



Leeds
Safeguarding
Children Board

Recording of meetings and conferences by parents

Practice Guidance

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1. Introduction

What is this Guidance? This guidance is about when birth parents and others with parental responsibility want to record a multi-agency meeting such as a looked after child review or a child protection conference. In this guidance, the term ‘the parents’ will be used to describe those who are birth parents and for those who have parental responsibility. The term ‘recording’ refers to both audio and visual media recordings. This is not guidance about the local authority or other agency making a recording of a meeting.

Why do we need this guidance? We need this guidance because although the recording of meetings and conferences is not widespread, when the situation arises, chairs of meetings and other participants need to understand the issues involved and provide a clear and consistent response.

What is the purpose of this guidance? The purpose of this guidance is to provide clarity about the Leeds approach to the recording of meetings and conferences. It will support existing good practice about how meetings are held and it should encourage practitioners to listen to parents about their reasons for wanting to record. Within the guidance, the law relating to recording will be clarified.

Who is this guidance aimed at? This guidance is aimed at those practitioners who chair multi-agency meetings and those who also participate in (on the whole but not exclusively) multi agency statutory meetings. These practitioners will come from a wide range of agencies both statutory and non-statutory.

This guidance has been written with reference to the ‘[Parents recording social workers – A guidance note for parents and professional](#)’, the Transparency Project December 2015.

The key contact for comments about this guidance is: lscb@leeds.gov.uk

2. When might parents want to record meetings and conferences?

Sometimes, parents want to record a multi-agency meeting such as a looked after child review or child protection core group or conference. This might also include child in need meetings or other multi agency meetings about a child.

They may do this covertly or overtly. Covertly means they do this without asking or making it known to others at the meeting. The recording device may also be hidden. Overtly means that the person wants to record the meeting is not hiding that they want to do this. They may ask for permission or they may just state that they are going to record the meeting.

The person recording might record the whole meeting or conference or just part of it.

The reasons for wanting to record a meeting or conference will be different for each parent or family member and may include that:

- They might find a recording easier than taking notes. The reasons for this might be because they: are visually impaired; have a learning disability; have a literacy problem; have a physical disability; or have some difficulty that affects their ability to write, concentrate or remember information. This might be made worse by the length of some meetings and how the reason for the meeting may make them feel, for example, feeling stressed;
- They may not want to rely on the notes of the meeting and / or they may not want to wait for the notes of the meeting to be sent to them. They may have previous experiences which have resulted in them wanting to record a meeting, for example not having received any notes when others have, or received notes that they do not agree with. They may have found it hard to challenge inaccuracies or omissions in the past;
- They may have negative feelings about a particular practitioner or agency or a number of them. They may want to 'catch out' a practitioner or agency or gather evidence for later use in court proceedings;
- They may want to use recording for other means such as to circulate information as part of a campaign, for example on the internet. This might not be their original intention when making the recording.

What might parents do with the recordings?

- They might keep the recording for their own records;
- They might share the recording with their family or friends;
- They might ask that a Court consider the recording. See Section 4 below for more information about this;
- They might publish the recording on a social media site such as Facebook or a website, use when taking part in a media interview or use within a campaign.

3. What does the law and statutory guidance say about the recording of meetings and conferences?

Recording meetings is not the same as distributing or publishing recordings made.

The following section provides a summary of what the law and statutory guidance says about recording meetings and conferences. [The Transparency project document](#) pp 7 - 13 includes more detailed discussion about this.

Data Protection Act 1998 (DPA) – The act *does not* prevent parents from recording meetings.

The DPA *does not* prevent parents from recording meetings because the Act contains an exemption for ‘personal data’ that is processed by an individual **solely** for the purposes of their personal, family or household affairs. This exemption is often referred to as the ‘domestic purposes’ exemption.

‘Personal data’ is defined as information about a living individual who can be identified from that information or other information. It also includes opinions about a living individual. In this context what a professional says at a social work meeting is classed as their personal data under the DPA and information relating to other persons that are discussed at these meetings is their personal data.

However, if an individual posts recordings of a meeting on an online forum or on a social networking site they will need to check if the DPA applies. The Information Commissioner’s Office (ICO) may investigate if an individual seems to have gone beyond the scope of the exemption, and the ICO may take enforcement action against them.

Regulation of Investigatory Powers Act (RIPA) 2000 – The Act does not prevent parents recording meetings and conferences. RIPA only applies to the actions of the State (the local authority), for examples it gives some protection to parents in relation to surveillance type activity.

Are there other laws that say parents are not allowed to record meetings and conferences?

- *Confidentiality and privacy* – It might be a breach of a family members’ privacy if a recording is distributed or published by another family member but probably only protected by law when it amounts to harassment. Where a recording is made simply for personal use or for use as evidence in private court proceedings, it is unlikely to amount to a breach of privacy.
- *Human Rights* – Documents or evidence produced for the purpose of Court proceedings are covered by court rules and there are restrictions about their distribution. Recordings of a meeting are not covered by the court rules (even if the parent intends to provide this recording to court).

