Visual and audio recordings of patients Policy  
(Photography, video/DVD recording and filming)

A policy for the taking and using of visual and audio recordings of patients and staff, incorporating confidentiality, consent, copyright and storage.

EQUALITY IMPACT
The Trust strives to ensure equality of opportunity for all both as a major employer and as a provider of health care. This policy has therefore been equality impact assessed by the Clinical Audit Patient Safety & Effectiveness Committee to ensure fairness and consistency for all those covered by it regardless of their individual differences, and the results are shown in Appendix 5.
## VERSION CONTROL SCHEDULE

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1 INTRODUCTION
1.1 Clinicians in many specialties need to make primarily visual and sometimes audio recordings to assist with patient care and management of conditions, for medico-legal purposes and for teaching and/or research.
1.2 The advances in telephone imaging systems (camera phones) and other mobile devices, e.g. tablets means that the opportunity to make visual recordings, with audio present, of patients, staff, premises and equipment in clinical or non-clinical situations is almost ever present.
1.3 The Trust does not have a medical illustration department on site, but arrangements are in place to use the department at Wythenshawe Hospital. These arrangements should be accessed via the Clinical Directorate.
1.4 The Trust also uses visual and audio recordings of patients and staff as part of its publicity material, and this policy covers the issues of consent in these cases.
1.5 With regard to patients, the policy distinguishes between primary use (for care and treatment), and secondary use (for non-care purposes)
1.6 This policy should be read in conjunction with
· Confidentiality & Disclosure of patient information policy
· Data Protection Policy
· Mental Capacity Act Policy
· Consent Policy

2 PURPOSE OF THE POLICY
This policy is intended to assist staff in
· involving patients in a process of consent where required
· respecting patient and staff privacy, dignity and confidentiality
· the safe storage of recordings
· protecting copyright, where applicable

3 SCOPE
3.1 The policy applies to all staff who make visual and audio recordings for any work related purpose, and patients, visitors and contractors present on Trust premises who have the means to make such recordings.
3.2 This policy does not cover the issues associated with telemedicine, which will be the subject of a separate policy, although the principles are similar.
3.3 This policy excludes the Trust's digital dictation initiative, since it is merely an updated method of producing clinical letters, CCTV, and covert recording of patients, staff or visitors (under the Regulation of Investigatory Powers Act 2000). There is a separate policy on CCTV, and RIPA is included in the Security Policy on the Trust intranet.
4 DEFINITIONS
4.1 ‘Recordings’ means originals or copies of audio recordings, photographs and other visual images of patients, staff or visitors that may be made using any recording device, including mobile phones.
4.2 Primary purposes for which the recording may be made, used or disclosed are concerned with patient care
   - as an essential part of the healthcare record (e.g. in clinics, theatres, in the Emergency Department and on wards)
   - where non accidental injury is suspected
   - monitoring wounds and pressure ulcers
   - obtaining a picture of patients who may “wander” to aid any search or recovery
4.3 Secondary i.e. non patient care purposes include:
   - teaching purposes
   - research and publication
   - requests from parents in the Maternity and Neonatal Units
   - recording injuries sustained as the result of an accident or incident within the Trust
   - publicity material for the Trust

5 POLICY STATEMENT
5.1 Confidentiality is the patient’s right and may usually only be waived by the patient or by someone legally entitled to do so on his behalf. Breach of confidentiality may well amount to serious professional misconduct with disciplinary consequences.
5.2 The Trust recognises its duty of care to protect patients’ and staff’s right to privacy and dignity, and their right to make or participate in decisions that affect them.
5.3 In every case visual and audio recordings will only be made after proper informed consent has been obtained, from patients, staff and/or visitors. This includes situations where the police wish to take a photograph to assist their enquiries, unless there is a mental capacity issue.
5.4 Where use is being made or disclosure considered of such recordings for secondary, they will be anonymised or coded before use or disclosure wherever practicable. If this is not possible and the patient is identifiable, the use or disclosure will only take place with consent of the patient or other valid authority.
5.5 It is not acceptable for Trust employees to use their own photographic equipment to take photographs of patients, particularly using camera phones. Telephone image systems are not specifically intended for medical use, and this can have medico-legal implications for practitioners.¹
5.6 Photographic equipment should not shared between clinical and non-

clinical departments, and images will be printed immediately for retention in the medical record.

5.7 With the exception of Radiology, medical equipment which records images of patients must be backed up on the Trust network.

