

# HTA guidelines: filming or photographing any part of the living donation process

---

Issued: **November 2016**



## **HTA guidelines: filming or photographing any part of the living donation process**

### **What is the Human Tissue Authority?**

1. The Human Tissue Authority (HTA) is a statutory regulator, established in 2005, to oversee compliance with the [Human Tissue Act 2004 \(HT Act\)](#). We license organisations that remove, store and use human bodies and tissues for certain purposes. We aim to maintain public confidence that human tissue and organs are used safely, ethically, and with proper consent, which is a fundamental principle of the HT Act.
2. We often receive enquiries about filming or taking photographs of activities that we regulate or that take place on HTA-licensed premises, for example:
  - different parts of the living donation process
  - the use of donated bodies for training in medical schools or surgical training centres;
  - post mortem examinations in mortuaries;
  - organ transplants in hospitals.
3. This guidance is for anyone considering filming or taking photographs of any part of the living organ donation process. Further details can be found in our [Codes of Practice](#) or on our [website](#).
4. When we refer to photography and filming in this guidance, we intend to capture any recorded, still or live-images, regardless of how they are shown.

### **What is the HTA's role in living organ donation?**

5. The HTA assesses and makes a decision whether to approve every case where one living person donates an organ or part organ to another living person in the UK. We make sure that appropriate consent is in place, free from coercion and that no reward is sought or offered. We also make sure that the risks have been explained to the donor and understood by them.
6. We train and accredit Independent Assessors (IAs) to interview the donor and recipient and write a report about the planned donation. These reports are submitted to the HTA for a decision.

7. There are a number of different types of living donation in the UK. For example, there are cases where:
  - a) an individual wants to donate to someone that they know (directed donation)
  - b) an individual wants to donate to someone they do not know personally (directed altruistic)
  - c) an individual wants to donate to someone they do not know at all (non-directed altruistic)
  - d) a donor and recipient are incompatible, so they are matched with other donor and recipient pairs as part of a [national sharing scheme](#) (paired and pooled and non-directed altruistic donor chains).
8. NHS Blood and Transplant (NHSBT) is responsible for the allocation of organs from non-directed living donors. (see point 7c)
9. We also license and inspect hospitals that conduct organ transplants. We make sure that when organs are used, their quality and safety is maintained which minimises any risks, for example the transmission of disease.
10. For more information on the different types of living organ donation, please visit our [website](#).

### **Filming the living organ donation process**

11. When considering filming any part of the living donation process, remember that confidentiality should remain a fundamental consideration. In addition, for non-directed altruistic and paired and pooled donations, the anonymity of the donor and recipient is required before the operation.
12. Filming the living donation process can also be challenging for several reasons, for example:
  - following the living donation process from start to finish can take a long time, often many months;
  - the transplant may not go ahead even if the person starts the process (for example, the person may not be medically suitable to donate, may develop an illness during the process or may change their mind);
  - many non-directed altruistic donors have little or no interest in meeting the recipient of their organ or part organ and choose to donate in this way for that reason;

- donors and recipients can withdraw from the filming (and donation) process at any time.
13. If you decide to go ahead with a filming or photography project, it is important that you explain the process and what will and won't be included to the donor and/or recipient. You should consider getting special permission from all participants, especially if they will be identified in the film, including from NHSBT, the donor, the recipient, the transplant team and the filmmaker. You should also consider having a written agreement between all parties, which includes any conditions placed on consent to film.
  14. You may also wish to include the right for all parties to preview the edited material before it is broadcast. This will help ensure that you have complied with any conditions placed on consent to film.
  15. When filming or photographing, it is important that you put in place systems to make sure that anyone involved in the project treats the participants with dignity and respect.
  16. In the spirit of the consent that must be given for activities covered by the HT Act, we advise that filming is not contrary to the consent given by the individual or their family, and that the donor and recipient and their family are treated with dignity and respect.
  17. The information in our Codes of Practice on [Consent](#) and [Donation of Solid Organs and Tissue for Transplantation](#) can help ensure that the donor, recipient and their families are given due consideration throughout the filming or photography. The General Medical Council's (GMC) publication '[Making and using visual and audio recordings of patients](#)' may also be a useful resource.

