

Surveillance Processes Body Worn Video

Body Worn Video – Operational Protocol for Fishery Officers

DAERA Fishery Officers are responsible for enforcing The Fisheries Act (Northern Ireland) 1966 as Amended.

This involves the investigation, prevention and detection of offences under The Act and in regulatory duties to protect Inland and Migratory fisheries within the DAERA area.

This may involve stopping, speaking and interviewing the angling public and on occasion conducting searches of vehicles, premises, vessels and bags.

This also involves the regular recording information in official notebooks.

In some instances, the rigour of what has been recorded may be the subject of interpretation and the subject of debate. Equally it may not have presented the best possible primary evidence to support a prosecution.

Body worn video (BWV) devices are able to record exactly what happened, what was said and when, in an indisputable format.

Their use is at the discretion of an officer and should be: Incident specific, Proportionate, Legitimate, Necessary, and Justifiable.

Their use is furthermore only to be undertaken overtly

Fishery Officers have traditionally used their official notebooks to record key information when dealing with a member of the angling public or capturing initial information at an incident.

BWV may save time, but importantly must be seen as being complementary to any entry being made in official notebooks and is not a replacement for it.

Officers need to be mindful of why they are enabling their BWV and that they have justification for doing so

The decision to record or not to record any incident remains with the user. The user must be mindful that failing to record an incident may require explanation in court. Therefore, if the user is present at an evidential encounter, they should record the incident.

Recording must be incident-specific: users should not indiscriminately record entire duties or patrols and must only use recording to capture video and audio at incidents that would normally be the subject of official notebook entries, whether or not these are ultimately required for use in evidence.

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All recordings have the potential to be used in evidence, even if it appears to the user at the time of the incident that this is unlikely. Therefore it is important that all recordings are treated as evidential in the first instance – until it is confirmed otherwise.

This equipment may therefore be used to record video and audio information of encounters between officers and the angling public.

BWV use must be in specific relation to;

The prevention and detection of fisheries offences

Enhancing the safety of fishery officers especially in scenarios involving lone working

Acting as behaviour modifiers to;

Reduce the incidence of public disorder, aggression, intimidation and risk of assault of officers conducting official duties

Present best evidence to bring successful prosecutions before the courts

Provide greater transparency as to the working practices of Fishery Officers

BWV is capable of capturing primary evidence in such a way that it is able to bring a compelling and indisputable account of the circumstances at that time.

This will not replace the needs to capture other types of evidence but will go a considerable way to reduce any ambiguities and should be considered as an additional regulatory aid.

BWV devices should not be routinely recording and monitoring activity on a continuous basis.

To do so would fundamentally breach the privacy of potentially large numbers of the general public, who are going about their legitimate lives, as well as the privacy of fishery officers going about their work. This cannot be justifiable from the perspective of proportionality and legitimacy.

All deployment and use of BWV must be overt.

The equipment will be worn by fishery officers who are on duty, and use should be primarily driven by the incidents and circumstances presented to them or in anticipation of responding to a reported and unfolding incident.

BWV Devices are issued on a personal basis.

Devices will be overtly attached to the officer with a chest harness.

During the course of their normal patrol duties, the device should be in an inert state and therefore not recording any material.

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In order to enable recording, the device must be manually activated.

Once a device is activated by an officer, they should make a clear verbal announcement that audio and video recording is underway.

This announcement should be present on the recording and if possible, should include: The date, time and location; the nature of the incident to which the user is deployed; and confirmation to those present that the incident is now being recorded using both video and audio.

Where device recording has commenced prior to arrival at the scene of an incident the officer should, as soon as is practicable, announce to those persons present that recording is taking place and that their actions and sounds are being recorded.

All announcements should be made using straightforward language that can be easily understood by those present.

At the conclusion of any incident, the record mode on the device is switched off and the captured information is stored.

Unless specific circumstances dictate otherwise, recording must continue uninterrupted from the moment it starts until the conclusion of the incident or the resumption of general patrolling.

