



Faculty of Forensic & Legal Medicine

POSITION STATEMENT

on video recording assessments in custody

February 2021

The Faculty of Forensic & Legal Medicine (FFLM) is aware that there have been requests from Police that clinical forensic procedures in relation to the Road Traffic Act (RTA) are recorded on body worn cameras (BWC) by police officers.

The FFLM published updated guidance on *Drug driving competencies* for Healthcare Professionals (HCPs) in 2018 in which it stated: 'The FFLM advises that it is not appropriate for a Section 4 RTA assessment to be video recorded.' There has never been a requirement for video-recording any clinical interaction in the police custody environment in England and Wales, this includes taking **any** forensic samples.

In relation to the RTA the Crown Prosecution Service (CPS) has confirmed the guidance on drink and drug driving offences is available on the CPS website at *Road Traffic – Drink and Drug Driving*. That guidance does not include any suggestion that clinical forensic procedures, such as an examination conducted under section 7(3)(c) of the Road Traffic Act 1988 to determine the condition of the detained person might be due to some drug or the taking of blood samples should be recorded on BWC or CCTV.

The HCP needs to assess (take a history, perform the relevant required examination) a detainee prior to taking a blood sample in order to obtain the appropriate consent for the sample. This process should not be recorded. The officer wearing the BWC can return to the medical room for the provision of the blood sample if so required.

HCPs working in the custody environment whether doctor, nurse or paramedic are independently regulated practitioners. In relation to the interaction between the HCP and a patient the Faculty is clear that such recordings are not appropriate and that good quality contemporaneous written records will be adequate to demonstrate that the appropriate procedures have been followed.

CCTV cameras are now commonly in place in custody centres, including in cells, but they are never appropriate within the confines of the clinical examination room. The clinical assessment of a detainee by the HCP should be confidential and only in rare circumstances should these assessments be carried out in the cell where there is CCTV.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standard state 'All medical examinations of persons in police custody must be conducted out of the hearing of law enforcement officials and, unless the doctor concerned requests otherwise in a particular case, out of the sight of such officials'. Although the standard cites doctors only, it is the expected standard for all HCPs working in the custody environment. There should be equivalence of healthcare and confidentiality in the custodial setting as compared to that enjoyed by patients in the outside community.

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