

# CCA Fact Sheet

## Call Recording

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### Legislation

The interception, recording and monitoring of telephone calls is governed by a number of different pieces of UK legislation. The requirements of all relevant legislation must be complied with. The main pieces of legislation related to call recording are:

- Regulation of Investigatory Powers Act 2000 ("RIPA")  
<http://www.hmso.gov.uk/acts/acts2000/20000023.htm>
- Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000 ("LBP Regulations")  
<http://www.hmso.gov.uk/si/si2000/20002699.htm>
- Data Protection Act 1998  
<http://www.hmso.gov.uk/acts/acts1998/19980029.htm>
- Privacy and Electronic Communications (EC Directive Regulations 2003)  
<http://www.hmso.gov.uk/si/si2003/20032426.htm>
- Human Rights Act 1998  
<http://www.hmso.gov.uk/acts/acts1998/19980042.htm>

For more information please see:

<http://www.ofcom.org.uk/static/archive/oftel/consumer/advice/faqs/prvfaq3.htm>


Even though the information appears on the former Oftel's site the information is still current.

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### General Guidelines

- There is no statutory requirement to record calls unless you are involved in the financial services marketplace.
- For training purposes it is advisable to tape each agent for a reasonable amount of time over a regular period.
- Callers and employees need to be advised that calls may be recorded "for training purposes".
- This information should be provided in a manner that enables the "average" customer to be aware of the possibility of recording takes place.

Two methods are commonly used:

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- Media advertising can include the above warning. This does not mean that all company handouts/publicity material have to be reprinted.
  - On-Hold Message: A promotional message to waiting callers alerts them to the call monitoring process.

Employees should be made aware that call recording is conducted to protect them and to ensure that they perform in line with company procedures.

### Frequently Asked Questions

#### How much does call recording cost?

##### New Equipment ...

Most recorders record onto a hard disk with a choice of archiving media, for example Digital Audio Tape (DAT) or Digital Versatile Disk (DVD) This means recorded calls can be kept for a long time. These telephone call recorders can record from 4 channels to hundreds of channels, and each call is identified with the following information:

- Date
- Time
- Duration
- Which extension made or received the call
- Dialed numbers or calling line identity where available.

This makes finding a call simple, but the technology is still expensive.

##### Used Equipment ...

With banks and city dealers regularly updating their systems, pre-installed equipment does become available, but usually these are larger systems and you must ensure that you have an inclusive maintenance contract.

#### Can I use an ordinary recorder?


Yes, in theory, but this can only be used in one way. You would have to connect the recorder to the agent's phone and switch it on when a call is in progress. This means that the accuracy of the assessment of the call is questionable since the agent knows exactly when they are being recorded, and it offers no advantage over side-by-side training.

#### How can I record selectively and cheaply?

This depends on your telephone system. If your PABX allows you to silent monitor an agent then you can connect a recorder to your extensions, thus effectively recording any agent you wish, without them or the caller being aware.

Alternatively, some recording systems will allow you to select which lines you want to record, if connected via a trunk line, or telephone handset, preventing the need to purchase a recorder that records all lines into your building. Selective recording can start from 8 channels upwards.

The key justification when deciding if telephone call recording is for your company is to determine how much revenue could be gained from concentrating on the improvement of customer service standards and the control of telephone call handling.



If this is a vital area of your business that needs addressing, telephone call recording is the most effective and easily justified way of monitoring, assessing and improving company standards. Many companies who use call recording have quickly noticed results from assessing and evaluating call quality, creating a rapid return on investment, making the initial outlay of call recording much easier to justify.

One last point is to ensure that you cover your initial needs for recording, but also consider any future ones too, to reduce the need for upgrading your solution at a later date.