The recording should continue for a short period after an incident to clearly demonstrate to any subsequent viewer that the incident has concluded and that the user has resumed other duties.

Recorded information cannot be deleted or altered using on-board device software by officers

Officers can review footage using the on-board functions and display screen

All devices are fully encrypted and are linked to automatic deletion software

At the end of a period of duty, the fishery officer should securely store their device, being sure to identify the elements of any captured data that need to be retained to assist in an investigation, by 'marking' the relevant section appropriately, using the built in software.

Officers will be required to regularly dock their devices in order to securely download video data to assist investigations.

In the absence of greater demand it is envisaged that a monthly docking process will be sufficient.

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Devices issued will be capable of capturing 12 hours of high quality audio video footage

Footage which is not needed for retention for investigatory purposes will automatically be deleted after 31 days.

All information captured which is downloaded will be retained as mentioned on a nominated secure computer.

All captured material is deleted from BWV devices as part of the docking and downloading process.

Access to recordings will be controlled and only persons having an operational need to view specific incidents may do so.

Data retained for evidential purposes will be held on a nominated secure computer which will be managed by the Senior Fisheries Officer for Enforcement and Deputy Chief Fishery Officer.

As a rule BWV should not be used in private dwellings.

However if an officer is present at an incident in a private location and is there for a 'genuine regulatory purpose' and this equipment is able to address a 'pressing social need' then the officer can consider making a BWV recording in the same way in which any other incident is recorded.

The officer must be mindful to exercise discretion and recording should only be used when it is relevant to the incident and necessary in order to gather evidence, where other reasonable means of doing so are not available.

All recordings require a lawful basis in order to justify infringement of Article 8 (Human Rights Act).

In circumstances where a subject or occupant or owner of a premises objects to the recording but where an incident is taking place, involving risk, threats or intimidation of investigating officers or allegations of a criminal nature are being made, officers are recommended to continue with a recording but clearly explain their reasons for doing so.

There is a clear requirement to secure the best evidence of any offences that have occurred and that the video/audio evidence will be more accurate and of a higher quality and therefore in the interests of all parties.

That continuing to record is a process which will safeguard both parties, with a true and accurate recording of any significant statements made by either party and of the scene in general

That continuing to record will safeguard the BWV user against any potential allegations from either party.

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A copy of the full recording can be made available and issued to the subject by request to the data controller.

Officers need to be mindful of “collateral intrusion” through the capture of material which is not pertinent to the incident.

This is especially important if there is risk of video data capture of juveniles or vulnerable adults. Where an incident is unfolding which presents such a risk the situation may be managed by requesting the subject(s) to stand away from the general scene so as to negate collateral intrusions.

BWV must not be used for the capture of data in relation to juveniles or vulnerable adults.

BWV must not be used for the filming of formal investigative interviews, journalistic material, or conversations subject to legal privilege.

Where BWV is used in settings where individuals have high expectations of privacy, clear justification is needed and officers must be mindful of this and the need to provide it.

Body Worn Video – Statements of Witness

If a recording covers the whole incident, it is not essential for the officer(s) to produce a written statement detailing the entire nature of the interactions contained in the video footage, as this is avoidable duplication. If two officers are present at the same incident and one of the officers records the whole incident while the other actually deals with the incident, the resultant recording can be utilised as the evidence for both officers as long as it shows the entire incident.

The recording officer should also make notes of the incident to cover any additional points that may be outside the view of the camera as well as all evidential information required in the event of technical failure.

The statement must include details of the evidential audit trail for the production of the master disk, and in order to assist prosecution and defence solicitors it is advisable that the statement producing the exhibit contains a summary paragraph outlining the evidential aspects of the incident and the recording.

It is recommended that an officer records each incident in its entirety, from the time of deployment to the conclusion. If there is any break in the recording, details and the reason for this must be included in an officer’s statement.

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