York and Scarborough Teaching Hospitals
NHS Foundation Trust

Reference: INFOGOV61

Staff and Patient Recording Policy

Version: 1.1

Summary	The purpose of this policy is to ensure and maintain a safe, respectful, and transparent environment, and set out expectations.	
Keywords	Recording, Covert, Overt, filming, audio	
Target audience	All Trust Employees	
Date issued	October 2025	
Approved & Ratified by	Digital Sub-committee Executive Committee	**Date of meeting:** **1 October 2025** **16 October 2025**
Next review date	October 2027	
Author	Clare Durnan	
Executive Director	James Hawkins	

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust Intranet is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Version Control

Change Record

Date	Author	Version	Page	Reason for Change

Reviewers/contributors

Name	Position	Version Reviewed & Date
Clare Durnan	Information Governance Manager	Policy creation - February 2025
Rebecca Bradley	Head of Information Governance	V0.1 and V0.2 February – August 2025
Justine Harle	Complaints & Concerns Lead	V0.1 July 2025
Norman Elliot	Deputy Head of Safety	V0.1 June 2025

Contents

Section	Title	Page
1.	Introduction	4
2.	Scope	4
3.	Duties and responsibilities	4
4.	Main Content 4.1 General Principles 4.2 Patient Rights 4.3 Staff Rights 4.4 Data Protection Legislation 4.5 Overt Recording 4.6 Covert Recording	5 5 6 7 7 7 11
5.	Training Requirements	11
6.	Monitoring Compliance	11
7.	Document Review	12
8.	Associated Trust Documents	12
9.	References	12
10.	Definitions	12
11.	Equality Impact Assessment	13

Appendices		
1	Poster advising can use mobile device	14
2	Poster advising devices not allowed	15
3	Poster requesting no photography or filming	16
4	Template wording from the BMA regarding recordings put on social media	17
5	Procedure for Recording Complaint Resolution Meetings	18

1. Introduction

York and Scarborough Teaching Hospitals NHS Foundation Trust (The Trust) is committed to maintaining a safe, respectful, and transparent environment, and as part of this it is important to have a policy in place to ensure expectations are clear.

This policy outlines the guidelines and procedures for recording interactions, ensuring that the privacy and dignity of all individuals are upheld.

By adhering to these guidelines, the Trust aims to foster trust, protect personal information, and enhance the quality of care and service provided, whilst also complying with relevant legal and ethical standards.

2. Scope

This Staff and Patient Recording Policy applies to all staff members, patients, contractors, volunteers, and visitors. It encompasses all forms of recording, including audio, video, and photographic, conducted during any activities related to the Trust's services.

The policy covers the use of personal and organisational recording devices, ensuring that all recordings are conducted in a manner that respects privacy, confidentiality, and legal requirements. This policy is designed to protect the rights of individuals, maintain the integrity of the Trust's operations, and ensure compliance with applicable laws and regulations.

CCTV and Body Worn Cameras (used by the facilities teams) are not covered in this scope.

3. Duties and responsibilities

Trust Board

The Trust Board are responsible for providing advice to the SIRO in relation to this Policy. The Board will ensure sufficient resources are provided to support the requirements of the policy.

Chief Executive Officer (CEO)

The CEO holds overall responsibility as the organisation's Accountable Officer which includes protecting and safeguarding our patients and staff, ensuring we meet our duty of care to protect personal information (including images) as well as the aims and objectives of this policy.

Senior Information Risk Officer (SIRO)

The SIRO is responsible for maintaining and monitoring this policy, providing advice and guidance to staff and ensuring people are aware of their responsibilities within the policy.

Caldicott Guardian
The Caldicott Guardian has responsibility to ensure that patient identifiable information is safeguarded.

Data Protection Officer (DPO)
The DPO is responsible for providing advice on the management of privacy and compliance with Information Governance standards.

All Trust Staff

- Ensure compliance with the Staff and Patient Recording Policy at all times.
- Obtain explicit consent from patients and colleagues before initiating any recording.
- Use recording devices responsibly and only for purposes aligned with organisational goals and patient care.
- Safeguard recorded data to prevent unauthorised access, sharing, or misuse.
- Report any breaches of the recording policy to the Information Governance team.

