

## **POLICY ON AUDIO OR VIDEO RECORDING FOR EDUCATIONAL PURPOSES**

### **BACKGROUND**

1. This Policy deals with the recording – by the University, its students or others – of activities with an educational purpose<sup>1</sup> (“educational activities”). All types of audio or video recordings are covered in all media.
2. Recording by the University of educational activities is an important part of the University’s Learning and Teaching Strategy to enhance the quality of the student experience, and the University sees it increasingly as part of mainstream academic work. The University recognises, however, that occasionally members of staff or students may have legitimate reasons for not wishing to be recorded, especially by video recording; and this policy – which aims to promote responsible recording within a practical framework – therefore establishes a right to opt out of recording.
3. Recordings by the University may be used for any purpose supporting the University’s educational objectives. This may include making recordings available internally in any media or platform. Subject to the explicit consent of the member(s) of staff concerned, it may also include making recordings available externally in any media or platform and may also involve granting rights to other third parties and generating income. Further details of intended use should be included in Recording Notices (see below).

### **Deciding when to record**

4. It is to be assumed that all educational activities may be recorded by the University, but recording by students and others is not permitted except as provided in 13-15 below.
5. The decision as to when the University shall record, which activity is to be recorded, how to record<sup>2</sup> and how best to use those recordings<sup>3</sup>, is ultimately the responsibility of the Head of Department (or equivalent)<sup>4</sup> where the educational activity is primarily based. It is recommended that a decision by a Head of Department is made after consideration by the Faculty’s Learning and Teaching Committee/ Research Committee (as appropriate).

### **University Recording Consent**

6. Subject to the right to opt out noted in 2 above, staff and students are deemed to consent to the University recording educational activities.
7. Notwithstanding the provision in 6 above, no recordings of sensitive personal data will be permitted without the explicit (opt-in) consent of the staff or students being recorded. Sensitive personal data is defined under section 2 of the Data Protection Act to include generally any data relating to an individual concerning their racial or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, trade union membership, physical or mental health or condition, sexual life, or information relating to criminal offences. See Appendix 1 for model express consent form.

*1 Educational purpose means any purpose related to taught student education at the University, and may include research activity or the repurposing of research activity as appropriate. This policy does not however cover the recordings made for purely research or archival purposes.*

*2 For example, recording audio and screen capture as a minimum or video, audio and screen capture if preferred*

## **Editing**

8. Where a recording is done using the university supported recording software, such recordings can be edited by the speaker(s) concerned using the software they used to make the recording. For other recordings any request for an edit must specify which material is to be changed and why the change is necessary. A request must be made immediately after the recording otherwise it is unlikely to be considered. In cases of disagreement, the matter shall be resolved by the Head of Department (or equivalent) where the recorded activity is primarily based.

## **Recording Notice**

9. Students and staff shall in advance be informed if the University intends to record a particular activity where it is expected that they may be present. Notification may be reasonably general e.g. it could apply to a whole programme or set of modules. Notification should include (1) details of intended use and access (2) a reminder that individuals may opt out of being recorded or ask to edit the recording (3) details of where any opt-out or request for editing should be sent. An example of a Recording Notice is contained in Appendix 2. Wherever practicable, notification should be sent at least 15 working days (equivalent of '21 days') before the activity is due to take place.
10. There shall be a final reminder appearing at the beginning of a recording that the recording is about to commence. An example of this "final reminder" wording that may be used is contained in the Appendix 3.

## **Opt-out**

11. A notification of an opt-out should first be sent in writing to the person responsible for the activity to be recorded e.g. a Module or Course leader. In the case of a member of staff who wishes to opt-out of a recording, the Head of Department (or equivalent) or nominee may discuss the matter with that person. In any event, those involved will be mindful of the need for sensitivity and privacy. Unless there is an overriding counter legal obligation e.g. a student with a disability needs to make a recording as part of the "reasonable adjustment" process, the right of staff to opt-out will be respected.

## **Data Protection**

12. Recordings will often engage data protection rights because they include the "processing" of personal data where individuals can be identified. For example, a video may show faces of those attending, though in the majority of cases this will not happen. Where the concern is about the likely disclosure of personal identity (personal data) it is recognised that this is an area that may be unfamiliar and requires further guidance on how to proceed.

## **Student Recordings**

13. Unless students are specifically required by the University under a programme of study or research to make recordings, prior consent by the member of University staff managing that activity will be required.

*3 It is assumed recordings will be made available to students via the VLE. Explicit consent from the member of staff concerned will be required for external publication.*

*4 Throughout this Policy the Head of Department (or equivalent) may nominate individuals to act on their behalf.*

14. Only in exceptional circumstances will consent be given. An example of an exceptional circumstance could be where a student with a disability needs to make a personal recording. It is to be assumed that where consent is given the recording may only be used for private study. This will not allow for further copying or sharing with other students.
15. Where a recording by a student is permitted all those present must be informed and have the ability to object and ask for the recording to be edited. The process for notifying and considering objections is as stated above for University recordings.

## **Intellectual Property Ownership**

16. In accordance with the University's Policy on Intellectual Property Rights (<https://www.westminster.ac.uk/about-us/our-university/corporate-information/policies-and-documents-a-z/intellectual-property-rights>) in general where staff or students make a recording, all rights in that recording (including rights in the sounds made) will belong to the University. The University seeks to respect student and staff rights to be acknowledged as authors and performers. Otherwise, to the extent allowed under the general law, any individual interests in the recordings are waived, allowing the University to act in effect as a custodian, to maximise educational objectives in the general interest of all. The final reminder that a recording is about to commence will reconfirm the position (see Appendix 3).

