

# National Policing Position Statement: Using Body Worn Video to Record Initial Contact with Victims, Witnesses and Suspects

The National Police Chiefs' Council (NPCC) with the National Investigative Interviewing Strategic Steering Group (NISSG) has agreed to this position statement being circulated to, and adopted by, Police Forces in England, Wales & Northern Ireland.

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This position statement has been produced and approved by the NPCC Crime Operations Coordination Committee on 22 September 2015. This position produced by the NPCC should be used by chief officers to shape police responses to ensure that the general public experience consistent levels of service. The operational implementation of all guidance and strategy will require operational choices to be made at local level in order to achieve the appropriate police response and this document should be used in conjunction with Authorised Professional Practice (APP) produced by the College of Policing. It will be updated and re-published as necessary.

Any queries relating to this document should be directed to either the author detailed above or the NPCC Business Support Office on 020 7084 8959/8958.



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## **1. INTRODUCTION**

- 1.1 This position statement should be read in conjunction with the *Guidelines and Principles for Body Worn Video* (BWV) endorsed by Chief Constables' Council on 18 July 2014.
- 1.2 The considered use of technology to support operational police activity has the potential to enhance the quality of service that forces provide to the public. It is important to remember, however, that the use of such technology comes with certain responsibilities. This position statement is intended as a guide for operational practitioners involved in the use of BWV when responding to incidents or allegations of crime and its focus is very much on the initial account provided by victims, witnesses and suspects in these circumstances.

## **THE NATIONAL POLICING POSITION**

## **2 ATTENDING INCIDENTS THAT GIVE CAUSE FOR CONCERN**

- 2.1 There are those attended incidents where police users of BWV are unsure as to whether a crime has been committed or not. These can include unexplained deaths or vulnerable missing from home reports. The use of BWV can provide the accuracy and reliability concerning the initial scene and any initial account provided by those present for future use in any subsequent investigation. An investigative mindset needs to be adopted when attending such scenes.

## **3. VICTIMS AND WITNESSES**

### **3.1 INITIAL ACCOUNTS**

- 3.1.1 The purpose of an initial account is to inform initial police action in respect of an allegation or an incident. Any initial questioning should be intended to elicit a brief account of what is alleged to have happened; a more detailed account should be left until the formal investigative interview takes place. Such a brief account has to ascertain the nature of what has occurred and should include the following:
- Where and when the alleged incident took place and who was involved or otherwise present (unless this is already clear);
  - Any early investigative information required to protect life, protect property, identify offenders and secure and preserve evidence;
  - Anything that might result in harm to the witness or others; and
  - Anything that might give rise to witness intimidation.
- 3.1.2 In these circumstances any early discussions with the witness should, as far as possible, adhere to the following basic principles:
- Listen to the witness;
  - Do not stop a witness who is freely recalling significant events;



- Where it is necessary to ask questions, they should, avoid leading or multiple questions;
- Ask no more questions than are necessary in the circumstances to take immediate action;
- Where a BWV recording is made, notes should be made of the wider context, including the details of the other people present at the scene (whether recorded by BWV or not);
- Where a BWV recording is not made, in line with current practice a comprehensive note of the discussion should be prepared, taking care to record the timing, setting and people present as well as what was said by the witness and anybody else present (particularly the actual questions asked of the witness).

## 4 INITIAL ACCOUNT AT THE SCENE

4.1 Decisions as to whether to start a BWV recording on arrival at a scene should take account of existing local force guidance and training and whether the nature of any allegation is clear prior to the arrival of the police.

### 4.2 INCIDENTS WHERE THE NATURE OF THE ALLEGATION IS CLEAR PRIOR TO THE ARRIVAL OF POLICE AT A SCENE

4.2.1 The decision as to whether to start recording on a BWV immediately on arrival should take account of the witness's circumstances and the nature and sensitivity of the allegation if they are known before the police arrive. Where the victim of an alleged offence is a child under 18 or a vulnerable adult<sup>1</sup> a BWV should not be used to record their initial account although there may be circumstances where the age and/or vulnerability is not immediately apparent. The explicit and informed consent of victims of serious sexual offences should be obtained before their initial accounts are recorded on a BWV. Where the emotional or physical condition of a victim to a serious sexual offence is such that there is any doubt about their capacity to give informed consent a BWV should not be used.

4.2.2 Initial accounts from cases involving adult victims who are neither vulnerable nor victims of serious sexual offences should only be recorded where the BWV user considers it appropriate and where it is practical to do so but it has to be remembered by officers that there will be circumstances (such as domestic abuse and violence) where the distressed nature of the victim and the ability to record the visible injuries may strongly corroborate the allegations and assist the investigation.

### 4.3 INCIDENTS WHERE THE NATURE OF THE ALLEGATION IS NOT CLEAR PRIOR TO THE ARRIVAL OF POLICE AT A SCENE

4.3.1 In situations in which the nature of any allegation is unclear but the apparent nature of the incident is such that a BWV has been switched on when police arrive at a scene those present should be clearly told that recording is taking place. If an allegation is then made the BWV user should listen to what the witness says without interrupting them. If further questioning of a victim is required this should be minimum questioning as necessary and for clarification only.