5.8 Copyright of all recordings made for secondary purposes is vested in the Tameside Hospital NHS Foundation Trust. (Section 15)

5.9 Images which accidentally or deliberately include other patients or staff are to be avoided wherever possible, whether taken by staff, patients or visitors. Any person found to be doing so will be asked immediately to delete any such images by the member of staff discovering the incident, calling the Security Department for assistance as required.

5.10 Traditional photographs must not be processed outside the Trust, due to the risk to patient confidentiality, except under contract with professional photographers, or via the Medical Illustration Department at Wythenshawe Hospital.

6 ROLES AND RESPONSIBILITIES

6.1 Medical Director
The Medical Director is responsible for ensuring that all consultants are aware of and comply with this policy.

6.2 Consultants
All consultants are responsible for ensuring that the medical staff in their firms are aware of and comply with this policy.

6.3 Nurse Managers and Heads of Department
All nurse managers and heads of departments who are involved in the making of audio or visual recordings are responsible for ensuring their staff are aware of and comply with this policy.

6.4 General/Business Development Managers
The General Manager for each Division, through their Business Development Managers, will maintain a register of devices equipped to make visual or audio recordings that is available within their Division, include these on their Information Asset Register, and appoint a designated person for each location of such equipment.

6.5 Designated Person
For each location of audio and visual recording- enabled equipment there must be a designated person to be responsible for:-

- storage and security of the equipment and media
- ensuring it is in good working order
- ensuring that images are printed as soon as possible after being taken, or backed up to secure computer storage, and that the original retained on the equipment is the sole source of the information
- maintaining a supply of consent forms
- locating suitable drapes with the equipment
6.6 All staff
All staff who make visual or audio recordings or who use or disclose them are responsible for:-
- Adhering to this policy
- using and filing the consent forms supplied in Appendices 1 – 2
- Quality and accuracy of the data recorded

7 MAKING RECORDINGS AS PART OF PATIENT CARE, INC. INVESTIGATION OR TREATMENT

7.1 Recordings for which separate consent is not required
7.1.1 Consent to make the recordings listed below will be implicit in the consent given to the investigation or treatment, and does not need to be obtained separately
- Images of internal organs or structures
- Images of pathology slides
- Laparoscopic and endoscopic images
- Recordings of organ functions
- Ultrasound images
- X-rays
7.1.2 When seeking consent to treatment or any other procedure that involves making one of the recordings listed above, an explanation should be given to the patient, where practicable, that the recording will be made, and could be used in anonymised form for secondary purposes, including in the public domain (e.g. for research)
7.1.3 The recordings listed above may be used or disclosed for secondary purposes without seeking consent, provided that, before such use or disclosure, the recordings are anonymised, e.g. by the removal or coding of any identifying marks.

7.2 Recordings for which specific consent is required
7.2.1 For all other recordings not listed in 7.1.1 above, even if they form part of the investigation or treatment of a condition or contribute to the patient’s care, patient specific consent is required. The patient should be told why the recording would assist their care, what form the recording will take, and that it will be stored securely.
7.2.2 Wherever practicable, the potential for any secondary uses of the recording in an anonymous or coded form should also be explained when seeking consent to make the recording.
7.2.3 The key points of the discussion should be recorded in the patient’s medical record, using the Consent Form for Photography of Patients (Appendix 1). One copy of this form should be filed in the patient’s record and one given
7.2.4 Patients should understand the purpose of the photograph, who will be allowed to see it, whether copies will be made, the arrangements for storage and how long the recording will be kept. After a photograph has been taken, patients should be given the opportunity to see it, and to withdraw consent for its future use, or to specify the kinds of contexts in which it may be used.

7.3 Adult patients who lack capacity
7.3.1 Where an adult patient is thought to lack capacity to decide about an investigation or procedure which involves a recording, consent must be obtained from someone who has legal authority to make the decision on the patient’s behalf before making the recording.
7.3.2 Where no individual has legal authority to make this decision, or where treatment must be provided immediately, recordings may still be made where they form an integral part of an investigation or treatment being provided in accordance with relevant legislation or common law.

7.4 Children or young people
7.4.1 Children or young people under 16 who have the capacity and understanding to give consent for a recording may do so, but they should be encouraged to involve their parents in the decision making.
7.4.2 Where the child or young person is not able to understand the nature, purpose and possible consequences of the recording, consent must be obtained from a person with parental responsibility.

