

Guidance and requirements when capturing personal data in audio and visual recordings

Please note: The below guidance is subject to ongoing updates. Please do not disseminate or store local copies of this advice and refer only to the IMPS web pages as the master source of up-to-date information.

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Introduction and Scope

This guidance has been produced for anyone capturing **personal data** within audio and video recordings (including recording of meetings), for any purposes, where recordings capture the contributions and/or images of identifiable individuals.

Recordings that capture personal data must meet the requirements of data protection laws.

Please note: Specific policies and guidance apply to the capture of recordings for teaching and learning. This guidance compliments and supplements policy and guidance for *Learning Capture*, however, those making recordings for these purposes should refer to the resources linked within section 8 of this guidance.

Advice for system owners, administrators and those looking procure software for the purposes of capturing recorded content:

IMPS are responsible for providing *advice on compliance with data protection laws*. Please ensure that your asset can meet these requirements and use the below **general principles** to inform your own user guides, training, and system configuration.

If you are looking to procure any new software, for the purposes of recording, and where existing University approved tools are not suitable, you should take advice from your DTS Business Partner in the first instance.

The advice below can be referred to for any recording for any purpose and is agnostic of how and why.

Definitions:

References to:

'Personal Data' have the same meaning as taken from the [General Data Protection Regulation](#) (EU and UK).

'activity' and 'session' should be taken to include teaching, presentations, training, research, and meetings.

'tool' should be taken to include Teams, Streams, Blackboard, Canvas, Dictaphones and any video conferencing software or tool otherwise capable of making recordings.

'participants' should be taken to include students, staff, and any attendees of a recorded activity.

Principles

Compliance with Data Protection laws will involve consideration of, and adherence to, the below principles:

1 - Is recording strictly *necessary*?

First consider whether your activity *needs* to be recorded.

If you are using a digital tool, for example, Microsoft Teams, to record an activity, is this essential? What purpose does the *recording* serve?

Examples:

Recording connected with the delivery of teaching and learning activities may be considered necessary if undertaken for the below purposes:

- Ensuring that all students can access teaching and learning content. When a student is unable to attend on campus sessions because of Covid-19 travel or quarantine restrictions, and it is not reasonable to expect them to attend an online session because it is scheduled at a time that is outside of usual teaching hours (9-6) in the country or region in which they are based.
- Assessment, such as recording of clinical practice for summative assessment; recording a coaching session for formative feedback; recording a presentation when an assessor is unable to attend.
- Making a reasonable adjustment under the Equality Act 2010. Should a student require a recorded session as a reasonable adjustment, a recording may be made for these purposes.
- When a student's employer has sponsored them to attend a University programme on a part-time/flexible basis, and the University has agreed to make all sessions available to all students on that programme even where a student's work commitments mean they cannot attend some of the sessions at the scheduled 'live' time. An example of where this will apply is in the context of some of Henley Business School's Apprenticeship programmes.
- When a specific exceptional case has been approved by a Teaching & Learning Dean (in liaison with Legal Services/IMPS).

Consideration of whether recording is strictly necessary

Example: you set up a video camera and audio recording in a physical space, and then, upon arrival, announce to participants, that you will be recording the session.

- In the above example, if it would seem *odd* to set up a video camera and audio recording in this physical space, and if this were something you would not ordinarily do – consider - *why this is needed* in a digital environment?
- In the above example, if it would seem unfair to advise that any participant who is *not* happy to be recorded, that they could cover their face, and not contribute verbally – consider *whether recording is fair?*
- In the above example, if it would seem detrimental to the participant experience, or their right to participate, to advise that anyone who is not happy to be recorded can leave the session – consider *whether recording is denying that attendee of the right to be delivered that session* (which may or not be paid for).
- Also consider the impact that recording may have on *how comfortable your attendees are in making active contributions to the session.*

Recording may deter or inhibit audience participation, particularly if the recordings are going to be made available to participants or more widely in the University. Do your grounds for recording warrant this? Would this be detrimental to your objectives?

Digital tools have made recording very easy. *If recording can be done, it does not necessarily mean it should be done.* Consider why it is necessary to record. Recordings made for trivial reasons, such as 'so I can watch them back later' for no specific purpose or 'it *might* be useful later' may not qualify as an essential purpose. Be clear on your reason for recording before you begin.

