

# Policy on the Use of Recording for Educational Purposes

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# Policy on the Use of Recording for Educational Purposes

## 1. Introduction

1.1 There are a range of educational benefits of creating and making recordings available to students. These include:

- a) The ability to access the recording at any time and from any place, adding an element of flexibility to some aspects of curriculum delivery and consumption.
- b) The provision of teaching material in multiple formats generally supports the principle of inclusivity/accessibility.
- c) The offer of support for students for whom English is not their first language or who have additional learning support entitlements.
- d) The ability to pause and replay any part of the recording supports students in increasing their understanding and also enables them to re-evaluate a topic over an extended period.

1.2 The University acknowledges that:

- Not all online or in-class educational activity will be suitable for recording. Ultimately, therefore, the decision to record should be taken by the academic member(s) of staff leading a learning and teaching session (see 4.1 below).
- The use of sensitive materials or coverage of sensitive topics may preclude some in-class or online activity from being recorded (see 9.1 below).
- Fit for purpose training support will be required to enable staff and visiting lecturers to capture their teaching appropriately. They must be competent in the use of any recording system so that they can, for example, confidently switch recording on and off during a live session as appropriate. Equally, where staff and visiting lecturers intend to produce a recording with no students present, they will need access to appropriate basic equipment and guidance on how to record and then distribute a recording.

1.3 The recording of educational activities is considered to be necessary for the performance of a task carried out in the public interest in accordance with the Education Act (1992) and the Higher Education and Research Act (2017).

1.4 It is to be assumed that all educational activities may be recorded by the University but recording by students is not permitted except as provided in Section 10 below.

## 2. Purpose and scope of the policy

2.1 The policy is provided to ensure that there is a consistent approach to the making and use of recording across the University and that all staff are clear on their rights and responsibilities with regard to recording and the use of the recorded materials that are produced.

2.2 It applies to any recordings created by University staff for the purposes of supporting teaching and learning at the University and to any recording of live teaching and learning activities, whether online or face-to-face.

This includes recordings of:

- Pre-recorded presentations by staff
- Live teaching or learning activities or sessions
- Groupwork
- Student presentations

- Assessment

### 3. Guiding principles of the policy

- 3.1 The rights of staff, students and guests of the University will be respected and protected.
- 3.2 The University will comply with data protection law, minimising the capturing of personal data by recording only as much such data as is essential for the learning and teaching activity.
- 3.3 Where possible and bearing in mind 1.2, 3.1 and 3.2 above, students should be able to access recordings of live teaching and learning activities to support their learning.
- 3.4 All materials and activities in any recording must comply with copyright law.
- 3.5 All recorded sessions must comply with the University's accessibility requirements.
- 3.6 All recorded content must be stored on University managed or approved systems and used in line with University security and [records retention policies](#).
- 3.7 The University has the right to review material to verify it complies with relevant policies or guidance (for example, copyright and accessibility – see Section 12 for further supporting information). If any recording is found to be inconsistent with relevant UK law in any way, the material may be taken down or amended, in discussion with the relevant staff members. Academic freedom will be protected throughout this process, and such removal will only occur in exceptional circumstances and after appropriate consultation with senior managers.
- 3.8 Recordings will not be used for staff performance management.
- 3.9 The University undertakes to include the provisions of this policy in Induction training for new academic staff, and in management training for line managers, Assistant Heads and Heads of School. A link to the policy will also feature in the Staff Noticeboard area of Blackboard.