8 DISCLOSURE AND USE OF RECORDINGS MADE AS PART OF THE PATIENT’S CARE
8.1 Adult patients
8.1.1 Recordings made as part of the patient’s care form part of the medical record and should be treated in the same way as written material in terms of security and decisions about disclosures, especially where the patient can be identified from the recording. However, disclosures may also be made where they are required by law, directed by a court, or can be justified in the public interest. See Confidentiality and Disclosure Policy for further details.
8.1.2 Anonymised or coded recordings may be disclosed for use in research, teaching or training, or other healthcare-related purposes without consent.
8.1.3 In deciding whether a recording is anonymised, it is not sufficient to rely on the photographer’s or consultant’s judgment that a particular patient is unlikely to be identified from a particular photograph: it is sometimes possible for people to be identified from photographs, e.g. showing a tattoo or other distinguishing mark.
8.1.4 Particular care must therefore be exercised to ensure that the images are truly anonymous before using or publishing them without consent in
8.2 Adult patients who lack capacity
8.2.1 Where a recording has already been made as part of the patient’s care, but may also be of value for a secondary purpose, the recording should be anonymised or coded wherever practicable.
8.2.2 If the recording cannot be anonymised or coded, the agreement of anyone with legal power to make decisions on behalf of the patient should be sought. If there is no-one with such power, the decision lies with the consultant, who should consult with the Caldicott Guardian and take into account the public interest and the relevant legislation.

8.3 Children and young people
8.3.1 If the recording cannot be anonymised or coded, the agreement of the child where judged to have the understanding to make the decision, or otherwise the parent should be sought.

9 MAKING RECORDINGS FOR RESEARCH, TEACHING, TRAINING AND OTHER HEALTHCARE-RELATED PURPOSES
9.1 Existing collections used for teaching and training
9.1.1 Where collections of recordings exist prior to 1997 when the GMC guidance required doctors to obtain consent before making recordings that are not part of a patient’s care, and these continue to have a significant value for teaching, they may continue to be used where they are anonymised.
9.1.2 Where the patient is identifiable in these recordings, they can continue to be used provided that consent was obtained for the recording to be made or used.
9.1.3 Where there is no record of whether consent was obtained, and it is clear from the context that consent had not been given to the recording, and the patient is identifiable, these recordings must not be used.

9.2 Adults with capacity
9.2.1 Consent must be obtained before making recordings for teaching, training, the assessment of healthcare professionals and students, research or other healthcare-related purposes.
9.2.2 It is good practice to obtain written consent, using the form at Appendix 1, but if this is not practicable, the patient’s oral consent is sufficient. The written consent or a record of oral consent should be stored with the recording.
9.2.3 Recordings will vary from simple photographs to visual and audio recordings of consultations involving discussion of personal and emotional issues. The amount of information to be provided before seeking consent will thus vary according to the nature of the recording, what it will be used
for, and the concerns of the individual patient. As a minimum, explanation
should be provided of:

- The purpose of the recording and how it will be used
- How long the recording will be kept and how it will be stored
- That patients may withhold consent, or withdraw consent during or
  immediately after the recording, and this will not affect the quality of
care they receive or their relationship with those providing care

The form at Appendix 1 incorporates all of these points.

Unplanned recordings

9.2.4 In cases where, although no recording had been planned, a recording of an
unexpected development during treatment or an investigation would make a
valuable educational tool (an unplanned recording), the patient’s consent
should be obtained at the time or as soon after as possible.

9.2.5 Where the patient is conscious during treatment or investigation, any
request to stop the recording must be observed.

9.2.5 Where retrospective consent is not given, the recording should be deleted,
since recordings for secondary purposes cannot be made without consent
or other legal authorisation.

9.3 Adults without capacity or impaired capacity

9.3.1 The patient’s capacity to make a decision must be assessed at the time of
the decision, without making any assumptions. For example, some patients
may not have the capacity to weigh risks and benefits of significant
treatments, but may be able to make decisions about whether to allow a
recording of themselves to be made.

9.3.2 Whether it is the consultant of another person making the decision about or
on behalf of the patient, the recording must be:

- Necessary, of benefit to the patient, or is in the patient’s best interests
- The only way to achieve the purpose, having considered other ways
  less restrictive of the patient’s rights and choices

9.4 Children or young people

9.4.1 Similar considerations apply as described for making recordings of children
or young people for primary purposes.

9.4.2 The recording should be stopped if the child or young person objects
verbally or through their actions shows distress about the recording. Where
a person with parental responsibility has given consent, they may request
the recording be stopped at any time.

