Body Worn Video – TSSA's key concerns and potential solutions

Introduction

TSSA has been in discussion with various railway employers about the use of Body Warn Videos (BWV), usually in respect of staff employed at gatelines, on stations and in ticket offices.

The reason for the need of BWVs is well known and from TSSA's perspective amounts to a potential deterrence against the high levels of violence and abuse that members can face at work in their interactions with people at stations. On this basis, BWVs can act as some form of a reassurance for members facing the threat of violence. They can also offer the opportunity to gather evidence that may be useful for BTP to pursue criminal charges and secure convictions against perpetrators.

Despite this, TSSA members have misgivings about the use of BWVs, not least because they may still have to face violence and abuse, albeit with a camera that is hopefully switched on when the incident happens.

Fundamentally, our view is that Body Worn Videos have to be regarded as one measure in an enhanced security plan to keep railway workers safe. Alongside it must be other methods, and not the least that of reporting all incidents to gain a complete picture. A recent TSSA survey of union reps in TOCs and Network Rail found that nearly half of respondents (48.33%) were aware of incidents of violence, assault, abuse or vandalism that were not being reported by employees.

TSSA advice to members

The union has developed guidance for reps on the use of BWVs, utilising research and experience from several quarters, including the approach being taken by some railway companies and enforcement agencies.

TSSA's key concerns

The problem that railway companies are facing is that of encouraging increased levels of usage. TSSA's key concerns are:

- Use of the disciplinary procedure
- The need for it to remain voluntary
- The need for transparency
- Equality Impact Assessment
- Data Protection
- Not a solution to issues of lone working
- Risk Assessment
- Training in procedures for use

More specifically:

1. Use of the disciplinary procedure

One of TSSA's principal concerns is associating the use of BWVs with the possibility of an employee facing disciplinary proceedings. This can be seen in the following circumstances:

- For not wearing the device
- For not activating the device
- To use the footage to gather evidence which may result in the employee wearing the device facing disciplinary charges, even if this might be restricted to incidents that could amount to gross misconduct
- Using the recording as evidence against an employee(s) who are in the background and even if the wearer is not at fault

This list assumes that recording in non-customer situations such as offices, toilets, messrooms, etc, would be banned and thus be inadmissible as evidence in a disciplinary situation.

Solutions: Discipline

Trust and confidence is an issue for many workers and knowing that they may face a disciplinary based on evidence from their own camera will not encourage them to wear a BWV.

There can also be a concern that video footage may be trawled by managers and HR representatives looking for evidence of incidents.

Members can also feel that BWVs are another form of monitoring and surveillance of the worker.

The way to encourage members to wear BWVs is to ensure that an agreement is very clear that footage will not be used to invoke a disciplinary procedure against:

- the wearer
- anyone in the background
- in a non-customer facing location.

If using BWV is to remain voluntary, clearly there should be no disciplinary sanction for not wearing one.

Similarly, the usual instruction is to only switch the device on when a threat is perceived which means that in practice there should not be any sanction for not having it operating at another time.

2. The need for it to remain voluntary

Some employers have decided to make the wearing of BWVs compulsory which is what GWR has done. This sends the wrong message and reinforces concerns about surveillance and monitoring as members feel coerced and disrespected because they are unable to decide for themselves if they should wear a device.

Solution: Voluntary
Adopt a voluntary approach which should be one of encouraging and convincing employees of the need to use the device but which stops short of compulsion. Part of that has to be removing the areas where issues of trust and ulterior motives may prevail.

3. The need for transparency
The use of BWVs should be based on transparency around the reason the use of the footage is being captured. This means that what they are to be used for must relate entirely to safety concerns in the station working environment and have nothing to do with monitoring employee performance, location tracking or instigating disciplinary action.

Our additional concern is that as devices develop in the range of functions they can offer, employers will seek to take advantage of the new opportunities to keep an eye on where staff are and how they are performing.

Solution: Transparency
Employers need to make clear statements that BWV footage will only be used as a deterrence against assault and abuse at work and that it may potentially be shared with the BTP to aid prosecution of offenders.

4. Equality Impact Assessment
The Information Commissioner's Office highlights the need for the completion of an Equality Impact Assessment that fully addresses:
    a. the use of BWVs and
    b. any impact on the rights and freedoms of individuals whose personal data is captured.

Solution: EQIA
Employers should provide a copy of the EQIA and discuss its contents with the trade unions recognised for the affected workers.

5. Data Protection
BWV policies will be expected to comply with both the Data Protection Act 2018 and the GDPR arrangements.

Solution: Data Protection
How compliance with these should be specifically laid out in collective agreement, including around access, storage and disposal.

In accordance with the Data Protection Act 2018 and the GDPR legislation, members should:
    a. Have access to recordings of themselves
    b. Be able to make requests for data which are being dealt with promptly.

c. Be informed when others have accessed that information with logged explanations of why that has happened
d. Be informed how long employers will retain the video data for and when the footage has been deleted.

   ICO guidance is that data should be retained for the shortest time necessary to meet the employer's purpose and should be disposed of appropriately.

Worker should also be assured that no copying of video footage should be permitted.

6. Use of BWCs is not a solution to issues of lone working

TSSA has members who have to work alone at stations for entire shifts, potentially having to deal with a variety of issues both from within a ticket office and out on the station, all without the support of a colleague. As such they are exposed to a heightened risk of becoming the victim of harassment, abuse and violence (and even sexual assault).

In a recent survey of TSSA members in train operating companies, 56% of respondents said they had experienced violence when lone working, with 25% agreeing that this happens most of the time.

A BWV is not a solution to issues of lone working. Whilst it can have the benefits of deterrence and may record an incident happening, it does not call for assistance or protect the lone worker from the criminality that they are exposed to whilst at work.

Solution: Lone working

Explore options to improve security and safety for anyone required to work alone.

7. Risk Assessment

Before deploying BWVs, employers should conduct thorough risk assessments to determine the suitability of the devices for the specific roles and environments in which they will be used.

Solution: Risk Assessment

The Health and Safety at Work Act 1974 and Regulation 4 of the Safety Representatives and Safey Committee Regulations (SRSC) 1977 (along with its associated code of practice) and the Management of Health and Safety at Work Regulations 1999 not only require risk assessments but also that employers should consult with safety representatives "in good time" about those risk assessments.

In good time means at an early stage in the risk assessment's development. This enables the rep to be able to consult with those they represent and then raise the concerns and issues that have been expressed.

The solution, therefore, is for employers to engage with reps over risk assessments in accordance with the legal requirements.

In addition, BWCs should be considered as part of Personal Protective Equipment (PPE) under the Personal Protective Equipment at Work Regulations 1992 , ensuring they meet requirements for safety, fit, and hygiene. This must include recognition of the possibility that wearing the device may need to be modified for women workers.

8. Training in procedures for use of BWVs

TSSA wants to ensure that BWVs are only deployed after staff members have received appropriate training in how and when to use the device, including whether they need to issue any warnings before switching it on.

We are also aware that there can be an issue of buffer[1] recording meaning the device records for a few seconds before being turned on. The ICO warn that this should not be excessive and that employees only record the amount of footage they intended to.

Solution: Training

Incorporate these elements in company policies with a wording that reflect both elements (eg, staff can only use BWVs after they have been trained in their use).

[1] https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/cctv-and-video-surveillance/guidance-on-video-surveillance-including-cctv/additional-considerations-for-technologies-other-than-cctv/body-worn-video-bwv/