**Devon County Council**

**THE RECORDING OF MEETINGS WITH SOCIAL WORKERS AND OTHER PROFESSIONALS BY INDIVIDUALS E.G. PARENTS or YOUNG PEOPLE (non professionals)**

**Why Might Individuals e.g Parents or Young People Want to Record Meetings**

* Because they don’t want to forget things and find an audio recording easier than making notes.
* They might want to play it back later to help understand what happened or play it to a family member who couldn’t be there rather than trying to explain what happened.
* Making written notes during the meeting may make it difficult to participate fully in the meeting.
* Because they don’t want to rely on other people’s records of a meeting and want a record of their own.
* Although formal minutes of meetings are taken, they are often not available straight away, and we know it can be difficult to get corrections made where the understanding or recollection of professionals is not the same as theirs, this might make them feel disadvantaged if they cannot challenge inaccuracies or omissions.
* There may have been previous disagreement with the accuracy or completeness of a professional’s record, and they were unable to demonstrate their version of events was accurate.
* Because they don’t trust a particular professional or professionals generally.
* Because they want to prove a professional is not telling the truth or gather evidence for later use in court proceedings.
* Because they want to circulate information as part of a campaign, for example on the internet.

**What Does the Law Say About the Recording of Meetings?**

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

The Data Protection Act 2018 does not say recordings of meetings is not allowed. The individual is not a data controller or a data processor for the purposes of the act. Therefore, if the individual only uses the information for their own private purposes, the Data Protection Act 2018 will not apply to them.

When a professional makes a recording of a meeting in which a child or adult e.g., parent is involved, the Data Protection Act 2018 will apply. In such circumstances, the social worker must ensure the individuals are aware that recording is taking place. They should also be given the opportunity to object to the recording prior to it taking place.

The Regulation of Investigatory Powers Act 2000 (RIPA) does not prevent individuals (non-professionals e.g., parents and young people) to record meetings. RIPA only applies to the actions of the State (e.g., social services), for example it gives some protection to individuals in relation to surveillance type activity.

**Statutory Guidance** does not say anything about the making of recordings of child protection or children in care meetings by non-professionals or suggests this should or should not happen.

**Can a Recording by A Non-Professional e.g. Parent or Young Person Be Relied On In Court?**

Potentially, yes – but the court would have to give permission and will only likely give permission if the recording is both relevant *and* reliable.

* If a meeting or interview has been made covertly it may be difficult to demonstrate 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.

**When Individual’s Want to Record Meetings**

For formal meetings, it is recommended they raise this with the person chairing the meeting in advance giving their reasons so all those attending the meeting can be informed and suitable arrangements made.

It will be helpful to know the reasons for recording the meeting. For example:

* They don’t remember things very well and not very good at taking notes.
* The minutes of meetings always come too late.
* They feel worried that things they have said, or others have said might not be accurately recorded.
* They remember and understand better if they can hear things rather than reading them.
* They have a disability which makes it difficult to take notes or affects their memory or concentration.

It might be helpful if they 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 they reassure the people at the meeting, they will only use the recording for their own use, or for court proceedings relating to the children, or in the taking of legal advice, and they will not publish or distribute the recordings on the internet or otherwise. The recording they make might contain other people’s private information (including their children’s) and it is a good idea for the individual recording to make clear they appreciate privacy is important. It might be helpful for a discussion to take place with the individual prior to the meeting. In doing so a compromise might be made on alternative methods, e.g., a trusted friend attends to make a written note.

**I Have Been Shown a Recording Of Others That An Individual Recorded Without People Knowing**

For example:

* A recording of a family time 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 made 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 such material has the family court 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.

**I Have Been Recorded Covertly**

We should have nothing to fear from covert recording. Our attitude should be, “I am doing my job and I have nothing to hide. I can explain why I said what I said or why I did what I did”. We should always be transparent in our work because we are working to a professional standard on behalf of a child. In this sense, we should expect that everything we say or write could become subject to scrutiny.

You might want to initiate a non-confrontational conversation with the individual who has recorded covertly about why they felt they needed to. You might be able to agree to the open recording of future meetings.

In cases where there are family court proceedings, and the practitioner subsequently becomes aware they have been recorded without their knowledge, they should tell the court. In some cases, however, the professional may not become aware of the recording until it is presented or a transcript of it, at court. In such situations, the professional should make clear to the court the recording was made without their knowledge. The professional may ask for the opportunity to listen to the recording or read the transcript before it is admitted into evidence. It is a matter for the court to decide whether the recording or transcript can be included in evidence.