9.5 Unconscious patients

9.5.1 Photographs of an unconscious patient may be taken provided consent is
obtained from the patient before the photographs are stored or released.
The patient must be told that the photographs have been taken.
9.6 Confused or “disturbed” patients who may “wander”
9.6.1 There may be good practical reasons to obtain a photograph of confused but mobile patients (including adolescents) who are prone to “wander”, to aid any search. The management of confused patients, including any intention to photograph, must always be discussed with the carer or next of kin.
9.6.2 The retention of such a photograph in the medical record is not considered necessary, and thus it should be destroyed when the patient is discharged.

9.7 Sick babies and stillbirths
9.7.1 It is common practice for staff to take photographs for the parents of babies who are in the Intensive Care Unit, or who have been still born. Ideally consent should be obtained before the photograph is taken, but circumstances may dictate that this is not appropriate.
9.7.2 If the photograph is declined by the parent, it should be filed within the casenote, in case the parent changes their mind at a later date.

9.8 Photography without consent
9.8.1 Photography without consent may be appropriate in certain circumstances such as, for example, suspected non-accidental injury of a child, or vulnerable adult, where it is unlikely that the parent, guardian or carer will give consent and the recording of injuries is demonstrably to the patient’s benefit. Consultant authority is required in such cases.
9.8.2 Particular care must be taken with such sensitive material. Clinical staff must ensure that it is stored safely and disclosed only for the purposes intended. The normal consent form will not be used in this case, but the fact that photographs have been taken without consent must be documented in the health record.

10 RECORDINGS FOR USE IN PUBLIC MEDIA (TV, RADIO, INTERNET, PRINT)
10.1 In general the considerations set out in relation to recordings made for secondary purposes apply to recordings for these purposes also, but with some additional issues.
10.2 The patient’s consent, which should usually be in writing, must be obtained to make a recording that will be used in widely accessible public media, whether or not the patient will be identifiable from the recording, unless that recording is one of those identified in para. 7.1.1 above.
10.3 A recording made as part of the patient’s care with no intention to use in widely accessible public media and therefore no consent to do so obtained at the time cannot be used without the patient’s consent if the patient is, or may be identifiable. If the recording is anonymised, it is good practice to seek consent before publishing it.
10.4 Before making arrangements for individuals or departments to record
patients, their relatives or their visitors in a healthcare setting or context on Trust premises, agreement must be obtained from the Trust Caldicott Guardian and/or the Information Governance Team.

10.5 Any filming company that wishes to film on Trust premises where people are present must seek their consent and respect their decision. Any consent agreement reached is between the person and the filming company, not the Trust, but the Trust has a responsibility for assessing the patient’s capacity to consent, and ensuring that the consent is genuine and valid. The film company should provide a form, which gives evidence of a consent giving process, but it is not a legally binding document.

10.6 Trust staff have the responsibility to ensure that the privacy, dignity and confidentiality of patients is not breached.

10.7 Patients should be asked for their consent to be filmed by someone who is not involved in their care, such as the Communications Officer. This helps to ensure that patients’ consent in independent and not influenced by the relationship they may have with the health professionals.

10.8 If Trust staff feel at any point during filming that patients are uncomfortable or in any other kind of distress then they should immediately ask the patient if they want the filming to stop and to request that filming be stopped as necessary. This is regardless of whether the patient has consented to filming taking place.

10.9 Staff should be particularly vigilant about recordings involving patients who may be vulnerable to intrusions in their privacy and dignity. This issue should be raised with the patient and the programme makers, and if concerns continue, staff may withdraw co-operation.

10.10 With regard to children and young people, staff should not participate in making or disclosing recordings who lack capacity where they believe they may be harmed or distress by making the recording or by its disclosure or use, even if a person with parental responsibility has given consent.

11 DECEASED PATIENTS

11.1 The duty of confidentiality continues after a patient has died. However, if the patient consented to the recording for a specific purpose whilst alive, e.g. research or training then the recording can be used provided there is no reason to believe that consent was withdrawn before death.

11.2 If the recording is to be used in the public domain, or the patient is identifiable, the patient’s family should be consulted before use, particularly if the recording includes information about a genetic condition, or other information about the patient’s family. Legal advice is recommended in this situation.

