

I don't know if anyone here has ever played the game of putting trivial events in their life into tabloid headlines? Things like 'divorced mother of two phones milkman!' and so on. Well, a couple of weeks ago, I had a phone call from a young friend who happens to be a care-leaver. He'd just been in to see his Connexions PA and hadn't realised up until then just how much information about him was stored on the database. He insisted on seeing his file, despite the PA's protests, and was astonished to find that not only was every contact he had ever had with the service faithfully recorded: they had even recorded sightings of him around the town where he lives. Although he was annoyed, he also found it very funny.

He said: "Hey, it made me sound like James Bond or something!" There was: 'K called in to collect briefcase' and: 'K asked to use telephone in private' alongside: 'saw K waiting at station' and the portentous: 'noticed K leaving Pizza Hut with 2 others'. Despite his amusement, K (being a sensible young man and not a spy) immediately withdrew his permission for Connexions to share information about him.

It's very easy to build up a false picture of someone from isolated facts taken out of the context of a whole life, and to assume that because something is written down it must be significant. It's also easy for trivia to obscure what is really important. As far as social care is concerned, there is no substitute for a social worker who has experienced life – both their own, and something of hundreds of other people's – because only with that experience comes the wisdom to put the trivial and the significant in their proper place.

The subtitle of this session asks how professionals can share information within the existing data protection laws. Well, there are three ways. One can ask permission – surely the most moral option that respects the autonomy and dignity of a fellow human, whatever their age. But that can be unrealistic if a child is at risk of significant harm. In that case, the existing Data Protection Act allows an exception to seeking permission or allowing data subjects access to records.

The third way is by coming under a statutory duty to share information. In other words, if an Act of Parliament contains a section that allows the Government to make Regulations later about the what, when and how of information-sharing, then any duty that those Regulations impose overrides obligations imposed by the Data Protection Act.

You might think that this is a power that should, and would, be used sparingly, as and when it was absolutely necessary, but that increasingly is not to be the case. The Government is taking powers to compel the sharing of information in circumstances where before it would have been in breach of confidence, and failure to comply can attract a penalty. For example, Regulations that followed the Health and Social Care Act 2001 impose a financial penalty of up to £5,000

on any person, any health professional, who fails to share patient information as required by Regulations.¹

Of course, current concern focuses on the Children Bill currently before Parliament. Clause 8 (or 23 for Wales) would empower the government by Regulations to establish whatever database it decides, to demand that whatever information it later specifies is placed upon it and to decide later who will access that information. More than that, it allows them to delegate their function, and specify in the Regulations who will make the rules about information-sharing. All of this will be done without the knowledge or consent of those to whom the information relates: the Bill seeks to overturn the Common Law duty of confidentiality.

In other words, there is nothing to stop professionals being required to place all of the records that they hold on one central database. The government can, if it so decides, delegate its function to a private body and professionals must then comply with the requirements of that private body.

The Government says that it only intends to hold 'basic' information and that it has not yet decided whether the databases will be local or national. However, to quote Lyndon B. Johnson: *"You do not examine legislation in the light of the benefits it will convey if properly administered, but in the light of the wrongs it would do and the harms it would cause if improperly administered."*

The problems surrounding the practicalities of constructing a database system have already been well-aired and I don't intend to spend much time on these today. You will no doubt already be aware that the expression 'at risk' contained in the Children Bill does not mean 'at risk of significant harm'. It means 'at risk of social exclusion'. Professionals are being required to share information simply on the basis of their subjective concerns. Quite apart from the Human Rights and privacy implications, there are real child protection concerns.

What happens to children at risk of harm if the database system malfunctions? The Government doesn't exactly have an impressive track record on databases so far, as the sad history of the CSA, the Libra Courts System, the Immigration and Nationality database (to name just a few) demonstrates.

How will children genuinely at risk of harm be spotted in a welter of trivia about SATs tests or having the wrong kind of postcode? What if the information falls into the wrong hands – whether through carelessness, corrupt disclosure or hacking? Where are the social workers to deal with the inevitable increase in referrals? Professionals will, understandably, tend to over-report rather than risk being hung out to dry by retrospective judgement. The child protection system is already in crisis, and common sense suggests that this is hardly the time to pile the load any higher.

What I thought might be more helpful today, though, and, I hope, interesting, is to flesh out some of the wider issues around the Children Bill. As I've already said, context is everything! Please bear with me if this initially seems rather remote from the immediate issue: I promise its relevance will become blindingly obvious.

I will say in advance that all of our research has been carried out solely on the UK or EU Governments' own websites – it's all freely available information. Don't worry if it sounds an awful lot to take in: if you would like to read this speech again at your leisure, you can download it from our website, or email us for a copy. It is fully footnoted with URLs for the sources of the information, to enable you to explore it all for yourself.

During the 90s, it became apparent that advances in information technology had wrought huge changes in the economies of the world. Companies were able to transfer their operations to countries where production costs were a fraction of those in Europe, leaving little demand for unskilled labour. EU countries began looking at how they could survive economically. How could they compete? How could they harness the new technology and develop new markets for it?

