Better information sharing, or 'share or be damned'?

GRACE, Jamie <http://orcid.org/0000-0002-8862-0014>

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Introduction

Safeguarding, and the information sharing between professionals and bodies which underpins it, is crucial for the prevention of harm to the vulnerable. But sometimes it is worth exploring the 'hard cases', where safeguarding practices might ultimately prove troublesome themselves, on rarer occasions. As Sue Peckover (2013) has highlighted, a key idea is that sometimes we respond to risks of harm in an overly bureaucratic or otherwise superficial way because we can't find more resources to intervene most effectively and change risky behaviours presented by (actual potential or alleged) offenders or abusers.

This is a theoretical and policy analysis-based piece that aims to prompt some questions for readers as to the flourishing culture of information sharing, and the growing body of public policy in relation to public protection disclosures. The piece also offers up some conclusions on new 'naming and shaming' strategies, as part of the "public protection routine" (Grace, 2013b); which is the multi-agency work of adult and child safeguarding, in essence. This 'direction of travel' toward increasing the ways in which *knowledge about risk* (and 'risky people') is spread around communities is the creation of what I would call a culture of 'share or be damned' for professionals to navigate. In this way, multi-agency information sharing and disclosures of information to the public (for safeguarding purposes) are an element of what Mike Nash has articulated as the 'politics of public protection' (Nash, 2010). This 'politics of public protection' can be summed up as the social, cultural and policy pressures which affect decision- making in the public protection and safeguarding contexts.

Society is a good deal more awash with information about the risk of harm involved in many settings. Partly this is because public sector regulators are driving for greater transparency. For example, what might we infer as to this 'share or be damned' culture of openness when the Care Quality Commission, who are, in their own words, an "intelligence-driven, independent, open and transparent regulator", feel they must publish a body of 'intelligent monitoring' data relating to general practices (and the quality of the care patients receive from their GPs)? The CQC had to move to publicly defend that same decision to publish the

data (CQC, 2014a), in essence because of a loss of trust that some commentators felt this greater transparency might inculcate. There might be greater concerns, of course, over the identification of particular individuals or teams of professionals, through information relating to their performance and the inherently perceived risk they pose to the health and wellbeing of members of the public. This was the case with the publication by NHS Choices of the performance data of particular surgeons (Boseley, 2014). And yet this fresh transparency was impacting upon the professional standing of healthcare in the context of a newly defined, so-called 'right to be forgotten' in the online context, for example (Davies and Ball, 2014). And yet surgeons' performance data online would hardly be the subject of quite the same 'right to be forgotten', we would imagine, as for reasons of public policy transparency and accountability might be seen to trump personal privacy in this example.

This contrast between regularly practice and a legal value of privacy here, for example, is just one way in which policy and the law might clash in the 'hard cases' where regular safeguarding and information sharing practice is conceptually and fundamentally in tension with human rights concerns, such as privacy, or rights to due process, or the right to legal rehabilitation. In addition, sometimes policy developments and regulatory practices spill over into newer domains, helping to 'responsibilise' potential victims or third parties such as their families (Duggan, 2012). Take for example the policy development in relation to a move by the Care Quality Commission to regulate covert surveillance cameras in private residential care settings, for public protection or safeguarding purposes, namely the deterrence and investigation of abuse in particular examples of suspected abusive residential care (CQC 2014b; Schraer 2014).

In this conceptual paper I try to draw together some themes from across the landscape of public protection information sharing more in the context of criminal justice to present to the readership of the *Journal of Adult Protection* who might be more familiar with safeguarding and information sharing practices in the context of health and social care. Readers might, I hope, gain a little further insight into the possible less-visible challenges to safeguarding practices as posed by a proliferation of policy developments which increasingly foster that culture of 'share or be damned' in these multi-agency settings.