11.3 Where recordings form an integral part of a post-mortem investigation, separate consent is not required for making recordings of organs, body parts, or pathology slides to assist in the determination of death. However, information for relatives about the post-mortem examination should include an explanation of why a recording may need to be made.
11.4 If such recordings are to be made for a secondary purpose, e.g. teaching or research, then consent should be sought at the same time as that for consent to undertake the post-mortem examination. If the need to make such recordings had not been foreseen, then the recordings can still be made without consent if the person cannot be identified.

11.5 With regard to using recordings for secondary purposes, consent is not required provided that the recordings are anonymised before use.

12 STORAGE, RETENTION AND DISPOSAL OF RECORDINGS

12.1 Recordings made as part of the patient’s care form part of the medical record, and must be treated in the same way as other medical records. Thus all photographs which form part of the healthcare record should be immediately printed and securely fixed (by staples or sellotape) within the chronological clinical record. Care should be taken in so doing not to obliterate part of the photograph.

12.2 Each area with a digital camera must also have dedicated photo printing equipment and a dedicated area on the Trust intranet for storage. It is recognised that while digitally originated images are intrinsically no different to traditional photographs, they are easier to copy in electronic form and are therefore more at risk of both image manipulation and inappropriate distribution.

12.3 Where recordings other than photographs have been made as part of patient care, their existence must be clearly noted in the medical record so that access can be obtained where necessary, e.g. for a subject access request. Such collections of recordings, whether physical or electronic, should be notified to the Health Records Committee, and should be indexed for easy retrieval, preferably by use of the casenote or NHS number of the patient.

12.4 Anonymised recordings belong to the Trust, rather than to the individual making them, and must therefore not be removed from Trust premises on moving job. Before leaving the employment of the Trust, staff must erase any digital images of patients from the network unless specific permission to retain images for teaching purposes is obtained from the Medical Director (Caldicott Guardian) or Data Protection Manager. Such permission may be granted subject to the retention of copyright and all reproduction rights by the Tameside Hospital NHS Foundation Trust, and only if proof can be provided that the patient has consented to such uses except with express consent from the Caldicott Guardian.

12.5 Where consent has been obtained to take and store images for teaching purposes, research or publication, the clinician is responsible for making appropriate arrangements either to access the Medical Illustration Department, via the Clinical Directorate or to secure and safeguard the material on the Trust network via the Information & Communications Technology (ICT) Department. The images must be converted into PDF...
format, and password protected on the computer. Such images of patients may only be stored for use in connection with Research & Development Committee approved and registered research projects or for the preparation of teaching materials.

12.6 For later retrieval purposes, each image should be assigned a filename by which it can be clearly identified, preferably incorporating the patient’s hospital number and the date of photography. Under no circumstances should the name of the patient be used as a file name.

12.7 In the case of photographic transparencies, usually produced by the Medical Illustration Department, a second copy should be made at the time of photography to be used as a master transparency. This will be returned to the Trust and must be securely stored in the originating department. Where it is impossible to obtain a master as well as a show copy, the original transparencies should be regarded as masters and duplicates made as necessary for further use, provided appropriate consent has been obtained. It is good practice to maintain a log of such transparencies.

12.8 If consent is withdrawn, all copies and the master image should be destroyed as far as possible, and only material that is part of the patient’s health record should be kept.

13 “NON-CLINICAL” PHOTOGRAPHY

By staff

13.1 Many staff e.g. the Fire Safety Officer, and others within the Facilities Directorate need to take photographs of/within buildings on site as part of their normal work. Mobile telephones should not normally be used for such photographs, except in an emergency. Care should be taken not to capture patients, or visitors, in a photograph of a building or equipment, unless necessary.

13.2 In cases where the patient is necessary in the photograph, e.g. where the picture is to illustrate a particular equipment set-up, consent to appear in the photograph is required from any patient or member of the public. The consent form for general publications (Appendix 2) should be completed in these cases. It should not be filed in the medical record, but forwarded to the Communications Team.

13.3 Members of staff who normally operate the equipment in the photograph are deemed to have given their consent to the photography and its further use by appearing in the photograph. If the member of staff does not normally work in that area, then a consent form for general publications (Appendix 2) should be completed.