Finally a plan was agreed in Lisbon in 2000. It was described as: *"a ten-year strategy to make the EU the world's most dynamic and competitive economy"*.² The plans were laid for creating the 'knowledge economy', serviced by workers with fluent IT skills. There are several factors considered key to this process. The first is the need to drive up education standards and introduce the idea of lifelong learning, in order to produce a highly-educated workforce, flexible enough to re-train as necessary into new skills.³

Social Exclusion is viewed as a significant problem. As an EU communication outlines: *"On the downside, there are considerable risks and uncertainties associated with the knowledge-based society, as it threatens to bring about greater inequalities and social exclusion...almost 150 million people in the EU...face a higher risk of marginalisation."*⁴

Another key factor in the Lisbon Strategy is the development of 'e-government': the joining-up and delivery of services via IT.⁵ Member states have already been warned that: *"The transformation of public administrations that eGovernment entails will encounter resistance. Therefore strong political leadership and commitment is needed"*⁶

e-government is considered important for several reasons. First of all, it will put IT into the daily life of every citizen. If all of your essential services are supplied via computer, it's in your interests to become IT-literate pretty quickly. The knowledge-based economy relies on high IT literacy skills. According to the EU Observatory's news section, a forthcoming UK report by Sir Peter Gershon, head of the office of government commerce, is likely to recommend that it is made compulsory for some sections of society to conduct all of their transactions

online.⁷ Apparently he also believes that we have precious little to show for an investment in e-government that currently amounts to £8bn.

e-government will also allow the monitoring of progress towards the Lisbon Strategy's targets⁸. These are tight, and reviewed regularly via the EU's Spring Council Meetings.⁹ Information held on governments' IT systems can, for instance, be used to check whether the education system is producing the right results, how close we are to the target of getting 60% of women into employment or whether we are providing effective disincentives to early retirement.

e-government will also of itself stimulate new markets in IT. Putting public services online will increase the demand for IT services and new, better products. As the European Commission puts it: *"New services, applications and content will create new markets and provide the means to increase productivity and hence growth and employment throughout the economy."*¹⁰ How does this work? Because *"...developing services and building infrastructures are mainly tasks for the private sector and eEurope will create a favourable environment for private investment."*¹¹

Just before I re-cross the English Channel, I should mention that the EU has a department dedicated to the development of electronic e-government networks. It's called the IDA¹² – or 'Interchange of Data between Administrations'. Last year saw publication of an IDA working paper that *"...focuses on what is required to ensure that the back-office systems of Europe's public administrations are sufficiently interoperable to allow seamless pan-European e-government services to be developed."*¹³

The IDA paper defines interoperability as: *"the means by which the inter-linking of systems, information and ways of working, whether within or between administrations, nationally or across Europe, or with the enterprise sector, will occur."*¹⁴ It goes on to say that: *"e-government services do not stop at administrative or even national boundaries"* and advises that *"...the interoperability efforts, currently taking place nationally, be scaled up to work at the pan-European level."* This document is a must-read for anyone remotely interested in what I'm talking about today.

Meanwhile, back on the home front, the UK hasn't exactly been sitting around. In 1999 the Government produced a White Paper¹⁵ which opened up the possibilities for electronic service delivery, or e-government, within the UK. The Cabinet Office's Performance and Innovation Unit was tasked with looking at how the White Paper's ideas might be put into practice. Their report 'Electronic Services for the 21st Century' followed in September 2000¹⁶ and enthused about the potential offered by joined-up, electronic services. I particularly recommend the 'vision' section. It's actually very funny, until one remembers that this is for real. It tells a charming little story about what life could be like if our files were held centrally and separated by electronic gateways.

A further report came from the PIU in April 2002: 'Privacy and Data-sharing'¹⁷ in which they outlined the key areas in which the Government could make rapid progress in e-government.¹⁸ It's also well worth reading this report because things suddenly begin to make a lot of sense.

And here's the point where we re-join the Children Bill. The PIU reported that joined-up electronic service delivery could assist in identifying children at risk of social exclusion; in sharing information within the Sure Start scheme; in reducing the number of children missing school; in identifying families in need of services. There is no mention of child protection, and the only 'at-risk' is that of social exclusion.

Suggestions such as: *"..information sharing across agencies to build up a holistic view of children's needs and ensure children do not slip through the net"* or *"early identification of children, young people and their families.....and ensure they receive the support they need"* may all sound very familiar. But, no, this is not the Green Paper 'Every Child Matters'. This comes from that PIU Report, which was published before the Laming Inquiry even opened, and 18 months before the Children Green Paper.

We are being asked to believe a lot of things about the Children Bill, and quite frankly Alice in Wonderland's 'six impossible things before breakfast' springs to mind. We are expected to believe that 'Every Child Matters' was a response to the Laming Inquiry, rather than a pre-existing Government policy that was waiting for the right cover-story. We are asked to believe that child protection is a high priority. We are asked to ignore recent history and believe that the most ambitious Government IT project yet is not going to come apart at the seams. We are asked to believe that the funds are available to build a robust system, despite the fact that local authorities have already spent two-thirds of the available budget on delivering less than half of the e-government objectives.¹⁹ In the teeth of the evidence, we are asked to believe that there are enough staff to meet children's needs.