### 4. Live recordings

- 4.1 It is expected that live teaching and learning sessions will be recorded wherever possible and sensible, bearing in mind the principles listed in Section 3. A recording may be an audio recording or a video recording or a recording with both video and audio. The decision as to whether to record a live session rests with the academics leading the session. This decision should be made with reference to the principles outlined in Section 3 and:
  - 4.1.1 The need to ensure that all students on a course have access to relevant teaching and learning activities, whether they are studying on-campus, online or in blended mode.
  - 4.1.2 Whether the type of teaching and learning activity or session is conducive to being recorded (see 5.2 – 5.4).
- 4.2 Other than in very exceptional circumstances, where sensitive personal data would be recorded, students are deemed to agree to a recording of a face to face or online session being initiated by the academic members of staff leading the session.
- 4.3 Where a live online teaching and learning session/activity is to be recorded, student video and sound should be switched off by default at the start of the session, to give the choice of whether they wish to turn on their audio or video. During the session it is good practice to have a part of the session that is not recorded in order that participants can make 'off the record' comments and questions. With a live face to face recording, students should be given the option of positioning themselves out of range of the in-class recording devices.

- 4.4 Recordings of live teaching and learning sessions/activities should only be made using University approved systems/software (currently Blackboard Collaborate, Microsoft Teams or Panopto). A member of University staff responsible wholly or in part for delivering the session, should start the recording.
- 4.5 When academic staff deliver live teaching and learning sessions which will be recorded, they must ensure they have copyright clearance and/or include appropriate citations for any material used in the recording. [This web page provides further advice on copyright issues.](#)
- 4.6 Recordings might include all or any of the following:
- 4.6.1 The content delivered in the session (visual and audio).
  - 4.6.2 Discussions conducted during the session (verbal and written).
  - 4.6.3 Any one present in the session and their active participation in the session.
- 4.7 All participants need to be aware that the contributions they make during a session that is recorded, including chat messages in a live online session, are legally discoverable and therefore everyone should communicate with clarity, professionalism, courtesy and respect, in keeping with the University's mission and values.

## 5. Notification that recording is taking place

- 5.1 Course and module handbooks should indicate that every taught session may be recorded and include a link to the University's policy on the recording of educational activities. In addition, at the start of any session, it should be stated by the academic staff responsible for delivering the session if it is to be recorded. Students should indicate at this point if they do not wish to be recorded.
- 5.2 The academic staff responsible for a session have the right to apply discretion when recording, and, as appropriate, pause or subsequently edit or delete a recording.
- 5.3 There are likely to be situations where all or part of a live teaching and learning activity/session should not or cannot be recorded: These may include where:
- 5.3.1 the teaching and learning activity is delivered in a way that makes recording unsuitable. For example, it is intended that there will be a high level of interactivity and significant student contributions;
  - 5.3.2 discussion or activities contain confidential or sensitive personal information or are commercially or politically sensitive;
  - 5.3.3 there may be legal, ethical or privacy reasons for not recording (see Sections 8 and 9);
  - 5.3.4 where the capability to record the activity is not available;
  - 5.3.5 where an individual member of staff or student has personal reasons that make it inappropriate for their activity to be recorded.
- 5.4 The academic staff leading/facilitating a session are responsible for deciding whether the interests in not recording part or all of a live teaching and learning activity/session, outweigh the value in recording. They should keep a note of any decision taken not to record alongside the main reasons for not recording.

Academic staff should consider the following when making a decision not to record:

- 5.4.1 The educational value of providing students with recorded learning resources, as outlined in Section 1 above and as evidenced from the published literature.

- 5.4.2 The inclusive nature of recorded learning resources and the benefit for students who may have diverse learning needs.
- 5.4.3 When deciding whether to record, staff should also consider any adverse effects on active student participation that recording might have in learning scenarios where students would be expected to make a greater contribution, for example in seminars, tutorials and group-based work. If in doubt teaching academics may refer to the module leader for advice.
- 5.5 Students have the right to opt-out of being recorded. If a student does not wish to be recorded, they should make this known at the start of a course or to the academic staff present at the start of a session. In circumstances where a student does not wish to be recorded, they may:
  - 5.5.1 Leave the session and view the recording.
  - 5.5.2 Stay in the session but not contribute to discussions (for example, when on-campus they could sit out of range of the recording equipment or in an online session they could choose not to use their microphone or the text chat).
  - 5.5.3 Ask the academic staff facilitating a session to switch off the recording temporarily during which they may contribute. This may be particularly appropriate if a student is generally happy to be recorded but wishes to share something personal or sensitive which relates to the course.
- 5.6 If a lecturer does not wish their sessions (face to face or online) to be recorded, they should liaise with their Course Leader to ensure that material representing their live teaching learning sessions is made accessible in other ways. All 'opt-outs' from recording, and which sessions/classes the opt-out(s) refer to, should, after discussion with the Course Leader, be notified to the relevant Head of School. In the case where a member of staff wishes to opt-out of all recording, the Head of School may wish to 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 for legitimate reason (e.g. due to use of sensitive material or for ethical reasons) will be respected.