13.4 Staff should not use images of other staff as ‘screen savers’ on Trust equipment.

By patients or visitors

13.5 Patients may not bring camcorder equipment or tablet PCs into hospital
with them, due to the need to preserve the confidentiality of other patients, and the value of the equipment. If any patient arrives with such equipment, it should be removed for safe keeping, and an explanation given.

13.6 Patients will often bring mobile phones, which may have an inbuilt camera, with them into hospital. It is not felt practicable to forbid the carrying of such phones, or, in ward situations, to remove them for safekeeping. However, staff should always point out to patients and visitors the restriction on taking photographs of staff and other patients without their consent, and be vigilant wherever possible.

13.7 Patients are not permitted to take photographs of the photo board located on the ward, or parts of it, for any purpose. Staff should be asked if they consent to their photographs being placed on the board.

13.8 Patients who do not comply with requests to cease taking photographs of other patients or staff will be subject to the measures described in the ‘Tackling Violence and Aggression Policy’

13.9 Parents often want to take photographs of their new born child whilst in hospital. Care should be taken to ensure that such photographs do not inadvertently pick up the images of another patient or patients who have not consented. Staff should be particularly vigilant about the use of camera phones in these circumstances.

13.10 The Trust will generally allow parents to video a delivery on request, but in each case the final decision will rest with the individual midwife conducting the delivery. If videoing is allowed, the midwife must make clear to the parents that she may stop the filming at any time, and that this instruction must be followed.

By others

13.11 Freelance professional photographers are sometimes employed by the Trust. They may only be introduced to Trust premises by arrangement with the Director of Nursing or Communications Team.

13.12 The same principles of consent and right to privacy that apply to patients also apply to Trust staff. Filming companies must seek the consent of Trust staff for their involvement in filming.

13.13 At no point should staff feel pressured into taking part in filming if they do not want to or feel that it interferes with their work. Employees who express their wish to withdraw from filming activities will not be penalised and their line manager and the Trust will respect their wishes.

14 RECORDING TELEPHONE CALLS

14.1 Telephone calls from patients to the Trust may be recorded for legitimate reasons, e.g. for medico-legal purposes, staff training and audit, provided that all reasonable steps are taken to inform callers that their call may be recorded. Secret recordings of calls from patients will never be undertaken.
15 COPYRIGHT

15.1 Tameside Hospital NHS Foundation Trust holds the copyright of all recordings made of its patients. In the case of filming, all footage will belong to the company which commissions the programme, but the Trust will always consider and satisfy itself that arrangements for storage of film or future uses of the footage are appropriate.

15.2 It is important that in any contract for publication the copyright in the photograph remains with the Trust and does not pass automatically to the publishers on first publication, otherwise the Trust might well find itself unable to protect the patient’s interests by exercising control over further publication of the photograph. Those signing contracts with book or other publishers have a responsibility to delete from the contract any suggestion that the copyright will pass to the publishers.

15.3 Copyright is protected when the images are labelled with the words: “This print is the copyright of the Tameside & Glossop Acute Services NHS Trust. Permission is granted for first publication in …….(title of journal or book and date of publication)”

15.4 Contracts with “outside” photographers must ensure that they waive ownership of copyright and moral rights in the images they prepare, although they may still be allowed to retain the right to reproduce the image.

15.5 Clinical staff acquiring copies of medical photographs in the course of their duties may retain these for teaching purposes, but must undertake only to use them within the terms of the original consent, according to the policy set out above. Copyright and reproduction rights at all times remain with the Tameside Hospital NHS Foundation Trust.

16 IMPLEMENTATION

15.1 The Information Governance (IG) Team and the Clinical Directorates will jointly undertake a survey of existing photographic equipment within the Trust.

15.2 Existing collections of photographs used solely for teaching purposes will be reviewed and documented as to whether consent has been obtained from the patients. They may continue to be used if the patient is considered not to be identifiable, but all photographs for which permission has not been obtained should be replaced with similar ones taken with consent at the earliest opportunity. Again this will be a joint responsibility of the IG Team and the Directorates.

17 MONITORING AND REVIEW

17.1 The Clinical Audit department will include compliance to this policy in their routine documentation audits, in particular the documenting of consent to photography, for both treatment and teaching/research, commencing with audits in relation to activity in 2012.
17.2 Any breaches of this policy should be reported via the normal Trust incident forms, which will be reviewed by the Health Records Committee.

17.3 The Research & Development Committee will specifically minute approvals to the retention of photographs for research purposes.