IT and Security Personnel

- Implement and maintain secure systems for storing and managing recorded data.
- Monitor and control access to recorded data to prevent unauthorised use.
- Assist in investigating any breaches or incidents related to recordings.

Patients

- Be aware of their rights regarding recordings and provide or withhold consent as they see fit.
- Report any concerns or unauthorised recordings to staff or the designated authority.

Visitors

- Adhere to the recording policy while on the premises.
- Obtain permission from staff before recording any interactions or activities.
- Respect the privacy and confidentiality of patients and staff.

4. Main Content

4.1 General Principles

It is important that everyone follows these principles:

i. **Transparency** - Ensure that all parties are fully informed about the recording policy and its implications. Clearly communicate the purpose and scope of recordings to both staff and patients.
ii. **Consent -** Obtain explicit consent from all parties before making any

recordings. Respect the right of individuals to refuse to be recorded without any adverse consequences.

iii. **Privacy and Confidentiality** - Safeguard the privacy and confidentiality of all recordings. Ensure that recordings are made and stored in a secure manner, with access restricted to authorised personnel only.

iv. Respect and Dignity - Treat all individuals with respect and dignity, taking their preferences and concerns into account. Avoid making recordings in situations where individuals may feel uncomfortable or vulnerable.

v. **Compliance with Legal and Ethical** Standards - Adhere to relevant laws and regulations, such as data protection and privacy laws. Follow ethical guidelines and best practices in the recording and handling of information.

vi. **Clear Procedures** - Establish clear procedures for obtaining consent, making recordings, and handling recorded information. Provide guidelines for addressing incidents of unauthorised or covert recordings.

vii. **Accountability** - Hold individuals accountable for adhering to the recording policy. Implement disciplinary measures for violations of the policy, while ensuring fairness and due process.

viii. **Training and Awareness** - Provide training and resources to staff and patients to ensure they understand the policy and its implications. Promote awareness of the rights and responsibilities of all parties regarding recordings.

ix. **Regular Review and Updates** - Regularly review and update the recording policy to reflect changes in laws, regulations, and best practices. Encourage feedback from staff and patients to improve the policy and address emerging issues.

To make expectations clear to people, there are posters that can be used to display in Trust buildings in Appendices 1, 2 and 3 of this policy.

4.2 Patient Rights

Patients have the following rights:

i. **Right to Information** - Patients have the right to be informed about the recording policy, including the purposes and procedures for recording.

ii. **Right to Consent** - Patients must provide explicit consent before any recording is made during consultations or treatments. Patients have the right to refuse recording without any negative impact on their care.

iii. **Right to Privacy** - Patients have the right to privacy and confidentiality. Recordings should not be made in areas where other patients are present without their explicit consent. Covert recordings by patients are discouraged, and patients should seek agreement from healthcare providers before making any recordings.

iv. **Right to Access** - Patients have the right to access recordings made during their consultations or treatments, as these form part of their medical records. Patients can request copies of recordings for personal use, subject

to data protection regulations.

v. **Right to Complain** - Patients have the right to raise concerns or complaints if they believe their rights have been violated in relation to recordings.

4.3 Staff Rights

Staff have the following rights:

i. **Right to Consent** - Staff members must provide explicit consent before any recordings are made during their interactions with patients. Staff have the right to refuse to be recorded without any repercussions on their employment status or relationships with patients.

ii. **Right to Privacy** - Staff have the right to maintain privacy and confidentiality in their workplace. Covert recordings by staff are not permitted. Patients are discouraged from covert recording.

iii. **Right to Report Concerns** - Staff have the right to report any concerns or suspicions of covert recordings to their supervisors or designated authorities. Clear procedures should be in place for staff to report and address such concerns.

iv. **Right to Access Recordings** - Staff have the right to access recordings made during their interactions with other staff members, as these may form part of official records. Staff can request copies of recordings for review or official purposes, subject to data protection regulations.

v. **Right to Training and Support** - Staff have the right to receive training on the recording policy and their rights regarding recordings. Support should be available for staff who have concerns or questions about recordings, including access to legal or professional advice if needed.

vi. **Right to Disciplinary Action for breach of policy** - Staff have the right to know that any violation of the recording policy by colleagues will be addressed through appropriate disciplinary actions. This includes measures to protect staff from unauthorised recordings or breaches of privacy.