Recorded content will be subject to all obligations under data protection laws and recordings bring with them numerous responsibilities – make sure that this is warranted and understand what these are before recording.

Activities that *would* ordinarily involve recording in a physical space, replicated in a digital environment, are likely to be more justified if the purpose for recording is already well established.

Example:

Students within the School of Psychology and Clinical Language Sciences may be required to record sessions with patients for the purposes of assessment. This may ordinarily take the form of a video or audio recording being made in a consultation room. Subject to all existing security controls and measures, it may be necessary to record these sessions in a digital environment to ensure that assessment can still take place.

Activities involving presentations that would ordinarily be delivered to an audience, where that audience may be unable to attend in person, may require a recording to be made available to facilitate this. The option of a live stream, as opposed to a recording, could be considered first.

Example:

Students within the Henley Business School may be required to deliver presentations to other students as part of their course. Using a live stream will not be possible due the required audience being unable to attend at a set time. It may be necessary to record these presentations in a digital environment to ensure that this activity can be undertaken.

Activities involving recordings that are required for the purposes of assessment may be necessary, where those undertaking the assessment (for example examiners or moderators), cannot view in real time, or need to share with others for these purposes.

Example:

Students within the School of Literature and Languages are required to undertake an oral exam as part of their course assessment. Those involved in the assessment of that exam are unable to hear the exam in real time. It may be necessary to record these presentations in a digital environment to ensure that this activity can be undertaken. In this instance, *if* video is not required, it should not be used.

If you do not have valid and robust reasons for recording, it is possible that any capture of personal data may *not be necessary*, and as use of personal data must be

minimised and justified, your recording may not be compliant with data protection laws. Check the 'why' first.

If you are confident that you have met the *necessary* principle, the following further principles will apply:

2 - Transparency

All those being recorded MUST always be made aware that recording is taking place.

Dependant on what tool you are using, this could be via one, or any combination of the below (and more than one may apply):

- Automated messages that appear within the tool to advise that recording has started
- A warning delivered by the organiser to advise that recording has been enabled
- A prior message contained within an invite, privacy notice or any pre-read materials going out to participants in advance of the session

All those being recorded should also be clear on the intended audience of the recording. In some cases, this may be implicit, for example, within a department, team, cohort, or study group. It will be for the person distributing the recording to be satisfied that the intended audience for the recording would be within the reasonable expectations of those participants.

Sharing recorded content widely, for example, with *all* staff, *all* students, the *whole University* or by publishing externally (*to the world at large*) should be done with extreme caution and only with the knowledge of those participants that will be *identifiable* (including from their image) within it.

Do not assume that people are aware, those joining a session late or mid-session will also need to be aware.

Warning: sharing of Teams Meetings:

When your recorded Teams meeting downloads in the meeting chat channel, all participants on your meeting will be able to view it in that location by default. If you need to share with others, or edit those who can view it, please ensure you choose the option to 'Open in Stream' to do this. From there you can adjust settings and select who can view. If you use the 'share' shortcut from your Teams chat channel, where the video downloads, there is one option only - to share with 'all company' - this is the **entire** University (all staff, all students) - do not select this unless this is your intention, and if so, only if all on the meeting are already aware that it will be available to all.

DTS have a Stream video on settings within Stream (accessed via login to Microsoft 0365 from the central IT webpages). Please look at this to find out how to adjust settings within Stream.

Be aware, that recordings within Teams will, by default, be available to those that may have attended prior meetings associated with that Team, for example, as a guest or via a one-time invitation, within that Team. If this is not suitable or appropriate, the meeting organiser should adjust permission settings in Stream so that only those present (and/or invited) to that meeting can view the recording.

If in doubt, when your meeting starts, look at the participants list – everyone that appears there will see your recording unless you adjust permissions.

3 - Purpose Limitation

All those being recorded MUST be clear on WHY the session is being recorded.

The purpose of the recordings will be limited to what is necessary to perform that activity. It will be for the person undertaking the recording to be satisfied that the reasons for the recording are within the reasonable expectations of those participants. Recordings retained for any other purposes, for example, to be used for onward training or 'examples' of prior work may require consent from the participant (s). Please contact IMPS for advice.

4 - Security

Recordings MUST be handled securely. Security extends to who you are making the recording available to and understanding how your recording tool works.