Setting out key points for discussion

My principal point in this piece is that a proliferation of the ways, means and expectations of information sharing between agencies, for public protection purposes, has created this 'politics of public protection' (Nash, 2010; from Nash and Williams, 2010). This is a politics and a culture that feeds on itself without, at times, rational regard for a proportionate balance between the broader needs and human rights of (potential) victims, and the particular procedural, human rights of (alleged) offenders in multi-agency working settings in relation to safeguarding or public protection (Grace, 2014c). But furthermore, and in a somewhat more novel line of argument: the further creation of greater knowledge about risk, is actually the result of, and must occur within, an information sharing-based, public protection routine. This more entrenched culture of the public protection routine however, does also further inculcate the attendant professional and political anxieties accompanying this proliferation of risk assessment. In the body of this piece I try to set out some tentative and recent examples as to how the further development of anxiety and knowledge about risk itself, I would argue, is a particular three- stranded exercise on its outermost, cutting edge. Bu these new innovative practices will come with their own new challenges for practice too.

First, I would like to highlight the way that the proliferation of surveillance technologies accounts for the creation of new risk measurements that necessitate greater information sharing, using further new technologies, in a repeating, recursive link between surveillance and security (Gearty, 2013). Secondly, I would argue that greater multi-agency innovation and relationship-building will heighten the perceived need for an overly assumptive approach to public protection information sharing, akin to formalising a policy of 'share or be damned' (Nash, 2010; Grace, 2014c). And thirdly, I would suggest that a growing transparency of 'big data' across society (Wessels, 2007; O'Hara, 2011), and a growing political pressure to keep those at risk informed of the risks posed to them by 'the risky', will come to create a comfortable atmosphere at the community level with regard to 'naming and shaming' practices (Grace, 2013b, 2015). To summarise these points before continuing, the general thrust of my argument is that greater information sharing over time will create more knowledge about risk(s), but does not necessarily improve responses to risk(s) per se.

The ramifications of this three-pronged development in the 'politics of public protection' are going to mean, I would suggest, that in certain contexts public protection risks, properly construed to mean violent or other harms potentially arising to any members of society, will be an actual or perceived by-product of this proliferation of institutional transparencies and 'work-arounds' in *creating* new risks. At times, liberties must be taken with legal frameworks, because frankly, sometimes, they just get in the way of ensuring the public protection routine is unified, effective and comprehensive (6 et al, 2006a, 2006b; Bellamy et al, 2008). The bureaucratisation of surveillant risk management processes might make this inevitable (Peckover, 2013). Put simply, we will have to start deciding which risks we do and do not care so much about, because, with finite and even austere levels of resources for public protection work, we will come to perceive more and more of them as we create the technological and policy conditions necessary for their detection.

This piece from this point does focus at times on a police-led information-sharing culture or 'politics of public protection', but addresses the multi-agency context in which this public protection routine occurs, contemporarily.

A multi-agency context

Police forces in England and Wales will often have cause, chiefly in working with other agencies such as the Disclosure and Barring Service, to share information with employers and with those bodies that exercise functions for and array of public protection purposes' (Grace, 2013b). This will commonly be to safeguard the public, especially children, against the perpetration by (most commonly) convicted offenders of further violent and sexual offences in particular 'risky' community settings (Uthmani et al, 2011). Employers often are concerned about the risk that individuals pose to their customers or service users, particularly in the health, education and social care settings. Voluntary organisations are similarly concerned that their volunteers are appropriate people to come into any contact with 'children and vulnerable adults'. Professional bodies, similarly, will have concerns over the public and private conduct of their members or professional associates, and would want to see those 'risky' individuals barred from working in that arena (Pitt-Payne, 2009; Lageson, Vuolo and Uggen, 2014). In recent years, these disparate strands have been woven together in the non-statutory setting of the 'multi-agency risk assessment conference' or 'MARAC',

used for a variety of purposes across many dimensions of public protection work in the UK (Robbins et al, 2014).

