

Medical Photography Policy	Type: Policy Register No: 05010 Status: Public on ratification
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1.0 Purpose of Policy

- 1.1 The purpose of this policy is to ensure that staff are aware of the procedures to be followed in relation to all clinical photography in this Trust.

2.0 Scope

- 2.1 In this policy, the term “recording” (or “recordings”) refers to photography (either conventional or digital) and video recording (either conventional or digital).
- 2.2 This policy applies to all clinical recordings taken by Medical Photography Department Staff and all clinical recordings taken by staff outside of the Medical Photography Service and of patients under the care of the Trust.
- 2.3 This policy applies to recordings of private patients and the procedures are set out in Section 18.

3.0 Aims

- To clarify the procedures to be followed in relation to the taking of clinical recordings
- To identify who may take clinical recordings
- To ensure that all images are retained securely
- To ensure that appropriate consent is obtained for all clinical recordings
- To ensure that recordings are only used when appropriate consent has been obtained
- To ensure that recordings are distributed appropriately and securely
- To ensure that copyright guidelines are adhered to
- To ensure that quality is achieved

4.0 Policy Statement

- 4.1 It is not permitted to make clinical recordings of any patient of Mid Essex Hospital NHS Trust on Mid Essex Hospital NHS Trust sites on any other recording devices such as mobile phones other than in the extreme circumstances identified in 12.2
- 4.2 **All** images taken of patients on the hospital site constitute a part of the patient’s record irrespective of who has taken the photograph or what device it has been taken on and each image must be downloaded onto the clinical photography database.
- 4.3 It is not permitted for clinicians to keep personal collections of patient recordings which are not sufficiently consented nor recorded in the first instance by Medical Photography Department. Reproduction copies of recordings may be provided to clinicians for teaching material providing sufficient consent has been sought (Section 7). Reproduction recordings must be transported securely (Section 17) and always stored on secured media devices.

- 4.4 Photography of the patient, by patients, their relatives or friends is normally forbidden in clinical areas. The senior member of staff will only permit the photography if the patient has consented and it is clearly, for a justifiable purpose. Any permitted recording must be carried out in a private area to ensure that no other patients are accidentally photographed.
- 4.5 Any unauthorised photography is potentially a criminal act breaching not only the Data Protection Act but also potentially Section 2 or Section 8 of the Human Rights Act. If any unauthorised photography does take place, those taking the photographs will be asked to delete the images. If this request is not met, Security may be called and if necessary, Security will call the Police.
- 4.6 Copyright of all medical recordings of patients is held by Mid Essex Hospital's NHS Trust in perpetuity, irrespective of whether the image is taken on a trust or personal device
- 4.7 The patient has the legal right to expect that their recording/s are treated in accordance with the Data Protection Act 1998 and the Caldicott Principles and that they will be managed appropriately at all times. All and any recordings made, form part of the patients medical records and must be managed and accessed with confidentiality and integrity
- 4.8 All recordings will be retained on manual or electronic systems managed by the Medical Photographic Department. The Medical Photography Department uses the Medical Image Manager system to store and retrieve clinical recordings.
- 4.9 Digital photographs will be produced on digital cameras used or recommended for use by Medical Photography Department. This will ensure that clinical recordings will be of good quality in terms of resolution and usability.
- 4.10 The IT Department maintain server space for the Medical Image Manager system over the hospital network. Stand-alone image storage systems are not permitted within Specialties, Directorates or by individual staff.
- 4.11 Medical Photography Department cannot store copies of patient's personal recordings taken of their conditions, nor store personal collections for clinicians.

5.0 Staffing and Training

- 5.1 A minimum degree entry level is preferred as Medical Photographers are likely to become a state registered profession.
- 5.2 All medical photographers Band 5 and above will have undergone a specialist training course in Medical Photography.
- 5.3 Staff outside of Medical Photography required to make recordings will be given training by Medical Photography staff.

6.0. Equality and Diversity

- 6.1 The Trust is committed to the provision of a service that is fair, accessible and meets the need of all individuals.

