



23 November 2023

Tēnā koe

On 27 October 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

*I am writing to you to ascertain Work and Incomes policies on – clients and the department itself recording conversations at meetings with clients.*

On 1 November 2023, the Ministry emailed you to clarify your request. You responded to the Ministry on 1 November 2023 to clarify that you were not seeking to make a complaint about the experiences detailed in your initial request. You stated that you were wanting to know the Ministry's policy regarding clients recording their meetings with Work and Income.

Please see **Appendix one: Operational Guidance – Recording Standard**, which provides the Ministry's policy about clients and the Ministry using a recording device or application. We refer you to pages five to seven which are particularly relevant to your request.

This guidance within **Appendix one** was introduced, and communicated across the Ministry, in April 2023.

Please note that Naomi Hoskins, Manager Client Service Delivery, Whanganui Service Centre, would welcome the opportunity to meet with you and to conduct an interview where you could record the discussion. To arrange a suitable time please telephone Naomi Hoskins on (06) 965 8011.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

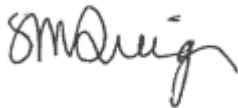
- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact [OIA\\_Requests@msd.govt.nz](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response to your request for Ministry policy regarding clients recording their meetings at Work and Income, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui

A handwritten signature in black ink, appearing to read 'S Quigan', written in a cursive style.

Sarah Quigan  
**Manager Official Information  
Ministerial and Executive Services**

# Operational Guidance: Recording Standard

## Purpose

The purpose of this guidance is to provide operational support for the Recording Standard (the Standard).

## 1. Application

The Standard deals with any recording feature that may be available and utilised in applications, or via other methods, either by a client or other party, or under the control of MSD i.e., on MSD managed or approved devices. This includes, but is not limited to, Zoom, Microsoft Teams (Teams), Google Meet, video cameras, mobile phones or similar devices and applications.

The Standard should also be understood in the context of the [Personal Information Use Scenarios](#), and applies to all MSD staff, third parties and contractors. It applies equally to formal interviews as well as less formal conversations and other interactions where there may be a need or desire to record by any party.

This guidance covers how to deal with situations when:

- For internal-only meetings and events attended or facilitated by MSD where no client or member of the public are in attendance and there is a desire to record:
  - i Either for internal publication or use e.g., training sessions, intranet updates
  - ii To have an alternative record to assist with the meeting's specific purpose e.g., aid in the accuracy of minutes or reporting
- For MSD-controlled external meetings and events attended or facilitated by MSD where no clients or unauthorised members of the public are in attendance and there is a desire to record:
  - i Collaborative work or external events between agencies (wrap around support services, agreements)
  - ii To have an alternative to record to assist with the meetings specific purpose e.g., aid in the accuracy of minutes or reporting
- For client-related meetings:
  - i A client wants to make a recording of their interaction with Ministry of Social Development (MSD) staff, including
    - When attending in person at a site, office, or other locations
    - Calling by phone

- ii MSD staff, contractors or other third parties representing MSD may wish to record a discussion or meeting with client/s in any of the same instances.

## 2. Key principles

The Privacy Act 2020 is explicit that, if there is no clear and reasonable need to collect personal information, we cannot do so. However, even where we have a justification for collecting information, the Data Protection and Use Policy (DPUP) also requires us to ensure that it is ethical, respectful, fair, and reasonable to collect (and use) that information.

Kaitiakitanga means to have guardianship and stewardship of people's data and information. It is a role of trust that protects and keeps people's stories and information safe, respects what has been shared and understands its value and enables the sharing of that information when it is appropriate.

As kaitiaki, we should recognise that we are stewards, not owners, of the people's data and information that we collect, use, share, and store. It means being transparent with the people we work with, having open conversations about how we use the information we collect about them, and explaining things in an accessible and easy to understand way in a manner that matches the people's needs and interests. Allowing individuals to record their conversations with us, if reasonable expectations are met, is a way that we can show the people that we work with that we are kaitiaki over the information we hold.

