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RECORDING OF GPCG STAFF IN CLINICAL AND COMMUNITY SETTINGS

1. Introduction

There has been a rise in the number of patients who want to record GPCG staff both overtly and covertly (video and audio) using portable devices on GPCG premises or CCTV systems installed in the patients' homes.

Unlike medical or nursing professionals, who are expected to obtain a patient's consent to make recordings, patients and members of the public do not need their clinicians' permission to record a medical consultation or treatment. Patient recordings made either overtly or covertly to keep a personal record of what the clinician is saying are deemed to constitute personal notetaking and are, therefore, permissible.

However, it is recognised that staff require guidance about patients recording their consultation or administering treatment.

2. Purpose

This policy ensures that staff are informed of the legal framework regarding recordings and supported by the relevant teams within GPCG. This will ensure that patient's rights are respected and that staff and patients are protected from potential abuse. The policy also aims to promote positive contact with patients and their relatives while ensuring the confidentiality of all patients, staff, and visitors.

The key purpose of this policy and these procedures are:

- offer a framework regarding recording devices by patients, carers, visitors, and staff.
- Highlight the issues that can arise when using recording devices, the requirements that need to be in

place, and staff responses to prevent privacy intrusion on patients and staff.

- To reinforce the responsibility of the GPCG to ensure the privacy, dignity and confidentiality of patients and visitors.
- To define appropriate behaviour of staff, patients, carers, and visitors when using recording devices.
- To define the GPCG's stance on overt and covert recordings made by patients, carers, visitors, and staff.
- To enable staff to establish whether the recordings made are appropriate.
- To define the process staff should take if they believe inappropriate recording has occurred.

3. Scope

This policy applies to:

- Audio / Visual Recordings made by patients, carers, visitors, and staff on GPCG premises or community sites using personal recording devices such as smartphones and handheld recording devices, except for the recording types outlined in the 'Out of Scope' section below
- Patients, carers, visitors, GPCG employees, permanent, temporary and contract staff; staff who hold honorary contracts; contractors working on behalf of the GPCG; volunteers; and Non-Executive Directors.

This policy does not apply to:

- Audio / visual recordings of patients required for direct care and treatment. The Information Governance policy covers this.
- Journalists or film crews making audio / Visual recordings with permission to film GPCG staff. Please refer to the Communication Team (thgpcg.comms@nhs.net) for further information.
- Audio / visual recordings for security purposes.

4. Roles & Responsibilities

Chief Executive and the GPCG Board	The Chief Executive and GPCG Board have ultimate accountability for actions and inactions about this policy.
Caldicott Guardian	The Caldicott Guardian is responsible for protecting the confidentiality of patients and information, and this policy supports this function by ensuring that patients' rights are considered and respected.
Data Protection Officer (DPO)	The DPO is responsible for implementing and monitoring procedures. This role includes providing guidance and updates to staff as necessary. As required, the DPO will provide specialist advice on matters relating to Personal Information.
Senior Information Risk	To be made aware of any unmitigated risks to be reported to the ICO.

Owner (SIRO)	
Service Managers	To act as the initial point of contact for queries and concerns that staff may raise regarding the content of this policy or with recordings being made or made within their areas of responsibility.
Clinical / Operational Leads	Leads' areas ensure information is displayed to patients, visitors and staff about this policy and local procedures.
All Employees	They are responsible for reading this policy, understanding their data security and protection responsibilities, and complying with and adhering to legislation at all times.

5. Procedure

5.1. Statutory Obligations

5.1.1. Privacy and Dignity (Article 8 of the European Convention on Human Rights)

The Human Rights Act 1998 (HRA) enshrines the right to respect private and family life set out in Article 8 of the European Convention on Human Rights, 'Everyone has the right to respect for his private and family life, his home and his correspondence'.

Workers are entitled to a reasonable expectation of privacy. This expectation protects workers' privacy at work and balances the interests of the patients.

To fully protect these rights, GPCG is establishing a policy that specifies when the use of cameras, mobile phones with cameras, and other recording devices is prohibited in certain areas and when their use is allowed.

5.1.2. Patient Confidentiality Third party (Data Protection Act 2018)

The ICO mandates that all organisations, including GPCG, must protect personal information. Anyone making a recording processes personal data and must comply with relevant regulations regarding consent and usage. If the recording contains sensitive personal data, explicit consent is required, and individuals must be informed of its intended uses.

Consultation recordings likely qualify as personal data processing under the DPA, which must be followed, except when individuals record for personal reasons (the 'domestic purposes' exemption). Additionally, GDPR Article 2(c) states that personal data processing during purely personal activities is exempt from data protection laws, allowing patients to record their consultations.

5.1.3. Safeguarding Children

The Children Act 2004 places a duty on GPCG to ensure that their function is discharged regarding the need to safeguard and promote the welfare of children. The GPCG will safeguard and promote the welfare of children by considering that mobile devices are a potential risk in that inappropriate photographs could be taken of them, or confidential information pertaining to them could be disseminated further. If inappropriate images of children were found on a mobile device, this should be escalated to the safeguarding team for support and further action as necessary.

5.1.4. Potential Legal Action

If any part of the covert or overt recording of the patient's consultation is disclosed to a third party (including publicly via social media) without the prior consent of the other recorded parties, then depending on the nature and the context of such disclosure, a criminal offence may be committed, civil legal action may be taken, or a breach of the DPA may occur.

Criminal offences could arise from unauthorised disclosure, depending on how that disclosure or publication is made. However, the offences could include an offence contrary to section 1 of the Protection from Harassment Act 1997, an offence contrary to sections 4, 4A or 5 of the Public Order Act 1986, an offence contrary to section 1 of the Malicious Communications Act 1988 or an offence contrary to section 127 of the Communications Act 2003.

Appendix 1 includes signage that may be used to remind patients, service users, and visitors about appropriate usage and areas where mobile phones may be used and where their usage is prohibited.

Staff should consider displaying relevant posters in patient areas to clearly set out the expected appropriate behaviour of patients and visitors. If images and audio of other patients or the professional workforce are included in images, videos, and audio recordings and shared without consent, it can then be impossible to remove these non-consensual images or recordings.

5.2. Types of recording

5.2.1. Overt Recording

Overt recordings are made openly, with the acknowledgement of the parties subject to the recording. GPCG staff will ensure that:

- Any recording is done openly and honestly.
- The recording process does not interfere with the consultation, treatment, or care being administered.
- The patient understands that a note will be made in their health record stating that they have recorded the consultation or care being provided.
- The patient is reminded of the recording's private and confidential nature and that it is their responsibility to keep it safe and secure.

- Any recording is only made for personal use.
- Patients are made aware that the misuse of a recording may result in criminal or civil proceedings.
- Patients are discouraged from undertaking recordings in the first place unless it is deemed necessary by highlighting the above responsibilities.

If a staff member does not consent to be part of the recording, they should attempt to find a member of staff who can perform the care for the patient. If there is no alternative member of staff who can perform the care, then the staff member's non-consent is not a reason to discontinue treatment. The staff member should continue to treat the patient but ask that the recording be done in a way that may not identify them.

Patients may have a valid reason to request audio/visual consultation recordings in some exceptional medical situations. The British Medical Association supports this ([BMA recording guidance](#)). Still, consultations are sharing information between medical practitioners and patients, discussing diagnostic findings and further instructions, and do not include the actual diagnostic examinations. Staff need to consider carefully any reasons provided and balance these against the clinical imperatives arising from the examination. A record of the agreed audio-visual recording should be made in the patient record, as well as any decline of audio / visual recording, with the reason.

5.2.2. Covert Recording

Covert recording occurs when a recording takes place in secret or is made without the expressed permission or acknowledgement of the people being recorded.

GPCG discourages using covert recordings, which may harm relationships between clinicians and those using the services.

Although GPCG cannot place restrictions on patients who wish to record a conversation covertly, GPCG staff should aim to discourage patients from doing so by ensuring that:

- Promoting open and honest recording of consultations where a patient deems it necessary.
- Patients are advised to request a copy of their notes through the Subject Access Request process, or the healthcare professional can write/print follow-up instructions or red flag symptoms for them to take with them.
- Patients are given information about how to complain if they have an issue with their treatment and care and how to contact the Information Commissioners Officer or Care Quality Commission.

Under no circumstances should staff engage in covert recording without authorisation.

If Staff have concerns about care being given that they feel need to be investigated, they should report these to their line manager or HR in the first instance. When staff are unable to do so, they should instead raise concerns with the Freedom to Speak Up Guardian. [Freedom to Speak Up Policy](#) details how

to do this.

5.3. Audio and Visual Recordings made by patients in public areas and waiting rooms

Photographs and recordings may not be taken within the waiting areas or public areas; this includes “selfies” in which other patients may be captured in the image or recording.

To assist patients and visitors in understanding whether the recording is permitted in a specific area, any areas where it is prohibited should display posters of guidance for patients to explain this. The poster should include:

- Details of the restriction, i.e. where in the department/clinic mobile phones can be used
- Rationale for the restriction
- Actions that may be taken if the restrictions are not complied with.

Patients should be informed of this as soon as practicable, and it should be available via the GPCG's public-facing website.

If patients have questions about this policy or any restrictions in place, it is important to offer an opportunity to discuss these with an appropriate member of staff who can explain the rationale for the policy.

Patients who will not comply with this policy or local procedures must be asked to cease using their equipment. The use of mobile phone cameras is seen as an infringement of the patient's rights under the Data Protection Act 2018, General Data Protection Regulation 2016, the Children's Act 2004 and the Human Rights Act 1998.

Where available, a security team (2222) or the police should be used in cases of harassment, abuse, or intimidation. GPCG staff should not confront, attempt to confiscate the device or put themselves in danger. Staff should ask the patient/visitor to delete the recording and witness this (where possible). People who refuse to stop recording or taking photographs can be asked to leave the site.

Any recording of staff that causes harassment, intimidation or embarrassment in a restricted area must be reported via DATIX. This must include, where possible, the details of the person making the recording so the GPCG can write to them asking them to delete the recording and any potential litigation.

