

## UK Call Recording Legal Compliance

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The following FAQ is intended to summarise the key points in the legal and regulatory environment in regard to call recording in the UK. It is not possible to provide comprehensive detail of all legislation here. Any reseller or end user business looking to implement call recording is strongly encouraged to get independent legal advice. VanillaIP can in no way accept liability for acting purely on the points below.

### **For what reasons can I record my customer's calls?**

The Lawful Business Practice [LBP] Regulations specify conditions upon which calls may be recorded. These are to:

- Provide evidence of a business transaction.
- Ensure that a business complies with regulatory procedures.
- See that quality standards or targets are being met in the interests of national security.
- Prevent or detect crime to investigate the unauthorised use of a telecom system.
- Secure the effective operation of the telecom system.

The LBR regulations can be [found on the DTI website](#)

### **Do I need consent from my callers to record calls?**

No, provided the recording is to meet one of the above conditions and you are not intending to make the recording available to a third party. If you are recording for any other purpose, such as marketing or market research, you will need consent from the third party.

If you are intending to make the recordings available to a third party, then you must make every reasonable effort to inform all parties to a telephone conversation that it may or will be recorded.

### **How do I advise callers that they may be recorded?**

The particular means by which you choose to do this are not specified. Acceptable options, depending on circumstances, might include warning tones, pre-recorded messages, spoken warnings by the operator or written warnings included in publicity material, telephone directories, contracts, terms of business, etc. It may not always be possible to warn first-time callers with whom you have had no previous contact but what is important is that you have a systematic procedure in place which provides the necessary information wherever this is a realistic possibility."

In these cases call recording is authorized on the basis that there is reasonable grounds to believe the caller has consented.

### **Do I need to notify my employees that calls are recorded?**

Yes. Businesses can monitor, but not record, phone calls to see whether they are relevant to the business (ie open an employee's voicemail or mailbox systems while they are away to see if there are any business communications stored there).

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.

### **What is the relevant legislation?**

(1) Regulation of Investigatory Powers Act 2000 ("RIPA")

An interception is only lawfully carried out if one of the following applies

- (i) The person intercepting the call has reasonable grounds for believing that it has the consent of both the caller and the intended recipient of the call to intercept; or
- (ii) The interception is carried out by a business in compliance with the Lawful Business Practice Regulations (see below.)

(2) The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (the "Regulations")

Interception is authorised if the business which is intercepting the call has made all reasonable effort to inform potential users that their communications may be intercepted, and the interception is then carried out:

- (i) To establish the existence of facts (eg to evidence a business transaction);
- (ii) To assess or demonstrate that standards "which ought to be achieved" are achieved (eg quality control and training standards);
- (iii) To prevent or detect a crime, or for purposes of national security;
- (iv) To assess compliance with regulatory practices or procedures applicable to the business;
- (v) To investigate or detect unauthorised use of the communications system; or
- (vi) To determine whether communications are relevant to the system controller's business.

(3)The Data Protection Act 1998 ("DPA")

Recording (and use of recordings) where you can determine the identity of either party to the call, either directly from the recording or from other information, would require you to first:

- (i) Have informed that party how the recording would be used;
- (ii) Obtain consent for the recording to take place (This may be implied from the fact that the customer has been notified and not objected, but you should obtain explicit consent if the call reveals any information classified as sensitive by the DPA, ie details of race/ethnic background, political opinion, religion, trade union membership, physical/mental health, sexual life, offences committed or legal proceeding bought.)
- (iii) The obligations in relation to processing of that data also apply, so that the data must be kept for longer than necessary, under secure conditions and must be accessible to the customer at their request.

(4)The Employment Practices, Data Protection Code

The code states that employees should be informed about any monitoring of their calls and that their consent should be obtained (as required under the DPA.)

#### (5) Human Rights Act 1998

The Act provides that "everyone has the right to respect for his private life and family life, his home and his correspondence". To ensure that this right is protected employees whose calls are monitored should be given access to a private line over which personal calls can then be made, during their lunch break for example.

#### (7) Telecoms License obligations – The Service Provision License

Private and business use of a telephone system is regulated by certain DTI licenses. These include a similar requirement to that set by the Regulations that "every reasonable effort" to inform parties to a telephone conversation that recording may take place should be made.

### **Further Reading**

#### **Ofcom**

[Ofcom Website Here](#)

#### **Information Commissioner**

[ICO Website Here](#)

#### **DTI**

[DTI Website Here](#)