

# **Adult Social Services and Housing: Covert/Overt Recording Guidance**



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## 1. Document information

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<b>Author</b>	Gavin Hutchison
<b>Wider DLT Lead (Document Owner)</b>	Richard Orson
<b>DLT Lead</b>	Ros Cox
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## 2. Aim and Audience

Advances in technology have impacted and changed the way we might work with adults who draw on care and support. One area of concern for adult social services and housing practitioners is adults with capacity who overtly or covertly record meetings, discussions and/or assessments on their own personal devices. It is right to acknowledge the uneasiness that social services and housing practitioners may feel when a person makes a request to record, however, it is also important not to fear such requests or view them as being motivated by adversarial reasons.

It is recognised that there is a need for further guidance and the following has been produced to support adult social services and housing practitioners when responding to such requests.

## 3. Can an adult with capacity record our conversations?

The simple answer is 'yes'. There are no specific legal requirements that govern an individual making a personal recording of their discussions with an adult social services and housing practitioner either overtly or covertly, for their private use. Recordings made to keep a personal record of what was said are deemed to constitute 'note taking' and are therefore permitted when undertaken for this purpose.

Any information discussed with an adult about their care and support needs is their information and therefore it is legal for them to record it for their own use. The Information Commissioner's Office (ICO) is the Data Protection regulator in the UK and has published the [following guidance on domestic processing](#):

- **“Domestic purposes** – personal data processed in the course of a purely personal or household activity, with no connection to a professional or commercial activity, is outside the UK GDPR's scope. This means that if you only use personal data for such things as writing to friends and family or taking pictures for your own enjoyment, you are not subject to the UK GDPR.”

It is important to note that an adult's own private recording is not an information governance issue. As North Somerset Council (NSC) is not responsible for

generating or making the recording, it is not liable for safeguarding the confidentiality, integrity, or security of such material.

While an adult does not require permission to record the meeting and/or discussion and/or assessment, it is encouraged that adults should seek the adult social services and housing practitioner's agreement to make a recording. This would be seen as a matter of ordinary courtesy and respect and is more likely to lead to a positive and trusting relationship. An adult seeking consent to record discussions with a NSC adult social service and housing practitioner should be seen positively as an indicator of consensual recording.

It is recognised that some NSC adult social service and housing practitioners may feel that recordings are intrusive and undermine trust, changing the nature of discussion to be carried out. They may also be concerned that the adult will use recordings for potential complaints, litigation, or release into the public domain. However, where the NSC social service and housing practitioner is acting professionally within the discussions, they should have nothing to fear.

It is good practice to ensure, regardless of whether it is known or unknown that a recording is taking place, that in all discussions with adults we act professionally in terms of our behaviour, appearance and communication whilst maintaining personal and professional boundaries. Keeping clear and accurate records of the discussions that have taken place will also support evidence of good practice. We encourage adult social services and housing practitioners to read the [Social Work Recording guidance](#) which provides resources on how to write down what you have seen and done, your analysis of the situation, and what you plan to do as a result.

#### **4. Benefits of using recordings**

There are many positives to an adult recording their contact with an NSC social services and housing practitioner and it can be a useful tool in empowering adults we work with. Allowing recording for an adult who may otherwise struggle to remember or understand is likely to amount to a reasonable adjustment requirement under

equality legislation. When made consensually, recordings can benefit both the adult and the adult social services and housing practitioner by:

- Enabling the adult to remember the discussions held, particularly where there might be communication difficulties.
- Providing a recording for the adult to re-listen to particularly if the discussions held were distressful.
- Giving the adult more time to process information.
- Helping the adult communicate information to their carers particularly where they may be experiencing memory loss or have some cognitive impairment.
- Helping the adult to remember when the discussions held are particularly complex.

The [British Medical Journal](#) has an interesting article emphasising the positive benefits for adults who want to record appointments.

## 5. If you have any concerns about being recorded

You should sensitively explore the reasons the adult wants to make the recording to allay any concerns you may have. Most people want to record discussions so that they can listen to them again when they have more time and are in a more relaxed setting, or so that they can share and discuss the information provided with family and/or friends.

Where an adult or their representative or carer wishes to make a recording of the discussions held, we should ensure that:

- That the recording is done openly and honestly.
- That the recording process itself does not interfere with the discussions being undertaken.
- That the adult understands that a note will be made on LAS stating that they have recorded the discussions held.
- That the adult is reminded of the private and confidential nature of the recording, that it is their responsibility to keep it safe and secure and that any recording is only made for personal use.

- That the adult is aware that the misuse of a recording may result in criminal or civil proceedings.

## **6. What about an adult with capacity wishing to record the Safeguarding Adult Enquiry Meeting?**

If the safeguarding enquiry meeting is simply a discussion between an adult with capacity and the safeguarding adult enquiry lead and/or the safeguarding adult allocated worker, then this guidance stands.

However, if the adult with capacity is requesting to record a safeguarding adult enquiry meeting within which there will be several representatives from other agencies, then the Chair of the meeting should meet with the adult to explore their reasons for wanting to record the meeting.

The Chair will need to advise the adult that recording of Safeguarding Adult Enquiry meetings is not standard practice. We should provide assurance to the adult about the quality and purpose of meeting minutes and their ability to challenge these minutes if they do not believe them to be factually correct.

