

Photographic, Audio and Video Consent and Confidentiality Policy 2.0

Document reference:	POL 028
Document Type:	Policy
Version:	2.0
Purpose:	To set out the policy and procedure for clinical photography/video of patients and the consent process around this. To detail whose images are stored, retrieved and disposed of.
Responsible Directorate:	Communications
Executive Sponsor:	Fiona Alexander, Interim Director of Communications
Document Author:	Head of Medical Illustration
Approved by:	Chief Executive's Group
Date Approved:	25/04/2017
Review Date:	25/04/2020
Related Controlled documents	Photographic, Audio and Video Consent and Confidentiality Procedure Personal Mobile Phone Procedure Consent to Examine / Treat Policy Data Protection, Confidentiality and Disclosures Policy Handling the Media Policy Access to Health Records Policy Corporate Records Policy (inc Retention)
Relevant External Standards/ Legislation	<ul style="list-style-type: none"> • The Institute of Medical Illustrators • Data Protection Act • Healthcare Commission • NHSLA Risk Management Standards
Target Audience:	All staff involved in taking clinical photographs or wishing to understand the process.
Further information:	Head of Medical Illustration

Paper Copies of this Document

If you are reading a printed copy of this document you should check the Trust's Policy website (<http://sharepoint/policies>) to ensure that you are using the most current version.

Version History

Version No.	Date of Release	Document Author	Ratified by	Date Ratified
2.0	04/05/17	Jane Tovey, Medical Illustration Manager	CEG	25/04/17

Summary of changes from last version:

Full revision of existing policy
Extraction of a procedure

Table of Contents

1. Introduction	2
2. Policy Statement	2
3. Scope	3
4. Framework	3
5. Clinical Photographs	4
6. Public Relations Photography /Commercial Photography/Media	5
7. Responsibilities	5
8. Implementation and Monitoring	6
APPENDIX A Monitoring Matrix	8

1. Introduction

Clinical photography must only be undertaken by professionally registered Medical Photographers unless the situation meets the specific exemption criteria laid out in the [procedure](#). However, this policy covers all staff taking photographs of patients for clinical purposes.

Members of the public, patients, visitors or staff using cameras (including smartphones and ipads) please also see the Personal Mobile Phone Procedure

Any production of material by the Communications Department or by the Media is covered under the Handling the Media Policy.

For additional information on Data Protection and Confidentiality, please see the Data Protection, Confidentiality and Disclosures Policy.

2. Policy Statement

The objective of this policy is to protect the patient, by ensuring that all those who are taking any photographs of patients, in any part of the Trust, ensure that, at all times:

- patients' rights to confidentiality are maintained;
- appropriate consent is obtained; and
- the taking, use and storage of such photographs is consistent with relevant legislation and good professional practice.

This policy must be read in conjunction with the Trust's Policy for Consent to Examination or Treatment and the Trust's Photographic, Audio and Video Consent and Confidentiality Procedure.

3. Scope

This policy applies to the taking of clinical photographs by all staff.

For the purpose of this policy:

- photographic recording refers to an image created by the use of still/digital/video cameras or photographic image scanning devices; and
- clinical image refers to a photographic recording of a patient which records or demonstrates that a patient's clinical condition/treatment for the purposes of assisting in clinical treatment, case records, publication, teaching or research.

Images created with cameras that form part of a medical device. e.g. Endoscope, Fundus, etc. are not within the scope of this policy. These images will come under the Consent to Examination or Treatment Policy

The use of Chaperones is covered under the Chaperone Policy.

Secure disposal of ICT equipment is covered under The Network IT Security Policy.

Use of mobile devices by patients and visitors is covered under the Mobile Devices Procedure

4. Framework

This section describes the broad framework for the taking of photographs of patients throughout the Trust. Detailed instructions are provided in the associated procedural documents.

The Director of Communications shall approve all procedural documents associated with this policy and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy.

All those undertaking patient photography must respect the dignity, religion, nationality and individual sensitivities of the patient in all circumstances.

5. Clinical Photographs

Clinical photographs should be taken by a professionally qualified Clinical Photographer to provide the best quality image on behalf of the patient and only taken by other healthcare staff in the following circumstances:

- a) Clinical Emergencies
- b) Working in the community
- c) Out of normal working hours of the Medical Illustration staff (Evenings & Weekends)
- d) When the demand for professional clinical photographers outstrips the ability to supply

There must be a fully justifiable purpose for requesting, taking, use and storage of all clinical photographs and must comply with the following purposes:

- e) Assisting in clinical diagnosis and treatment, or recording of injuries for future legal claims where it should be clear that such photography is of benefit to the patient in their treatment or clinical care, either directly or indirectly;
- f) Education and teaching;
- g) Research (All research must have Trust and Local Research and Ethics Committee approval prior to commencing. Further advice should be sought from the Trust's Research and Development Team); or
- h) Publication in clinical papers, books or journals.