## **Statement of Rights**

17. When using recordings owned by the University students and staff should always assert the University's rights. Please see Appendix 4 for common statement asserting ownership of copyright.

## **Authorship and Identification as Performer**

18. Students or staff should wherever practicable look to assert a right to be identified as an author or performer. Individuals will need to come forward at the time the recording is made and assert these rights. Please see Appendix 4 for common wording asserting authorship rights

## **Appropriate Material**

19. Third party material – for example, a YouTube clip or research participant data – may be included in a recording only where it is lawful to do so and ethical requirements have been met. The University does hold licences that allow the use of some third party material, but often permission is limited to internal use only e.g. not outside of the Virtual Learning Environment. Additional clearances for both internal and external use may be required. It must not be assumed that since the activity is educational “it will be all right”.
20. A situation may occur where a recording is challenged by rights holders or deemed unacceptable for other reasons e.g. defamatory in nature. The University may itself, or require others to, edit or remove inappropriate material.

## **Visitors**

21. It is recognised that the position with visitors (being subject to a University recording or where the visitor wishes to make their own recording), may take some reflection and negotiation with the visitor. The arrangements should be agreed in writing (exchange of e-mail will suffice) and relevant information contained within the notices to be given to other participants (see paragraph 9 and 10). In the absence of such agreement it may be difficult to bring the visitor within the Policy.
22. As a general default position visitors will retain their rights in a recording made of them or by them.

23. However, the visitor allows the University under non-exclusive licence, the right to use the recording in the most general terms available. In particular the University may use the recording for any purpose, free of charge, in perpetuity and with the right to take legal action against any party breaching the University's rights. Where the University is to record, the visitor should be given the Recording Notice and final reminder (see paragraph 9 and 10) alongside other anticipated participants. The visitor should also be given the right to object to being recorded and to request an edit of the recording. Where the visitor is to do the recording other participants again should generally have the same rights to object to being recorded and request an edit of the recording.

### **Safe Keeping**

24. Where a recording identifies individuals it must be stored safely and accessed only in a way compatible with the agreed purposes (and any other stated conditions) e.g. where just for use by members of a particular class a password system may be appropriate. Security measures should be commensurate with the sensitivity of data involved. For more guidance see the University's Code of Practice on Confidentiality and Data Protection (see <https://www.westminster.ac.uk/file/9066/download?token=KiK1XHFA>)

### **Training**

25. Further training relating to the implementation of this Policy will be coordinated by the University's Human Resources and Organisation Development Department.

### **Further Help**

General queries relating to the implementation of this policy should be sent to the Associate Director of Internet and Education Technology Services.

Specific concerns relating to intellectual property rights should be sent to the Director of Commercial and Development Services.

Specific concerns relating to data protection and other legal issues should be sent to the University Registrar.

### **Responsibility**

The Deputy Vice-Chancellor for Student Experience shall have overall responsibility for this Policy.

**Approved by Academic Council:** 7 December 2016

**Implementation date:** 1 March 2017

**Review Date:** December 2017 [tbc]

**Appendix 1**

**Sensitive Data – Consent form**

Name of staff/student (Print)

Place (s) of recording(s) Date(s) of recording(s)

Activity (e.g. module, programme research activity) being recorded

I agree as follows:

The above recording is to take place in accordance with the University’s Policy on Audio or Video Recording for Educational Purposes.

My contribution to the above activity may be recorded and used in any format by the University [or others [describe].

My contribution contains sensitive personal data relating to [describe]). I consent to my data being recorded and used by the University [and others] for [any purpose] [for educational activities] [describe].

Signed .....

Dated .....

## **Appendix 2**

### **Recording**

#### **Notice**

We are writing to inform you that [between [ ] and [ ] [on [ ] the University [and [describe any others e.g. other permitted students] will be recording [describe educational activity being recorded.] This recording is being conducted in accordance with the University's Policy on Audio or Video Recording for Educational Purposes (see [http ref]). Please read the Policy for further background information relating to your rights.

The purpose of the recording is to allow the following use [describe]. It will be accessible by [describe]. If you wish to opt-out of being recorded or wish to request that your contribution be edited please contact [give details] by [date to be inserted].

In accordance with the University's Policy on Intellectual Property Rights in general where staff or students make a recording, all rights in that recording (including rights in the sounds made) will belong to the University. The University seeks to respect student and staff rights to be acknowledged as authors and performers. Otherwise, to the extent allowed under the general law, any individual interests in the recordings are waived, allowing the University to act in effect as a custodian, to maximise educational objectives in the general interest of all.

If you have any concerns relating to the recording please contact [give details].

You may not record the above activity yourself without obtaining the consent of [insert contact details].

## **Appendix 3**

### **Final Reminder**

This activity is being recorded by the University [and [describe any others e.g. other permitted students]. This recording is being conducted in accordance with the University's Policy on Audio or Video Recording for Educational Purposes (see <http://> Please read the Policy for further background information relating to your rights.

If you have any concerns relating to the recording, please contact [give details].

You may not record the above activity yourself without obtaining the consent of [insert contact details].

## **Appendix 4**

### **Ownership**

"© The University of Westminster [Year]."

### **Authorship**

"The right of [name of author] to be identified as author of this work has been asserted by them in accordance with the Copyright, Designs and Patents Act 1988".