4.4 Data Protection Legislation

Recordings made with patients and other staff members will likely be considered personal data under the Data Protection legislation therefore should be managed in line with the Trust's Data Protection Policy.

Where a patient chooses to record their consultation, this falls outside the scope of the data protection legislation and is considered recording for “domestic purposes”. issue. As the Trust is not responsible for generating or making the recording, it is not liable for safeguarding the confidentiality, integrity or security of such material.

4.5 Overt Recording

There is significant benefit for both patients and staff in supporting consensual recordings. The Trust encourage staff to do so, particularly where patients may have difficulty remembering information.

Recording in shared or public areas such as waiting rooms or reception is not permitted under any circumstances due to the risk to other patients' confidentiality.

Benefits of using recordings

When made consensually, recordings can benefit both patients and doctors by:

- Enabling patients to remember important advice, particularly where there are language barriers
- Providing a record of the consultations when patients may have been distressed
- Giving patients more time to process information
- Helping patients and their family members where patients may be experiencing memory loss or have some cognitive impairment
- Including patients' family members in their care and decision making; and
- Helping patients to remember if the information is particularly complex.
- Staff members have a clear record of what was discussed in meetings.

Staff have a reasonable expectation of privacy during a consultation and patients should therefore seek a staff member's agreement to make a recording. This will ensure everyone is aware of the request to record and it can then be done in a courteous and respectful manner which will lead to positive and trusting relationships.

It is important to note that recordings should not be made in any area where the privacy of other patients may be infringed upon, such as communal areas. For complaints recording please see Appendix 5.

Concerns when using recordings

Although the Trust encourage staff to enable patients to take recordings, we understand some staff may find it intrusive. They may feel that it undermines trust and changes the nature of the relationship. They may also be concerned that patients will use recordings for potential complaints or litigation.

If a staff member has concerns, they should sensitively explore the reasons the patient wants to make the recording to allay any concerns they may have. Most people want to record consultations so that they can listen to them again when they have more time and are in a more relaxed setting, or so that they can share and discuss the information provided with family and/or friends.

In exceptional circumstances, some patients may use recordings to pursue a complaint or a legal claim against a doctor. However, where doctors are acting professionally, they should have nothing to fear. Keeping clear and accurate records of clinically relevant information is a staple of good medical practice. Medical defence organisations suggest that where legal cases arise, most recordings support the actions of doctors.

If a member of staff is unhappy with being recorded, they should tell the patient and sensitively explain their reasons. If the patient insists, it is important to remember that the Trust still owe them a duty of care. Medical defence bodies advise doctors not to refuse to continue with the consultation.

Procedure for recording conversations between patients or other staff members

Step 1: Informing and Obtaining Consent:

- **Notification** – clearly display signs in areas where recording may take place, informing patients and visitors of the recording policy.
- **Consent** - obtain explicit consent from all parties involved before starting any recording.
- **Documentation** - Record the consent in the patient's medical records or appropriate documentation system.

Step 2: Conducting the recording:

- **Equipment** - use Trust-approved recording devices. Personal devices should be avoided unless specifically permitted.
- **Privacy** - ensure the recording does not infringe on the privacy of other patients or staff not involved in the recording.
- **Professionalism** - maintain a professional demeanour during the recording. Ensure the recording is conducted in a respectful and non-intrusive manner.

Step 3: Handling and Storage of Recordings:

- **Security** - store recordings securely in a Trust-approved system to prevent unauthorised access.
- **Retention** - follow the Trust's data retention policy for how long recordings should be kept.
- **Access** - allow access to recordings only to authorised personnel and the individuals recorded, unless otherwise specified by law.

Step 4: Review and Compliance:

- **Regular Audits** - conduct regular audits to ensure compliance with the recording policy.
- **Training** - provide training to staff on the proper procedures for overt recording and handling of recordings.
- **Feedback** - encourage feedback from staff and patients to improve the recording process.

Further guidance can be found in the Photographing, Video & Audio Recording Procedure.

4.6 Covert Recording

The Trust does not usually authorise or undertake covert recordings, whether audio or video, of patients or members of staff. If such recordings were felt to be necessary for the investigation of suspected serious malpractice or a criminal offence this would need to be approved by the Senior Information Risk Owner or Caldicott Guardian in conjunction with NHS Counter Fraud, with Police involvement where necessary, and would be subject to the Regulation of Investigatory Powers Act 2000. Any such recording would be for a specific, documented purpose and limited to a specified timeframe.

