

Bugging offices is not a crime (in UK)

Bugging offices in the UK is not a criminal offence, according to surveillance and legal experts speaking to [OUT-LAW radio](#). While recording a phone conversation is a criminal offence, someone could place a recording device in an office legally, they said.

In an investigation into corporate surveillance techniques, the weekly technology law podcast.

OUT-LAW discovered that no offence is committed by placing a bug in a workplace to secretly record conversations.

"There's nothing in any piece of legislation that stops you from putting a physical bug in a room, an office or something like that provided you are there lawfully and you haven't committed any criminal offence to get access to it," said Victoria Southern, a lawyer at Pinsent Masons, the law firm behind OUT-LAW.

"There is no UK law that says thou shalt not bug by means of transmission device," said Justin King of counter-surveillance consultancy C2i. "You wouldn't go down on criminal law, you're not actually committing a criminal offence."

In the wake of the bugging scandal which has engulfed Hewlett Packard, OUT-LAW investigated whether it was possible to conduct legal surveillance in the UK, and what common practices were.

It soon emerged that placing a bug is legal.

Companies attempting this will almost certainly fall foul of data protection legislation once they begin using the data they have collected, said Southern.

If the bug is recording the goings on in a particular room that could take you into the realms of data protection It require that data is processed fairly and lawfully and when you are looking at whether data is processed fairly you look at what data subjects have been told," she said.

"If the bug's just been planted there and no-one's been told it's recording the particular goings on

in a room then there's a good argument that the processing could be considered to be unfair," said Southern.

That, though, will only lead to a warning from the Data Protection Commissioner's office, which is unlikely to be a significant deterrent for private investigators. It could become more serious than

that, though. "The Information Commissioner (ICO) could issue an enforcement order which could say to the private organisation that they must cease processing," said Southern. "If they continue to [break it]

then that could become criminal liability under the Data Protection Act."

King has another suggestion. "If you connect your microphone to the ring mains and use 240 volts to power it you could probably be done for theft of electricity," he said.

The rules are clearer on telephone conversations, said Southern. "If you are recording a telephone conversation then there is a specific criminal offence provided for in those circumstances," she said.

Hewlett Packard is still embroiled in its bugging scandal. Californian Attorney General Bill Lockyer has filed four felony counts against each of five people, one of whom is ex-chairwoman Patricia Dunn.

"One of our state's most venerable corporate institutions lost its way as its board sought to find out who leaked confidential company information to the press," said Lockyer.