New avenues will open up from time to time to further extend these avenues of potential public protection information sharing; an example might be the recent policy development of the Domestic Violence Disclosure Scheme, or as it is often known, Clare's Law (Duggan, 2012; Home Office, 2013a; Home Office, 2013b; Strickland, 2013; May, 2014; Grace, 2014b, 2015). But these new approaches will be both developments and re-deployments of technology, or the further extension and re-orientation of public policy - or a combination of the two. The law, we might suggest, always 'plays catch up' in the event of such recursivity and the inter-relationship between technology, policy and risk (Gearty, 2013; Grace, 2014c).

The regulation of the 'public protection routine'

There has been a tendency in recent years in England and Wales for the disclosure of 'criminality information' for safeguarding purposes to be a multi-stranded activity on the part of any given police force (Grace, 2013a, 2013b). Primarily this is because the police must co-operate in a multi-agency capacity with regard to more centralised government policies (ACPO, 2010a, 2010b) as underpinned by legal frameworks, in such a way that they must work coherently with social care, health, probation and prison bodies (Stevenson et al, 2011) - as well as the other professionals that make up those organisations and institutions (Bellamy et al, 2008; Richardson and Asthana, 2008). Often the aims and motivations of these developing central government policies are in conflict with UK human rights law, and wider systemic European legal norms (Campbell, 2013; Grace, 2014a, 2015). But at the policy level, and at least in terms of how the system of public protection information sharing *should* work, there is some regulatory consistency or clarity, even if there is disagreement over the actual effectiveness of, and the scope of the role of different agencies.

Probation organisations and social care authorities, for example, work with the police in the manner of 'multi-agency public protection arrangements', or MAPPAs, now to be 'co-located' in 'multi-agency safeguarding hubs' or MASHs (Home Office, 2014). These types of policy developments, while not wholesale legislative programmes that conjoin information sharing powers entirely across a general public protection agenda, representing more like evidence-based tweaks to multi-agency practice, are indeed aimed at addressing some of

the difficulties presented by multi-agency working, and tensions between different professional values and priorities (Stevens, 2013).

Some information disclosures as part of the public protection routine do, of course, retain a necessarily punitive, and highly privacy-invasive quality to them. Police forces operate 'naming and shaming' schemes in localities, to inform community residents that certain offenders have been brought to justice for particular offences (Grace, 2013b). Parents and the guardians of children can request information about people that they suspect to be child sex offenders, who they know their children may come into unsupervised contact with etc (Levi, 2008; Kemshall, Wood et al, 2010; Kemshall, Dominey and Hilder; 2012, Kemshall, Kelly and Wilkinson, 2012). But I now turn to give an overview of the newest parts of the regulatory landscape as applicable to safeguarding work more generally.

Safeguarding as part of care and support functions

In October 2014 the *Care and Support Statutory Guidance* was published (HM Government, 2014), giving practical flesh to the legislative bones of the Care Act 2014, which came into force in April 2015, and shaped the newly-constituted role of the Safeguarding Adult Board, as well as that of the local authority Designated Adult Safeguarding Manager. Statutory guidance is readily accepted by the courts as forming a set of obligations placed upon relevant public bodies, to be construed as having legal weighting and effect.

Chapter 14 of this Guidance sets out new approaches to safeguarding duties and particular related processes as requirements of the Care Act 2014. The Guidance stipulates that organisations with safeguarding roles or duties must be self-aware and have arrangements in place, perhaps in the forms of written agreements, which facilitate smooth and prompt sharing of information, in order to better conduct safeguarding duties. The Guidance acknowledges something confirmed by the relevant literature (): "Early sharing of information is the key to providing an effective response where there are emerging concerns". The role of the law in providing a balance, as opposed to any potential outright check, on this information sharing activity is then acknowledged throughout the rest of this Chapter of the Guidance.