You will be responsible for ensuring that:

- Access permissions are set appropriately and are closely monitored.
- Your recorded content is not placed on platforms that are not supported or approved by the University (contact DTS or your DTS Business Partner if you are unsure).
- Recordings are stored in line with [University Information Compliance Policies](#).
- Any security issues are reported to IMPS promptly, via imps@reading.ac.uk

Additional security for *video conferencing* software:

Wherever available, the following security settings should be applied to any tools that allow for video conferencing, where available or possible:

- Do not make meeting links publicly accessible, e.g. by posting on social media sites.
- Meetings must be access controlled with a meeting password.

- Disable 'join before host' for your participants. This means you arrive first and then allow your participants to join.
- Disable the ability for participants to re-join. If you need to eject a participant, they will not be able to re-join.
- Disable any 'file transfer' options wherever possible to minimise the risks of sharing malicious content.
- Disable participant screen share, selecting the option for 'only host' to allow screen share (you can also control who you can allow to screen share if necessary).
- Once all participants have joined, lock the virtual meeting room. This requires the host to allow a participant to enter. For large numbers of attendees, you are advised to stress the importance of a timely arrival in your invitation. You will be able to let participants in once the meeting is locked or you may wish to communicate a deadline after which no more attendees will be admitted.
- If audience participation is not required or permitted, where available, mute participant videos and microphones.
- Ensure that you participants are aware of their ability to turn off video and/or mute microphones.
- Features that allow for any *individual* participant engagement tracking, where available, must be disabled. This includes features that track the on-screen actions of a participant, such as minimising windows or opening other windows during a session. This *does not* apply to any tools that collect data on simply whether a participant has attended the session or aggregated and group level statistical data.
- If you do not want your participants to record sessions, disable this ability.
- Report any IT security issues to DTS as soon as possible and without delay.
- Use of recording tools and actions of all participants will be subject to Regulations for the use of the University's IT Facilities and Systems and University Polices.

If any of the above cannot be met, contact IMPS for advice.

5 - Retention and Deletion

If are going to record, you will first need to consider how long that recording will be retained and who will be responsible for maintaining and deleting it when it is no longer needed.

Digital storage capabilities often mean ample space to store large amounts of audio and video files. This increases the risk of recorded content being retained for long periods beyond a point of serving the original purpose.

Required retention periods will differ dependant on the nature of, and reason for the recording.

General queries regarding retention of other content should be referred to IMPS@reading.ac.uk. You may be required to create a record retention schedule for your content if it is not currently covered. IMPS will assist you with this.

6 - Queries and requests made under data subject rights

- The *individual undertaking the recording* will act as the first point of contact for any queries arising regarding the recording. If the query is regarding a technical issue regarding storage, access, or deletion this should be referred to DTS or the relevant system administrator for advice. If the query is regarding matters relating to personal information, this should be referred immediately to imps@reading.ac.uk.
- If any participants have concerns about being recorded, these should be discussed with the meeting organiser in the first instance. Please be ready to explain why your recording is necessary if queried.
- The individual undertaking the recording is responsible for ensuring that restrictions on recordings are abided by (these are given below). If you are recording the meeting on behalf of someone else and have concerns, please discuss with them in the first instance.
- If a participant has a request, concern or query regarding matters relating to recorded personal information, this should be referred to imps@reading.ac.uk promptly.
- Should IMPS request access to, or copies of, your recordings these must be provided to the IMPS team promptly.

For details on what functionality exists for the tool you are using, and/or how to adjust settings, please contact the relevant system administrator or DTS for advice. Please note that IMPS do not provide bespoke user guides for all tools.

If you are looking to use a tool that is not already approved for use, or are unsure if it can be used, please seek advice from your DTS Business Partner in the first instance. Please be advised that the University has an obligation to perform all necessary security assessments of tools used, as well as due diligence checks of third-party suppliers – this can take time so plan ahead to avoid disappointment.

If you have any questions about how to adjust settings in the particular tool you are using, these will need to be referred to the system administrator or relevant department, for example TEL team for Teaching and Learning tools, or DTS for Microsoft tools in general.

7 - Restrictions on recording

Recording is not permitted for some limited University matters. If you have any doubts as to whether your recording will fall under any of the below categories, or

wish to discuss a recording need, you should contact IMPS in the first instance for advice.

