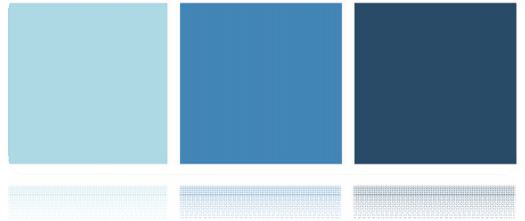


# MOBILE PHONE AND CAMERA USE POLICY (3)

<b>Author and Contact details:</b>	[REDACTED]	
<b>Responsible Director:</b>	Director of Finance and IT	
<b>Approved by and date:</b>	Information Governance Security Forum	August 2020
<b>Document Type:</b>	POLICY	Version 3 Date: August 2020
<b>Target Audience:</b>	All Trust employees.	
<b>Document Approval, History/Changes</b>	See Appendix 1. For further information contact the Governance Department on [REDACTED]	

***Think of the environment...Do you have to print this out this document? You can always view the most up to date version electronically on the Trust Intranet.***



## Executive Summary

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 and video recording equipment provided by the Trust.

## Contents

1.	Introduction .....	3
2.	Scope .....	3
3.	Definitions .....	3
4.	Duties .....	4
5.	Process .....	4
6.	Training .....	6
7.	Monitoring .....	6
8.	References.....	6
	<b>Appendix 1 - Equality Impact Assessment (EIA) Form.....</b>	<b>8</b>
	<b>Appendix 2 - Policy Approval Checklist.....</b>	<b>11</b>
	<b>Appendix 3 - Version Control.....</b>	<b>12</b>
	Translation Service .....	13

## 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 patient's bodies for inclusion in their medical record, for teaching, research, presentations at conferences or publications. All photographs or video recordings of patients, which illustrate a patient's condition or an aspect of treatment, and are part of that patient's medical record, and as such are protected under Data Protection legislation. They should only ever be taken or used in line with GMC guidelines: [http://www.gmc-uk.org/guidance/ethical\\_guidance/making\\_audiovisual.asp](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 and videos of patients, and reiterates the importance of only using the photographic and video recording 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 legislation, Professional Codes of Conduct and Caldicott Principles; 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 personal mobile phones or other personal electronic devices, to take photographs and videos 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 informed and given voluntarily, 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 the Common Law Duty of Confidentiality, 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 and Dignity

Staff should remain vigilant at all times to ensure that inappropriate photographs and videos 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 directly identifiable (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 minimise 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 and videos 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 and videos under any circumstances.

Hospital staff wishing to take photographs and videos 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](http://www.gmc-uk.org/guidance/ethical_guidance/making_audiovisual.asp). The Information Governance Department should also be contacted prior to any new process

of photography being taken in order to discuss if the completion of a statutory Data Protection Impact Assessment (DPIA) is required.

Any staff who witnesses the taking of photographs and videos 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 or video 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 informed and given voluntarily, 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, or other appropriate manager in other areas of the Trust, should be contacted should this occur.

Under no circumstances should any personal identifiable information be shared in any messaging applications e.g. Whats App or Facebook. Whilst these applications can be used to discuss clinical information only with colleagues, the use of this must have been risk assessed in the Department prior to use.

#### Patients recording clinical interactions

Patients who wish to record any of their clinical interactions with staff at the Walton Centre are asked to ensure they inform the clinician prior to doing this and do not do it covertly. There are posters situated right across the Trust to ask patients to seek permission. However, if a patient does record without the permission of the clinician, there is nothing in law to stop this. If a clinician feels uncomfortable with this, this should be discussed with their line manager either at the time of the consultation or following the consultation/treatment.

The clinician, if continuing with the consultation, should make sure that the patient knows that the recording it is only for their personal use. The recording should not be shared on social media in any situation. Patients do not have a lawful basis to share staff recorded on voice or video, to the wider public. If they do, a private prosecution could be taken out against them by the Trust.

If a clinician feels uncomfortable or refuses to continue with the consultation, it should be explored with the patient why they want to record to see if the underlying issue or concern can be rectified. If the patient still wants to record, the patient will still be given treatment. Therefore the clinician would either need to continue with their assessment or perhaps ask another colleague to see the patient instead.

For further information please see the following link from the BMA:  
<https://www.bma.org.uk/advice-and-support/ethics/confidentiality-and-health-records/patients-recording-consultations>

## 5.2. Compliance with the Policy

The privacy and dignity of patients and compliance with health and 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 and supporting guidance will be made available to all staff on the Trust's Intranet and will be reviewed through the Information Governance Security Forum (IGSF). The intent set out within this Policy is applicable across the Walton Centre NHS 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 (IGSF) 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
- Change in legislation

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 Acts of Parliament and the NHS regulatory framework.