- 6.2 In all cases of clinical recordings, care must be taken to respect the dignity of the patient and to be aware of the potential for offence if the religious beliefs of the patient are not taken into account. (Ref to the Privacy & Dignity Policy and the Chaperone Policy)

7.0 Consent

- 7.1 The patient, next of kin, patients representative holding an Enduring Power of Attorney or if a child, the patient's parent or guardian has a right to give informed consent to recording/s and to any future use to which the recordings might be put
- 7.2 Before referring a patient for a clinical recording the 'Consent to Photography' form should be filled in and signed by the requesting doctor and countersigned as per 7.1 The Medical Photography Department will retain the consent card.
- 7.3 The 'Consent to Photography/Videography' form (appendix 1) allows for four levels of consent:
- for medical record use only
 - for clinical teaching purposes,
 - for use in medical publications
 - for the viewing of recordings by patients receiving similar treatment.
- 7.4 When clinical recordings of patients are carried out by Trust personnel other than the staff of the Medical Photography Department the same consent procedures must be followed.
- 7.5 Recordings of the unconscious patient may be taken provided that informed consent is obtained. If the patient is having elective surgery, formal written consent should be obtained at the same time as the general consent to the procedure. If it is an emergency, the consent should be obtained as soon after the procedure as practically possible. The patient, next of kin, patients representative holding an Enduring Power of Attorney or if a child, the patient's parent or guardian must be told that the photographs have been taken and the purpose fully explained and given the opportunity to disallow for teaching, research or publication purposes.
- 7.6 In the case of procedures where video recording or still photography is implicit (e.g. endoscopy, laparoscopy, fluorescein angiography etc.), additional consent to photography is not required for clinical purposes but may be if the recording is to be used for teaching, research or publication.
- 7.7 Photography without consent may be prescribed in certain circumstances:
- 7.7.1 The clinical recordings of vulnerable children where the recording of injuries is demonstrably to the patients benefit for example a suspected non accidental injury. Consultant authority is required in such cases. The decision needs to be fully documented in the patient medical record.
- 7.7.2 The clinical recordings of vulnerable adults where the recording of injuries is demonstrably to the patients benefit for example photography of a pressure wound to indicate the wound condition at a given point in time or for patients who are at risk of absconding because they lack capacity. If the patient is unable to consent to photography a mental capacity assessment will be required and documented in the notes. Refer to the Mental Capacity Act Policy for further information.

- 7.7.3 In cases where it is not possible to obtain consent prior to the recording (e.g. photography of an unusual finding in the course of an operation where the patient is under anaesthetic), the Medical Photography Service will carry out the recording but will make the recordings only available to those with a clinical need. Retrospectively, the consent card or copy of the Consent to Treatment form (with the section added to incorporate photography) should then be forwarded to Medical Photography Department and the images then placed on the Medical Photography Database. If the patient or the patient's parent or guardian subsequently declines an official investigation should be launched to determine whether photographs can be justified as clinically necessary.
- 7.8 In cases where it is not possible to obtain consent prior to the recording (e.g. photography of an unusual finding in the course of an operation where the patient is under anaesthetic), the Medical Photography Service will carry out the recording but will hold the records in the department until consent is subsequently obtained. The consent card or copy of the Consent to Treatment form (with the section added to incorporate photography) should then be forwarded to Medical Photography Department and the images placed on the Medical Photography Database as per instructions by Medical Photography staff. If the patient or the patient's parent or guardian subsequently declines an official investigation should be launched to determine whether photographs can be justified as clinically necessary.
- 7.9 In cases where the patient, next of kin, patients representative holding an Enduring Power of Attorney or child's parent or guardian request that clinical recordings be deleted then they should make a formal written request and a full investigation should be carried out to the reason behind this request and each case considered on individual merit.
- 7.10 For all episodes of clinical recordings a medical photographer will confirm the consent details with the patient prior to carrying out the recording.
- 7.11 In the case of research projects where recordings are required, the patient should give consent to photography when initially agreeing to partake in the study. No subsequent consent is required from Medical Photography Department however a record that the recording took place will be kept. A copy will remain on the medical photography database.
- 7.12 If recordings are required for teaching purposes they will only be released for this use if the appropriate level of consent has been given. Teaching purposes are situations where clinical staff, not necessarily directly involved in the patient's care will view recordings within a learning environment. The situation must exclude members of the public being able to view these recordings.
- 7.13 If recordings are required for publication they will only be released if the appropriate level of consent has been given. For publication requests this means that the appropriate level of consent is signed on the 'consent to photography/videography' card and separate specific written consent on Medical Photography's '*consent to publish*' form or similar specific consent to publish form supplied by the publisher is given.
- 7.14 If the recording is to be viewed by the public in any format then specific publication consent must be sought. The patient should also be made aware that once publication in a textbook or on the internet has taken place it may not be possible to withdraw consent

as the information will be in the public domain.

