

**SERVICE USERS RECORDING SOCIAL WORK AND OTHER LA STAFF**

***Guidance for adult service users (Meetings could include formal meetings with a number of people or one to one discussions with a social worker or other professional)***

**WHY MIGHT YOU WANT TO RECORD MEETINGS WITH SOCIAL WORKERS AND OTHER PROFESSIONALS?**

● Because you don’t want to forget things and find an audio recording easier

than making notes. For example, this might be the case if you have a

difficulty that affects your ability to write or concentrate or are forgetful generally or when stressed.

● You might want to play it back later to help you understand what happened or play it to a family member who couldn’t be there rather than trying to explain what happened.

● If you have to write notes at the time you may find it difficult to participate fully in the meeting.

● Because you don’t want to rely on other people’s records of a meeting and

want a record of your own. Although formal minutes of meetings

are taken, they are often not available straight away, and we know service users can find it difficult to get corrections made where the understanding or recollection of professionals is not the same as your own. You might feel disadvantaged if you cannot challenge inaccuracies or omissions.

● You may have previously disagreed with the accuracy or completeness of a professional’s record and were unable to demonstrate that your version of events was accurate.

● Because you don’t trust a particular professional or professionals generally.

● Because you want to prove a professional is not telling the truth or gather evidence for later use in court proceedings.

● Because you want to circulate information as part of a campaign, for

example on the internet.

**WHAT DOES THE LAW SAY ABOUT RECORDING MEETINGS?**

Remember, recording meetings is not the same as *distributing or publishing* the records or recordings that have been made.

**DOES THE DATA PROTECTION ACT 2018 SAY SERVICE USERS ARE NOT ALLOWED TO RECORD MEETINGS?**

No. It does not prevent service users recording meetings.

A service user is not a data controller or a data processor for the purposes of the act. Therefore, as long as the service user only uses the information for their own private purposes, the Data Protection Act 2018 will not apply to them.

However, when a professional makes a record of a meeting in which a child or

service user is involved the Data Protection Act 2018 will apply. In such circumstances the social worker must ensure that the service user is aware that recording is taking place. They should also be given the opportunity to object to the recording prior to it taking place.

**DOES THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) SAY SERVICE USERS ARE NOT ALLOWED TO RECORD MEETINGS?**

No. It does not prevent service users recording meetings. RIPA only applies to the actions of the State (e.g. social services), for example it gives some protection to service users in relation to surveillance type activity.

**DOES STATUTORY GUIDANCE SAY ANYTHING ABOUT PARTICULAR TYPES OF MEETING THAT PREVENTS RECORDING?**

***Working together to safeguard children*** *-* ***A guide to inter-agency working to safeguard and promote the welfare of children*** *(****July 2018)*** does not say anything about the making of recordings of child protection or looked after children meetings by service users, or that suggests this should or should not happen.

***The IRO Handbook*** on Looked After Child Reviews: makes clear that the independent reviewing officer is responsible for ensuring an accurate record of initial / review meetings is made and distributed, although the guidance does not include any mechanism for correction of inaccuracies by service users or other participants. It does not say anything about the making of recordings of such meetings by service users, or that suggests this should or should not happen.

**CAN A RECORDING MADE BY A SERVICE USER BE RELIED ON IN COURT?**

Potentially, yes – but the court would have to give permission.

A court is only likely to give permission if it is clear that the recording is both relevant *and* reliable.

If a meeting or interview has been made covertly it may be difficult to demonstrate that the recording is complete and that something said or done is not being taken out of context.

The court is likely to require a transcript to be prepared, but the original digital or analogue recording should be made available to all participants to hear / view.

It is a contempt of court to record court hearings unless the court has given permission.

**I’M A SERVICE USER - I’D LIKE TO RECORD MEETINGS. HOW SHOULD I GO ABOUT IT?**

For formal meetings, we recommend that you raise this with the person chairing the meeting in advance giving your reasons so that all those attending the meeting can be informed and suitable arrangements made.

They might not be sure what the law or policy is on this issue and may wish to check before they agree. You could show them this guidance to help them.

It might be helpful if you explain why you would like to record the meeting. For

example :

● I don’t remember things very well and I’m not very good at taking notes;

● The minutes of meetings always come too late;

● I feel worried that things I have said or others have said might not be

accurately recorded;

● I remember and understand better if I can hear things rather than reading

Them;

● I have a disability which makes it difficult to take notes or affects my memory or concentration;

It might be helpful if you agree to record the whole meeting and to send a copy of the entire unedited recording to the other people at the meeting if they would like it.

It might be helpful if you reassure the people at the meeting that you will only use the recording for your own use, or for court proceedings relating to the children, or in the taking of legal advice, and that you will not publish or distribute the recordings on the internet or otherwise. The recording you make might contain other people’s private information (including your childrens’) and it is a good idea to make sure that everyone understands that you appreciate their privacy is important.

If you are told you cannot record, you could ask for an explanation to be given so you can see if the reason given is a good one or if there is any practical solution that would resolve the problem. If they give a reason that you think is not a very good one you could show them this guidance and ask them to reconsider.

You might also want to ask professionals to listen to or watch recordings of others that they have recorded without them knowing, for example:

* A recording of a contact session with a child without the other party’s knowledge or the consent of the court (if there are Family Court Proceedings);
* A recording of a telephone conversation with the other party or another person;
* A recording made by concealing a device on a child.

There are several considerations that should be taken into account by professionals when offered such material:

* There is a possibility that recordings may not be authentic, accurate or complete;
* In accepting the recording, the professional may appear to be influenced by one party over another;
* In family court proceedings, once the professional has seen/heard the recording, it must be provided to the parties and the court, if it is relied upon.

 If you offer such material where the family court is involved, the professional needs to be aware that whether it is admitted into evidence will be a decision of the court and there may be issues raised by other parties about the validity of the material. While it may be appropriate to read/listen to the recordings the professional should decline to accept it until the recording has been brought to the attention of the court and the court’s directions have been obtained.

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