Mana manaaki is one of the three pillars of MSD's strategic focus. It means that we look after the dignity of people with warmth, listening, respect, compassion, openness, and fairness. By acknowledging someone's right to record information about themselves we are acknowledging and supporting their mana.

All MSD created or held records, data and information are a matter of public record and the result of the meeting and any related artefacts, such as recordings or meeting notes, may be requested by the public under the Privacy Act 2020 and/or the Official Information Act 1982.

Ideally, for non-client related virtual meetings, MSD staff are the ones initiating and in control of the recording. The MSD staff member organising and controlling the virtual meeting must notify (and gain consent) any participants of all virtual meetings that the meeting is being recorded. Staff must ensure that the same standards are applied to virtual meetings as though they are in person, e.g., ensure no one else's privacy is compromised, the recording is justified and will be secured and used correctly.

## 3. Technology and equipment

For recordings being facilitated by MSD, only [tools](#) approved for recording can be used. Microsoft Teams is currently the approved tool to record meetings in certain situations (as described below), however, it must not be used for meetings with clients. An exception to this is certain workgroups, such as Client Service Integrity's use of [Dictaphones](#), and corresponding transcriptions for the purposes of evidence to be used in a prosecution or Benefit Review Hearing.

As a default, the record function in Microsoft Teams is disabled except in certain use cases. To gain access to the feature, fill out and submit this form: [Request Recording for Teams](#). Guidance on how to use the recording function in Teams, including privacy waivers that must be used, can be found [here](#).

Recordings come with privacy and information management challenges that other formats do not. When we record, we automatically record more information than we need (what the person is saying or showing), recordings can also capture the sound of their voice, their face or their location (if video recording is used), but also anything the person may share on accident. Therefore, we need to make sure recordings are made in an appropriate way and managed appropriately.

The approved methods of holding internal meetings, or MSD-controlled external meetings, that do not involve clients are either in-person or via Microsoft Teams. Microsoft Teams is the easiest recording method for meetings and allows for a notice to all attendees to advise the meeting is being recorded. It can also transcribe a meeting (if enabled) and would advise attendees of the same.

If a different or external virtual meeting method is to be used, e.g., Zoom, or Google Meet, then its use must have been certified by the CISO and CPO to ensure it complies with ICT safeguards, security, and other applicable standards. Any resulting copy of a meeting recording must be secured, easily retrievable and be able to be managed by MSD in accordance with its Information Management standards, such as:

- [Information Classification Standard](#)
- [Information Retention and Disposal Standard](#)

Recorded material must only be stored in the approved location and method for the business area by which it was captured.

## 4. Recording areas of use

### MSD-internal recording:

One of the identified areas of use for recording are certain MSD-internal meetings, where staff members, who have been approved, would be able to record other MSD staff members where the recording is demonstrated to be needed or of use for their work. However, this does not extend to recording clients, and must only be used for meetings when clients are not in attendance or expected to attend, for example:

- Recording an internal meeting to aid in typing a written record (such as minute notes)
- Recording an internal training session for reuse with refresher of new staff training
- Recording of an internal meeting of key value which can be played back to staff that have missed that meeting
- Any other use cases? Contact [Digital\\_Workplace@msd.govt.nz](mailto:Digital_Workplace@msd.govt.nz) for assessment

Technical guidance on how to organise a meeting, record, store, and share recordings can be found [here](#).

As stated in the technical guidance linked above, there must be a staff member appointed who organises and controls the meeting, sets expectations for participants, and controls the recording and their outputs. Physical, or combined physical and virtual meetings should follow the same requirements as for virtual only. The controlling staff member will be responsible for:

- Sending the invitations as described in the technical guidance
- Including a privacy waiver in the meeting invitation, which clearly indicates that the meeting will be recorded (and must be repeated before the recording starts).
- Filing the recording in accordance with the technical guidance (and any other relevant policies)

If an attendee is uncomfortable about being recorded, they must be given the option to decline to attend or exit the meeting. If the relevant attendee is a critical part of the meeting, alternatives should be considered such as allowing them to participate with their camera turned off during the meeting, or the facilitator meeting them individually to gather their views or perspectives, or the meeting recording being turned off and alternative ways used to capture necessary detail.

