

Video, image or audio recording of patient consultations

There can be various reasons why a doctor or dentist would want to make a visual or audio recording of a patient consultation or procedure, such as for research or training purposes. However, it is important to respect ethical principles of consent and confidentiality in doing so. Any recording made in providing a patient with healthcare forms part of their clinical record and must be treated in the same way as other confidential information.

You should also explain any possible secondary uses – even in an anonymous or coded form – when seeking consent to make the recording. The key elements of this discussion should be entered in the patient’s clinical notes.

Basic considerations

The GMC makes it clear in their guidance that, when making or using recordings, you must respect a patient’s privacy and dignity and their right to make or participate in decisions that affect them. This means that you must:

- give patients the information they want, or need, about the purpose of the recording
- make recordings only where you have appropriate consent or other valid authority for doing so
- ensure that patients are under no pressure to give their consent for the recording to be made
- stop the recording if the patient asks you to, or if it is having an adverse effect on the consultation or treatment
- anonymise recordings before using or disclosing them for a secondary purpose, if this is practicable and will serve the purpose
- disclose or use recordings from which patients may be identifiable only with consent or other valid authority for doing so
- make appropriate secure arrangements for storing recordings
- be familiar with and follow the law, local guidance and procedures that apply where you work.

Further to this, the GMC also states that you must not make or participate in making recordings against a patient’s wishes or where a recording may cause the patient harm. You must also not disclose or use recordings for purposes outside the scope of the original consent, without obtaining further consent.

Note: this does not apply to consent to make the recordings listed below, which 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.

The GDC's *Standards for the Dental Team* states:

- **4.2.9** *The duty to keep information confidential also covers recordings or images of patients such as photographs, videos or audio recordings, both originals and copies, including those made on a mobile phone. You must not make any recordings or images without the patient's permission.*

Covert recordings

Covert recordings should only ever be undertaken where there is no other means of obtaining information which is needed, in the public interest, to investigate or prosecute a serious crime, or to protect someone from serious harm. For example, a patient is suspected of fraudulently feigning a significant injury. Before any covert recording can be carried out, authorisation must be sought from a relevant body in accordance with the law.

Such covert recordings fall within the scope of the Regulation of Investigatory Powers Act 2000 or the Regulation of Investigatory Powers (Scotland) Act 2000, where used by a public body, such as the NHS or those contracted to or employed by the NHS.

Recording telephone calls

Telephone calls made by patients to healthcare organisations can be recorded for legitimate purposes (e.g. quality control, staff training and audit) provided you have taken reasonable steps to inform callers that their call may be recorded and for what purpose. Given the sensitive nature of calls to medical triage lines or similar services, including out-going telephone consultations, you should ensure that callers are aware that their call is being recorded.

Patient access to recording

Patients can request access to their records, which would usually include access to any recordings that have been made and retained, in accordance with the Data Protection Act.

Common pitfalls

- Failure to obtain valid consent from patients before filming or recording a consultation or clinical procedure.
- Use of a recording for a purpose other than consented to by a patient.
- Failure to securely protect an audio or visual recording that identifies a living individual.

Key points

- Always seek and obtain valid patient consent before undertaking any recording of a procedure or consultation.
- Provide a full explanation on how the recording will be used, stored and protected from unauthorised access or use.

Further guidance

- GMC. *Making and using visual and audio recordings of patients*: <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/making-and-using-visual-and-audio-recordings-of-patients>

MDDUS Training & CPD resources: <https://www.mddus.com/training-and-cpd/training-for-members>