## 6. Storage of and access to live recordings

- 6.1 Collaborate Ultra recordings will automatically be stored by the external service provider and become available via Blackboard.
- 6.2 All Panopto recordings of live sessions will be made available to students via Blackboard.
- 6.3 Any recordings made with Microsoft Teams will be stored in University approved systems and may be linked to, or embedded in, a Blackboard site by the academic staff responsible for the recording.
- 6.4 All Panopto and Microsoft Teams recordings have auto-captioning options. For live video streamed classes via Blackboard Collaborate, automatic captions are not currently available within the core product. This is under review by the product vendor, Blackboard. At the University of Westminster we support the Google Suite, and we encourage users to utilise Google Chrome's [automatic captioning provision](#) to access closed captions for live, browser-based video streaming.
- 6.5 A student, member of University staff or guest may request, via the academic staff responsible for facilitating the session, to make any recording unavailable if:
  - 6.5.1 they consider that defamatory, inaccurate, discriminatory or inappropriate material is a part of the recording,
  - 6.5.2 they consider that personal or sensitive material relating to them is included within a recording but which they did not intend to share.

- 6.6 The academic staff responsible for facilitating the session may decide that editing of the recording that is made available to students may address any concerns raised. If they are unable to deal with the request in this way, and feel it inappropriate to make the recording unavailable, they may seek advice in the first instance from the Information Governance team and should inform the Course Leader.
- 6.7 Default access to a recording initiated by a member of the academic staff will normally be restricted to students on the relevant module for which the recording was made. Other than when authorised by a Head of School, with the author(s) consent, a recording made on an undergraduate or postgraduate course or other programme of study will not be available publicly.
- 6.8 If students create a recording for the purposes of groupwork on a course they should ensure that all members of the group have access to the recording. Such recordings should not be made available more widely within the course, unless agreed with the module or course teaching team.
- 6.9 Recordings will normally be available for the duration of a student's enrolment (typically 3 years for an undergraduate course and 2 years for postgraduate) on a particular cohort of their course to facilitate student reflection on modules that they have completed. Recordings will therefore normally be stored for 3 years before being archived or deleted, in line with the University's retention schedule and existing arrangements for the retention of Blackboard materials. As academic staff own their performer's rights in recordings and license these to the University (see 8.2), it is acknowledged that academic staff can withdraw their consent. However, the University requires that consent and license are granted for a minimum period which would include one complete academic year plus the period required for students on the relevant module to complete referral/deferral. After this minimum period, an individual academic staff member can delete their own recordings, but must inform the Course Leader in writing before doing so.
- 6.10 If a member of academic staff were to die during their service at the University, their recordings on Blackboard will be deleted on receipt, or as soon as possible thereafter, of confirmation of death by the relevant HR partner. Where a member of academic staff leaves the University, they can delete their own recordings. If a member of staff departing the University agrees for their recordings to be retained for the minimum period (as per 6.9), the relevant HR partner will request the deletion and confirm it with the author(s).

## 7. Use of live recordings

- 7.1 Students may only use a recording for personal use in relation to their studies.
- 7.2 Staff may only use a recording for purposes of providing the course.
- 7.3 Access to a recording must not be granted to any third party, other than for transcription purposes linked to accessibility requirements or when other support workers (e.g. a study assistant) require access to perform their role. Anyone who uses a recording inappropriately (e.g. downloads and re-distributes a recording) may be subject to disciplinary action.