Child protection was not on the PIU agenda. Will a database that records concerns about children as widely couched as whether they were of low birthweight, or are easily bored, really enable someone to concentrate on finding and protecting children at risk of harm? Or will ploughing through endless minor 'concerns' merely take up valuable time? Given the sheer pressure of workload, will practitioners be forced to abrogate responsibility entirely to a machine and hope it doesn't crash? Ultimately, a computer cannot go round to a house and help a child who is distressed or in danger.

As for Clause 8 (or 23) of the Children Bill, despite the fact that we can read its provisions for ourselves, we are asked to ignore the evidence of our own eyes, and believe that we are going to have local databases containing a few names and addresses! Then why is the Government seeking wider powers? They do not

draft legislation by jotting random thoughts down and then saying "Whoops! I didn't really mean that!"

Personally, I'm rather tired of tricks with mirrors. Recently someone said to me: "I'd prefer to believe this is cock-up rather than conspiracy." But there is no cock-up and there is no conspiracy. Rather, there is clear intention. The information is all there for anyone who chooses to look, and I sincerely hope that you will all do that. It's only when we have real, hard information that we can begin to frame the questions we really should be asking about information-sharing, joined-up services, the Children Bill and protecting children.

If the notion of 'society' is to mean anything, then a society should be judged by how well it serves its most vulnerable members. Child protection is a very serious issue, and should not be relegated to the sub-category of a project that has at its heart a very different motivation.

If the Government is really committed to child protection, it can demonstrate its concern by putting all available resources towards solving the staffing crisis in children's services. Not by throwing money at an untried IT system, which, if the past is anything to go by, will end up consuming far more than its estimated cost.

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¹ Statutory Instrument 2002 No. 1438 reg.8 <http://www.legislation.hmsso.gov.uk/si/si2002/20021438.htm>

² http://europa.eu.int/information_society/programmes/egov_rd/about_us/index_en.html

³ **'Making a European Area of Lifelong Learning a Reality'** *EU Communication: Brussels, 21.11.01 COM(2001) 678 final*
http://europa.eu.int/comm/education/policies/lll/life/communication/com_en.pdf
"In economic terms, the employability and adaptability of citizens is vital for Europe to maintain its commitment to becoming the most competitive and dynamic knowledge based society in the world. Labour shortages and competence gaps risk limiting the capacity of the European Union for further growth, at any point in the economic cycle. Lifelong learning, therefore, has a key role to play in developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce. This means removing the barriers that prevent people from entering the labour market and limit progression within it. Tackling inequality and social exclusion is part of this."

⁴ *Ibid*

⁵ http://europa.eu.int/information_society/programmes/egov_rd/about_us/index_en.htm

⁶ *ibid*

⁷ **‘Official report could recommend compulsory use of e-government services in the UK’**

<http://www.europa.eu.int/ISPO/ida/jsps/index.jsp?fuseAction=showDocument&documentID=2167&parent=chapter&preChapterID=0-140-194-329-345>

⁸ from: **e-europe action plan 2005**: “...policy measures will be monitored and better focussed by benchmarking of the progress made in achieving the objectives and of the policies in support of the objectives.”

http://www.europa.eu.int/information_society/eeurope/2002/news_library/documents/eeurope2005/execsum_en.pdf

⁹ A clickable list of **EU Spring Reports** is at:

http://www.europa.eu.int/comm/lisbon_strategy/reports/index_en.html

¹⁰ **eEurope 2005 Action Plan**

http://www.europa.eu.int/information_society/eeurope/2002/news_library/documents/eeurope2005/execsum_en.pdf

¹¹ *ibid*

¹² **IDA Mission Statement:**

<http://www.europa.eu.int/ISPO/ida/jsps/index.jsp?fuseAction=missionStatement>

¹³ **‘Linking-up Europe: the importance of interoperability for e-government services’**

<http://www.europa.eu.int/ISPO/ida/jsps/index.jsp?fuseAction=showDocument&documentID=2036&parent=chapter&preChapterID=0-17-72>

¹⁴ **‘Linking up Europe’** etc.

<http://www.europa.eu.int/ISPO/ida/export/files/en/1675.pdf>

¹⁵ **‘Modernising Government’** 30.3.99

<http://www.archive.official-documents.co.uk/document/cm43/4310/4310-00.htm>

¹⁶ **Electronic Government Services for the 21st Century**

<http://www.number-10.gov.uk/su/delivery/foreward/frames.htm>

¹⁷ **Privacy and data-sharing: the way forward for public services**

<http://www.number-10.gov.uk/su/privacy/01.htm>

¹⁸ **Chapter 11: service-specific proposals**

<http://www.number-10.gov.uk/su/privacy/11.htm>

¹⁹ **UK local authorities slowly progressing towards 2005 objectives**

<http://www.europa.eu.int/ISPO/ida/jsps/index.jsp?fuseAction=showDocument&documentID=2521&parent=chapter&preChapterID=0-140-194-329-345>