”. The Standard stated that appropriate consent should be obtained for all contacts with patients and for the use of any confidential information. There is an obligation to minimize the risks to privacy and dignity, and of loss of such information.

This standard has been replaced by the CQC’s Dignity and Respect fundamental standard. All patients must be treated with dignity and respect at all times while receiving care and treatment.

There have been a number of incidents in NHS Trusts around the country where inappropriate photographs have been taken.

It is the duty of all Trust staff to take action to ensure that these rights are protected effectively at all times and for this reason the Trust does not permit the usage of cameras integral to personal mobile phones or other personal electronic devices such as iPads/iPods being used by employees or patients to take patient photographs under any circumstances.

Hospital staff wishing to take photographs of patients for clinical purposes must do so by using photographic equipment provided by the Trust for its intended purpose, and to ensure that the guidelines set out in the Trust’s Consent Policy (see section 8 Clinical Photography) are being followed at all times. Such photographs or recordings must only be taken in line with guidance issued by the GMC:

http://www.gmc-uk.org/guidance/ethical_guidance/making_audiovisual.asp. The IG department should also be contacted prior to any new process of photographs being taken in order to discuss if the completion of a Data Protection Impact Assessment is required.

Any staff who witnesses the taking of photographs by patients or visitors should advise the person that the taking of photographs and video recordings is strictly forbidden in the Trust. Persons wanting to take a photo should speak to the senior member of staff

in charge for permission. The trust has placed signage around every area of the trust to advise visitors and patients of this process.

The consent of the patient should always be sought. For consent to be valid, it must be voluntary and informed, and the person consenting must have the capacity to make the decision.'

Photos or videos of patients should not be posted on social media without the patients consent as per the Social Media Policy. The ward manager should be contacted should this occur.

Under no circumstances should any personal identifiable information be shared in any messaging applications i.e. Whats App or Forward. These applications can be used to discuss clinical information only with colleagues but the use of this must have been risk assessed in the department prior to use.

5.2. Compliance with the Policy

The privacy and dignity of patients and compliance with health & safety is the duty of all staff, patients and visitors whilst on the hospital premises. For the reasons stated the Trust feels it is necessary that everyone complies with this policy.

Any breaches of this policy should be reported through the Trust's Incident Reporting procedure as noted in the Trust's Incident Reporting Policy.

Employees who fail to comply with this policy will be addressed in accordance with the Trust's disciplinary procedures. Any breach of confidentiality **will be regarded as serious misconduct and may result in disciplinary action, up to and including dismissal.**

6. Training

The policy & supporting guidance will be made available to all staff on the Trust's intranet and will be reviewed through the Information Governance Security Forum. The intent set out within this policy is applicable across the Walton Centre Foundation Trust and contains sufficient detail to ensure consistency across the Trust's full range of business environments and functions. All staff are required to undertake Data Security and Protection training annually and are provided with guidance from the Information Governance Department.

7. Monitoring

The Information Governance & Security Forum will be responsible for the review of the policy. The policy will be reviewed through the IGSF by the Digital Health Records and Information Governance Manager who will facilitate a 3 year review.

Review may also take place due to the following occurrences:

- Major policy breach within the Trust
- Identification of new threats or vulnerabilities
- Significant organisational restructuring
- Significant change in technical infrastructure

Evaluation will be set on a number of criteria including (but not limited to):

- Number of reported policy breaches

- Staff awareness
- Evidence of organisational commitment

8. References

The policy is set out to comply with the following list of legal acts and the NHS regulation framework.

- English Common Law
- Data Protection Act 2018
- General Data Protection Regulation
- The Human Rights Act 1998
- General Medical Council (GMC)
- Care Quality Commission (CQC)

8.1. Supporting policies/documents

The following is a non-exhaustive list of guidance materials which should be read in conjunction with this policy and which detail the controls in place for the protection of Patient Confidentiality within the Trust:

- Information Governance Strategy Framework and Policy
- Information Risk Management Policy
- Confidentiality & Data Protection Policy
- Code of Conduct for Employees in Respect of Confidentiality
- Consent Policy
- Freedom of Information Policy
- Incident Reporting Policy
- Information Security & IT Acceptable Use Policy
- Data Protection Policy
- Data Protection Impact Assessment Policy

Appendix 1 - Equality Impact Assessment (EIA) Form

This section must be completed at the development stage i.e. before ratification or approval. For further support please refer to the EIA Guidance on the Equality and Diversity section of the Intranet.

Part 1			
1. Person(s) Responsible for Assessment:	Digital Health Records and Information Governance Manager	2. Contact Number:	01515563579
3. Department(s):	Information Governance Department	4. Date of Assessment:	22/5/2019
5. Name of the policy/procedure being assessed:	Mobile Phone and Camera Use Policy		
6. Is the policy new or existing?	Existing		
7. Who will be affected by the policy (please tick all that apply)?			
	Staff <input checked="" type="checkbox"/>	Patients <input checked="" type="checkbox"/>	Visitors <input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/>
8. How will these groups/key stakeholders be consulted with?			
	Intranet, meetings, posters		
9. What is the main purpose of the policy?			
	To protect staff and patients by making them aware of the correct procedures so that they do not inadvertently breach confidentiality or DPA 2018/GDPR.		
10. What are the benefits of the policy and how will these be measured?			
	Comply with legislation and the Trusts regulatory and statutory duties. Avoid financial penalties from the ICO.		
11. Is the policy associated with any other policies, procedures, guidelines, projects or services? If yes, please give brief details			
	Information Governance Strategy Framework and Policy, Data Protection Policy, Code of Conduct for Employees, Social Media Policy.		
12. What is the potential for discrimination or disproportionate treatment of any of the protected characteristics?			

