

21.11.02

**13 Deputy M.R. Higgins of the Minister for the Health and Social Services regarding Data Breaches (OQ.221/2021)**

Has the Minister received any advice from the Office of the Information Commissioner that members of the public are not in breach of data protection legislation if they secretly record meetings that they have with social workers to keep a record of such meetings provided the recordings are not made available on social media?

[12:00]

**The Deputy of St. Ouen (The Minister for Health and Social Services):**

This matter has been discussed with the Office of the Information Commissioner and our understanding is that, while social workers can expect to be recorded, issues can arise when the person making the recording uses it for something other than their own personal use. Personal use might be, for example, to aid recollection of a conversation or to share with a legitimate party who was not present during the conversation such as a legal representative or family member. However, if the recorder uses the recording for other purposes, i.e. it is subsequently published more widely than their own household, then it is my understanding that they would become a data controller and the full scope of the Data Protection Law will take effect.

**4.13.1 Deputy M.R. Higgins:**

Would the Minister say that it is acceptable for any civil servant to basically threaten people who have recorded a conversation and tell them that they were in breach of the Data Protection Law when they were not and this happened on occasions? Would he certainly encourage, throughout the whole of the civil service, that they must not try to discourage people from using these recordings for legitimate purposes?

**The Deputy of St. Ouen:**

Any threats issued at any time are unacceptable but I think the parameters are clear here. Where it is established that the recording is for personal use only, then that is permissible and this means that there must be a conversation at the outset from the person intending to make the recording to inform the officer that it will be recorded and to confirm how they intend to use the recording. I think it is a bit of give and take with good communication on both sides.

**Deputy M.R. Higgins:**

With respect, the Information Commissioner told me personally they do not have to tell people that they are recording.

**The Deputy Bailiff:**

Well, you are commenting now on an answer.