



## Glendal Primary School Recording of Conversations Policy

### Rationale

- The Surveillance Devices Act 1999 (Vic) [the SD Act] regulates to some extent the recording of private conversations between persons. The SD Act defines a 'private conversation' as a conversation carried on in circumstances that may reasonably be taken to indicate that the parties desire it to be heard only by themselves. This would include a formal meeting attended by parents and school staff but would not include a conversation in which the parties to it ought reasonably to expect that it may be overheard by someone else, e.g. a discussion in the playground between staff and parents.
- A parent attending a meeting in person or on the phone with school staff may therefore record the conversation with or without the knowledge or consent of the other attendees without breaching the SD Act, as they are a party to the conversation.
- Victorian Surveillance laws do not prevent a person present in and party to a meeting recording that meeting or using the recording in legal proceedings. The law permits them to do so without disclosing that they are doing so or seeking consent from other attendees. However, the law places some limitations on how any such recording is shared or published, but there are practical difficulties with preventing a person sharing the recording of a meeting with others who weren't at the meeting if this is done privately.

### Aims

- This policy aims to reinforce that the school and parent community demonstrate respect in meetings and conversations in person or via phone and technology.
- It outlines the request and strong preference of the Glendal Primary School staff that conversations and meetings are not recorded by any device without knowledge and permission from all parties concerned.

### Guidelines:

- Principals have the power to regulate the recording of meetings at a school as part of the Principal's delegated authority to determine who may enter the school and the conditions of entry to the school.
- If a recording has been made, the Principal can request a copy or request that the recording be deleted but there are no legal grounds to enforce such a request. This request should be made in writing together with a clear request that future meetings at school are not to be recorded without the permission of the Principal or Assistant Principal.

### Implementation

#### How Can Recordings be Used?

Subject to some exceptions (which are set out below), the SD Act prohibits a person from knowingly communicating or publishing a recording or a report of a private conversation that has been made as a direct or indirect result of the use of a listening device (such as a recording function on a phone).

This prohibition will not apply, so that a recording may be communicated or published, in some prescribed circumstances including where:

- each party to the private conversation has given express or implied consent, e.g. consent may be implied where it is apparent each party is aware of the recording but took no action
- the communication or publication is no more than is reasonably necessary:
  - in the public interest; or
  - for the protection of the lawful interests of the person making it; and/or
- the communication or publication is in the course of legal proceedings or disciplinary proceedings.

If a recording was published in some other way (e.g. on the radio, in a public format, or on the internet), a person may be committing an offence under the SD Act.

### **What are the Risks of Allowing Meetings to be Recorded?**

While it may be argued that transparent recording of a conversation eliminates the risk of dispute over what was said, there are a number of risks that we need to consider. In particular:

- if only one party records the conversation (i.e. the family), it is likely that inculpatory or unfavourable comments, including where taken out of context, may be used in legal proceedings and exculpatory or favourable comments withheld or lost
- recordings can be edited and a simple statement taken out of context so as to suggest a meaning that was not intended.
- it can promote a sense of suspicion and distrust, and impact the ability of participants to speak frankly and comfortably
- it can add to workloads as it is often time-consuming to listen again to a recording of a meeting.

### **What can the Principal do about Meetings Being Recorded?**

The Department does not have a policy about the recording of meetings. However, Principals have the power to regulate the recording of meetings at a school as part of their delegated authority to determine who may enter the school and the conditions of entry to the school.

This is consistent with the position that:

- the power to determine who may enter and remain on school grounds and the conditions of entry is delegated to the school Principal from the Minister of Education; and
- Principals are empowered to respond to incidents as and when they arise.

The Principal and Glendal Primary School staff are able to request that a recording taken without knowledge or permission be deleted, even though, in most instances, the school will not have any legal grounds to enforce destruction of records and can only request that this occur.

### **Steps to Address Concerns about Secret Recordings**

To avoid recordings taking place, Glendal staff will:

- establish clear expectations with respect to meetings. This may include:
  - clearly requesting that meetings are not to be recorded, unless a Principal or Assistant Principal agrees
  - confirming how meeting discussions will be captured, e.g. through the live taking of minutes (potentially projected onto a screen if necessary) by a dedicated minute-taker and disseminated at the conclusion of the meeting
- establish conditions of entry including the condition that meetings and discussions are not to be recorded without the express consent of the Principal (or person authorised by the Principal to make that decision).

Where requests are made to record meetings, or staff become aware that recordings are taking place, there are three main options:

1. Decline to convene/attend/continue the meeting unless the involved party agrees that it will not be recorded.
2. Agree to convene/attend/continue the meeting on conditions determined by the Principal which may include that the involved party agrees to provide a copy of the recording to the Principal/staff within an agreed timeframe.
3. Allow the involved party to record the meeting, in which case it is recommended that the school makes its own recording (and communicates it is doing so) alongside having a Glendal staff member take detailed notes of the discussion.

### **Evaluation:**

Policy reviewed 29<sup>th</sup> July, 2021.