

1. Introduction

The purpose of this document is to identify the principles and procedures governing the access, use and release of data generated by Body Worn Cameras (BWC) during the Trial. The BWC Trial will test whether the presence/use of BWC has a de-escalating effect during incidents where there is an imminent risk to the safety of themselves or others arising from threats of violence and/or aggression.

This procedure is to be applied at all Trial sites and details the nature of the data collected, the parameters around access and use of that data and the arrangements where there are requests from third parties to access this data.

Given the purpose of the Trial and the nature of the hospital environment, these procedures are informed by privacy legislation and NSW Health policies, such as code of conduct and information security policies. A Privacy Impact Assessment has been conducted for the Trial and the recommendations from that Assessment have informed the principles and procedures in this document.

2. Data and data management

During this Trial data is defined as:

- footage (both audio and visual) captured by the BWC and/or
- information about the data gathered (metadata) and/or
- information gathered in the use of BWC such as personal information and health information and/or
- information regarding which security officers are using which specific camera on their duty shift. The BWC will be allocated to security officers at the beginning of their shift (known as pool issue).

The data management system for the BWC Trial has been subject to testing and assessment based on NSW Health information security policy. Data is stored by the vendor whose data storage security meets information and cybersecurity standards in NSW Health and various state and federal agencies. Permissions, access and parameters regarding who uses BWC data adheres to information security policy and privacy requirements.

3. Internal (NSW Health) groups accessing BWC data

Within NSW Health there will be two levels of access to BWC data, based on an individual's role in the Trial.

All access to data on the data management platform is subject to detailed audit. All interactions with data (such as viewing) are logged and subject to detailed audit. The Safety and Security Improvement unit will report on data audits and released data to the Trial Governance Committee.

3.1 Nominated Local Health District (LHD) users – BWC Data Representatives

Participating Chief Executives have nominated representatives in their District to undertake various functions related to the BWC Trial. For the purposes of this procedures these nominated representatives will be referred to as BWC Data Representatives. The BWC Data Representative will be allocated a licence which permits them access to view data obtained only at their trial site/s for the exclusive purposes of:

- a) categorising data according to pre-determined categories (see Section 4)
- b) providing data to authorised third parties in line with the requirements set out in those procedure (see Section 5.1).

BWC Data Representatives will not be able to delete or edit data. BWC Data Representatives will only be able to share data in the limited circumstances set out in this procedure (Section 5.1).

Licences for accessing data can be extended and retracted for specific periods of time and are allocated to individuals, not to roles and not for generic access. Sharing access to BWC data for any purpose other than for what is approved may be managed as a misconduct matter. All actions related to data is logged and will be subject of auditing by the Safety and Security Improvement team.

Support will be provided to BWC Data Representatives to manage any potential impacts of viewing data, which may cause distress.

3.2 Ministry of Health users

Members of the Safety and Security Improvement team in the Ministry of Health (the Ministry) will have access to all data and will be responsible for the:

- control and management of all license permissions
- reviewing the local categorisation of data from all Trial sites and
- the review of data audit logs from all sites.

Only Ministry users will be able to delete or redact data. A record of why data was deleted will be maintained.

4. Data categorisation

BWC data will be categorised in line with the primary purpose of the Trial. The responsibility for the categorisation of data will sit with the BWC Data Representatives in each District (see section 3.1 above).

The Ministry will conduct periodic reviews of the categorisation of data to ensure consistency.

Data may be categorised under multiple categories, or a single category. Categories have been allocated based on the following outcomes:

Type A

- Data shows an incident involving aggression/violence was de-escalated following the verbal notification and activation of BWC.

Type B

- Data shows an incident involving aggression/violence continued to escalate following the verbal notification and activation of BWC.

Type C

- Data shows an incident where it can't be determined if BWC verbal notification occurred.

Type D

- In addition to categories 'Type A, B or C', data shows an incident that requires escalation to the Ministry for urgent review.

Type E

- Data accidentally captured and/or not within the scope of Trial. This data will be scheduled for deletion by the Safety and Security Improvement team.

