



Information Sheet: Privacy and recording conversations

Last Updated: 24/06/2018

Introduction

The recording of conversations in the workplace, school yard or family meetings now seems almost common place. The purpose of this information sheet is to provide some basic information about the legalities of recording private conversations.

General Rule

While the laws are different in each state, in Queensland the general rules are as follows:

1. it is **illegal** to record a telephone call with a device physically attached to the telephone – *Telecommunications (Interception) Act 1979* (Cth);
2. it is **legal** for a telephone call to be secretly recorded by an external device (e.g. Dictaphone) by a person who is a party to the conversation – s 43, *Invasion of Privacy Act 1971* (Qld) but it is **illegal** for a person who secretly records the conversation to then show or give the recording to any person who was not a party to the conversation;
3. it is **legal** for a face to face conversation to be secretly recorded by a person who is a party to the conversation – s 43, *Invasion of Privacy Act 1971* (Qld) but it is **illegal** for a person who secretly records the conversation to then show or give the recording to any person who was not a party to the conversation;
4. it is **illegal** for a person who is not a party to the conversation to record a conversation (whether by telephone or face to face);

Exceptions to these rules do apply so you should seek legal advice to your particular scenario before acting.

Tips to reduce risk of recordings

You can reduce the risk or damage created by recordings by doing the following:

1. If you need to conduct an investigation (a common time for recordings to be made) in your workplace or school, it is a good idea to set out ground rules around recordings. You might propose to take a recording of any interview and share it to the parties. You might expressly state that you do not consent to a recording (to avoid any issue of a tacit consent). Having good investigation processes and templates set out is a good idea.
2. You can implement a Recording Device Policy in your school or workplace to give you better control over recording devices.
3. Training staff as to how to deal with situations if they are recorded is also a good idea. This empowers your staff.

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L A W Y E R S

What we can do

We can help you by:

1. Answering general privacy and recording queries over the telephone that may occur on a day to day basis;
2. Providing written legal advices;
3. Drafting and preparing policies and procedures to support you;
4. Presenting at staff seminars to assist your staff training.

Disclaimer

This sheet is general information only. It is not legal advice. You should seek legal advice before relying on this sheet as your circumstances may be different or this sheet might be out of date.

This information might be out of date. If you wish to seek legal advice, please contact us.

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