



Information sheet

Use of video and audio recordings at BFH

1. Purpose of the information sheet

Video and audio recordings are used in teaching to enhance its impact (e.g. to communicate content, to document learning outcomes, to support self-reflection, etc.). This is why some degree programmes include communication training or similar formats, of which video or audio recordings of the students form an integral and necessary part to reach the goals of the degree programme, and facilitate self-reflection, and in some cases are also used in the creation of corresponding competency assessments.

In addition, the use of digital communication formats offers the option of creating recordings of the spoken word as well as of transmitted video sequences. In this context, tools can also be used that directly transcribe what is said, for example, in order to record it in writing, to make it easy to reuse or to distribute it.

However, there is heightened potential for conflict in the recording and use of video and audio products, as it risks the infringement of personal rights. To mitigate this risk, BFH has drafted a Code of Conduct and issued recommendations that aim to help people avoid the infringements of rights and similar disputes.

When considering copyright issues, which can also play a role (e.g. when recording a video and distributing a lecture), please refer to the “Copyright Information Sheet” (in [German](#) or [French](#)).

For further information on data protection issues, please consult the “Declaration of consent and information on the processing of personal data” (in [German](#) or [French](#)).

2. Legal framework

Whenever personal data is processed, which is the case with video and audio transmissions and any associated recordings, this encroaches on the general right of personality. Personal data processed in the context of transmissions and recordings are explicitly subject to data protection, and its inclusion is only permitted if there is a justification. In addition, there is the *right to one’s own image*. This means that the persons captured in a photo can decide whether and in what form a photo may be recorded and published.

For photo, film and sound recordings and their publication that are not necessary components of a study assignment, a declaration of consent prevents potential legal consequences. Persons of whom photos, film or sound recordings have been published in an inadmissible manner may object to the publication at any time and, if need be, assert their claims by means of an action in the civil court. The court may order the removal or destruction of the disputed recordings and also order the payment of compensation for financial or immaterial damage. When indicated, further financial or penal consequences are possible (destruction of printed materials, court and lawyers’ fees, or a penalty of up to one year imprisonment for recording non-public conversations without the consent of the parties involved, Art. 179^{ter} of the Swiss Penal Code).

3. Video and audio recordings and transcriptions by BFH

a. For teaching purposes

Sequences of communication training recorded using video technology and other recordings made for teaching purposes at Bern University of Applied Sciences include visual or auditory data. This typically involves processing the following personal data of the persons recorded:

- Last name, first name and role of the person(s) recorded,
- Name and designation of the sequence,
- Date, start, duration and end of the sequence.

When they enrol to study at BFH, whether for basic or continuing education, students state that they have taken note that some forms of tuition are required to make recordings. BFH, for its part, warrants that the recorded material will be treated in a responsible and lawful manner. Like all personal data, video and audio recordings are subject to the Cantonal Data Protection and Archiving Regulations and the corresponding implementing provisions which restrict third party access in order to protect the persons in the recordings.

Here, the following applies:

- Access to the video and audio recordings is restricted to the persons who feature in the recordings, the lecturers involved in the relevant module and any persons involved in a performance appraisal, plus the BFH staff involved in processing the video recordings.
- Recordings may not be used or published outside the purpose of the training without the consent of the persons who can be seen or heard in the recording.
- For external use of the recorded personal data, data subjects are asked for their consent in advance.

As far as the content of the sequences is concerned, other persons may not be recorded without their consent and particularly sensitive personal data may not be recorded at all. All students in basic or continuing education are to be made aware of this. If personal data is communicated in an inadmissible form (unforeseen) during the course of a recording, the recording in progress must be interrupted and relevant sections deleted immediately.

Recordings shall be made available to the relevant persons on a platform to be specified in each case, usually operated by BFH, for the period of time necessary for them to be used within the context of the study programme. As a rule, the recordings remain stored on a BFH server during the degree programme.

b. For the publication

Consent from every person who is depicted or recorded is required as soon as recordings of any nature whatsoever are to be placed in the public domain (Intranet, the Web, YouTube, print media, etc.). This applies both to students and to all other groups of persons within and outside BFH. In this case the persons in the recording must be informed about the purpose of the recordings and should sign a declaration of consent.

c. Transcripts

The option of transcribing the spoken word during (video) calls or in other situations touches on two problem areas at once: the accuracy of the transcript and data protection. This means that careful handling is required when using such applications. The following procedural steps are therefore to be followed wherever transcription technology is used:

- Transcripts should only ever be considered where they are deemed necessary – for example, to enable absent colleagues to gain subsequent knowledge of the content of the session.