Aboriginal and Torres Strait Islander considerations

- **Avoidance of naming the dead** - Staff reviewing or facilitating the viewing of data will take into account that such data may contain images and voices of Aboriginal and Torres Strait Islander

people who are deceased. If it becomes evident that any such data is likely to be viewed by Aboriginal and Torres Strait Islander people, staff where practicable, will:

- advise the viewer with words to the effect – *Aboriginal and Torres Strait Islander [viewers, listeners, readers] are advised that the following data may contain images and voices of people who have died.*

5. Release and use of data

The primary use of data will be to assess whether or not the presence/use of BWC impacts on incident frequency/severity, in line with the purpose of the Trial. The Party using the data for this purpose is the Safety and Security Improvement Unit in the Ministry of Health.

5.1 Release of data to third parties

There may be occasion where the data collected by the BWC is sought by other parties. Districts must use the following procedures where these requests are received.

5.1.1 If the request for data is made by NSW Police or SafeWork NSW using their legislative powers:

- The District remains responsible for releasing data originating from that District.
- Details of the request, and the action taken by the District (including the data released) must be advised to the Ministry in a timely manner.

Districts will provide the Ministry with the details of the above via email to Ministry to MOH-WR-BWC@health.nsw.gov.au.

Where the District receives a request from another party, then the following procedures must be utilised:

5.1.2 If the request comes from any other third party with a subpoena or a legal power to request information:

- Details of the request, and a copy of the subpoena/right of entry etc, and details of the data being requested must be made known to the Ministry in a timely manner.
- The Ministry will assess the request and advise the District of the outcome of that assessment.
- The District and the Ministry will determine who will be responsible for communicating the outcome of that assessment to all relevant parties and, if relevant, providing the data.

5.1.3 If the request comes from any other third party outside of NSW Health and is not covered by 5.1.1 or 5.1.2:

- Details of the request must be made known to the Ministry with details of the data being requested.
- The District will be informed of the outcome of the Ministry's assessment of that request.
- If a *Government Information (Public Access) Act 2009 (NSW)* application is received by the District, the Ministry must be informed and details of the request and relevant data being sought provided. The Ministry will make a recommendation on the appropriateness of the application and the information to the District.
- The District and the Ministry will determine who will inform the requestor of the outcome and, if relevant, provide the data.

Districts will provide the Ministry with the details of the above requests via email to Ministry to MOH-WR-BWC@health.nsw.gov.au. A form for providing these details can be found at: <https://nswhealth.sharepoint.com/sites/WR-MOH/SASI/SitePages/Body-Worn-Cameras.aspx>

Both the relevant District and Ministry are responsible for maintaining records of requests, assessments of requests and outcomes.

5.2 Ministry assessment of requests to release data to third parties

When a District advises of a request for data by a third party (in line with section 5.1 above), the Ministry will liaise with relevant sections within the Ministry to determine if it is appropriate in the circumstances to release the data to the requesting third party. If there are any concerns regarding the process advice will be sought from the Ministry's Legal and Regulatory Services Branch prior to release of the data.

The Ministry assessment will take account of circumstances where the request for data is time sensitive.

Requests for data and the outcomes of assessments of those requests will be subject to oversight by the Trial Governance Committee, to ensure compliance with privacy requirements and information security requirements has been maintained.

5.3 Ministry assessment of requests to use data where there is an allegation of serious misconduct

The primary purpose of BWC is not to monitor the conduct of any NSW Health worker. The BWC procedures for security staff expressly prohibits the use of BWC to record interpersonal conflicts, or interactions with other NSW Health workers.

However, in certain limited circumstances, BWC data captured may be used as evidence in misconduct matters:

- Where it involves allegations of serious misconduct*
- Only if it was collected in a scenario that is within the scope of the Trial (ie collected where there is an imminent threat to safety arising from violence).
- Districts must consult with the Ministry about the allegations and request to use the data (the Ministry is the owner of the data).
- The Ministry will determine if the threshold of serious misconduct has been met. This is to ensure there is oversight and consistency in the threshold of serious misconduct being applied across NSW Health during the Trial.

If data meets the serious misconduct threshold, and may be used as evidence, the individual staff member and their representative will be provided with a copy of the data.

*Serious misconduct is defined as:

- A serious sex or violence offence (carrying a possible penalty of 12 months or more imprisonment) by any staff member, and/or
- Reportable (ie child-related) conduct as defined under the Children's Guardian Act 2019 (including allegations relating to conduct outside the workplace) by any staff member, and/or
- A serious criminal offence (carrying a possible penalty of 5 years or more) by any staff member where the criminal conduct is directly relevant to and/or has an impact on their employment (such as fraud for a financial role).