There is though a tension between human rights considerations of proportionate information sharing (from the alleged offender or abuser perspective in terms of due process rights, or the privacy rights perspective of 'the adult' perceived to be at risk), which the Guidance acknowledges several times, and the duty to share information. For example, the Guidance rightly acknowledges that consent from the adult at risk should at least be sought before consideration is given to the existence of an overriding public interest factor, such as the risk of harm itself, should consent be impossible to obtain, or not forthcoming. The scope of the duty to proactively share information about risks is expressed in these following terms:

"…no professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult's welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the local authority and, or, the police if they believe or suspect that a crime has been committed." (HM Government, 2014: 239)

This level of proactivity as demanded in the Guidance places an understandable emphasis on decisiveness based on concerns as to risk to the adult of a wide range of potential harms: from . Following this strict duty to share information based on concerns will enable the local authority and other agencies, as well as the Safeguarding Adult Board in an area, to meet their statutory obligation to make or cause to be made "whatever enquires it thinks necessary to enable to decide whether any action should be taken in the adult's case… and if so, what and by whom", as per S.42 of the Care Act 2014.

And in the sense of the 'public protection network' also looking to risks posed from within itself, the 2014 Guidance also makes clear the legal duty to make referrals to the Disclosure and Barring Service in the event of an employee leaving the employment of a 'regulated activity provider' such as a local authority, where that person may in due course have otherwise been dismissed for placing the wellbeing of an adult at risk.

The role of the Designated Adult Safeguarding Manager (DASM), themselves employed within each member body that makes up an area Safeguarding Adult Board, is to take on

responsibility for "the management and oversight of individual complex cases and co-ordination where allegations are made or concerns raised about a person, whether an employee, volunteer or student, paid or unpaid". In so doing, the Guidance stipulates that the importance of considerations around confidentiality, data protection, and, ultimately, the right to fair hearing in an employment setting, as afforded by the scope of the right to a fair trial in the European Convention on Human Rights.

In March 2015 HM Government also published the document *Information sharing: Advice for practitioners providing safeguarding services* (HM Government, 2015), "for all frontline practitioners and senior managers working with children, young people, parents and carers who have to make decisions about sharing personal information on a case by case basis" which placed a fresh emphasis on 'seven golden rules' for sharing information in safeguarding contexts. These seven rules featured consideration, amongst them, of whether information sharing in any given instance was "[n]ecessary, proportionate, relevant, adequate, accurate, timely and secure". But the overriding emphasis in this newer guidance, again, I would argue, is again on *decisiveness*:

"Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of children at risk of abuse or neglect. No practitioner should assume that someone else will pass on information which may be critical to keeping a child safe." (HM Government, 2015: 5)

HM Government will hope that these policy documents will be studied, absorbed and deployed to better effect by frontline practitioners in child and adult safeguarding contexts. As the 2015 Guidance notes, "[t]hose skilled practitioners are in the best position to use their professional judgement about when to share information with colleagues working within the same organisation, as well as with those working within other organisations, in order to provide effective early help and to keep children safe from harm".

But the 'public protection routine' is across the piste a bureaucracy like any other aspect of public service work, or multi-institutional endeavour. The notion of making enquiries necessary to decide what action ought to be taken, and if so, what and by whom, could

actually, in resource-constrained bodies, lead to little effective intervention. In the child protection context, Sue Peckover for example, in relation to a policy development that saw the police being required to notify social workers of any potential risk to children arising from a reported incident of domestic violence that they (the police) investigated, has noted:

"This aimed to improve information sharing and multi-agency working, and has led to children's social work teams becoming overwhelmed with domestic abuse notifications… [but] the majority of such notifications do not lead to a social work assessment; indeed, a 'stop–start' response which included a pattern of repeat notifications and assessments characterised many cases, with a social worker only becoming involved in the small minority of notifications which included information about injuries to the victim or the child. In many cases, children's social work teams responded by sending letters to parents stating the harmful effects that witnessing domestic abuse may have for children…" (Peckover, 2013:8)