- Common Law Duty of Confidentiality
- General Data Protection Regulation 2016
- Data Protection Act 2018
- 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 and Data Protection Policy
- Code of Conduct for Employees in Respect of Confidentiality
- Consent Policy
- Freedom of Information Policy
- Incident Reporting Policy
- Information Security and 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: [REDACTED]

2. Contact Number: [REDACTED]

3. Department(s): *Information Governance*

4. Date of Assessment: 21/08/2020

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* ✓      *Patients* ✓      *Visitors* ✓      *Public* ✓

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? *Please specify specifically who would be affected (e.g. patients with a hearing impairment or staff aged over 50). Please tick either positive, negative or no impact then explain in reasons and include any mitigation e.g. requiring applicants to apply for jobs online would be negative as there is potential disadvantage to individuals with learning difficulties or older people (detail this in the reason column with evidence) however applicants can ask for an offline application as an alternative (detail this in the mitigation column)*



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.).

*The purpose of this Policy is 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.*

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 Andrew Lynch ED&I Lead for further support.

Action	Lead	Timescales	Review Date
<p><b><u>Declaration</u></b></p> <p>I am satisfied this document/activity has been satisfactorily equality impact assessed and the outcome is:</p> <p><b>No major change needed</b> – EIA has not identified any potential for discrimination/adverse impact, or where it has this can be mitigated &amp; all opportunities to promote equality have been taken <input checked="" type="checkbox"/></p> <p><b>Adjust the policy</b> – EIA has identified a need amend the policy in order to remove barriers or to better promote equality <i>You must ensure the policy has been amended before it can be ratified.</i> <input type="checkbox"/></p> <p><b>Adverse impact but continue with policy</b> – EIA has identified an adverse impact but it is felt the policy cannot be amended. <i>You must complete Part 2 of the EIA before this policy can be ratified.</i> <input type="checkbox"/></p> <p><b>Stop and remove the policy</b> – EIA has shown actual or potential unlawful discrimination and the policy has been removed <input type="checkbox"/></p> <p>Name: <span style="background-color: black; color: black;">[REDACTED]</span> Date: 21/08/2020</p> <p>Signed:</p>			

## Appendix 2 - Policy Approval Checklist

The Mobile Phone and Camera Use Policy is presented to the Information Governance Security Forum for approval.

In order for this Policy to be approved, the reviewing group must confirm in table 1 below that the following criteria is included within the Policy. Any policy which does not meet these criterion should not be submitted to an approving group/committee, the policy author must be asked to make the necessary changes prior to resubmission.

### Policy review stage

Table 1

The reviewing group should ensure the following has been undertaken:	Approved?
The author has consulted relevant people as necessary including relevant service users and stakeholders.	Yes
The objectives and reasons for developing the documents are clearly stated in the minutes and have been considered by the reviewing group.	Yes
Duties and responsibilities are clearly defined and can be fulfilled within the relevant divisions and teams.	Yes
The policy fits within the wider organisational context and does not duplicate other documents.	Yes
An Equality Impact Assessment has been completed and approved by the HR Team.	Yes
A Training Needs Analysis has been undertaken (as applicable) and T&D have been consulted and support the implementation	N/A
The document clearly details how compliance will be monitored, by who and how often.	Yes
The timescale for reviewing the policy has been set and are realistic.	Yes
The reviewing group has signed off that the policy has met the requirements above.	Yes

Reviewing group chairs name: [REDACTED]

Date: 21/08/2020

### Policy approval stage

The approving committee/group approves this Policy.


The approving committee/group does not approve the Policy.

Actions to be taken by the Policy author:

Approving committee/group chairs name [REDACTED]

Date: 21/08/2020

### Appendix 3 - 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		
2.0	1	Policy statement moved to introduction 1.1	Jan 16		
2.0	2	Update to scope	Jan 16		
2.0	3	Definitions added	Jan 16		
2.0	6	Training section added	Jan 16		
2.0	8	Update to current policies & reference materials	Jan 16		
2.0	5.1	Paragraph added advising staff what to do	Jan 16		
2.0	3	Update to definitions for Consent	Jan 16		
2.1	Front Cover	Author, Version number and contact details added	May 19		
	Front Cover	Inclusion of IT into Director of Finance's title	May 19		
	1.1	Reference to current data protection Laws	May 19		
	5.1	Use of messaging applications added	May 19		
		Reference to the social media policy and posting photos on social media.	May 19		
		"Personal" added to mobile phones and IPADS.	May 19		
		Signage around the Trust referenced in relation to taking photographs	May 19		
		IG Department to be contacted added	May 19		
	References	Update to references	May 19		
	Policies	Data Protection and DPIA Policy added and title of IG Policy amended to current title.	May 19		
	Appendix 1	EIA form added	May 19		
3.0	Whole Document	General DPO review – minor amendments and updates, and Policy Approval Checklist added	August 2020		

## 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 [REDACTED]

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 [REDACTED]

هذه المعلومات يمكن أن تُترجم عند الطلب أو إذا فضل المترجم يمكن أن يُرتب للمعلومة الإضافية بخصوص هذه الخدمات من فضلك اتصل بالمركز ولتوّن على [REDACTED]

نەم زانیاریە دەکریت وەرگێردریت کاتیک کە داواکریت یان ئەگەر بەباش زاندرای دەکریت وەرگێرک نامادە بکریت (پیک بخریت) ، بۆ زانیاری زیاتر دەبارەى ئەم خزمەتگوزاریانە تکایە Walton Centre بە ژمارە تەلەفۆنی ۰۱۵۱۵۲۵۳۶۱۱ . [REDACTED]

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：[REDACTED]