If an alternative method to the online recording functionality within Microsoft Teams is used to record, i.e. mobile device or camera, the device is the property of MSD and it's use is covered under its [Acceptable Use Policy](#).

### **MSD-Controlled External meetings:**

Certain MSD-controlled external meetings can also be recorded where it can be demonstrated that the recording is necessary and would be of business value. These meetings, by their nature, will include external attendees such as other government agencies, project managers and third-party providers. However, this does not extend to recording clients, and must only be used for meetings when clients are not in attendance or expected to attend, for example:

- Recording an external meeting to aid in creating a written record (such as minute notes)
- Recording an external meeting where there are issues of accessibility (such as meetings where NZSL is used)
- Recording an external meeting to play back to key stakeholders in the event of a scheduling conflict
- Any other use cases? Contact [Digital\\_Workplace@msd.govt.nz](mailto:Digital_Workplace@msd.govt.nz) for assessment

The Technical guidance on how to organise an MSD-Controlled external meeting, record, store and share recordings are the same for authorised MSD-internal meetings which can be found [here](#).

As stated in the technical guidance, there must be a staff member appointed who organises and controls the meeting, sets expectations for participants, and controls the recording and their outputs. Physical, or combined physical and virtual meetings should follow the same requirements as for virtual only. The controlling staff member will be responsible to:

- Sending the invitations as described in the technical guidance
- Including a privacy waiver in the meeting invitation, which clearly indicates that the meeting will be recorded (and must be repeated before the recording starts).

- Filing the recording in accordance with the technical guidance (and any other relevant policies)

For MSD-controlled external meetings, external attendees cannot:

- Start or stop the recording
- Download a copy of the recording or any generated transcripts

If an attendee is uncomfortable about being recorded, they should be given the option to decline or exit the meeting. If the relevant attendee is a critical part of the meeting, alternatives should be considered such as allowing them to participate with their camera turned off during the meeting, or the facilitator meeting them individually to gather their views or perspectives, or the meeting recording being turned off and alternative ways used to capture necessary detail.

If an alternative method to the online recording functionality within Microsoft Teams is used to record, i.e. mobile device or camera, the device is the property of MSD and is covered under its [Acceptable Use Policy](#).

If an MSD staff member attends a virtual meeting via a non-MSD controlled or approved device, or recording tool, they are considered an external participant and must not record the meeting, even if the function is enabled for them.

### **Clients recording MSD Staff members:**

This guidance is targeted at situations that involve clients recording MSD staff members. This includes in-person meetings and/or interviews, conversations over the phone, and any potential virtual meetings and/or interviews that may occur.

It is becoming increasingly likely that the way we interact with our clients will be changing, as will the technology we use to interact with our clients. Regardless of how we interact with our clients, either in-person, over the phone or virtually, the scenarios and expectations for both parties (clients and staff) will generally be same in terms of justifying a recording and being comfortable in controlling the meeting appropriately to protect staff and clients involved.

### **General Principles:**

Clients can record conversations or meetings that they are participating in, and do not have to ask staff for permission, so long as they are intending to use the information collected within that recording for their own personal or domestic affairs. If this is the client's intended use, they do not generally need to comply with the information privacy principles of the Privacy Act 2020.

However, if an MSD staff member has reasonable grounds to believe a client's intended use of a recording is to cause them or others harassment or other harm, staff are entitled to object to the recording and terminate the meeting if recording does not stop.

Being able to record a conversation can be a valuable tool for clients to help them understand important or complicated information and decisions that affects them, for example, their benefit entitlements. Further, certain clients may have vulnerabilities that affect memory, understanding or access to information and could benefit from being able to replay recorded advice and support that MSD has given them.



For the sake of openness and transparency, instead of clients feeling that they need to record a conversation or meeting covertly, it is preferable for clients to feel comfortable that if they feel that they need to record a conversation, they can do so.