17.4 The Divisions’ register of photographic equipment will be presented to the Information Governance Committee on an annual basis.

17.5 This Policy will be formally reviewed in October 2013.

18 REFERENCES AND BIBLIOGRAPHY

Making and using visual and audio images of patients, Guidance from the Medical Ethics Department, BMA, June 2004
Making and using visual and audio recordings of patients, Supplementary Guidance, GMC April 2011
Photographing Patients : guidance for staff, Ashford & St Peter’s Hospital NHS Trust
Photography and Video Recordings of patients ; confidentiality and consent, copyright and storage, Bolton Hospitals NHS Trust, November 2001
Photography and Video Recordings of patients (confidentiality, consent, copyright and storage), Salford Royal Hospitals NHS Trust, May 2005
Good Practice Guidance for Filming in NHS Premises, Dept of Health 2005
Appendix 1

CONSENT FORM FOR VISUAL AND/OR AUDIO RECORDING OF PATIENTS

Recording techniques include photographic film, digital image, video, filming via digital camcorder and audio either alone or in combination

<table>
<thead>
<tr>
<th>Patient identification sticker</th>
<th>Hospital site:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ward / Dept:</td>
<td></td>
</tr>
<tr>
<td>Consultant:</td>
<td></td>
</tr>
</tbody>
</table>

I understand
- the reason why the recording is being made
- the benefits and risks as described to me by the health care professional
- how the recording will be used, how long it will be kept and how it will be stored
- that I can change my mind at any time without affecting the quality of care
- that if recordings are released for teaching, it may not be possible to control their future use.

I hereby give my consent for the recording, as specified below, to be made

(description of recording)
And for it to be used for

| my confidential treatment records only |
| teaching, research and my medical record |
| the publications specified overleaf |

Signed: ________________________________

(patient, or in case of minor, legal guardian)

Date: ________________________________
CONSENT FORM FOR VISUAL AND AUDIO RECORDING OF PATIENTS
(PART 2)

In the case of publication, the material will be published without my name attached and every attempt will be made to ensure my anonymity. I understand, however, that complete anonymity cannot be guaranteed. It is possible that somebody somewhere may identify me.

The material may be published in:

I also give consent for the material to be used in other publications as long as the following criteria are met:

1. The material will not be used out of context - for example, a picture will not be used to illustrate an article that is unrelated to the subject of the photograph.

Healthcare professional obtaining consent

Name (print): ________________________________________________

Designation: ________________________________________________

Signature: _________________________________________________

Date: ____________________________

NOTE: By signing that you have taken consent for the image to be taken, you are also agreeing to abide by the Trust policy on visual and audio recording, the latest version of which may be found on the intranet.

Please ensure one copy of this form is filed in the patient’s healthcare record, and the other is given to the patient.
Appendix 2

PATIENTS/STAFF CONSENT FORM : GENERAL PUBLICATIONS/INTERNET

In view of the explanation given to me by

I agree to appear in photographs to be taken for Tameside Hospital NHS Foundation Trust publicity, information and exhibition purposes.

I understand that they may be used in articles seen by the general public, in medical textbooks on public sale, or on the internet. I understand that the material will be published without my name attached but that others may identify me from these photographs.

I agree that the images may be kept on file for use in future publications.
I understand that once a photograph is in the public domain, there is no opportunity for effective withdrawal of consent.

Limitations of use ........................................................................................................................................

.................................................................................................................................................................

Print Name.................................................................................................................................................

Signed............................................................................................................................................................

Date............................................................................................................................................................... 

Contact details............................................................................................................................................

.................................................................................................................................................................

Do not file in patient records – forward to the Communications Team
Appendix 3 Photography of Adult Post-mortem Cases - Department of Histopathology

1 Background
1.1 Pathologists have traditionally been responsible for teaching medical students, junior doctors and others involved in healthcare about the pathological basis of medicine. The correlation of the macroscopic changes in an organ with the underlying disease process and its treatment are all essential in understanding medicine; one of the key resources used in this teaching is the appearances and changes that occur in whole organs as a result of disease.

1.2 To support the continuing education of healthcare workers, Tameside Hospital NHS Foundation Trust, has developed a policy on the procedures that must be followed before photographs and videos are taken at post-mortem. The aim is above all to protect the rights of the patient and also to clarify when and how images may be collected for educational purposes.