Staff should not undertake covert recordings of colleagues or service users without being specifically authorised to do so by the Trust. If staff have concerns which they believe need to be investigated they should raise them with their line manager or other appropriate manager in accordance with the Freedom to Speak Up Policy.

Members of staff are not permitted to make covert recordings of colleagues or service users for their own purposes whilst at work. Anyone making such recordings in contravention of this policy would be personally responsible for any breach of Data Protection legislation.

What to do if:

Patient is recording other patients and staff without permission

If this is happening, follow the steps in the Managing Violence and Aggression Policy to de-escalate and ask the patient to delete the recordings from their device.

Patient has put recordings on social media

- In the first instance inform your manager and the Information Governance Team.
- The Trust – staff member's manager or IG team, should ask for the recording to be removed by the individual who posted it; there is template wording for this in Appendix 4 provided by the British Medical Association.

Due the initial recording being outside the scope of the data protection legislation if the letter does not resolve the matter the staff member who is directly affected should:

- Notify the media platform directly to have this content removed.
- If this is unsuccessful you can contact the information commissioners office via their complaints process: https://ico.org.uk/make-a-complaint/data-protection-complaints/
- The staff member could also seek to report this to the police:

- Report under the Harassment (legal basis: Protection from Harassment Act. 1997), especially if this is causing the individual unwanted alarm and distress and it may also fall under section 2a of the act of stalking, specifically 'the publishing any statement or other material relating or purporting to relate to a person'. For the full offense to be committed this must occur on three separate occasions, but by reporting it, the staff member will start the process and will have a police reference number. The Staff member should be supported by their line manager and the Trust throughout this process.

If a staff member has covertly recorded another staff member

- Discuss this with your HR business partner as this may be a disciplinary matter.

Staff member has covertly recorded a patient

- Notify your manager immediately
- The staff member should be asked to remove any recordings of patients where consent was not obtained.
- HR and IG teams should be informed and a Datix completed.

5. Training Requirements

This policy is for awareness and for staff members to understand what they can do if situations like this arise. Training for this will be provided by the "Understanding Information Governance for Managers" provided by the IG team.

6. Monitoring Compliance

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Number of unauthorised recordings reported	IG	Datix	monthly	As part of the breakdown provided to Digital Sub-committee
Percentage of staff trained on the policy	ODIL	Attendance at IG for managers training	Annually	As part of the breakdown provided to Digital Sub-committee
Frequency of consent documentation audits	Care Groups	TBC	TBC	TBC
Incidents of social media misuse involving recordings	IG	Datix	monthly	As part of the breakdown provided to Digital Sub-committee

7. Document Review

The policy should be reviewed every two years, or on any changes to the current legislation.

8. Associated Trust Documents

This document is linked to the IG policy framework which documents associated policies, procedures, guidance and protocol.

- Safeguarding Policies
- Photographing, Video & Audio Recording Procedure
- Medical Photography Policy
- Freedom to Speak Up Policy

9. References

- Data Protection Act 2018
- UK General Data Protection Regulation
- NHS Act 2006
- Health and Social Care Act 2012
- Human Rights Act 1998
- Misuse of Computers Act 1990
- Privacy Electronic Communications Act 2003
- Protection of Freedoms Act 2012
- NHS Confidentiality Code of Practice
- Caldicott Principles
- BMA advice and support
- GMC professional standards
- NMC Standards

10. Definitions

Term	Definition
Audio visual recordings	The term used for originals or copies of audio recordings, photographs and other visual images of people who use our services, staff or visitors that may be made using any recording device, including mobile phones.
Confidentiality	A duty of confidence that arises when one person discloses information to another person where it is reasonable to expect that information to be held in confidence.
Consent	Permission granted by a patient or staff member to be recorded.
Covert recording	Recording without the knowledge or consent of the parties involved.
Overt recording	Recording with the knowledge and consent of all parties involved.
Personal data	Information that relates to an identified or identifiable living

Term	Definition
	individual. What identifies an individual could be as simple as a name or NHS number or could include other identifiers such as an IP address or a cookie identifier.
Special Category Data	Personal data that needs more protection because it is sensitive, this includes personal data revealing: racial or ethnic origin; political opinions; religious or philosophical beliefs; trade union membership; genetic data; biometric data (where used for identification purposes); health data; a person's sex life; and a person's sexual orientation. Although not defined as special category information such as criminal offensive, safeguarding or financial personal data should also be processed with more caution.