Protected Characteristic	Positive Impact (benefit)	Negative (disadvantage or potential disadvantage)	No Impact	Reasons to support your decision and evidence sought	Mitigation/adjustments already put in place
Age			✓		
Sex			✓		
Race			✓		
Religion or Belief			✓		
Disability			✓		
Sexual Orientation			✓		
Pregnancy/maternity			✓		
Gender Reassignment			✓		
Marriage & Civil Partnership			✓		
Other			✓		

If you have identified no negative impact for all please explain how you reached that decision and provide reference to any evidence (e.g. reviews undertaken, surveys, feedback, patient data etc.) This Policy is applicable to all staff with no discrimination against the protected characteristics.

13. Does the policy raise any issues in relation to Human Rights as set out in the Human Rights Act 1998? See *Guidance for more details (NB if an absolute right is removed or affected the policy will need to be changed. If a limited or qualified right is removed or affected the decision needs to be proportional and legal). No*

If you have identified negative impact for any of the above characteristics, and have not been able to identify any mitigation, you **MUST** complete Part 2, please see the full EIA document on the Equality and Diversity section of the Intranet and speak to Hannah Sumner, HR Manager or Safeguarding Matron for further support.

Action	Lead	Timescales	Review Date

Declaration

I am satisfied this document/activity has been satisfactorily equality impact assessed and the outcome is:

No major change needed – EIA has not identified any potential for discrimination/adverse impact, or where it has this can be mitigated & all opportunities to promote equality have been taken



Adjust the policy – EIA has identified a need amend the policy in order to remove barriers or to better promote equality
You must ensure the policy has been amended before it can be ratified.



Adverse impact but continue with policy – EIA has identified an adverse impact but it is felt the policy cannot be amended.
You must complete Part 2 of the EIA before this policy can be ratified.



Stop and remove the policy – EIA has shown actual or potential unlawful discrimination and the policy has been removed



Name: Lorraine Blyth

Date: 22/5/2019

Signed:

Appendix 2 - Version Control

Version	Section/Para/ Appendix	Version/description of amendments	Date	Author/Amended by
2.0	All	Full review & transfer on to new template	Jan 16	Carol McGarragh
2.0	1	Policy statement moved to introduction 1.1	Jan 16	Carol McGarragh
2.0	2	Update to scope	Jan 16	Carol McGarragh
2.0	3	Definitions added	Jan 16	Carol McGarragh
2.0	6	Training section added	Jan 16	Carol McGarragh
2.0	8	Update to current policies & reference materials	Jan 16	Carol McGarragh
2.0	5.1	Paragraph added advising staff what to do	Jan 16	Carol McGarragh
2.0	3	Update to definitions for Consent	Jan 16	Carol McGarragh
2.1	Front Cover	Author, Version number and contact details added	May 19	Lorraine Blyth
	Front Cover	Inclusion of IT into Director of finance's title	May 19	Lorraine Blyth
	1.1	Reference to current data protection Laws	May 19	Lorraine Blyth
	5.1	Use of messaging applications added	May 19	Lorraine Blyth
		Reference to the social media policy and posting photos on social media.	May 19	Lorraine Blyth
		"Personal" added to mobile phones and IPADS.	May 19	Lorraine Blyth
		Signage around the trust referenced in relation to taking photographs	May 19	Lorraine Blyth
		IG department to be contacted added	May 19	Lorraine Blyth
	References	Update to references	May 19	Lorraine Blyth
	Policies	Data protection policy and DPIA policy added and title of IG policy amended to current title.	May 19	Lorraine Blyth
	Appendix 1	EIA form added	May 19	Lorraine Blyth

Translation Service

This information can be translated on request or if preferred an interpreter can be arranged. For additional information regarding these services please contact The Walton centre on 0151 525 3611

Gellir gofyn am gael cyfieithiad o'r deunydd hwn neu gellir trefnu cyfieithydd ar y pryd os yw hynny'n well gennych. I wybod rhagor am y gwasanaethau hyn cysylltwch â chanolfan Walton ar 0151 525 3611.

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0151 5253611

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وهرگيپرک ناماده بكريت (پرک بخريت) ، بو زانيارى زياتر ده بارهى نهم خزمه تگوزاريانه تكايه
پهيوهندى بکه به Walton Centre به ژماره تلهفونى ۰۱۵۱۵۲۵۳۶۱۱ .

一经要求，可对此信息进行翻译，或者如果愿意的话，可以安排口译员。如需这些服务的额外信息，请联络Walton中心，电话是：0151 525 3611。