### Allowing a recording – When should staff agree to being recorded by clients?

As well as instances where the Ministry agrees to a recording taking place, there will be occasions when we should actively encourage clients, kaimahi or other parties to record meetings (or do so on their behalf). Instances where we should encourage clients to record a meeting could include, but are not limited to:

- The client is deaf or blind and requires the information contained in a recording to help them, or their agents/advocates, understand decisions made about them or their benefit entitlements
- The client could have cognitive or attention issues and having the information contained in the recording would help them, or their agents/advocates, understand decisions made about them or their benefit entitlements
- The information the client is seeking is of a complex nature, and having a recording with a staff member explaining the decision or process would be of immense value to that client, or their agents/advocates

If staff are comfortable being recorded, they should reassure the client that MSD recognises recording may be helpful and agree that the client and staff member are comfortable to be recorded for uses directly related to the meeting. They should also set expectations around the use of the recording, where it will take place and whether it will involve only audio, or audio and video.

If staff are uncomfortable being recorded, they can seek guidance from a colleague or manager, either to discuss whether another colleague or manager could handle the conversation, or to consider other options. However, MSD, and its staff, cannot refuse to deal with that client *solely* because they are wanting to make a recording. Even where a client's desire to record a meeting presents an obstacle, staff must make best efforts to ensure there is no prejudice to that client receiving Full and Correct Entitlement (FACE), e.g., losing or not being granted an entitlement. Staff should seek support and guidance from a colleague or manager as necessary. However, for the protection of MSD staff, and for our other clients who may be present during a recording, staff should engage with clients on setting reasonable expectations around how recordings are made. These expectations could include:

- Conducting themselves in a respectful manner (including being clear that they are recording for their own personal or domestic use)
- Being willing to move to a more suitable location (such as an interview room, or an interview desk in matters of staff safety) if other clients are within recording range of the conversation
- If a more suitable location cannot be found, the client is willing to reschedule the meeting so appropriate measures can be made to facilitate the meeting
- Allowing an audio recording, instead of a video recording (except in instances of accessibility), if MSD staff would prefer that option

If those reasonable expectations are not met by the client, staff are entitled to decline to be recorded, or terminate the meeting if the recording has already begun. This is because, while some clients may simply wish to record a conversation or interview for their own personal or



domestic affairs, it is recognised that some clients may intend to use a recording to cause harm or discomfort to MSD staff members.

### Objecting and stopping a recording – When can staff decline to be recorded?

If an MSD staff member has reasonable grounds, such as the criteria stated below, to believe a recording of a meeting will be used to cause them or others harassment or other harm, they are entitled to object to the recording and terminate the meeting if recording does not stop. Indicators of this include evidence of a history of harassment, or current aggressive or vexatious behaviour, such as:

- If the client is making explicit, or implicit, threats that they intend to put the recording, edited or otherwise, online (via social media or otherwise)
- If the client is conducting themselves aggressively – swearing and/or threatening language and/or behaviour
- If the client insists on the recording taking place while other clients are within earshot
- Previous evidenced interactions with the client (held in STAR or the client's CMS record) where there were threats made, general aggressive behaviour and/or verbal abuse indicating they are likely to record to cause harm to the staff member or the Ministry.

Staff members can stop the recording (and meeting) if they feel the recording is being done with the intention to use the recording to cause harassment or other harm later, such as:

- Recording and being deliberately abusive, for instance, making an implied or explicit threat to publish the recording online in a derogatory or abusive way; and/or
- Recording a conversation and indicating they intend to edit the recording and share it in a way that harms or cause the staff member to feel distressed, embarrassed, or harassed
- Recording a conversation to manipulate MSD staff into changing a decision made about them, their benefit, or their entitlements

In these circumstances, if a staff member believes that a client is making, or has made, a recording with the intention to use it to cause harassment or harm, they should report the behaviour in [STAR](#). Their manager will determine what the appropriate response is to the harmful behaviour, such as issuing a warning letter.

Where a client has posted online or shared a recording of any form following a meeting, and this is done in a manner the staff member concerned finds distressing, intrusive or unreasonable based on their understanding of the interaction, the incident should be reported to the staff member's manager, to discuss what options or support may be available. More information can be found here: [Support for staff who are identified or targeted on the internet - Doogee \(ssi.govt.nz\)](https://www.ssi.govt.nz).

