TRUST POLICY

CLINICAL PHOTOGRAPHY

Any hard copy of this document is only assured to be accurate on the date printed. The most up to date version is available on the Trust Policy Site.

All document profile details are recorded on the last page.

All documents must be reviewed by the last day of the month shown under “review date”, or before this if changes occur in the meantime.

FAST FIND:

For information on requesting clinical photography or recordings, see section 6.

For detailed information on consent, see section 7.

For information on data protection, disclosure and copyright issues, see section 5, section 9 and section 10 respectively

There are also a number of action cards which relate to the use of clinical photography services; see the main policy page for links.

DOCUMENT OVERVIEW:

This policy has been written to ensure that working practices with regard to clinical photography are appropriate and in keeping with law and professional ethics relating to the practice of clinical photography.

The policy governs the management of all clinical photography within the Trust. The policy is relevant to:

- Staff undertaking clinical photography within the Medical Photography Department
- Staff seeking authority to undertake clinical photography
- Staff requesting clinical photography
- Staff obtaining consent for the use of clinical photographs from patients

This document may be made available to the public and persons outside of the Trust as part of the Trust’s compliance with the Freedom of Information Act 2000
1. INTRODUCTION
2. DEFINITIONS
3. PURPOSE
4. ROLES AND RESPONSIBILITIES
5. DATA PROTECTION
6. REQUESTING
7. OBTAINING CONSENT FOR RECORDING
8. WORKING PRACTICES
9. DISCLOSURE
10. COPYRIGHT
11. TRAINING
12. MONITORING OF COMPLIANCE
13. REFERENCES

Action Cards

CPH1  Clinical Callout Photography
CPH2  Medical Photography Requesting and Consent

Also in associated with the Safeguarding Adults and Safeguarding Children Policies:

SCH8  Safeguarding Photography
CLINICAL PHOTOGRAPHY

1. INTRODUCTION

The Trust has access through the Medical Photography Department to photography and video for recording and communication of clinical and non-clinical subjects. Staff in clinical services may request these services and be provided with appropriate access to these images.

Clinical photographs are made using conventional photographic and video equipment employed to produce images that support diagnostic, record keeping, communication and evidence protection within the healthcare environment.

Clinical photographs are taken by qualified professional Clinical Photographers. Other clinical staff will only undertake clinical photography, as “Associate Photographers”, following the processes defined within the provisions of this policy and following authorisation by Medical Photography.

Clinical photographs are medical records and need to be afforded the same protection and safeguarded through a combination of access controls and appropriate policy.

2. DEFINITIONS

<table>
<thead>
<tr>
<th>Word/Term</th>
<th>Descriptor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical photographs/Clinical recording</td>
<td>Accurate and objective images that truthfully record injuries and diseases, as well as the progress of operations and medical procedures</td>
</tr>
<tr>
<td>Clinical photographer</td>
<td>Degree-level photographers who have passed a specialised clinical photography professional qualification. Voluntarily registered with CAMIP. Registrants through the IMI combined professional membership and CAMIP registration are subject to annual random audit of CPD.</td>
</tr>
<tr>
<td>Associate Photographer</td>
<td>Employee with authority from Medical Photographer to undertake clinical photography, for one-off or ongoing basis.</td>
</tr>
<tr>
<td>Requester</td>
<td>Clinical practitioner who requires clinical photography of a patient. The requester is not necessarily the end user of the images.</td>
</tr>
<tr>
<td>Publication</td>
<td>Any form of communication of the photograph outside of the medical record and healthcare teaching processes, e.g. textbooks, medical journals, public display, internet or intranet</td>
</tr>
<tr>
<td>Copyright</td>
<td>The Copyright, Designs and Patients Act 1988 encompasses the legal right of creative artists or publishers to control the use and reproduction of their original works. Copyright on all photographs or recording undertaken within the Trust by employees is own by Gloucestershire Hospitals NHS Foundation Trust.</td>
</tr>
<tr>
<td>Institute of Medical Illustrators</td>
<td>IMI</td>
</tr>
<tr>
<td>CAMIP</td>
<td>Committee for the Accreditation of Medical Illustration Practitioners</td>
</tr>
</tbody>
</table>

3. PURPOSE

The Purpose of the Policy is to ensure that clinical photographs are fit for clinical purpose, obtained by appropriate staff and that consent and working systems are used to protect staff, patients and the organisation from the consequences of misuse or loss.