- Anyone whose spoken word is to be transcribed must be informed in advance and their consent must be obtained.
- Transcripts are to be checked afterwards by the persons handling the recording to ensure the accuracy of the transcribed conversations.
- In the spirit of fairness, the transcripts must be distributed to all persons present for review with the opportunity to make comments. This applies particularly when transcripts are being used in lieu of minutes. In this case, the recordings on which the transcripts are based – if available – are to be provided for the validation of the transcripts.
- It is to be determined in advance and in consultation with the persons concerned at what point in time a transcript, including any recording on which the transcript is based, should be deleted; transcripts must be deleted in a timely manner.
- Where documents contain transcripts, the transcripts must be clearly marked as such.
- Transcripts must not be made when personal data of third parties is exchanged and discussed; this is especially the case in discussions with HR.
- No transcripts may be made wherever particularly sensitive personal data is the subject of discussion.
- If the personal data of third parties or particularly sensitive personal data is communicated (unexpectedly) in transcribed statements, the transcripts must be deleted and any recording in progress must be stopped and the relevant sections deleted immediately.

d. Specific to Microsoft Teams recordings

In Microsoft Teams meetings, any participant who attends via their BFH account can start a recording. To ensure that the rules are complied with, it is a good idea to leave the implementation of the recording with the organiser or a previously designated person. For their protection and by way of information, all participants are shown a visual notification immediately and for the duration of the recording in Microsoft Teams that the conversation is being recorded.

For recordings in Microsoft Teams, the same principles apply – where applicable – as for transcripts:

- Recordings should only be made for reasons of necessity, for example to enable absent colleagues to gain knowledge of the meeting at a later date.
- All meeting participants must be informed in advance about the planned recording and their consent must be obtained. All participants have the option of switching off the camera or microphone to prevent the recording of their image or audio data. This option must be pointed out.
- It must be determined in advance and in consultation with the persons concerned, at what point in time a recording is to be deleted. Please note that only the person who initiated the recording can delete it. The data protection principle, that recordings must be deleted as soon as they are no longer needed, applies; as a rule, recordings must be deleted in a timely manner¹.
- Recordings must not be made when a third party's personal data is exchanged and discussed; this is particularly the case in meetings involving HR.
- Recordings may not be made under any circumstances if particularly sensitive personal data is under discussion.

¹ If participants who are (partially) prevented from attending only need to hear what was discussed, it is advisable to delete the recording after two weeks at the latest. If a recording is needed for comparison with a transcript, the recording must be deleted after the comparison has been performed. As far as courses are concerned and their integration into Moodle or similar, a longer period of availability may be indicated.



- If the personal data of third parties or particularly sensitive personal data is communicated (unexpectedly) during the course of a recording, the recording in progress must be stopped and the relevant sections deleted immediately.

Furthermore, when sharing one's screen, care must be taken to ensure that no confidential content is revealed. In this respect, care should be taken not to present the complete screen, but the individual application only. Furthermore, applications that are not needed should be closed in advance. This applies in particular to Outlook and similar programmes.

If live events or webinars with Microsoft Teams are planned, it is a good idea to contact the Data Protection specialist service to clarify the particular data protection requirements and to execute the broadcasting of the event in compliance with the law.

4. Own video and audio recordings by staff and students

If staff and students make their own recordings or activate a transcription mode, these also impinge upon the personal rights and copyright of the persons in the recordings. Loss of control is also likely if the recordings are retransmitted or uploaded to the internet or to other channels. In such cases, any damage caused can no longer be reversed. Recordings of rehearsal sequences in which actors can also be seen, or of persons and patients in training situations in the healthcare sector, are particularly problematic.

The person in charge of the departments must issue rules in this regard to prevent such problems. In addition, line managers and supervisors must ensure that staff and students act in an admissible manner and in accordance with BFH guidelines. Here, too, the risk of infringements of personal rights can be minimised by the persons in the recording signing a declaration of consent.

5. Brief summary

- Recordings are to be made only where strictly necessary.
- Before recordings are made, all persons present must be informed and – unless the recordings are for teaching purposes – asked for their consent. This also applies when planning the creation of transcripts.
- Apart from recordings required in the context of their studies, people who do not want to be recorded can leave the room for the relevant segments. Alternatively, care should be taken that they are not captured in the video or audio recordings.
- When making recordings, avoid and refrain from the discussion of personal data of third parties (without their consent) and particularly sensitive personal data (as a general principle).
- On the basis of this information sheet, the Schools may issue specific regulations on handling video and audio recordings, the evaluation thereof (transcripts) and obtaining declarations of consent.
- Recordings must be deleted in a timely manner.

Copyright Information Sheet (in [German](#) or [French](#)).

Declaration of consent and information on the processing of personal data” (in [German](#) or [French](#))

Bern, 13 December 2022

BFH Legal Services