Sometimes the rights of family members are in conflict with their individual rights to both respect for their private and family life and their right to freedom of expression.

Family members do not owe a duty to one another under the Human Rights Act 1998. However, agents of and those working for the state (includes the local authority) must carry out their work with the respect for the rights of privacy, family life and expression.

- *Private life of practitioners* – A recording of a meeting attended by a practitioner – for example a social worker in their professional role is unlikely to contain information about their private life.
- *Privacy of families* – If parents agree not to distribute their recordings to the public or a group of the public and only use the recording for their own records or in private court proceedings, it is unlikely that the local authority would be criticized for a breach of privacy in allowing this.

If a parent distributed a recording on the internet (through social media or other way) this might be harmful to the child, either because it would lead to them being identified as a child with social services involvement (for example) or the details of their private lives was made public. A local authority (or a parent) might be able to seek an injunction to stop this or to secure removal of the information if it was harmful to a child.

It is the distribution of the recording that is problematic and not the recording.

- *Defamation (libel or slander)* – this is unlikely to apply unless something that has been said was untrue that was likely to seriously damage the reputation of the person whom the statement was about. What is said in meetings and conferences is likely to amount to ‘honest opinion’ and as such is unlikely to be defamatory.
- *Harassment* – If someone recorded a meeting with the explicit or implied threat of ‘going public’ or putting the recording on the internet or otherwise circulating the material in a way designed to cause distress or fear - a court may potentially be asked to make an order (an injunction) to stop this. If a recording was used to harass a professional it is possible a court would be asked to make an injunction too, although this is less likely.

What does statutory guidance say about recording meetings?

- *Working together to safeguard children* – This does not say anything about making recordings of meetings and conferences by parents, nor suggests that this should or should not happen.
- *The Independent Reviewing Officer (IRO) Handbook on Looked after Child Reviews* – this document makes it clear that the IRO is responsible for ensuring an accurate record of initial or review meetings is made and distributed. It does not say anything about the making of recordings by parents nor suggests that this should or should not happen.

4. Can a recording by a parent be relied on in Court?

There is the potential for a parent made recording to be admissible in Court but the Court would need to give permission. A Court is unlikely to give permission unless it is clear that the recording is both relevant *and* reliable.

A Court is more likely to give permission if a recording is of good audio and visual quality and is demonstrably a record of the entire meeting rather than an edited selection.

If a meeting has been recorded 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 and view,

5. Principles of how we will work

We have identified a set of principles to support our approach to recording meetings and conferences:

- Practitioners will continue to behave professionally in meetings and conferences and provide factual, clear, evidence based information to support discussion and decision making. Where they are asked to give their opinion they will continue to do so;
- We will work within the law and statutory guidance around the recording of meetings and conferences;
- We will work within legal, statutory guidance or local procedures with regard to note taking and minutes of meetings and conferences, and their distribution within agreed timescales;
- We will explain to all at the meeting what is recorded at the particular meeting, who will write the final version of the notes, how and when the notes will be distributed, and what the process is for requesting amendments to the notes; we will also explain to parents what they can do if they don't receive any notes from the meeting;
- We will explain any practice where the meeting or conference is followed up by a visit from the social worker or other practitioner to talk about decisions made at the meeting or conference;
- We will continue to remind attendees that information discussed at meetings is confidential and that they become responsible for any information that they may take out of the meeting;
- We will be positive and proactive where the situation arises that someone asks to record a meeting or conference and provide a consistent and clear response about this. If the issue has come up at a previous meeting, the chair of the meeting should be proactive in advance of the meeting or conference and ask the person who wanted to record previously what they would like to do this at the meeting;
- We will work with parents when the situation arises to explore with them why they might want to record a meeting or conference;
- When the situation arises that it a parent has recorded or states that they intend to record a meeting, we will inform them about the issue of recording a meeting or conference. This will include information about privacy and the use of private information;
- Where the reason for wanting to record is to do with any requirements the person has with a learning difficulty, learning disability, sensory or physical impairment, or where English is not their first language, we will provide additional support to enable the person to understand what is being said and for a record to be made which they can understand;
- We will ensure that the interests of the child or young person are central to any discussion about recording meetings to ensure that any action taken is not likely to cause the child to suffer significant harm;
- Where the local authority has parental responsibility (when the child is subject to an interim or full care order or a placement order), the Social Worker and the child's Independent Reviewing Officer will jointly decide what is in the best interests of the child;

- Where the child or young person has the age and understanding to participate in a discussion about whether someone should record a meeting, they will be included in the discussion and their views taken into account;
- Where there is difference in opinion between parents, the chair of the meeting will temporarily halt the meeting to explore the situation with each parent or family member;
- We will confirm in the written minutes whether someone has recorded the meeting;
- Practitioners should follow their own agency policy and procedure about the recording of meetings if this is not in agreement with this practice guidance. However, the requirement to contribute to and participate in Child Protection Conferences should be considered.
- We will provide information to other practitioners if the situation arises that it is known that a parent wants to record the meeting.