2 Photographs and video from which a patient may be identified
2.1 Confidentiality, and the requirement for consent to take photographs from which a patient may be identified, applies to post-mortem cases in the same way as it does to living patients. We always require that written consent must be obtained from the relatives or coroner before an image is taken; obtaining this consent is part of the standard consent form that is signed by the relatives.

2.2 Because it is impossible, with certainty, to guarantee that an image of any external part of the body will be inherently anonymous, photographic images or videos from which someone could identify the deceased are never taken without this specific consent. Therefore, no external pathology is photographed at post-mortem without written consent.

3 Photographs and videos of internal organs
3.1 Internal organs are inherently anonymous, even when specific and rare pathologies are present, and specific informed consent is not required to take and store images or videos - providing they are stored in an anonymous form.

3.2 In order to maintain anonymity of these images it is our policy never to record the PM number or patient name specifically with the stored image. Images are catalogued with an image number and date, and no direct link can be made to a specific post-mortem case from the image itself.

3.3 In those cases where the image needs to be linked to the clinical or pathological findings, the image number is recorded on the secure NHS pathology computer system and nowhere else. Access to the NHS pathology
Implementation
4.1 To ensure that this policy is implemented images can only be taken on specific equipment and by nominated people, who are aware of this policy and have read, understood and agreed to the policy. A list of those permitted to take photographs of post-mortem material is maintained in the Department.

Monitoring
5.1 There is a named, specific senior pathologist responsible for monitoring. A record is kept of all images taken in the post-mortem room and all new images are checked on a regular basis to ensure that they are truly anonymous. Any non-anonymous images will be deleted, a record made of the reasons for this and discussed at the audit review. The audit is documented and forms part of the regular audit processes with the Department and reviewed every six months in the light of experience.
Appendix 4  Good practice requirements for taking clinical photographs

General
- keep a supply of consent forms and drapes with the equipment
- obtain consent on the designated forms, and file them in the health record (see section )
- photograph only the minimum required area of the body
- include a measurement scale in the photograph
- take care to respect the dignity, modesty, ethnicity and religious beliefs of the patient.
- write the name of the patient, the date and time, and any reference details on the back of the photograph. An addressograph label may be used if it adheres to the surface of the photographic paper.

Digital photography
- take care to ensure that the quality of the image (in terms of both resolution and colour depth) is adequate for its purpose.
- To meet the minimum image quality required for medical records a camera with a resolution of three million pixels or greater is required.
- In order to maintain the integrity of the image, manipulation may only be carried out to the whole image, and must be limited to simple sharpening, adjustment of contrast and brightness and correction of colour balance.

Specific additional guidance concerning images of children
- Records of children should be taken only if there are specific features that need recording for clinical reasons (e.g. assessing the progression of a skin lesion) or teaching (e.g. an important clinical sign that might only be seen rarely).
- Records should only include the specific areas of interest. Whole body shots should only be taken if completely necessary.
- Records of genital areas, or of the chest in peri or post pubescent girls, should only be taken in exceptional circumstances. It is strongly recommended that a clear indication is recorded in the notes justifying the record.
- Where appropriate, consent should be obtained from both the child and the carer(s). If a child declines to consent, then – no matter the opinion of the parent/carer – the records should not be made.
## Appendix 5 EQUALITY IMPACT ASSESSMENT

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Does the policy/guidance affect one group less or more favourably than another on the basis of:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Race</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ethnic origins (including gypsies and travellers)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nationality</td>
<td>No</td>
<td></td>
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<tr>
<td></td>
<td>Gender</td>
<td>No</td>
<td></td>
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<tr>
<td></td>
<td>Culture</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Religion or belief</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sexual orientation including lesbian, gay and bisexual people</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Age</td>
<td>No</td>
<td>Arrangements for children and young people</td>
</tr>
<tr>
<td></td>
<td>Disability - learning disabilities, physical disability, sensory impairment and mental health problems</td>
<td>No</td>
<td>Arrangements for patients lacking capacity</td>
</tr>
<tr>
<td>2.</td>
<td>Is there any evidence that some groups are affected differently?</td>
<td>no</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Is the impact of the policy/guidance likely to be negative?</td>
<td>no</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>If so can the impact be avoided?</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>What alternatives are there to achieving the policy/guidance without the impact?</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Can we reduce the impact by taking different action?</td>
<td>n/a</td>
<td></td>
</tr>
</tbody>
</table>