

**TREVI GLAS COMMUNITY COLLEGE****POLICY: Recorded Conversations with parents/carers and employees**

**For the purpose of this policy, 'recorded', 'record' and 'recording' refer to the audio recording of meetings.**

**1. PARENTS/CARERS****Can parents/carers record conversations with college staff?**

Many school leaders, in the course of their duties, will have meetings, scheduled and unscheduled, with the parents/carers of the children attending their school.

Increasingly, parents/carers are asking to record these meetings, on the one hand, because they can, and on the other, because they believe that they can later rely on the recorded conversations as evidence, should they need it, to support their position in a dispute against the school in question.

**Legal position**

It is not illegal to record meetings with school staff, even if the recording is made without the school's knowledge or consent. Under Section 36 of the Data Protection Act, 1998, individuals are free to make recordings of meetings as long as the recording is for their own 'personal use' – such use would include recordings made for the sake of convenience or for individuals to ensure that they are clear about what was said at the meeting, even if the recording features information about third parties, such as other students or staff.

Whilst it is not illegal to record meetings with college staff, even if the recording is made without the school's knowledge or consent, if a parent/carer then shares the recorded information with a third party, say a lawyer, or they posted information onto social media, then the lawyer, with whom the recorded information had been shared, or the parent/carer, who posted the recorded information onto social media, would potentially be in breach of and be subjected to the full force and provisions of the Data Protection Act 1998.

**College Policy**

Parents/carers are not permitted to record meetings with college staff, instead, the college will produce detailed written minutes of such meetings where requested. The minutes will be agreed with all parties who attended the meeting before being accepted as final.

Consideration will be given to the recording of meetings in situations where there are communication difficulties (e.g. where English is not a first language) however, recording is only permitted by the mutual consent of both parties.

Parents/carers who compromise this policy will be in breach of the college's rules.

## **2. STAFF**

### **Can staff record conversations with other college staff?**

Increasingly employees are recording meetings with their line managers/employers with the intention of using the recording as evidence at subsequent employment tribunal proceedings – this is often done without the mutual consent of the line manager/ employer.

#### **Legal position**

Generally speaking, such a recording would be admissible in an employment tribunal even though the recording was made without the school's consent. Tribunal judges have a wide discretion to determine whether evidence is admissible; it generally will be admissible if it is relevant to an issue between the parties in dispute.

Recordings of, for example, disciplinary hearings may be admissible to a court provided the school has been given the evidence before a tribunal hearing, including both the recording and its transcription, so that its accuracy can be checked. Recordings of private discussions, of say, the employer's deliberation panel, are not deemed to be admissible unless the recordings revealed clear evidence of discrimination.

*Amwell View School v Dogherty* is a leading case in which it was held by the Employment Appeal Tribunal that Dogherty's covert recording of her own disciplinary hearing could be used in evidence before the tribunal. Dogherty had also left a device to record private deliberations of the hearing panel. That part of the recording however was excluded from consideration, on grounds of public policy.

*If an employee records a meeting without the school's consent, aren't they breaching human rights?*

In the *Amwell* case, the school argued that the covert recording breached the governors' rights to privacy set out in Article 8 of the Human Rights Act. It was held that Article 8 did not apply in this particular case as the school governors were held to have waived their right to privacy as they were seen to be acting in a public role.

#### **College Policy**

College staff are not permitted to record meetings with other college staff, instead, the college will produce detailed written minutes of such meetings where requested. The minutes will be agreed with all parties who attended the meeting before being accepted as final. Recording is only permitted by the mutual consent of both parties.

Senior leaders, managers and other college staff may ask the member of staff, before a meeting starts, whether they are recording it. Should the member of staff say no, and then later seek to rely on such a recording, their credibility will be compromised in the mind of a tribunal judge.

During any meeting, senior leaders, managers and other college staff will always work on the assumption that they are being recorded and to remember that what they are saying may be admitted as evidence in a subsequent tribunal.

Senior leaders, managers and other college staff will deal with the issue of audio recordings at the start of each meeting, as appropriate.

**Further information**

Further information of recording meetings can be found at the Information Commissioner's Office which you can contact via [www.ico.org.uk](http://www.ico.org.uk)