4. ROLES AND RESPONSIBILITIES

<table>
<thead>
<tr>
<th>Post/Group</th>
<th>Details</th>
<th>Resources</th>
<th>Review/ Monitoring</th>
<th>Implementation</th>
<th>Records</th>
<th>Reporting</th>
<th>HR</th>
</tr>
</thead>
</table>
| Medical Photography manager | • Accountable to Divisional Director/General manager for the maintenance and review of this policy  
• Ensures policy will meet | X         |                   |                 |         |           | X   |
<table>
<thead>
<tr>
<th>Post/Group</th>
<th>Details</th>
<th>Resources</th>
<th>Review/Monitoring</th>
<th>Implementation</th>
<th>Records</th>
<th>Reporting</th>
<th>HR</th>
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<tbody>
<tr>
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<td>legal, ethical and national standards</td>
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<td>• Ensures that appropriate working systems are in place</td>
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<td></td>
<td>• Ensures that clinical photographs are fit for purpose</td>
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<tr>
<td>Medical Photography Staff</td>
<td>• Complying with IMI code of professional conduct</td>
<td>X</td>
<td>X</td>
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<td></td>
<td>• Maintaining voluntary registration with CAMIP through CPD</td>
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<td>• Maintaining own competencies</td>
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<td></td>
<td>• Complying with this policy and associated procedures</td>
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<td></td>
<td>• Ensuring informed consent is obtained and that patients/carers understand how photographs will be used</td>
<td></td>
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<tr>
<td>Requesters</td>
<td>• Ensuring patients understand why clinical photographs are required</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
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<tr>
<td></td>
<td>• Obtaining informed consent to clinical photography</td>
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</tr>
<tr>
<td>Clinical Users</td>
<td>• Accessing clinical photographs within the Trust’s Data Protection Code of Confidentiality notice</td>
<td>X</td>
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<tr>
<td></td>
<td>• Checking that informed consent has been recorded before accessing clinical photographs</td>
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5. **DATA PROTECTION**

The Data Protection Act (1998) requires that personal data “is processed fairly and lawfully”. The Data Protection Code of Confidentiality Notice for Staff Employed by Gloucestershire Hospitals NHS Foundation Trust (August 2006) requires that all Trust staff work in ways that are in keeping with the principles of the Data Protection Act (1998).

This policy establishes appropriate practice with regard to the processes involved in managing consent for photography and protection of the personal data acquired. Although some clinical photographs may not identify an individual, the potential for an individual patient to recognise their own photograph requires that a policy of informed consent is adopted for all patients and in all cases.

6. **REQUESTING**

All clinical requests must be made on the form, Request for Clinical Photography/Video GHNHSFT/Y0093/08.06, available from Prontaprint, after obtaining consent as specified in section 6. See also action cards **CPH1** and **CPH2** (Clinical Callout Photography and Medical Photography Requesting and Consent).

Clinical photographs can be requested to support:

- Diagnosis
- Clinical management and treatment planning
- Gathering evidence to support safeguarding concerns or evidence of injury or clinical condition (see action card **SCH8**)
- Referral for opinion
7. OBTAINING CONSENT FOR RECORDINGS

7.1 Consent requirements

- Informed consent to recordings is obtained from all patients and in all cases where recording is required
- The person requesting photographs must discuss the reasons for the request with the patient and/or their relatives. An explanation of how the photographs will be used must also be given

7.2 Consent documentation

Clinical photography consent must be obtained using the following Trust stationery;

- Form - Consent Form - For consent to Clinical Photography GHNHSFT/Y0912/04.11
- Patient Information Leaflet - Your Consent to Medical Photography GHPI441_04-06

7.3 Levels of consent

The Consent Form - For consent to Clinical Photography includes three levels of consent, which are:

- Personal Medical Case-Notes
- Teaching in Healthcare Environment
- Publication - The patient must be told where the material will be published. Any further submission for publication will require completion of an additional consent form. The patient should also be warned that once material has been published, it may be impossible to retract the material.