### MSD Staff members recording clients:

While subject to change in the future, there is currently no approved [tool](#) for MSD staff recording their interactions with clients other than the reasons set out in the following practices and policies:

- All Customer Service Representative (CSR) incoming and outgoing calls are recorded (with the exception of the Allegation Line) by Verint and, if possible, must be released to the client if requested

- i. Clients are advised by an upfront IVR message before speaking with a CSR which states *'Please note this call is being recorded, we may use this for our purposes, including staff training and providing client services and support'*
  - ii. It is not possible to turn off call recordings for these lines for clients who do not wish to be recorded, in which case, they will need to be booked an appointment to speak to a case manager.
  - iii. More information can be found [here](#)
- Images, still or moving, of clients captured by CCTV - [Closed Circuit Television Policy \(May 2020\)](#)
  - [Client Service Integrity's use of Dictaphones and corresponding transcription services for the purposes of evidence to be used in prosecutions or Benefit Review Hearings.](#)

## 5. Recording operation

MSD must minimise the risk of collecting unnecessary information. If any nearby person that is not an attendee is likely to be included in an audio or video recording, then permission must be obtained from that person, or they must be given the opportunity to leave the area before recording begins.

Where video is used, it must be set to only capture images of those in attendance, for instance by blurring the background of the video. If it is difficult to capture everyone without also including images of others e.g., outside the meeting room or area, then a position of 'minimisation' must be adopted. It is better to not capture an attendee than to capture an extra person without their permission – check that those in attendance understand this before the recording begins and reconfirm at the start of the meeting that this has been discussed and the attendees have all agreed to this (or otherwise).

The organiser should also make efforts to include options that are available to those who are not comfortable with having their image captured. This could be provided by an option for a participant to attend the meeting without their camera on, or an opportunity for their views or perspectives to be included in the meeting despite their absence.

If you cannot avoid capturing others who have not agreed to be recorded, then the recording should not proceed and alternative methods of capturing the information should be used.

## 6. Use of recordings

Any recording can generally only be used for the purpose for which it was collected unless a relevant exception under the Privacy Act 2020's information privacy principles apply. For example, recordings and transcripts cannot be used as evidence in employee performance matters without appropriate consent, and having first engaged with HR.

If recordings are needed for other purposes, for example in the context of a criminal investigation or to prevent or lessen a serious threat, the standard [information management](#) and [privacy](#) guidelines must be observed i.e., does an exception under the Privacy Act apply, is it lawful and

reasonable. If in doubt the advice of the Privacy team should be sought via [privacyofficer@msd.govt.nz](mailto:privacyofficer@msd.govt.nz).

Recordings are also an MSD public record and must be managed according to the Public Records Act 2005. They are subject to access requests by individuals under the Privacy Act 2020, and by individuals or organisations under the Official Information Act 1982.

However, in most use cases (such as typing the minutes for a meeting), a recording might be considered as a transitory record if its purpose is to be used to create a more formal record, therefore it would not be retained long term.

## 7. Access to recordings by individuals

As stated above, any individual who is recorded has the right to make a request to access the recording.

Privacy Act requests by an individual to access or obtain a copy of a recording, or personal information that would include recordings, must be assessed in relation to MSD's ability to readily retrieve the recording, maintain the privacy of any other identifiable individuals in the recording and other factors as detailed in the Privacy Act 2020. For example, depending on the query, whether a transcript is available or could be used. If in doubt the advice of the Privacy team should be sought via [privacyofficer@msd.govt.nz](mailto:privacyofficer@msd.govt.nz).

## 8. Transcriptions

Automatic transcriptions **must not** be saved as an authoritative record. Transcriptions may not necessarily be accurate, due to software limitations, the use of Te Reo, or someone's accent. Even though some platforms have the availability to transcribe, or there are transcription tools available, their reliability can be doubtful.

