



The London Borough of Merton
Body Worn Video Policy
Including Lone Worker considerations

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1 Introduction

Body worn video technology is a body worn portable system that provides an audio and visual record of enforcement activities undertaken by the wearer. Sound and images are recorded on a tamper proof storage device.

The purpose of this document is to bring together all the elements required for effective use of Body worn video technology and to enable Civil Enforcement Officers (CEOs) and Parking Officers to comply with legislation surrounding Body worn video recording.

This policy document prescribes the use of BWV for the purpose of Parking Enforcement and benefits to CEOs and the general public.

1.1 Lone Worker

The use of BWV as prescribed in this document is in line with the Corporate Guidance on Lone Working issued by the Safety Section in June 2013. CEOs are classified as lone workers, often finding themselves in situations where there is a threat of physical or verbal abuse. The council has a duty of care to reduce this risk. A clear and obvious way to record and reduce this threat is through the use of BWV. It is proven that where a member of the public knows they are being recorded and that footage may be used in a court of law or form part of any prosecution the risk to the CEOs is reduced.

1.2 Penalty Charge Notice (PCN) issue process

As it is often unknown when and where a member of the public may use threatening or abusive language or actions, it is important that BWV is used in a way that is most likely to capture any such instances. The highest probability for such behaviour is during the issuing process of a PCN, including a short period before and after its issue.

BWV footage captured during the issuing process will be used as supplementary evidence. The main body of evidence for a parking PCN is still the notes and photographs produced by the CEO at the time of the contravention. Therefore it is important to note that the absence of a video recording of a parking contravention does not invalidate a PCN.

The use of BWV facilitates the capture of good quality evidence of conversations with the public, which will assure fairness, transparency and accountability in dealing with complaints and PCN appeals.

1.3 School Enforcement

When CEOs commence their allocated school patrol, their body-worn devices will be switched on for the whole period of enforcement. This is approximately 30 to 45 minutes and will take in the whole area surrounding the school. Enforcement at schools results in a high number of conversations and comments from members of the public, some complimentary, but also some which could be described as abusive or inappropriate.

As set out elsewhere the use of BWV will help to reduce these abusive instances. In addition, the use of BWV will greatly assist the PCN issuing process, specifically in relation to Vehicle Drive Aways (VDA) at schools. Full training and guidance on the appropriate use and issuing of PCN/VDAs will be given.

The council is committed to achieve effective enforcement at and around school areas and will work with the schools to ensure the greatest publicity and communication about how and why we are enforcing.

1.4 Blue Badge Enforcement

The use of BWV is also essential during the lead up to and during the inspection processes of Blue Badges. This includes any subsequent conversations or discussions during the confiscation process as this evidence will be used in a court and form the basis of any prosecution. During this process it has been identified that there may be an increased risk of threatening or abusive language or actions and as above the BWV being on at the time will reduce this risk.

1.5 Heightened activity, crowds & queues.

If a CEO is undertaking parking enforcement duties during times where there is heightened activity, such as a large gathering of crowds, they are entitled to use their BWV in continuous recording mode, if they feel their personal safety could be compromised. They may also choose to do so where an incident on street is occurring or has just happened, such as a road traffic Incident or obvious criminal activity, as the footage could be of assistance to the emergency services.

1.6 Support the emergency services and anti-terrorism

The council has a duty to support emergency services in the undertaking of their duties including anti-terrorism activity. The appropriate use of body worn video may assist the police or appropriate body in any appropriate investigations. In such instances and when instructed to do so by the Police it is expected the BWV device should be switched on at all times.

1.7 Personal safety and zero tolerance

Personal safety in all cases remains paramount. Under no circumstances should personal safety be put in question for the purposes of recording footage or gathering evidence.

This document confirms the council's position of zero tolerance against all types of abusive, threatening words or actions and hate crime against council staff, which in all cases will to be reported to the police with a view to prosecute.

BWV will help in the provision of reliable evidence to the Police and Council Officers in relation to assaults and abuse against CEOs. This will allow the council to support their staff, by having the evidence to take action against inappropriate behaviour or hate crimes.

1.8 Training for CEOs

The BWV footage recorded during parking enforcement may be used for training and monitoring purposes. By reviewing recorded footage of parking contraventions and incidents, supervisors can work with their CEOs to ensure our high service standards are maintained, and identify where improvements can be made through additional training. This cycle of continual improvement will lead to improved communication and transparency between council staff, motorists and the general public.

1.9 Reviewing footage

The footage captured on street by CEOs and appropriate officers shall be reviewed by staff responsible for replying to PCN appeals, offering the opportunity to be able to reply fully to each case and demonstrate full transparency.

Footage will also be reviewed by management in cases of allegations against council staff when dealing with complaints.

In all cases footage shall be reviewed in a secure or private location.

1.10 Data security

The report documents best practice procedures that should be followed in terms of the integrity of data / images / recordings as well as its security and use.

2 Legislation Summary

It should always be noted that the integrity of the data recorded will be considered under all relevant acts mentioned in this document and any others that are applicable. Even though the recordings are made to assist with the provisions of the TMA 2004, no single act or legislations should determine the use of the data and legal advice must be sought.

2.1 General Data Protection Regulation (GDPR) 2018 and Data Protection Act (DPA) 2018

All personal information collected by the council must be used and shared in accordance with the principles of the Data Protection Act (DPA) 2018

The DPA is legislation that regulates the processing of 'personal data' or 'sensitive personal data', whether processed on computer, CCTV, still camera or any other media. Any recorded image that is aimed at or may identify a particular person or learning about their activities is described as 'personal data' and is covered by the DPA; this is therefore likely to include all images and audio captured using Body worn video footage.