## 8. Legal basis for the processing of personal data, intellectual property and copyright

- 8.1 By recording learning and teaching sessions, the University is processing personal data under the lawful basis that this processing is necessary to perform a task in the public interest. By participating in a live teaching and learning session staff, students and guests are deemed to understand that a) the University will record and make the recording available in accordance with the guidance in this policy and b) agree to give the University the necessary licences to use the recordings for the purposes stated in this policy.
- 8.2 In accordance with the University's Policy on Intellectual Property Rights, in general, where staff make a recording, all rights in that recording (including rights in the sounds made) will belong to the University. The University seeks to respect staff rights to be acknowledged as authors and performers. Accordingly, staff retain ownership of any performance rights in a recording but licence these to the

University for reasons of practicality in fulfilling the educational objectives of the University (see 6.9).

- 8.3 Third party materials may be included in recordings made provided that they are either out of copyright or under a Creative Commons agreement. Some copyrighted works may also be used without permission for the purposes of 'illustration for instruction, criticism, review or quotation, parody or pastiche; or to make an accessible copy. This is provided that the use constitutes 'fair dealing' and is appropriately acknowledged. For further guidance on copyright and what may or may not be included please see [Copyright Guide for Academic Staff](#)
- 8.4 It is the responsibility of the members of staff making a recording to satisfy themselves that the materials used in learning and teaching, including for the making of recordings, are cleared for copyright.

## 9. Consent and Privacy

- 9.1 As stated in 8.1 the use of University systems to record learning and teaching sessions is considered to be necessary for the performance of a task carried out in the public interest in accordance with the Education Act (1992) and the Higher Education and Research Act (2017). The University of Westminster's Privacy Statements for staff and students can be accessed from this [web page](#).
- 9.2 Despite the provision in 9.1, no recordings that will involve the capturing of special category (sensitive, see 5.3 above) data is permitted without the explicit permission of the individuals being recorded.
- 9.3 Staff responsible for making a recording must ensure that recordings are paused and/or edited to ensure that no sensitive data is recorded and uploaded to Blackboard without the necessary permission.
- 9.4 In certain circumstances (e.g. where recording of a presentation by a student or group of students forms part of an assessment) students may not be permitted to opt-out of a recording.
- 9.5 Where a guest speaker is to be recorded, the speaker must be informed of this policy and written permission to record obtained from them in advance.

## 10. Student recordings

- 10.1 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 a class or session will be required before a student recording of the class or session may be made.
- 10.2 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.

## 11. Guests

- 11.1 It is recognised that the position with guests being subject to a University recording or where the guest wishes to make their own recording, may take some reflection and negotiation with the guest. The arrangements should be agreed in writing (exchange of e-mail will suffice) and the guest should be provided with and have explained to them the contents of this policy. In the absence of such agreement it may be difficult to bring the guest within the Policy.
- 11.2 The guest should also be given the right to object to being recorded and/or to request an edit of any recording. Where the guest 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.
- 11.3 As a general default position where a recording is made, guests will retain their rights in the recording whether made of them or by them.

- 11.4 In circumstances where a recording is made, the guest allows the University under non-exclusive licence, the right to use the recording for the purposes of tasks carried out in the public interest in accordance with the Education Act (1992) and the Higher Education and Research Act (2017).

## 12. Supporting information

[University Data Protection Policy](#)

[University Records Management](#)

[University Privacy Statements](#)

[University Equality and Diversity Policy](#)

[University Copyright Statement](#)

[VLE Accessibility Statement](#)

[Guidance on the Use of Blackboard Collaborate](#)

[Guidance on the Use of Panopto](#)

[Guidance on the use of Microsoft Teams](#)

[Guidance on the Creation of Accessible Digital Content](#)