If a transcription must be generated, they must only be used to help produce a more formal record or for accessibility purposes and should be destroyed when this purpose has been fulfilled.

If a client requests a call recording, and for whatever reason we cannot provide that to them, the client's particular vulnerabilities and needs must be considered in any assessment of whether we produce a transcription of a call recording in this instance.

## 9. Third party access to recordings

Authorisation is required to supply recordings to any third parties, such as another agency, and must be in line with standard practice of each particular work group for the supply of any personal information.

A request for recordings by a third-party must be in writing (e.g., an RFI made by another agency such as Police) and must specify (to the extent possible) the date, time, and location of the recording, the reason for the request and the legal authority and grounds relied upon to

request the information (if not self-evident from the request). The request will be assessed regarding the requirements of the Privacy Act 2020, and any other Acts relevant to the request.

## 10. Storage and security of recordings

Information must be easily discoverable and accessible in order to respond to any Privacy Act request.

Recordings must be secured, and access restricted in accordance with standard information management practices to lessen the possibility of unauthorised or accidental access to, or disclosure, alteration, loss, or destruction of the personal information. Safeguards include:

- Limiting access to only staff with relevant authority
- Prohibiting download and/or sharing of recordings unless an approved purpose exists
- Storing in accordance with MSD's standard information management procedures (such as holding the recording in an approved repository)

## 11. Retention and disposal

Recordings will be retained based on the use case and purpose for the meetings.

Transitory recordings (e.g., short term recordings for typing minute notes) must be deleted under General Disposal Authority 7 when the recording is no longer required (e.g., when the meeting minutes have been written up).

Recordings that are required to be retained for longer term (e.g., NZSL policies or decisions) will be managed in line with the appropriate disposal authority class outlined in MSD's [Disposal Authority](#), or General Disposal Authority 6

## 12. Incident reporting

If a privacy breach occurs in relation to any of the recordings, such as unauthorised access or disclosure, the matter must be reported to the Privacy Team [as per usual guidelines](#).

There may occasionally be incidents captured in the recording e.g., where an attendee discloses inappropriate information during a meeting. If this is identified when the meeting has concluded, then the recording must be secured in a manner that does not allow the breach/incident to be perpetuated or exacerbated.

## 13. Exceptions

If any requirements from the Standard cannot be met, then an exception MUST be granted, or the non-compliant activity stopped. Exceptions MUST be applied for using the approved exceptions process.

Any request to make a recording that does not meet the Standard and other relevant policies or guidelines, including the recording of meetings with external parties such as third parties or vendors, can only be approved by the Information Group's General Manager (and Chief Privacy Officer). If an exception is required, staff must contact [infohelp@msd.govt.nz](mailto:infohelp@msd.govt.nz) for assessment.

Any exception granted and any conditions must be captured along with the recording, so it is clear what circumstances applied at the time.

## 14. Breaches of the Standard

Failure to observe the standard by staff and contracted third parties who are required to comply with it could result in privacy breaches, some of which may require notification to the Office of the Privacy Commissioner (OPC).

Any allegations or instances of potential breaches must be assessed immediately under MSDs [Privacy Incident Management Guidance](#) and be fully investigated.

During the investigation, MSD reserves the right to temporarily suspend access to all users, or certain groups of users, and their ability to record where functionality exists to do so.

## Appendix I – Typical requirements/scenarios

Purpose of recording	Storage location
You want to record a meeting to make minutes	The minutes need to be saved into the appropriate repository e.g. Objective. Once this has been done, the recording must be deleted.
You want to record a meeting for staff who cannot attend (instead of rescheduling)	Once the staff have viewed the recording, it must be deleted.
You want to record content for training purposes	If the training is required to be retained longer than 90 days, then it must be moved to the appropriate Workspace. Refer to instructions below.
You need to record for accessibility reasons (such as a NZSL meeting )	Where a decision or policy is made - Move to the appropriate Workspace. Refer to instructions below. Otherwise delete once no longer required.

Instructions on operating the recording function including gaining consent, storage and retention can be found here: [Recording Meetings with Microsoft Teams \(sharepoint.com\)](#)