- 7.15 In the case where a recording is to be used but the patient has since died then the original consent still applies. If consent was not sought before death then the patient's next of kin should be contacted to acquire retrospective consent.

8.0 Confidentiality

- 8.1 Confidentiality is Trust policy and the patient's right under the Data Protection Act 1998, and may only be waived by the patient or by someone legally entitled to do so (See 5.73.2 of Data Protection Act). In order to ensure that the patient's right to confidentiality is preserved, Mid Essex Hospitals NHS Trust requires that only authorised copies are made. See section 17 for transportation of images.

8.2 Anonymity:

- A patient's image may not be altered in any way to achieve anonymity and so avoid the need for consent
- Blacking out of the eyes in a facial photograph is not an acceptable means of achieving anonymity of the patient in the image

- 8.3 The practice of obtaining appropriate consent only in the case of full length or facial photographs, from which the patient can easily be identified, should cease. It is sometimes possible for people to be identified from other categories of photography, e.g. showing a tattoo or other distinguishing mark. Nor is it sufficient to rely on the photographers or consultants' judgment that a particular patient is unlikely to be identified from a particular photograph

9.0. Inpatient Recordings

- 9.1 If the patients are inpatients or theatre cases a medical photographer should be requested to attend. The department opening hours are 08.00 to 17.00 each weekday. Only if a medical photographer is unavailable, or by prior arrangement, should another member of staff photograph a patient. See Section 12.
- 9.2 Ward/Department staff must be available to assist the medical photographer if patients need to be moved or dressings removed. Medical photographers are not qualified for these tasks.
- 9.3 A private area should be available for the clinical recording to take place.
- 9.4 If a photographer is likely to be required for a significantly long period of time or outside of normal working hours then the session must be booked in advance.
- 9.5 The contact number in the Medical Photography Department is 4468.

10.0 Outpatient Recordings

- 10.1 Patients will be given information in advance in as many ways as possible such as in TCI (to come in) and Appointment letters that medical photography occurs routinely in this Trust and that although their specific consent will be obtained, their willingness to contribute towards teaching and publication will be appreciated.

- 10.2 Patients should be referred to the Medical Photography Department for clinical recordings to be taken. The department opening hours are 08.00 to 17.00 each weekday. Only if a Medical Photographer is unavailable, or by prior arrangement, should another member of staff photograph a patient. See Section 12.
- 10.3 Patients attending the department from Out-Patients should not be sent with dressings as Medical Photographers are not qualified to remove and replace dressings. If a patient requires their dressings to be removed for photography then the Medical Photographer should be called to the Out Patient area.
- 10.4 The contact number in the Medical Photography Department is 4468

11.0 Chaperones

- 11.1 It is recommended that the medical photographer should consider the use of a chaperone before photographing all patients but in any event it is advised that a chaperone should always be used in the following situations:
- Any child (under the age of 16yrs). It is acceptable for a parent to be present as well, except in circumstances where this might prejudice the recording.
 - Any unconscious/semi-conscious patient
 - Any vulnerable adult (those in need of care because of mental or other disability, age or illness)
 - Any prisoner (likely to be chaperoned by a prison officer)
 - Male Photographer and fully or semi-naked female patient
 - Female Photographer and fully or semi-naked male patient

12.0 Clinical Photography by staff other than Clinical Photographers

- 12.1 Departments/Directorates/Clinicians with a need to make clinical recordings outside of the hours and services of the Medical Photography department will be given access to a compact digital camera. This should be used only when medical photography staff are unable to take clinical recordings i.e. during the evenings, nights or weekends or at satellite locations. Medical Photography staff will provide training on the process of taking clinical recordings. Medical Photography staff will manage the cameras and recordings. Only clinical recordings of patients should be created. Any other recordings will not be retained.
- 12.2 Recordings should be made in the first instance by trained Medical Photography Staff. When Medical Photography staff are unavailable (outside of normal working hours) then clinicians may use the compact digital cameras provided by Medical Photography Department. In extreme circumstances (i.e. an unusual finding in theatre) then a clinician may use their own camera to make recordings. This should not be done regularly unless by prior arrangement with Medical Photography Department. These recordings must be given to Medical Photography Department to manage at the earliest convenience and must not be stored solely as personal collections (see section 4.3)

NB All clinical images taken within the hospital form part of the medical record of the patient irrespective of the ownership of the device that takes the image.