Sue Peckover's straightforward point might be that sending letters concerning risk information to certain parents, in relation to the harmful effects on children their children, who are witnessing domestic abuse, is hardly likely to prevent or limit the abuse, let alone the harmful effects on the children concerned. I do feel Peckover is driving to the heart of a most salient point. There could surely be few better examples of the proliferation of surveillance as an element of the bureaucratisation of risk within the 'public protection routine', and the way that notifications, 'safeguarding alerts' and other public protection information demonstrates current societal anxiety, and the liquidity of surveillance in the contemporary 'politics of public protection' (Nash, 2010; Bauman and Lyon, 2013; Grace, 2014c). But nonetheless, further recent examples exist, and it is to the nature of these that I will later turn. First, I want to set the context for these examples in terms of the recognised competing interests in the avoidance of stigma by those deemed, or labelled as 'risky' (Grace, 2013b; Grace, 2014c), and the mitigation and limitation of risks posed by those individuals through the information sharing by professionals working in the public protection routine (Grace, 2013b).

Stigmatisation through criminal records and information sharing

While the role of criminal records policy in the arena of offender rehabilitation has been increasingly reviewed in the literature of late (Padfield, 2011; Muruna, 2011; Mustafa et al, 2012), and the notion and legal status of criminal records in a European or comparative setting has been evaluated recently (Larrauri Pijoan, 2014a; 2014b), it is worth recognising the societal need for the personal avoidance of continuing stigmatisation in societal settings (Goffman, 1959; Goffman, 1968; Myrick, 2013; Grace 2013b; Larrauri Pijoan, 2014b). With regard to the UK system of information disclosures for public protection, scholars have also been concerned with the need to better calibrate law and policy on criminal records disclosure processes, because of the ramifications this has for offender non-recidivism, or 'desistance', because of related (re)employment issues (Pitt-Payne, 2009; Thomas and Hebenton, 2013; Henley, 2014; Larrauri Pijoan, 2014a; 2014b). In the criminal justice and immigration contexts, amongst more corporate and financial-regulatory settings, the UK government have been setting developmental goals for the Europe-wide and further international sharing of data with a particular agenda that is highly risk-oriented (Gunasekara, 2007; Home Office, 2015).

Some of my previous research (Grace, 2013b) drew on a considerable literature relating to inter-agency working in order to offer up an alternative narrative to the one articulated by the courts over the period 2009-2013. This juridical narrative saw the common law (supposedly) develop better protection for the procedural rights of police information 'subjects' in the public protection 'intelligence sharing' context - even though the relevant body of literature from a sociological perspective shows that these legal developments through case law or even statutory reform are probably far less impactful upon actual practice in the field of 'criminality information' retention and sharing than the judiciary would wish for (6 et al, 2006a, 2006b; Bellamy et al, 2008; Grace, 2013b, 2014a). I suggested this was due to the development of a 'politics of public protection' and need to develop 'work-arounds' to get the job done in the context of public protection, or 'criminality information sharing' (the sharing of police records and intelligence) across 'public protection networks' (Magee, 2008).

However, I feel it is necessary to examine how in the last couple of years alone, there have been some small-scale, but very telling developments in public policy and public protection decision making, in the context of risk information sharing, which warranted setting out the arguments which began this piece.

The creation of problems for the managers of risk

The further development of the surveillant public protection routine, and the way this routine creates knowledge of, as well as manages risks, stems from regulatory "creep" (Black, 2005). The 'public protection routine' (Grace, 2013b) conducted principally (but not only) by criminal justice, health, education and social care bodies (6 et al, 2006a; 6 et al, 2006b; Grace, 2013b) is based upon a decentred regulatory regime, since the policy framework which underpins it comes from a variety of central government departments and ministries: the Home Office, the Ministry of Justice, the Department of health, the Department for Education, and the departments which co-ordinate the functions of local authorities, for instance.

The public protection nexus between criminal justice, health and social care in the UK certainly features a high number of diverse actors in this system for regulating responses to perceived public protection risks (Grace, 2013b; Grace, 2013d, Home Office, 2014; Grace, 2015). There is also a tension, as I have noted above, reflected in the literature on public protection information sharing, with respect to the way that this regulatory system of 'multi-agency working' *should* happen, and how it *does* happen (6 et al, 2006a; Grace, 2013b; Home Office 2013b).

