

GUIDE LINE FOR USING HUMAN PHOTOGRAPHS, VISUALS AND AUDIO RECORDINGS OF PATIENTS FOR TEACHING, LEARNING AND PUBLICATION UNDER DELU

This guideline is to advise about how to comply with consent and confidentiality when making or using photographs, visuals and audio recordings of patients for teaching, learning and publication under DELU.

When making or using photographs, visuals and audio recordings of patients you must respect patients' privacy and dignity, and their right to make or participate in decisions that may affect them.

Therefore, you must:

give patients the necessary information about the purpose of the photographs, visuals and audio recordings

make photographs, visuals and audio 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 photographs, visuals and audio recordings to be made

where practicable, stop the photographs, visuals and audio recordings if the patient asks you to, or if it is having an adverse effect on the consultation or treatment

anonymise or code photographs, visuals and audio recordings before using or disclosing them, if this is practicable and will serve the purpose

disclose or use photographs, visuals and audio recordings from which patients may be identifiable only with consent

make appropriate secure arrangements for storing and disposing photographs, visuals and audio recordings

be familiar with, and follow, the law and local guidance and procedures that apply where you work

and, you must not:

make, or participate in making, photographs, visuals and audio recordings against a patient's wishes, or where they may cause the patient harm or discomfort.

disclose or use photographs, visuals and audio recordings for purposes outside the scope of the original consent without obtaining further consent.

Procedure for obtaining the consent

You must get the patient's consent to make photographs, visuals and audio recordings that forms part of the investigation or treatment of a condition, or contributes to the patient's care. You should explain to the patient why photographs, visuals and audio recordings are necessary, what form the recording will be taken, and that it will be stored securely.

Wherever practicable, you should explain any possible secondary uses of the photographs, visuals and audio recordings in an anonymous or coded form when seeking consent to make the recording. You should record the key elements of the discussion in the patient's medical record.

Photographs, visuals and audio recordings that have been taken should be treated in the same way as written material in terms of security and decisions about disclosures. You will usually need the patient's consent before disclosing photographs, visuals and audio recordings from which the patient can be identified.

You may not disclose anonymised or coded photographs, visuals and audio recordings for use in teaching or learning, publication, or other healthcare-related purposes without consent. In deciding whether a photographs, visuals and audio recordings are anonymised, you should bear in mind that apparently insignificant details may still be capable of identifying the patient.

You should be particularly careful about the anonymity of photographs, visuals and audio recordings before using or publishing them in journals and other learning materials, whether they are printed or in an electronic format.

If you judge that an adult patient lacks capacity to decide about photographs, visuals and audio recordings, you must get consent from someone who has legal authority to make the decision on the patient's behalf before making photographs, visuals and audio recordings.

Children or those who are under 16 who have the capacity and understanding to give consent for photographs, visuals and audio recordings you should encourage them to involve their parents in the decision making.

Where a child or young person is not able to understand the nature, purpose and possible consequences of the photographs, visuals and audio recordings, you must get consent from a person with parental responsibility to make the recording.

The amount of information you should provide before seeking consent will vary according to the nature of the photographs, visuals and audio recordings, what it will be used for, and the concerns of the individual patient.

Before making the recording, you should explain the purpose of the photographs, visuals and audio recordings and how it will be used how long the photographs, visuals and audio recordings will be kept and how it will be stored clearly.

Patients should be clearly informed that they may withhold consent, or withdraw consent during or immediately after the photographs, visuals and audio recordings and this will not affect the quality of care they receive or their relationship with those providing care.

You should give this information to patients in a way they can understand. You must answer any questions patients ask as honestly and as fully as you can. You should provide any additional support patients need to understand this information, to communicate their wishes or to make a decision.

Photographs, visuals and audio recordings made as part of the patient's care will form part of the medical record. They must be treated in the same way as other medical records, and you should be clear about the responsibility for the use of such recordings respecting the patients confidentiality.

If you make photographs, visuals and audio recordings for secondary purposes, you must satisfy yourself that there is agreement about the ownership, copyright, and intellectual property rights of the recording.