- 12.3 It is also possible for clinicians to borrow a video camera to make recordings. Medical Photography should be contacted in the first instance to be asked to make the recording (see section 9.4) and if it is not possible arrangements can be made to lend a video camera.
- 12.4 Staff likely to be taking clinical photographs should contact the Medical Photography Department on x4468 for training
- 12.5 The correct process of consent as documented in Section 7 must be followed for clinical recordings carried out by staff outside of the medical photography service.

13.0 Achieving Quality Imaging

- 13.1 All photographs taken by staff outside the Medical Photography Department will be quality checked by a medical photographer.
- 13.2 Medical Photography staff may make alterations to photographs taken by staff outside the Medical Photography Department. It is recognized that staff using these cameras are not trained photographers and therefore alterations to these photographs may improve their appearance. It is important not to make any alteration to the appearance of a condition.
- 13.3 Acceptable means and reasons for alteration are: cropping (to remove cluttered backgrounds which could distract from the appearance of the condition), lightening/darkening (to improve the quality of an image) un-sharp mask tool (to improve sharpness on an image) Gaussian blur tool (to slightly blur background that may distract from the appearance of the condition)
- 13.4 In cases where a photograph is out of focus or where a member of staff or family member appears accidentally it may be necessary to delete the photograph. In some circumstances this may mean that no images are kept and no job uploaded to the database.
- 13.5 Any alterations will be recorded in the notes section of the job management system in Medical Image Manager (MIM).
- 13.6 In situations where images exist but without an identifying check shot (image of the 'consent to photography/videography card'), medical photography staff will take measures to identify the patient. If this is not possible then the images will be deleted.
- 13.7 In situations where a check shot (image of the consent to photography/videography card) has been given to Medical Photography staff but no images are on the memory card, medical photography staff will take measures to locate the images. If this is not possible then the images/job will be deleted.

14.0 Non Clinical Recordings

- 14.1 All persons whether medical photography staff or other staff who wish to take non-clinical photographs should adhere to the following:

- Permission is sought from the staff member in charge of the area where photography is to take place
- Where applicable written consent is obtained from persons whose image will appear in the Trust's staff newsletter, web site or other Trust article.
- Written consent is obtained from persons who will appear in the photographs if the images are to be used for any publication other than the Mid Essex Hospital's NHS Trust's internal staff newsletter.

15.0 Publication of Clinical Photography

- 15.1 It is vital to ensure that copyright of any medical photograph that is published is retained by the Trust. Nearly all publishers' contracts require authors to sign away ownership of all copyrights associated with the publication.
- 15.2 Copyright is protected when the images are labeled with the words: "This print is the copyright of the Mid Essex Hospitals NHS Trust. Permission is granted for first publication in ..(*title of journal or book and date of publication*)"
- 15.3 All digital prints produced by Medical Photography from Jan 2004 will carry a copyright notice that prohibits inappropriate reproductions.
- 15.4 It is the author's responsibility in all cases to obtain permission to publish from the patient and this must be recorded on Medical Photography's '*Publication consent*' form or similar specific consent to publish form supplied by the publisher. A copy must be retained by Medical Photography Department before the recordings are released.

16.0 Storage and Retrieval of Clinical Recordings

- 16.1 By using the Medical Image Manager (MIM) system all clinical recordings are stored safely and securely and in accordance to Data Protection Act. Medical Image Manager should therefore be the only system used for storage of original patient recordings with effect from 1st July 2004.
- 16.2 Exceptions to this are made when capturing a recording is an implicit part of a diagnostic procedure e.g. Fundus Fluorescein Angiography or Laparoscopy and a recording is stored and saved on the diagnostic tools hard drive. The recording must meet with Trust regulations for storage and retrieval.
- 16.3 An audit trail is automatically created for each user to ensure that medical recording use can be monitored where necessary.
- 16.4 The original unaltered files are stored with no further compression of the images therefore ensuring that they are acceptable if required as evidence in a court of law and compliant with the BSI PD008 Code of Practice – "Legal Admissibility & Evidential Weight of Information Stored Electronically".
- 16.5 Exceptions apply under Section 13.
- 16.6 Any persons requiring access to the Medical Image Database should complete the 'Access to Medical Image Manager' form available on the Intranet/Clinical Links/Medical

Image Manager.

- 16.7 Any persons requesting copies of clinical photographs should do so either by telephone (01245 514468) and speak to a member of staff or via the ordering facility on the database.
- 16.8 It is possible for some clinicians to be able to download copies of clinical photographs for teaching purposes only.

17.0 Transportation of clinical recordings

17.1 Where recordings are required for use outside of 'Medical Image Manager' transportation of recordings can be made using the following methods:

- Emailed from an nhs.net account to an nhs.net account including the patient demographic data
- Emailed from an nhs.net account to other secure encrypted webmail that is part of the pan governmental network, specifically emails ending with: .