Photographs will not be released for clinical education, publication or research until evidence of explicit written consent is supplied to Medical Photography.

7.4 Unconscious Patients and Retrospective Consent

- Photographs of an unconscious patient may be taken in circumstances where the person in charge of a patient’s care believes that photographs are critical to the care or in the best interests of the patient. Consent must be obtained from the patient retrospectively where and when the patient is capable of providing it
- If feasible, obtain consent prior to anaesthesia where photographs may be required in Theatre. If teaching recording is opportunistically practiced, patients should be informed that this practice exists prior to anaesthesia. The patient must be given the option not to be recorded
- When a patient regains consciousness, they must be told that photographs or recordings have been taken
- In the event that the patient does not regain consciousness, please refer to section 7.7

7.5 Incapacity to Provide Consent through Death or Long Term Cognitive Impairment

If a patient dies or is assessed as being unable or unlikely ever to be able to provide consent before retrospective consent can be obtained, material should not be used for education, publication or research. The retention of material for health record purposes is subject to Trust record retention schedules.

7.6 Circumstances for Photography without Consent

In certain circumstances, where it is unlikely that the patient/parent or guardian will give consent or where a capacity assessment demonstrates a lack of capacity to provide informed consent recording without consent may be justified through:
The support of a Trust safeguarding processes, please see action card SCH8 (produced in conjunction with the Safeguarding Adults and Safeguarding Children policies; see link on main policy page)

The direction of a Coroner or court

Where provision of care or diagnosis is dependant on recording – A Consultant should record the decision to order in the health record.

8. WORKING PRACTICES

8.1 Equipment and Procedures

- Medical Photography will determine and specify appropriate equipment. Mobile phones are not on the approved list of equipment
- All clinical photography will be undertaken within the requirements of standard operating procedures (SOPs) approved by Medical Photography. Associate Photographers will be required to operate within existing or new task specific approved SOPs. New SOPs will be submitted to Medical Photography for approval by the Associate Photographer within the clinical speciality or department

8.2 Patient Dignity and Chaperones

- Where possible, patients who undress for photography must be offered the choice of a male or female photographer
- Where this is not possible, the photographer and patient should discuss the option of using a member of staff as a chaperone. The Institute of Medical Illustrators has published guidelines on the use of chaperones; http://www.imi.org.uk/document/use-of-chaperones
- Where photographing patients identified as vulnerable people or children, a chaperone should be present during photography.

8.3 Processing

- Image editing has the potential to harm image data to an extent that any evidential worth of an image is open to question in law
- Clinical photographs should be edited within prescribed processes that can be reliably described in a Standard Operating Procedure

8.4 Storage

Image and video data should be stored within systems approved by both Medical Photography and the Countywide IT service.

8.5 Record Keeping

Copies of consent forms should be stored as indicated on the form sets.

8.6 Retention / Disposal

- Clinical photographs are subject to the Trust’s record retention schedule requirements
- Where a need to dispose of hard copy material such as photographic prints or slides is identified by a clinician managing the care of the patient or the safekeeping of teaching collection, advice must be sought from Medical Photography

9. DISCLOSURE

The following criteria apply to any disclosures involving recordings:

- All requests from the police should be on the form DP7A under section 29(3) of the Data Protection Act (1998) and should be directed to the Legal Services Department.
- Individuals whose images are recorded have the right to view them and, unless agreed otherwise, be provided with a copy of the images on receipt of a Subject Access request under the Data Protection Act.
Protection Act 1998. These should be dealt with by the Legal Services Department who deal with Subject Access requests.

- Charges are stipulated by the Act and are agreed with Legal Services at the request stage.

10. COPYRIGHT

Copyright, on non-clinical images or clinical education material is not transferable unless an agreement to transfer copyright has been negotiated by the Manager(s) of Medical Photography or the Communications Department.

11. TRAINING

The Medical Photography department will provide a training module for Associate Photographers. This will take the form of an intranet resource; a full training needs analysis is available. http://intranet/PageFiles/312834/TNA%202011.doc

Associate photographers are expected to be aware of this policy and will be trained in SOPs relevant to the work they undertake.

All clinical staff should receive an introduction to the clinical photography service provided by Medical Photography.

12. MONITORING OF COMPLIANCE

<table>
<thead>
<tr>
<th>Objective</th>
<th>Frequency/timescale</th>
<th>Methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring of policy deviation</td>
<td>Ongoing</td>
<td>Manager of Medical Photography to report actual or near miss incidents</td>
</tr>
<tr>
<td>Exception monitoring of consent form completion errors</td>
<td>Ongoing</td>
<td>Manager of Medical Photography to refer to requesters for confirmation of informed consent</td>
</tr>
<tr>
<td>Quality monitoring of recordings</td>
<td>To be determined</td>
<td>Audit by Medical Photography team</td>
</tr>
<tr>
<td>Monitoring working systems</td>
<td>To be determined</td>
<td>Audit by Medical Photography team</td>
</tr>
</tbody>
</table>

13. REFERENCES


<table>
<thead>
<tr>
<th>DOCUMENT PROFILE</th>
</tr>
</thead>
<tbody>
<tr>
<td>REFERENCE NUMBER</td>
</tr>
<tr>
<td>CATEGORY</td>
</tr>
<tr>
<td>VERSION</td>
</tr>
<tr>
<td>SPONSOR</td>
</tr>
<tr>
<td>AUTHOR</td>
</tr>
<tr>
<td>ISSUE DATE</td>
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<tr>
<td>REVIEW DETAILS</td>
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<tr>
<td>ASSURING GROUP</td>
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<td>APPROVING GROUP</td>
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<tr>
<td>APPROVAL DETAILS</td>
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<tr>
<td>COMPLIANCE INFORMATION</td>
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<tr>
<td>CONSULTEES</td>
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<tr>
<td>DISSEMINATION DETAILS</td>
</tr>
<tr>
<td>KEYWORDS</td>
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<tr>
<td>RELATED TRUST DOCUMENTS</td>
</tr>
</tbody>
</table>
## EQUALITY IMPACT ASSESSMENT

### INITIAL SCREENING

1. **Lead**
   - **Name:** Stephen Moore
   - **Job Title:** Site Lead, Medical Photography, GRH

2. **Is this a new or existing policy, service strategy, procedure or function?**
   - **New ✓**
   - **Existing**

3. **Who is the policy/service strategy, procedure or function aimed at?**
   - **Patients**
   - **Carers**
   - **Staff ✓**
   - **Visitors**
   - **Any other**
   - **Please specify:**

4. **Are any of the following groups adversely affected by this policy:**
   If yes is this high, medium or low impact (see attached notes):
   - **Disabled people:** No ✓ Yes
   - **Race, ethnicity & nationality:** No ✓ Yes
   - **Male/Female/transgender:** No ✓ Yes
   - **Age, young or older people:** No ✓ Yes
   - **Sexual orientation:** No ✓ Yes
   - **Religion, belief & faith:** No ✓ Yes

   If the answer is yes to any of these proceed to full assessment.
   If the answer is no to all categories, the assessment is now complete.

   **Date of assessment:** 22/12/2011
   **Completed by:** Stephen Moore

   **Signature:**
   **Job title:**
   **Director:**
   **Signature:**

This EIA will be published on the Trust website. A completed EIA must accompany a new policy or a reviewed policy when it is confirmed by the relevant Trust Committee, Divisional Board, Trust Director or Trust Board. Executive Directors are responsible for ensuring that EIAs are completed in accordance with this procedure.