All clinical photographs must be taken and recorded with the patient's consent in accordance with the Photographic, Audio and Video Consent and Confidentiality Procedure.

All clinical photographs must be stored as soon as is possible on the Trust's Image Management System, administered by Medical Illustration and accessible through the electronic patient record system.

All clinical photographs are required to be stored within specific timescales in line with the Health Records Retention Schedule.

All clinical photographs must be stored and transported securely, so as to ensure confidentiality according to the Information Governance and Data Protection Policies.

Any person undertaking clinical photographs does so on the basis that all photographic images produced will be regarded as clinical records. Consequently, images are entitled to the same degree of protection, and should be treated with the same respect and confidentiality as all patient records.

Photographs and/or videos of patients may only be taken in accordance with this Policy, contravention of which may result in disciplinary action, which may include dismissal, and/or legal action.

All persons undertaking photography on Trust premises are responsible for the images taken. They must abide by this policy and acknowledge their associated responsibilities. They must be aware of the need for obtaining appropriate consent, confidentiality, responsible use, security, image upload and storage within appropriate timescales.

Trust Blackberry mobile phones which are password protected and where encryption and secure email links are available are the only permissible device for photographic emergencies, where traditional camera equipment is not available. All images must be transferred as soon as possible Medical Illustration using @heartofengland.nhs.uk to @heartofengland.nhs.uk email route and deleted from the device.

All clinical photographs are taken on the understanding that patients may request copies of them under relevant legislation.

6. Public Relations Photography /Commercial Photography/Media

See Handling the Media Policy

7. Responsibilities

Director of Communications

Ensures that the policy is effectively implemented and monitored.

Medical Director/ Caldicott Guardian

Provides expert advice and guidance on Caldicott principles relating to this policy.

Manager of Medical Illustration Services

Provides advice and guidance as required.

Will review all incidents relating to breaches of the policy.

Senior Manager, Information Governance and Information Security Manager

Provides expert advice and guidance on Data Protection and Security.

Divisional Directors / Directors of Operations / Group Managers / Clinical Service Leads / Senior Nurses

To have responsibility for, and to monitor the distribution and communication of the policy throughout their area of responsibility.

To ensure the policy is implemented and adhered to within their area of responsibility.

Ward and Departmental Managers

To notify all staff of this policy.

To ensure that all staff and other persons affected by the policy comply with its actions.

All Staff

To familiarise themselves with the policy.

To comply with the policy relevant to their role and responsibilities.

8. Implementation and Monitoring

This policy and associated procedures and forms will be available on the Trust intranet.

Appropriate staff will receive training regarding consent. This training will include specific reference to clinical photography.

Information and further training will be available from Medical Illustration, as required.

Monitoring

Appendix A provides full details on how the policy will be monitored by the Trust.

References

www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/Consent

www.gmc-uk.org/recordings

<http://www.imi.org.uk/lawethics/law-ethics01.asp>

Institute of Medical Illustrators, "Code of Professional Conduct," June 2008

The Data Protection Act, 1998, 95/46/EC

The Copyright, Designs and Patents Act, 1988

Children Act 1989;

Mental Capacity Act 2005;

Obscene Publications Act 1956 & 1964;

Professions Supplementary to Medicine Act 1960;

Human Rights Act 1998;

Freedom of Information Act 2000.

Addenbrooke's NHS Trust, "Photography and Video Recordings of Patients: Confidentiality and Consent, Copyright and Storage," November 1999.

North Staffordshire Hospital NHS Trust, "Photography and Video Policy," September 2000.

West Midlands Medical Illustration Managers (contact via Trust Medical Illustration Managers)

University of Birmingham Medical School, Medical Education Unit

APPENDIX A Monitoring Matrix

MONITORING OF COMPLIANCE	MONITORING LEAD	REPORTED TO PERSON/GROUP	MONITORING PROCESS	MONITORING FREQUENCY
All incidents will be investigated by the Medical Illustration Manager	Medical Illustration Manager	Information Governance Group (IGG)	<p>The Medical Illustration Manager will review all incidents relating to breaches of the policy</p> <p>Action plan to be completed, followed up and reported back to IGG</p>	As appropriate
Annual review	Medical Illustration Manager	Information Governance Group.	<p>Annual review of photographic consent to include:</p> <p>Review of images taken by clinical photographers to ensure consent has been gained.</p> <p>Where DIY images have been taken and passed to Medical Illustration (search using image management system) cross referenced with patient record to find audit trail and retrospective consent.</p> <p>Results will be reported to the Information Governance Group as will any subsequent action plans.</p>	Annual