.gcsx	Local Councils (Social Services)
.pnn.police	Police
.cjsm	Criminal Justice System

- Emailed using an nhs.uk email account. The images may be sent but must not have any patient identifying information. This should be emailed separately or telephoned through
 - Emailed using an nhs.uk email and encrypting the message by placing the text [encrypt] at the beginning of the subject field. Password information must be sent separately to the recordings
 - Downloaded onto an encrypted portable disk. Password information must be sent separately to the recordings
 - Posted using Royal Mail's Recorded or Special Delivery service, in a secure envelope marked "confidential – addressee only" with the senders address on the back to enable undelivered mail to be returned
- 17.7 In all incidences where clinical recordings are transported outside of the Medical Image Manager system an information letter or Word file in the case of using electronic devices detailing the clients responsibilities of appropriate use, confidentiality and safe storage will be given.
- 17.8 Hard copy prints which are reproduced but need not be posted externally should be collected from Medical Photography department. Internal mail should not be used.

18.0 Private Patients

- 18.1 Unlike NHS patients, the ownership of clinical photographs transfers to the patient and they have a right to take away a printed image or an image burnt on a CD-R for their personal use.

- 18.2 A charge will be made for the clinical photography service of private patients. This charge is based on time and consumables used within the department and will be reviewed on a regular basis.
- 18.3 The patient is required to complete a form PP2 and a copy of this sent to Private Patients Office. A copy will be retained by Medical Photography Department.
- 18.4 Private Patients are required to give informed consent to the taking of any clinical recordings and be aware of all photographs that have been taken in the course of their care. Private Patients must give informed consent to the storage of clinical recordings on the Medical Image Manager system.
- 18.5 Routinely Medical Photography Department will provide a hard copy print to the patient and to the requesting clinician.
- 18.6 If a private patient has an image taken by the Medical Photography Department and does not give permission for the use of the photograph for any other purpose than for clinical reference by their consultant, then the medical Photography Department will arrange for the photograph to be stored on the Medical Image Manager system but not be either visible or available to any other clinician or staff member.

19.0 Infection Prevention

- 19.1 Medical Photography staff will be compliant with the current infection prevention regulations when carrying out their work.

20.0 Policy Breaches

- 20.1 Any breaches to this policy will be recorded on a risk event form
- 20.2 All breaches that involve a breach of confidentiality in relation to this policy will be immediately reported to the Caldicott Guardian and Trust SIRO (Senior Information Risk Owner).

21.0 Audit and Monitoring

Compliance with this policy will be monitored by:

- Monthly review of quality and statistics of all recordings taken by staff outside of Medical Photography.
- Annual review of risk event forms in respect of breach of section 10 and 13.3

22.0. Communication and Implementation

- 22.1 This policy will be issued to the following staff groups to disseminate and ensure their staff are made aware of the policy:
- Ward Sisters/Charge nurse – issue to relevant nursing staff within their ward
 - Departmental Managers - issue to relevant nursing staff within their department
 - Divisional Managers