2.2 Fair Processing

Principle A of the DPA (**fair processing**) requires the processing of personal data to be lawful, fair and transparent. This means that the council must state the lawful basis for collecting BWV footage, the purposes for what it will be used and how this will be communicated to individuals whose images are captured on BWV cameras.

2.3 Lawful basis

The lawful basis for processing BWV footage is as follows:

- GDPR/DPA Article 6(1) (c) - **Legal obligation**: the processing is necessary for the council to comply with its responsibilities under the Traffic Management Act 2004.

- GDPR/DPA 6(1) (d) – **Vital interests:** the processing is necessary to protect someone’s life. In this instance helping to ensure the health and safety of the CEO’s in the course of their work.

2.4 Purposes

Video footage will be used for the following purposes:

- **Issuing PCNs and Enforcement activities** – CEOs will use BWV when issuing a PCN or carrying out an enforcement activity this will allow them to provide evidence that the procedure was carried out correctly if challenged.
- **Dispute resolution** – During the course of their parking enforcement duties CEOs will record footage via their BWV. If incidents or disputes with members of the public occur during enforcement duties, the footage may subsequently be used as part of an appeal review or complaint investigation. The BWV footage will provide an impartial view and can therefore assist in reaching a conclusion and resolution with regards to disputes.
- Video footage will only be used for the purposes for parking enforcement and the council will not share footage with third parties unless we have a clear legal reason for doing so.

2.5 Transparency

The use of BWV described in this guidance is ‘overt use’. BWV technology might be small, but they are not to be worn or used in a hidden or covert manner. A Local Authority has a duty to ensure that the use of the cameras:

- That their use is highlighted by Officers wearing a sign/symbol (each CEO is required to wear a specially made badge in a prominent position, normally on their chest, if recording);
- Making a verbal announcement where possible to those persons who may be recorded.

If possible, this information should be provided at the time the CEO is recording. If this is not possible, the Penalty Charge Notice itself states that photographic or video evidence may be available. As a general rule, where a CEO is in uniform and is clearly wearing a Body worn video cam, the ICO would consider that this condition has been satisfied.

Principle 1 of the DPA (fair processing) requires that the data subject must be informed of:

- The identity of the data controller (Merton Parking Services is the primary data controller. CEOs display their officer number on their uniform hats while serving a PCN, which identifies the officer recording the footage).
- The purpose or purposes for which the footage is intended to be processed;
- Establish training requirements for Civil Enforcement Officers;
- Improve the quality of communication to motorists and the general public;

- Provide more details of parking contraventions, which will assure fairness, transparency and accountability in the appeals process and in dealing with complaints;
- Provide evidence of assaults on officers.
- Any further information that is necessary for processing to be fair.

However, as it could be argued that some versions of the equipment are quite discreet and would not necessarily be identified as cameras by members of the public, especially from a distance. Members of the public may also be unaware that the Body worn video is capable of recording sound. In order to ensure 'fair processing', it is therefore important that the Council raise public awareness of the use of Body worn video in its enforcement area, for example, through the local press and local authority's website.

It should be remembered that Merton Council are obliged to consider any complaints to ascertain whether any breach of the DPA has taken place.

The DPA applies to civil enforcement officer's use of body worn video as well as shared service staff for the purpose of parking enforcement or school crossing patrol officers for road safety purposes

2.6 Retention of Records

In accordance with Principle E of the DPA (storage limitation) footage captured on BWV will be held for no longer than is necessary for the purposes for which it was collected.

Stored data will be destroyed after 3 months unless required for a legal case and then it will be retained and destroyed when it is no longer needed to support legal proceedings.

2.7 Security

The DPA requires organisations to put in place effective technological and organisational measures to ensure the security of the personal data they collect and use.

Footage should be secured regardless of its format, for example in electronic format it should be encrypted and in physical format be locked away and tracked via a signing process.

The DPA makes DPIAs (Data Privacy Impact Assessments) mandatory for a wide range of CCTV systems, which involve the collection and storage of personal information, including body worn cameras. DPIA for CCTV/BWV, Surveillance Camera Commissioner (SCC), has produced the following:

<https://www.gov.uk/government/publications/data-protection-impact-assessments-for-surveillance-cameras>

A privacy impact assessment for BWV use in Merton is available on request.

The DPA does not discourage the use of CCTV but instead encourages a balance and an air of clarity for all parties regarding its usage.

2.8 Freedom of Information Act (FOIA) 2000

The FOI Act grants a general right to access all types of recorded information held by public authorities, which may include digital images recorded by BWV.

In cases where recordings of individuals have taken place either coincidentally or by intended conversations from either party, this evidence / recording is only to be seen by person(s) recorded. Merton Council must satisfy themselves that the person wishing to see the recording is the same person recorded. This should be done by viewing the recording and familiarising themselves with the person recorded.

The registered keeper may not be allowed to see the footage unless they were the party involved.

2.9 Traffic Management Act 2004

The Enforcement activity undertaken by CEOs is under the Traffic Management Act. The footage recorded assists in the processing and related appeals of Penalty Charge Notices.

2.10 Human Rights Act 1998

Article 6 provides for the right to a fair trial. All images from BWV footage have the potential for use in court proceedings whether they provide information to the defence or prosecution; they must therefore be safeguarded by an audit trail the same way as any other evidence retained for court.

Article 8 is right to respect for private and family life, home and correspondence. Local authority and parking enforcement Service providers are required to consider this article when dealing with recorded images, both in public and private. Recordings of persons in a public place are only public for those present at the time, so those situations are therefore still regarded as potentially private. Recorded conversations between members of the public should always be considered private. Users of BWV must consider this article when recording and must not record beyond what is necessary for recording a parking contravention.

2.11 ICO Guidance

The Information Commissioner's Office has published guidelines on the use and security of body worn cameras which will always be adhered to.