Recording is currently not permitted where the meeting includes discussions with, or about, individuals with regards to any of the below. This includes current, former, or prospective students or staff:

- Disciplinary matters
- Individual performance and attendance issues
- Matters subject to grievances or disputes
- Occupational health matters
- Counselling, wellbeing, or welfare
- Security reports or incidents

If you would ordinarily have a minute taker present, invite them to the meeting, that they can take written minutes in the usual way.

8 - Learning Capture

Recordings that are necessary for the purposes of Learning Capture are subject to specific policies and guidance.

More information on Learning Capture, and links to policies and resources can be found at:

<https://sites.reading.ac.uk/tel/learning-capture/>

Frequently asked questions

What if I have *consent* for the recordings?

The University is a Public Body as defined within data protection laws. The University have core 'public tasks' to deliver teaching and research. These are tasks that we are necessarily required to undertake and that should not be reliant on the 'consent' of individuals that are involved in those activities (we need to do them regardless). For this reason, 'with consent' should not be the basis for most of our University activities and, in many cases, will be inappropriate.

For consent to be valid it needs to be 'freely given.' In simple terms, there must be no undue detriment or disadvantage to the participant if they do not consent.

In practice, this means a student or staff member should not feel they have no option but to 'consent' if they are to take part. In the case of students, if this is recording of teaching content subject to their student contract, this could amount to 'consent' that is not freely given.

The 'balance of power' between the University and the attendees means that consent is unlikely to be an appropriate basis to rely on in most cases. If the

recording is strictly necessary (see Principle 1) then we should not be alluding to 'consent'.

Participants may feel awkward or uncomfortable about not 'consenting,' or that this would detriment their studies or relationship with the University. They may feel under duress to agree, and not able to raise a concern before recording starts.

Consent must also be fully informed. It is not enough to ask people if they consent to being recorded if they do not know why or where, or to who, those recordings will be made available.

Consent also needs to be able to be withdrawn, without detriment, and easily. If deletion of participant contributions would be detrimental to the core tasks and functions of the University, consent is not likely to be the appropriate basis for the recording.

Consider your reasons for recording – if they are robust, it is likely that *other basis* within data protection law, other than 'consent' will be available. In the instances and examples provided for in this guidance the lawful basis is likely to be for the performance of our public tasks, not consent - seek advice from IMPS if unsure.

Note: the 'consent' message that displays on Teams recorded meetings was designed by Microsoft and the University are not currently able to amend it. This message is primarily to make participants **aware** that recording is taking place, it should not be taken to amount to 'consent' as the legal basis under data protection laws.

What if I want to record a meeting to help take minutes?

It is recognised that minute taking in digital meetings, particularly those with large numbers of attendees, can be challenging.

Providing the above principles are followed, recordings for the purposes of minute taking are permitted providing you take into account the requirements above and that they are deleted promptly after the minutes are transcribed.

We would also recommend that, if there are any concerns about the recording being available to all attendees in the interim, that the minute taker that initiates the recording enters their recordings within MS Stream and adjust permissions to remove all attendees while working on the minutes.

This does not apply to meetings that fall into the categories in Section 7.

Be aware that *full copies* of recorded meetings will be subject to disclosure under the Freedom of Information Act *for as long as the recording is held*. This is not the case for content that is not recorded or 'held.'

What if my students make their own recordings?

If you do not wish for your students to record a session, firstly ensure that, *where available*, functionality to allow participants to record is disabled. Please also refer to

any existing policies on student recordings – they may be prohibited. If unsure, contact the system administrator or DTS for advice.

At the *session hosts discretion*, students are permitted to make their own personal recordings of teaching content, for their own private study purposes, as part of the University's commitment to [accessibility](#)

The student facing policy on personal recordings can be found at <https://sites.reading.ac.uk/tel/learning-capture/>.

Please note that students making personal recordings for their *own private study* purposes, where these have not been made on the direction or instruction of the University and are not shared with others, are not likely to be subject to data protection laws.

Where to go for help

For information and queries relating to data protection laws and how they impact recording involving personal data, and for queries regarding this guidance document:

<http://www.reading.ac.uk/internal/imps/>

email: imps@reading.ac.uk

0118 378 8981

For queries relating to tools and general queries relating to delivery of teaching and learning:

<https://www.reading.ac.uk/internal/its/>

email: it@reading.ac.uk

0118 378 6262

Version control

Version	Keeper	Reviewed	Approved by	Approval date
1.1	IMPS	Annually	IMPS	October 2020
1.2	IMPS	Jan 2022	IMPS	Jan 2022
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