22.2 The guideline will also be issued via the Staff Focus and made available on the Intranet and website.

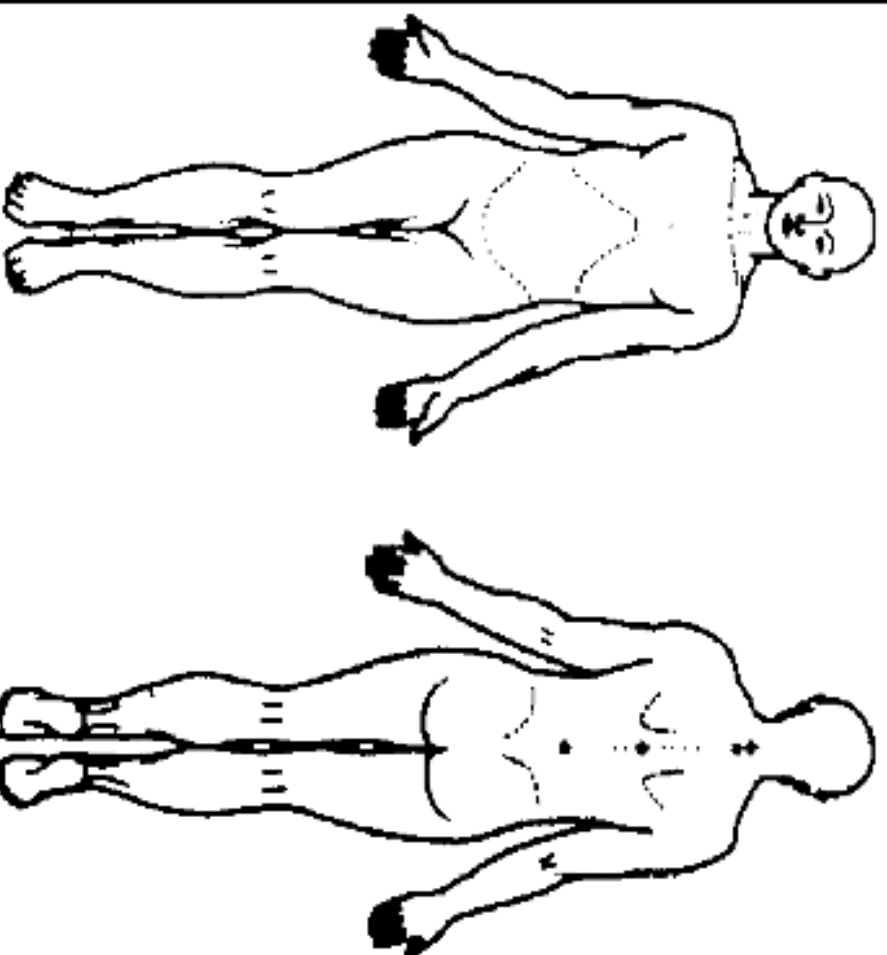
23.0 References

Institute of Medical Illustrators. 2008.

Appendix 1 Clinical Photography Consent Form

Mid Essex Hospital Services NHS Trust		NHS	
CLINICAL PHOTOGRAPHY			
Patient Consent/Request Card			
* IMPORTANT for legal reasons, highlighted fields must be completed			
* NHS Number	-----		
* Patient Number	-----		
* Surname	-----		
Other Names	-----		
Male/Female	* Date of Birth	-----	
* Diagnosis	-----		
* Requesting Consultant/Clinician	-----		
* Patient's Consultant	-----		
* Area of body to be Photographed	-----		
<p>* I confirm that I (delete as necessary: Consultant, Surgeon, Clinician, Nurse) have explained to this patient, who is under my care, why photographs are required and what will happen to them in the future</p> <p>Signature ----- Date ____/____/20____</p> <p>* Delete as appropriate</p>			
Date of photograph	Job number	No of images taken	Name of photographer
			Location of photograph
			Checked by
<p>I have been informed about the clinical photography procedure and agree to the procedure being carried out. I understand these photographs are recorded in digital format and stored securely on a database and server. I understand these photographs form part of my medical records.</p> <p>Signature ----- Date -----</p> <p>Patient aged over 16/competent child/parent/guardian (delete as appropriate)</p>			
<p>I agree that my clinical photographs may be used for clinical teaching purposes.</p> <p>Signature ----- Date -----</p> <p>Patient aged over 16/competent child/parent/guardian (delete as appropriate)</p>			
<p>I agree to my clinical photographs being used in medical publications and presented in various medical media including textbooks, journals and online submissions. I accept that once in the public domain they cannot be withdrawn.</p> <p>Signature ----- Date -----</p> <p>Patient aged over 16/competent child/parent/guardian (delete as appropriate)</p>			
<p>I agree that my clinical photographs may be viewed by patients receiving similar treatment to myself and where viewing these photographs may aid their treatment process.</p> <p>Signature ----- Date -----</p> <p>Patient aged over 16/competent child/parent/guardian (delete as appropriate)</p>			
<p>I agree that my clinical photographs may be used for all the above purposes</p> <p>Signature ----- Date -----</p> <p>Patient aged over 16/competent child/parent/guardian (delete as appropriate)</p>			

Please indicate area of body to be photographed:



Retrospective Consent to use Clinical Recordings for Teaching Purposes and Patient to Patient Consent

Surname

Patient Number NHS number

In addition to use in medical records I agree **that all** I **some of** my previous clinical recordings be available for clinical teaching purposes.

Signature..... Date.....

Patient aged over 16/competent child/parent/guardian/next of kin
(delete as appropriate)

I agree that all / some of my previous clinical recordings be available to view by patients receiving similar treatment to myself and where viewing these photographs may aid their treatment process.

Signature..... Date.....

Patient aged over 16/competent child/parent/guardian/next of kin
(delete as appropriate)

Notes: