

Written Evidence on the Protection of Freedom Bill 2011

The Association of School and College Leaders (ASCL) is the professional association for the leaders of secondary schools and colleges. ASCL represents over 15,000 members of the leadership teams of schools and colleges throughout the UK.

Overview

- 1 ASCL welcomes many of aspects of this bill, and has no opinion on others that are outside its scope. School and college leaders do have concerns about certain aspects of the bill, however, the full implications of which do not seem always to have been considered before it was drafted.

Biometric data in schools and colleges (Part 1 chapter 2)

- 2 ASCL opposes this chapter in its entirety. School and college leaders are not aware of the use of this kind of technology causing any problems for any young person, nor of any but very isolated concern about its use amongst parents, which often disappear once they see how the system works in practice. Indeed ASCL members report parents as being pleased with it for the reasons set out below.
- 3 What is proposed here is a very burdensome and bureaucratic new regulation that will address no significant problem. In short, it is exactly the kind of legislation that the present government promised to repeal, not enact.
- 4 It would appear that the use of biometric systems for access, library and catering purposes in schools and colleges is being confused with the use of biological material and biometric data in the criminal and terrorism contexts. The biometrics systems in use in education do not precisely identify individuals in the general population in the way that police fingerprinting may do, but merely distinguish between different students well enough to charge the correct ones for their lunch. The information would not be sufficient for investigative, forensic or evidential purposes even if made available for such, as of course it cannot be under the data protection registration of the institution concerned. The data is deleted once the student leaves.
- 5 The proposed approach is heavy-handed in the extreme. The written consent of both parents will be difficult to obtain in the case one is absent or alienated. Some families that are less well educated or more generally hostile to authority dislike signing any kind of official documents and may well refuse to do so without any concern for the issue in question.
- 6 The approach is much more severe than that applied for example to religious education, both more sensitive and more important, where parents have a right to withdraw their child but are only required to write if they wish to exercise that right. If it is determined to proceed with the essence of this chapter, **ASCL believes that a similar approach would be far more sensible, giving parents the ability to opt out, rather than requiring schools and colleges to conduct a burdensome exercise of collecting signatures to opt in.** Opt-out systems are perfectly

permissible and work well in gaining permission to use photographs of pupils, for instance.

- 7 Schools and colleges have invested heavily in this technology, and for good reason. The purpose is to prevent fraud, and, in the case of dinner money, for example, intimidation and theft by other pupils. Alternative systems depending on the carrying of a card are clearly more open to abuse, and suffer from the possibility of cards being lost, stolen or simply left at home. Such systems have the value of concealing the source of funding so that children in receipt of free school meals are not singled out from their more affluent colleagues.
- 8 The confusion and cost of operating two systems to allow for significant numbers of students who, or whose parents, have not opted in will mean that in practice schools and colleges will have to abandon this technology. They would not have invested in it if it had not offered the substantial advantages listed above. These will be lost.
- 9 Under the terms of this chapter new systems will have to be installed either as an alternative to the biometric system or to replace it. This is not a good time for increasingly scarce public resources to be used to replace perfectly serviceable and indeed preferable systems. Further, many such systems are supplied on lease and involve contracts of some years duration. If these have to be broken there will be further unnecessary costs. Again, if it is determined to proceed with this chapter, **ASCL believes it should apply only to new systems installed after a particular future date**. Where systems have been in place for some time, parents who do not wish their child to participate will have already made alternate arrangements. At the very least, there should be a lengthy lead time to allow existing contracts to expire.
- 10 It is not clear why schools and further education colleges, respectable and responsible public bodies, are singled out in this chapter. If this data could be misused, it is surely more likely to be so by other organisations than these, and there seems to be no intention to legislate to prevent any other organisations using such systems.

Regulation of surveillance (Part 2)

- 11 Schools and colleges have also invested in CCTV for the protection of their buildings and equipment. This has generally been done in the advice of the police or insurers or both.
- 12 They have also invested in it for the protection of staff and children. The case of Phillip Lawrence is a reminder of the dangers that teachers in difficult areas face, and CCTV has played a part in a number of cases in which ASCL has been involved in defending against unfair and false allegations. Similarly, the knowledge that CCTV may mean detection has assisted in the prevention of bullying. The Webster case has reminded everyone of the way in which a minor school fracas in an unsupervised area can lead to appalling consequences (Webster v Ridgeway School). CCTV can also help to prevent situations arising where an individual teacher is targeted by a class of children with tragic consequences (for example the Harvey case at All Saints School, Mansfield).
- 13 Whilst the provisions in the bill are aimed elsewhere, ASCL seeks reassurance that CCTV systems on educational premises, including those that overlook public places, will not be brought under the regime that is to apply to surveillance in public places.

Safeguarding (Part 5)

- 14 ASCL welcomes the simplification of the system for vetting and barring unsuitable people from working in schools, and the removal of the controlled category. However, we have some concerns that staff in FE colleges who may have access to young people as technicians are at present not included in the regulated category. Although they generally work under supervision there are occasions when they do not. A clarification in the new guidance document would be helpful.
- 15 We also welcome the narrowing of the regulated category to remove from the list governors and inspectors, occasional visitors and supervised volunteers.
- 16 ASCL has welcomed the proposals to simplify guidance on safeguarding children. However, we would ask that all guidance that concerns schools and colleges should be in a single document that can act as a reference manual rather than separate documents being produced. The Bichard Report drew attention to the fact that had the school been aware of a Home Office circular (Home Office Circular 47/9) the appointment of Ian Huntley would not have taken the route it did. ASCL pointed out in evidence that given the vast number of purely educational guidance relevant to schools it was unlikely that a school would also investigate circulars from the Home Office. We would ask both the Home Office and the DfE to collaborate closely on any guidance arising from this legislation and to make it readily available to schools and colleges.
- 17 ASCL welcomes the portability of Criminal Record Certificates.
- 18 ASCL has had serious concerns about the operation of the CRB system which we have also raised in the context of the Education Bill. Members have had careers blighted by the inclusion of allegations that have had no foundation whatsoever, or which arose out of a misunderstanding of a teacher's powers to use reasonable force for lawful purposes. We welcome the opportunity given to an individual to challenge the contents of the certificate before it is released to the employer.
- 19 For the same reason ASCL also welcomes the tighter standard to be observed by the police and strongly endorse the 'reasonably believes' formulation.
- 20 We have been concerned since we gave evidence to the Bichard Inquiry about the inconsistency of approach to 'soft' intelligence by the 43 separate police forces. We welcome the introduction of a code and the provision for the Secretary of State to nominate 'one relevant police officer' and would urge that this latter provision is implemented as soon as possible.