11. Equality Impact Assessment

Attach a copy of completed assessment and / or summarise findings here.

Appendix 1: Poster advising can use mobile device

NHS
York and Scarborough Teaching Hospitals
NHS Foundation Trust

You can use your mobile device in this area



Please be aware that although you can use your mobile device, taking pictures, videos or sound recordings of any person, patient, visitor or staff member is prohibited without prior permission.

Any distribution of such recordings may be in breach of Data Protection Regulations and could lead to prosecution.

Appendix 2: Poster advising devices not allowed

York and Scarborough Teaching Hospitals NHS Foundation Trust

Mobile devices are not allowed in this area



To minimise disturbance and to protect the privacy and dignity of other, the use of mobile devices and other internet enabled devices are not allowed in this area.

This includes the use of video and camera facilities which without approproiate permission will breach Data Protection Regulations and could lead to prosecution.

Appendix 3: Poster requesting no photography or filming

NHS
York and Scarborough Teaching Hospitals
NHS Foundation Trust

Photography and filming in our premises



We kindly request that people using our services DO NOT photograph or film our staff, clinical areas and other people using our services as this breaches their right to confidentiality.

People making these recordings or taking photographs will be asked to stop.

If you wish to have a photographic or video recording of your consultation, please speak to a member of staff.

Appendix 4: Template wording from the BMA regarding recordings put on social media

NHS
York and Scarborough Teaching Hospitals
NHS Foundation Trust

Dear (insert name),

It has been brought to our attention that recordings you have made of a member, or members of our staff have been posted online without our agreement.

We take every effort to ensure that we develop open and trusting professional relationships with all our patients and will support patients seeking to record information in order to promote their care and treatment. We recognise that legally patients are entitled to make a recording of a consultation for their private use.

This does not, however, extend to publishing this material without agreement in publicly accessible media, such as via the internet or social media sharing platforms. In these circumstances, advice from the British Medical Association, our trade union and professional body, indicates that our privacy rights are engaged and that this may also amount to a breach of data protection legislation. It is likely therefore that we would be able to take legal action.

I am therefore writing to politely request that this material is taken down.

I would be very happy to talk about this, and our general policy with regard to recording consultations, in person.

Yours sincerely,

(insert name)

Appendix 5: Procedure for Recording Complaint Resolution Meetings

Meetings are a very valuable way of helping to answer and resolve complaints and if they are recorded, both parties have a complete record.

Benefits of using recordings:

1. Provide a clear and accurate account of discussions.
2. Support transparency and trust with complainants.
3. Serve as supplementary evidence in complex cases.

Procedure for Recording Complaint Resolution Meetings

Step 1: Obtain consent:

- The Chair must obtain explicit written consent from all parties before recording a meeting.
- Documentation – use standard consent form and upload to the Datix complaint file.

Step 2: Conducting the recording:

- Equipment - use Trust-approved recording devices. Personal devices should NOT be used unless specifically permitted.
- Professionalism - maintain a professional demeanour during the recording. Ensure the recording is conducted in a respectful and non-intrusive manner.

Step 3: After the meeting:

- Complaint meetings should be followed up with a summary letter. This letter should include (as a minimum) an ‘explanation of how the complaint has been considered’, ‘the conclusions reached in relation to the complaint’ and ‘any actions taken as a result of the complaint’.
- The audio recording of the meeting should be provided as additional or supporting evidence with the letter.
- You can also supply an audio recording of a report into a complaint as part of an agreed reasonable adjustment.

Step 4: Handling and Storage of Recordings:

- Security - data should be handled in line with the Data Protection legislation, and recordings should be stored securely, in a Trust-approved system to prevent unauthorised access.
- Retention - follow the Trust's data retention policy for how long recordings should be kept.
- Access - allow access to recordings only to authorised personnel and the individuals recorded, unless otherwise specified by law.