<sup>1</sup> "Vulnerable" adult witnesses are defined by Section 16 Youth Justice and Criminal Evidence Act 1999 as anyone with a mental disorder, learning disability or physical disability/disorder impacting on their ability to communicate.



#### **4.4 INITIAL ACCOUNT ELSEWHERE (NOT AT THE SCENE)**

- 4.4.1 Initial accounts from victims and witnesses should not usually be recorded by BWV other than at the scene of an incident or an alleged offence.

### **5. REVIEWING INITIAL ACCOUNT RECORDINGS PRIOR TO AN INVESTIGATIVE INTERVIEW**

- 5.1 Investigators should review the BWV initial account prior to the formal victim/witness interview to assist in the planning process. Where an interviewer reviews the BWV recording for this purpose they should avoid it exerting an inappropriate impact on the subsequent interview, including the style of the questions they ask.
- 5.2 Victims and witnesses should not view BWV recordings of their initial accounts prior to an investigative interview because any subsequent challenge to its integrity may render the interview inadmissible. Challenges to the integrity of an initial account can arise for a variety of reasons including other witnesses being present or being within hearing of it and thus being in a position to influence it and the use of leading questions or inappropriate interview techniques by the BWV user or other police personnel present. In these circumstances it could be argued that witness's memory was tainted by viewing the recording and that it exerted an adverse impact on the reliability of their recall during the interview as a consequence. The specialist interviewer will have to make an informed judgement of what to disclose of the BWV detail as part of their victim/witness interview strategy.
- 5.3 See forthcoming Authorised Professional Practice (APP) for guidance in respect of officers viewing a recording from a BWV that they were wearing before preparing their statement.

### **6. CLARIFICATION**

- 6.1 If there are any inconsistencies or omissions between the account given by the victim/witness on the BWV and their account during the subsequent interview consideration should be given to addressing it towards the end of the interview in accordance with paragraphs 2.161 to 2.167 of *Achieving Best Evidence in Criminal Proceedings; Guidance on Interviewing Victims and Witnesses, and Guidance on using Special measures* (Ministry of Justice 2011).

### **7. SUSPECTS**

#### **7.1 PLANNED ARRESTS**

- 7.1.1 Every arrest brings with it potential risk and complexity and as such the default position should be the use of a BWV to record anything that is said or done by the suspect at point of arrest and caution. This will ensure an accurate and reliable record is made of any significant statement that the suspect makes prior to their arrival at the custody office. In the unlikely event that the officer decides not to use BWV during an arrest, they will have to justify not using it.



## **7.2 UNPLANNED ARRESTS**

- 7.2.1 There will be those occasions when police users conduct unplanned arrests as they attend an incident. Wherever possible BWV should be used and when the circumstances and nature of the arrest allow the recording to be activated.

## **8. BWV RECORDINGS DURING AN INVESTIGATIVE INTERVIEW**

### **8.1 REVIEW**

- 8.1.1 It is essential that any BWV recording of the arrest is reviewed by the interviewers prior to the formal interview taking place to ensure the accuracy of anything they report either during the pre-interview briefing with the suspect's legal adviser or during the interview itself.

### **8.2 PRE INTERVIEW BRIEFING WITH A SUSPECT'S LEGAL ADVISER**

- 8.2.1 The ACPO National Policing Position Statement on Pre-Interview Briefings (June 2014) gives clear guidance on how to approach Pre-Interview Briefings including what to disclose and why. There is no requirement for investigators to disclose anything prior to interview and careful consideration must be given to ensure that a Legal Adviser is suitably briefed, but a suspect is not given so much information that they are able to concoct an account to match the facts. BWV recordings are no different to any other evidence in the case and it is the investigating officers' responsibility to decide if a recording will be included in the Pre-Interview Briefing to the Legal Adviser. This is a matter for the investigating officer to decide upon and any decision will need to be carefully thought through and documented in the interview strategy.

### **8.3 USING THE BWV WITHIN THE SUSPECT INTERVIEW**

- 8.3.1 There must be a clear investigative reason for showing a suspect a BWV recording during the interview. For example, it may be valid to show the recording during the interview where there is a dispute as to what was said or done at point of arrest by the suspect or during the journey from there into the location at which they have been detained. This is a matter for the investigating officer to decide upon in line with their suspect interview plan.
- 8.3.2 When consideration is given to showing an initial account from a victim/witness that has been recorded on a BWV the impact upon all individuals concerned within the investigation should be taken account and the rationale of adopting such an approach should be documented. Any such disclosure must take account of the fact that the BWV recording does not represent the detailed victim or witness interview, but may well provide important detail that it is right to show to the suspect as part of the interview process.

### ***Acknowledgement***

This position statement was prepared by the National Vulnerable Witness Adviser, Kevin Smith, and the National Interview Adviser, Gary Shaw.

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