6. What should practitioners do when the situation arises that someone wants to overtly or covertly record a meeting or conference?

When someone wants to overtly record a meeting

- a) When the situation arises for the first time with a particular child's parent(s) or other family member, the chair of the meeting should explore with them their reasons for wanting to record the meeting or conference and their intentions of what they will do with the recording afterwards. The reason for this is to remove any issues that can be addressed that parents have that are prompting them to consider recording; and to clarify their intentions:
 - Where the reasons are to do with their disability, impairment or ability to follow the discussion or to remember what has been said, ways in which to improve this for them should be discussed and addressed where possible. This might include everyone at the meeting agreeing to not using jargon and / or to explain things in a way that is suitable for the person. In addition, an arrangement should be made to contact the parent after the meeting to support their understanding of decisions made;
 - Where the parent states that the reasons are concerned with a lack of trust of the people at the meeting or how information is noted down, this should be explored further with them. They should be asked what would help. This might include the chair clarifying each key decision at the meeting and what will be recorded. Again, a visit afterwards by the lead practitioner to the parent might be helpful to explain what was decided;
 - Where the parent states that they want to use the recording in Court, the reasons for this should be explored with them and look for ways for them to feel their views are heard and reflected in the notes of the meeting. They should be advised that a Court has to give permission for a recording to be relied on in Court and that permission is unlikely unless it is clear that the recording is both relevant and reliable. A Court is likely to require a good quality recording that is of the entire meeting rather than an edited selection. Where a recording has been made covertly it may be difficult to demonstrate that the meeting is complete and that something said or done is not

being taken out of context. A Court is also likely to require a transcript to be prepared and provided alongside the original recording;

- Where the parent states that they want to record the meeting or conference to publish this on social media or on the internet, the chair should discuss this with them and make them aware that if they use the information for another purpose, the Data Protection Act may apply (see section 3). The risks of doing so and the possible impact on the child or others should be discussed and what is public and what is private information. The longevity of published material on the internet should also be highlighted.
- b) The chair of the meeting should explain to all members of the meeting that the request has been made, and the views of members of the meeting should be sought. The child or young person and the other parent (as applicable) should also have the opportunity to give their views.
- c) The decision whether or not to allow recording of a meeting by a parent lies with the Chair. The decision should be based on discussions with parents, practitioners, professionals and the child / young person, and should take into account the potential further risk to the child / young person. The decision and the reasons behind it should be documented in the minutes.
- d) Where it has been decided to allow the recording and there is a need to discuss sensitive information about the child, for example sensitive medical information, best practice would be for the Chair to decide to halt the recording until this section of the meeting is concluded. Again this should be minuted.

When someone has covertly recorded a meeting or conference

- e) When it has become clear that a parent has covertly recorded a meeting or conference without the knowledge of the chair and or other participants, the chair of the meeting should be informed by whoever has found this out. The chair should consider informing the Local Authority's legal representative.

In both overt and covert situations

- f) If it is discovered that a parent has published a recording on social media and / or elsewhere on the internet, or used it for another purpose, the lead practitioner should consider if the child or young person can be identified, whether the child is at risk of further harm, and whether this could constitute emotional abuse. The lead practitioner should seek legal advice. The local authority may seek an injunction to try to get the recording removed.

7. What should practitioners do if they believe that if the meeting is recorded and / or the recording published the child would be placed at risk of further harm?

The chair should consider if the child or young person would be at risk of further harm as a result of the recording being made or of the recording being published. They might decide that it is not in the best interests of the child that the meeting is recorded because of the risk that the parent would publish the recording online. Equally a child or young person may be reluctant to attend their meeting, conference or review, if they know they will be recorded by a family member and this recording possibly shared.

If the local authority has parental responsibility for a child or young person (because they are subject to an interim or full care order or a placement order) the chair could decide to exclude a parent who insists on recording a meeting, where the child's best interests are not served by making a recording (and potentially publishing it).

Alternatively the chair could suspend the meeting and offer to hold a restorative meeting with the parent to further explore why they would want to record the meeting and seek to find agreement.

In all cases the decision should be minuted.

8. What should practitioners do when the parents have differences in opinion about recording the meeting?

If one parent wants to record the meeting and the other does not, the chair should explore this with each parent separately. The reasons for wanting to record should be explored as in Section 6 above and a decision should be made about the risk of further harm to the child or young person.

If it is decided that there is no risk of further harm as a result of the recording, the chair should try to seek agreement with the parents.

If agreement is not possible, and the non-recording parent does not want to attend the meeting if it is recorded, the chair could decide that to manage the meeting differently in each circumstance. For example, the non-recording parent could attend, give their views and exit the meeting; and then the recording parent could attend and make their recording.

If another family member or friend invited by the parents (not a birth parent or someone with parental responsibility) states that they intend to record a meeting and the parents do not agree with this, they will be asked to stop. If they do not, the chair will halt the meeting and they will be asked to leave.

The lead practitioner should seek legal advice if some recording has taken place.