If the Chair identifies that allowing the adult to record the meeting would be part of a reasonable adjustment under equality legislation, then the Chair must advise all other attendees to the meeting that the adult will be recording the meeting as part of a reasonable adjustment. The adult must also be advised of the bullet points set out in section 5 above.

## **7. Covert recordings**

Understandably, many social services and housing practitioners express concern about adults making covert recordings. This can be interpreted as a sign that trust is lacking or that the adult may be considering a complaint or legal action. We cannot place restrictions on an adult wishing to covertly record a discussion and this is one

reason why we encourage social services and housing practitioners to support adults making recordings as it is less likely that they will make them covertly.

If you suspect an adult is or has covertly recorded you, we recommend you discuss the issue with the adult and explore the reasons they are making the recording, addressing any concerns they may have where appropriate. One possible option is to invite them to make the recording openly. It is good practice to ensure, regardless of whether it is known or unknown that a recording is taking place, that in all discussions with adults we act professionally in terms of our behaviour, appearance and communication whilst maintaining personal and professional boundaries. Keeping clear and accurate records of the discussions that have taken place will also support evidence of good practice. We encourage adult social services and housing practitioners to read the [Social Work Recording guidance](#) which provides resources on how to write down what you have seen and done, your analysis of the situation, and what you plan to do as a result.

## **8. Recordings that are posted online**

The content of the recording is confidential to the adult, not the social services and housing practitioner. The adult can waive their own confidentiality as they wish; this could include disclosing the details of their discussions with third parties or even posting and/or sharing the recording in unadulterated form on the internet through social media sites.

However, an area of uncertainty in law remains with regards to an adult posting recordings of discussions held with a social services and housing practitioner online without their consent. It is suggested that this may fall outside the domestic purposes' exceptions of UK data protection laws.

Depending on the nature and context of the disclosure this may lead to the data protection regulator taking enforcement action against the publisher of such material and in serious cases, could lead to litigation.



If you as an adult social services and housing practitioner have become aware of recordings that have been posted of you online, and you did not agree to either the recording or posting, we would advise that you seek advice from your immediate line manager to determine next steps. It is suggested in the first instance a consensual approach is sought with the adult to take down the recording. If this does not resolve the matter, then advice and guidance can be sought from the legal team and the Data Protection Officer as required.

## **9. Can/should NSC social services and housing practitioners use the record function available on devices to record meetings with adults?**

Our current position is that we do not audio record meetings and/or assessments with adults that we support. However, we are currently exploring the use of Magic Notes. Magic Notes utilises an AI that automatically generates notes from conversations. We are considering using this technology to support practitioners to record accurate and timely summaries of conversations that can be shared with people drawing on care and support and/or their carers. This guidance will be updated to reflect use of the technology, should it be adopted.

In the meantime, if as an adult social services and housing practitioner you have a disability and require reasonable adjustments to be made which may include the need to record your meetings and/ or assessments with people drawing on care and support, you will need to raise this with your line manager in the first instance. If your line manager agrees that it is necessary for you record your interactions with a person drawing on care and support, you then need to consider the adult's rights under data protection laws. As such, it is necessary for you to obtain consent from the adult to allow recording to take place. When obtaining consent, you should provide them with clear information about why you need to record them, how the recording will be used, and how long the recording will be kept. A record of this consent should also be maintained and stored alongside the adult's care records. For more information about the Council's data protection obligations when recording

people drawing on care and support, please read the privacy notice found on the [Privacy Notice – People and Communities](#) section of North Somerset Council's website or contact Data Protection Officer where necessary.

If a person does not consent to being recorded, then the social services and housing practitioner would not be able to record the session as the lawful basis for processing this information is consent. Where this becomes a barrier to engagement with Adult Social Services and Housing consideration should be made as to whether the it may be beneficial to change allocated practitioner to another practitioner within the team.

## **10. Can families/carers use recording/CCTV devices in the homes of relatives who might lack capacity to consent to this.**

[The CQC have published information](#) for people who are thinking about using hidden cameras or any type of recording equipment to monitor someone's care (updated January 2023). The guidance is aimed at families, carers and people who use health and care services, for the purpose of monitoring and protecting theirs (or their loved one's) care, welfare, and safety, and sets out some of the things to consider if they are thinking of using recording equipment, as well as explaining other steps they can take to raise their concerns.

If you become aware that families/carers have put in place recording/CCTV devices within a home for an adult who lacks capacity to consent to this, then you must raise this with your Team Manager to seek further advice and guidance as this could be a matter for adult safeguarding and/or the MCA/DOLs team.

## **11. Feedback**

We value your feedback and welcome both compliments and areas for development. You can send us feedback through our [website](#). If you have any concerns about any action or decision taken by Adult Social Services and Housing, you should initially

talk to the person you normally talk to. You can also contact our complaints manager at:

**Complaints Manager,**

Adult Social Services and Housing,

Town Hall,

Walliscote Grove Road,

Weston super Mare,

BS23 1UJ

**Telephone:** 01275 882171

**Email:** [complaints.manager@n-somerset.gov.uk](mailto:complaints.manager@n-somerset.gov.uk)

## 12. Accessibility

All North Somerset Council documents can also be made available in large print, audio, and other formats. Documents on our website can also be emailed to you as plain text files. Help is also available for people who require council information in languages other than English. Please email [asshsstrategyandpolicyteam@n-somerset.gov.uk](mailto:asshsstrategyandpolicyteam@n-somerset.gov.uk) or ring 01934 888 888.