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The information above (under General Guidelines & Frequently Asked Questions) was provided by ComputerTel Ltd ([www.computertel.co.uk](http://www.computertel.co.uk))

\*\* The contents do not necessarily express the views, policies or endorsements of CCA \*\*

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## OFTEL REGULATIONS

Press Release: 19 August 1999

### OFTEL Publishes New Guidance On Recording Of Telephone Conversations

At the request of the Home Office, OFTEL has today published new guidance to companies covering their responsibilities over recording phone calls for business purposes.

Companies and organisations that routinely record telephone calls must ensure that their employees are able to make personal calls that are not also recorded under the same system. Staff must also be made aware that personal conversations could be recorded on their telephone and must have access to a separate telephone on the premises where they can make and receive personal calls that are not recorded.


Companies that do not provide this guarantee of confidentiality could be in breach of Article 8 of the Europe Convention on Human Rights which covers people's right to privacy. This new OFTEL publication intended to help Companies in the private sector follows a recent Home Office circular issued to all public bodies on this matter. OFTEL has agreed separately to publicise this issue to other organisations.

#### Note to Editors

The Home Office circular was issued in response to the European Court of Human Rights (ECtHR) decision in June 1997 on the case of Halford vs. UK. The essence of the judgement was that interception of a person's office telephone can constitute an interference with the right to respect for their private life established under Article 8 ECHR. Where this is so, the interception must be carried out in accordance with the law and there must be an effective remedy. Because UK law relating to interception does not currently extend to non-public telephone networks, this form of interception could not be carried out in accordance with the law and consequently there was no effective remedy.

## RECORDING TELEPHONE CONVERSATIONS ON PRIVATE NETWORKS

1. This note contains new advice to companies that provide telephone services to their employees. This is published at the request of the Home Office who wish to alert such companies to a new and important legal interpretation of their obligations concerning the privacy of their employees' telephone calls. This advice is necessary to ensure that the UK is compliant the European Convention on Human Rights (ECHR) and a recent ruling in the European Court of Human Rights (ECtHR). If you run a company or are in any way responsible within your company or organisation for the provision of



telephone services, you need to read, understand and act on this new advice. This includes any organisation that runs its own switchboard, call centre or other type of private voice network.

### The Present Position

2. Several factors have contributed to the growing practice of recording or monitoring telephone conversations at the work place in recent years. Within the financial services sector it has become widely accepted even where it is not strictly a regulatory requirement. The growth of call centres has led to a significant expansion in the amount of business done by telephone. The need to ensure customer satisfaction, to train and supervise call centre staff, to achieve quality targets, to have a record of what was said in the event of a subsequent dispute - all these have inevitably led to widespread monitoring and recording of calls.

3. Where organisations do feel it necessary to record or monitor calls - for whatever reasons - the rules under which they do so have been set by the Privacy of Messages condition of the major two telecoms class licences - the Self-Provision (SPL) and Telecommunication Services (TSL) Licences. The most fundamental requirement of this condition has been that every reasonable effort is made to inform all parties to a telephone conversation that it may or will be recorded. Annex 1 provides an extract of the relevant section of the SPL/TSL.

4. Although the condition does not specify precisely how the parties should be informed, most people will now be aware of how many firms are conforming to the requirement. Advertisements that invite calls to a given number, whether the advert appears as a poster, on television or radio or in the print media, frequently carry a message to the effect that calls may be recorded or monitored for quality.

### Why new guidance now?


5. Effective as the SPL/TSL rules have been they were not designed to address the broader legal issues, pertaining to privacy, that can arise with recording and monitoring. These rules effectively regulate how an organisation should give relevant parties warning about recording or monitoring, but do not fully elaborate the privacy rights of employees in the workplace. The new advice, based on the ECtHR judgement, focuses on the reasonable expectation of privacy that employees are entitled to in the workplace - an entitlement conferred by the European Convention on Human Rights that is going to be incorporated into UK law by the Human Rights Act 1998.

6. The purpose of the new Home Office guidance is to clarify what employers need to do now, in advance of proposed legislative changes, to comply with the Convention and the lessons learned from the judgement.