5.4. Recording consultations (in private consultation rooms)

Consultations may occur on a GPCG site, in an offsite location, such as a Community Hub, virtually or in the patient's home.

Patients may approach staff to request their clinical consultations/treatment to be recorded for private use. This is permitted under Article 2(c) of the Data Protection Act 2018. Recordings made to keep a

personal record of information shared in the consultation or appointment are deemed to constitute 'note-taking' and are therefore permitted when undertaken for this purpose

Patients should seek the agreement of their healthcare professional before legally and, as a matter of courtesy, recording a consultation. However, it should be noted that a patient does not have to have express permission to make the recording. GPCG encourages all staff to consent to reasonable requests for such recordings. Patients should be invited to record consultations overtly, not covertly.

Making a recording does not indicate a lack of trust in their medical professional, and the consultation should be conducted as usual. Encouraging patients to be overt about making records can create trust between patients and healthcare professionals.

Requests to record the consultation can have particularly good reasons, and it can help patients make informed choices. For example, some patients may have hearing or learning difficulties; for some, their first language may not be English. Every consultation should take place to ensure that the patient understands it. When using advocacy and/or interpreting services, care should be taken to ensure that the correct dialect for the requested language is used.

A recording can be useful for helping to overcome barriers to communication and understanding. During a consultation, a patient may find it difficult to concentrate due to anxiety, distress, fear, or pain, unfamiliarity with the language or terminology, and the amount of information being conveyed to them. A recording will allow a patient time to process sometimes complex information provided during consultations.

These recordings can help patients make informed decisions about their treatment. They can also help patients understand and learn about their condition and engage with their care provider. This gives the patient a feeling of control and helps to overcome barriers to understanding.

While staff may initially be daunted by the thought of a recording being made it should be noted that this can be a useful tool for communication. It can encourage patients to take a greater role in their own care and increase their understanding.

The content of the recording is confidential to the patient, not to GPCG. The patient can waive their own confidentiality as they wish; this could include disclosing the details of their consultation with third parties or even posting and/or sharing the recording in on the Internet through social media.

However, doing so may change the position of this recording as it is no longer a record of the consultation, for example, if the recording is disclosed or publicised in a modified way that is not connected to the consultation. This could include an instance where it is designed to cause detriment to or harass another individual captured in the recording. Any such disclosure or publication, depending on the nature and context, may attract a civil action for damages and may also be a criminal offence.

Any member of staff who becomes aware of a consultation that has been published on the Internet and could represent defamation of character or harassment of the individual should report it via DATIX as an incident, and the communications team should be made aware.

5.5. Recording in the patient's home

Patients may have CCTV installed on their property or use portable recording devices to record interactions or consultations with staff. While staff may feel uncomfortable being recorded, it would be inappropriate to decline to treat a patient because the recording is being made. Please refer to the guidance in section 4.0 of this Policy (Recording Consultations).

5.6. Incident Reporting

All incidents where a patient or visitor has made audio or visual recordings of another patient/ service user shall be reported via Datix in line with the GPCG incident reporting policy. The report must include details of the actions taken because of the incident—for example, removal of the recording and handling of the patient, i.e. whether security was involved, whether the consultation went ahead, or if the patient was removed.

Staff who become aware that they have been covertly recorded during a consultation or when providing treatment shall record the incident by submitting a Datix incident report.

The setting in which any non-compliance has occurred will predicate how the issue will be managed.

If the making of a covert recording, from which individuals can be identified, is discovered after the recording has been made and if it has already been published (for example, on Facebook or YouTube), the maker should be requested to immediately remove the recording and notify the GPCG communications team when it has been done.

When staff become aware that inappropriate images have been uploaded to social media then, they may report the “posting” as inappropriate via the social media site so that the site may remove the images and narrative.

This should also be reported to the GPCG Communication Team. Where appropriate the Head of Communications and Data Protection Officer can provide additional support.

Not all recordings will be considered an offence, but some postings placed on the internet and social media may constitute an offence under:

- Section 5 of the Public Order Act 1986
- Protection from Harassment Act 1997
- Section 127 of the Communications Act 2003
- Section 1 of the Malicious Communications Act 1988
- S.119 Criminal Justice and Immigration Act – Causing a disturbance on NHS premises

5.7. Training

There are no specific training requirements in relation to this policy. However, staff should undertake the following training for them to be able to respond to patients or the public when recording occurs

- Conflict resolution training – available via Bluestream
- Oliver McGowen Training – for understanding the different needs of those with learning disabilities and / or autism- Part one available via Bluestream
- Customer Relations training- available via bluestream.

5.8. Monitoring and Review

The content of this policy will be reviewed three times yearly (1065 days) or before if legislation changes.

Monitoring via incident reporting and governance reports will happen monthly. Thematic reviews of increases in trends will be undertaken by the governance team.

Attachments

[UTC recording posters.docx](#)

Approval Signatures

Step Description	Approver	Date
QSG Committee Approval	Christopher Norton: Deputy Director of Governance and Nursing	08/2025
Initial Review	Rachel Seery: Head of Clinical Governance	03/2025