



Service Users recording meetings with Cafcass Cymru staff

Operational Guidance

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1. Introduction

Occasionally, service users request to record a meeting/interview or the court may order a meeting with a service user to be recorded. Service users could also record meetings/interviews or telephone conversations without informing us they are doing so (covert recording). This guidance sets out the procedures to be followed when these requests occur.

2. Recording Meetings

If an adult service user requests to record his/her own meeting/interview, we should in most circumstances agree to the request if it is in the form of written or audio recording. **Cafcass Cymru will not agree to any such meeting being filmed or video recorded.**

If practitioners have concerns for any particular reason, the matter could be put before the court to seek directions about the recording of the meeting/interview. In this situation, the practitioner should discuss the matter with their Practice Manager and/or seek legal advice before approaching the court (see section 3 below).

If it is a joint meeting between both parties, the recording should not take place if one party objects to the recording taking place. If the matter cannot be resolved the practitioner can refuse to conduct the meeting. The practitioner should notify the court and seek a hearing to resolve the matter.

To proceed with the recording, the service user(s) will be required to sign the agreement about use of the recording (attached at Annex A). The agreement will help ensure service users are made aware of their responsibilities and that by sharing the recording with anyone they may be in breach of the [Family Procedure Rules 2010 \(FPR\)](#). A copy of the signed agreement will be given to the service user(s) and a copy filed on the case file in IRIS by Cafcass Cymru.

If the service user wishes to record the meeting, it must be attended by the relevant practitioner and an additional staff member. The additional staff member who is not conducting the meeting should take a detailed written note of the discussions, a copy of which is placed on the case file on IRIS in accordance with the Cafcass Cymru Analytical Case Planning and Recording Model.

If the service user only makes their intention to record the meeting known immediately prior to the scheduled start time, and there is no additional staff member available to sit in and take the note, the meeting should be postponed.

Following the conclusion of any meeting recorded by a service user, the court should be notified immediately in writing that a recording has been made. A copy of the agreement contained at Annex A should accompany the letter to the court. The purpose of providing such a notification is simply to make the court aware that the recording has taken place. This will enable the court to consider in advance of the next hearing what action, if any, it wishes to take in relation to the recording.

The practitioner should inform the service user that when meetings/interviews are recorded it is standard procedure to notify the court immediately afterwards and include this fact within the court report. Through this procedure the other party is made aware a recording exists and could make an application to the court to have a copy of the tape disclosed to them, or to listen to it in evidence. There is no guarantee the court would order disclosure, but depending on the facts of the case, it would be possible for the court to do so.

The service user may want to submit the recording of the meeting/interview as evidence with the court but this will not necessarily be agreed by the court. There may not be a way of confirming the content is accurate and not tampered with and there is a significant expense attached to transcribing any recordings.

Any request from an adult or child service user to record a meeting where a child is in attendance either on their own, with siblings or with an adult service user, will not be permitted.

3. Seeking direction from the court

There is the likelihood of delay if the practitioner concludes the court should be asked to make a direction on the issue before the meeting/interview takes place. The court is likely to ask why the practitioner should not agree to recording the meeting/interview.

Circumstances where practitioners may wish to seek direction from the court prior to the meeting/interview taking place could include:

- Where there is a concern the service user intends to share the recording outside of the court proceedings, for example on social media or with the press.
- The practitioner may be concerned the information is particularly sensitive and the recording may fall into the hands of persons who are not entitled to have access to it, or that it may be disclosed inadvertently.

4. Covert recording

In cases where no advance request has been made and the practitioner subsequently becomes aware they have been recorded without their knowledge, they should tell the court.

In some cases, the practitioner may not become aware of the recording until the service user presents the recording, or a transcript of it, at court. In such situations, the practitioner should make clear to the court that the recording was made without their knowledge.

The practitioner may ask for the opportunity to listen to the recording or read the transcript to check it is accurate before the court admits it into evidence. It is a matter for the court to decide whether the recording or transcript can be included in evidence.

5. Other Recordings

Service users may also ask practitioners to listen to or watch recordings of others they have recorded covertly. Such material may consist of:

- A recording of a contact session with a child without the other party's knowledge or the consent of the court.
- 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 potential risks associated with accepting such material. You may appear to be influenced by one party over another and there is a possibility it may have been tampered with. Once you have seen/heard the recording it will have to be seen and heard by all parties and the court if it is relied upon.

If offered such material the practitioner should:

- Refuse to accept it and inform the service user that the recording will be brought to the attention of the court.
- Advise the service user that it cannot be accepted as evidence unless the court gives permission and the service user will have to ask the court for that permission.
- Advise the court, either in the report or by letter, that the service user has informed you about the existence of a recording made covertly but that it has not been viewed.

It should be noted the High Court has held that it would almost always be wrong for a recording device to be placed on a child for the purpose of gathering evidence in family proceedings, whether or not the child was aware of its presence. Practitioners should therefore take particular care to avoid accepting recordings of this type from a service user.



ANNEX A

Agreement about the use of recorded information from my meeting / interview with Cafcass Cymru

Date of meeting: _____

I agree the recording which I make of this interview will only be used for my personal use. I understand the recording is restricted by rules of court (Family Procedure Rules 2010, Rule 12.72 – 12.75 – Communication of Information: Children Proceedings, and Practice Direction 12G – Communication of Information) and unauthorised communication of the information is a serious matter and may constitute contempt of court.

Service User(s):

Print Name:	Print Name:
Signed:	Signed:
Date:	Date:

Note - A copy of this form is to be given to the service user(s) and the original scanned and filed on the case file in IRIS.