7. Under the new advice, the present SPL/TSL rules remain valid, but the new Home Office advice is based upon the principle that "everyone has the right to respect for his private and family life, his home and his correspondence" established by the European Convention on Human Rights. It may not therefore be sufficient simply to warn employees that their phone calls at work may be recorded or monitored in order to remove their expectation of privacy. This is because it is not reasonable to assume that people at work will never make or receive calls touching on personal and domestic matters. One lesson to be drawn from the judgement is that there is a legitimate expectation of privacy for such calls.

8. This means that there has to be some way in which employees at work can make or receive personal calls that will not be recorded or monitored. The circular suggests that one way of doing this would be for an employer to provide adequate access to payphones in the workplace with an undertaking that they will not be subject to any form of recording or monitoring. However this is not the only way of meeting this objective. The key issue is that there are some lines at work which members of staff can use for private calls secure in the confidence that calls made from them will not be recorded or monitored.

9. It is equally important that employees continue to be informed that recording or monitoring may take place on official work phones, as already required by the SPL/TSL. The main reason for this is



that once there has been a clear explanation that calls made on a particular system may be recorded or monitored, anyone making calls on that system is acknowledging the possibility that those calls may be recorded or monitored. This can be interpreted as implied consent and removes the expectation of privacy. As OFTEL has previously advised, the necessary information can be given within a work environment in a number of ways including terms and conditions of employment, staff notices, posters and global e-mails.

10. External callers also need to be advised of the possibility of recording or monitoring. Companies have devised a number of appropriate ways to meet this requirement, including the use warnings in advertising and customer literature.

#### **What else should be done?**

11. Although it may not be a strict legal necessity, it is certainly good practice to explain to staff why their calls might be recorded or monitored. Moreover this will offer a higher degree of protection in the case of a legal challenge. Employers should develop guidelines covering their policy on recording and monitoring in the workplace and the use they will make of the material derived from it.

12. It is however advisable to restrict recording and monitoring activities to situations where they are both absolutely necessary and proportionate to the problem to be overcome. For example, misuse of office phones could be detected by an itemised call record, which is less intrusive than recording or monitoring of the actual calls.

#### **Conclusion**

13. In conclusion, the main lessons to be drawn are that employees in the workplace are entitled to privacy for any personal calls they may make; that their expectation of privacy for work-related calls must be removed by adequate warning and that where their privacy is affected it must be for some purpose which is both reasonable and proportionate.

#### **Annex 1**

The Privacy of Messages condition of the Self-Provision Licence (SPL) and the Telecommunication Services Licence (TSL).

(7.1) The Licensee shall not use or allow to be used any Apparatus comprised in or connected to the Applicable Systems (except for Apparatus connected to or comprised in the Applicable Systems for the purpose of law enforcement or in the interest of national security) which is capable of recording, silently monitoring (except for monitoring where the meaningful content of the Message is not monitored) or intruding into Live Speech Telephone Calls, unless he complies with paragraphs 7.3 and 7.4. This paragraph shall not apply if the Licensee is an Emergency Organisation or if the Director has consented to the Licensee not complying with any or all of paragraphs 7.3 and 7.4 and has not withdrawn that consent.

(7.2) The provisions of each consent given under paragraph 7.1 shall be entered in the register kept by the Director for the purpose of section 19 of the Act.

(7.3) The Licensee shall make every reasonable effort to inform parties to whom or by whom a Live Speech Telephone Call is transmitted before recording, silent monitoring or intrusion into such Call has begun that the Live Speech Telephone Call is to be or may be recorded, silently monitored or intruded into.

(7.4) The Licensee shall maintain a record of the means by which parties to whom or by whom a Live Speech Telephone Call is transmitted have been informed that such Call is to be or may be recorded, silently monitored or intruded into. The Licensee shall furnish to the Director such information on request.

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