### **Filming or photographing a transplant where the donor and recipient(s) are matched by NHSBT**

18. Donors and recipients should be informed that taking part may mean they discover the identity of the other parties involved. For this reason, you may want to consider making the location of donors and recipients non-specific, for example, the region can be given but not the town. The locations of the transplant centres involved should not be made available to the donor or recipient. You may also wish to consider blurring the images or altering voices

and also removing any meta-data from digital images and videos before they are published (e.g. location data and time-stamps).

19. Other things to consider:

- where the parties must remain anonymous ahead of the operation, you should consider how to manage the risk of the filming/photography team accidentally breaching this anonymity, for example by using different teams for the donor and recipient, and having information safeguards in place to minimise the risk of unauthorised access to or disclosure of such information;
- being involved with filming/photography should not influence whether the donor or recipient goes ahead with the transplant. The donor and recipient must not feel pressured to take part, disclose their identity or to meet each other. They must also be informed they can withdraw from filming/photography at any time;
- the first contact (if any) between donors and recipients after the transplant should be made by the transplant team. It should not be made directly by a journalist;
- donors and recipients should be given the option of whether they would like to continue with filming after the transplant has taken place;
- you should tell the donor and recipient that once they have taken part in filming/photography and signed a release form, the footage may still be used.

20. If the nature of the transplant is novel or unusual, extra care must be taken to ensure confidentiality and anonymity.

### **Paying a donor and/or a recipient and their family**

21. We make sure that no reward is sought by, or offered to, donors during the living donation process. A 'reward' is regarded as any financial or material advantage received as a result of the supply, or offer to supply, of an organ for transplantation. As a general rule, we would not consider being filmed/photographed to be either a financial or material advantage, although we would always consider the individual circumstances. This includes when the filming will be made widely available (e.g. by broadcast, streaming or on-line publication).

22. In order to approve a donation, we need to be satisfied that the donor has made a firm decision to donate:
- before the offer of filming/photography and associated publicity; and
  - without any knowledge that there may be an offer of filming/photography or publicity, and;
  - the donor has not been influenced by the prospect of filming.

For example, it would not be appropriate for a donor to contact a transplant unit because they have heard they are looking for someone to feature in a documentary. This would suggest the donor's decision has been influenced by the opportunity to be part of the documentary.

23. The only circumstance where it would be acceptable to offer payment to a donor or their family for taking part in filming/photography is if the offer of payment has not acted as an incentive to donate, for example reimbursing travel expenses. The HTA's primary concern is not whether a payment has been made, but whether any payment made is *for* agreeing to be filmed or *for* agreeing to make a donation. If a payment is made *for* either of these purposes, then it is likely to constitute a reward and is therefore unlawful.
24. We recommend that you [contact us](#) before offering payment to donors for filming or photography.

### **Filming Independent Assessor interviews with the donor and recipient**

25. Before a living donation can be approved, the living donor and recipient must be interviewed by an IA. The purpose of these interviews is to make sure the requirements of the HT Act and the Human Tissue Act 2004 (Persons who Lack Capacity to Consent and Transplantation) Regulations 2006 have been complied with. This means the donor has given valid, appropriate consent and has not been given or offered a reward.
26. It is essential that the independent assessment process is not compromised in any way. Media involvement could influence a donor's decision to proceed with a donation, particularly in relation to duress, coercion and reward.
27. It is for this reason that filmmakers are not able to film the IA interviews with a donor or recipient.

**Please note:**

Consideration should be given to the rights of any other individuals whose personal information is photographed or filmed at the same time as footage is taken of the body or body part (e.g. the images or voices of people who are present in the operating theatre).

It remains the responsibility of the person or organisation who collects and uses such personal information to respect the rights of any individuals involved, and to comply with applicable laws regarding the collection and use of such information, including data protection laws.

You can also speak to the HTA for further information; please [contact our press office](#) (020 7269 1912).