Creating knowledge of risk, or even risk itself? Some recent examples

Toward the outset of this piece, above, I made some key conceptual points. Firstly, new surveillance technologies in the field of public protection could actually heighten the perception of a new variety and scope of risks, and potential resulting harms. Secondly, that greater commitment to multi-agency working in the public protection routine will mean much more proactive sharing of information, which could in turn lead to a growth in the still-no doubt relatively small number of safeguarding decisions which are not respectful of

due process considerations, with their own distinct and attendant risks attached. Thirdly, that growing expectations in relation to transparency of 'big data' across society, and growing ease with victim and community notification or risk, and the related issue of responsibilisation, will come to create a comfortable atmosphere at the community level with regard to 'naming and shaming' practices.

To explore these three points, I wanted to offer up in turn three particular case studies. I must acknowledge that I'm using these cases to point out some conceptual issues, rather than use them as evidence for trends in professional practice. In this way I hope to offer ideas up for discussion by other writers, in the main.

Firstly, to address my point about technological observation about the 'recursivity' of surveillance and security in managing risks in the public protection context, I have made mention, above, of the way that the NHS as well as the Care Quality Commission has set out to take an application of statistical information technology into the public domain - publishing on particular websites both the performance data of particular surgeons, but also local general practitioners respectively, in the health and medical context. Furthermore, as I noted, the Care Quality Commission have endorsed the utilisation of covert surveillance camera technologies in private care homes and other facilities, purportedly for the benefit of an expected improvement to safeguarding and investigation processes through that surveillance.

However, a cautionary note is warranted, using the example of the recent *Richards* case, decided in early 2015[1]. Sometimes, gathering information in the form of new knowledge about risks creates more information about risk to be shared and categorised in that sharing, leading to more anxiety over whether the risk is being appropriately monitored. In the *Richards* case, location monitoring data from a GPS tag, worn by a MAPPA-monitored sex offender as a sexual offences prevention order (SOPO) condition, was held to be retained and processed lawfully in tracking his movements in or near 'red light districts'. This was despite (in my opinion) the at-least-arguable challenge from Mr. Richards that the imposition of wearing the tag as a SOPO condition, as well as this use of his 'personal data' in this context was not, in fact, fair and lawful, given a line of case law developed from 2009

[1] *R (Richards) v Teesside Magistrates' Court* [2015] EWCA Civ 7

onwards (case law which is discussed in Grace 2013a, 2013b, 2014a, 2014c, 2015). The High Court in this case emphasised that the police did indeed have sufficient (lawful) guidance from ACPO as to the management of 'police information' and, furthermore, sufficiently clear (and lawful) guidance as to how this personal data could be both retained and shared for public protection purposes. These areas of guidance were held by the High Court judge concerned to be in full compliance with the regimes of the Data Protection Act 1998 and the Human Rights Act 1998 - meaning compliance with European Union data protection law and wider European human rights law in turn.

We might expect, then, that the use of such tags (and the geo-monitoring data they produce) in relation to SOPO conditions will become more and more prevalent and widely used over time, rather than more restricted, or rarer. If this is so, it opens up the scope for an added complexity to the processes used by MARAC and MAPPA professionals collectively in their MASHs - and may even result in anxieties over the *hypothetically rare* situation of an offender subject to a SOPO which does not include a GPS tag data monitoring element. If this did result in the standardisation of such 'tagging' (and geo-monitoring and tracking) we would have another example of the bureaucratisation of surveillance in the politics of public protection, I would argue. This bureaucratisation of surveillance then threatens the substantive rights of offenders, who may be subject to this monitoring in a more ubiquitous manner over time.

With regard to the second point I made at the outset of this conceptual paper, 'that greater multi-agency working in the public protection routine will mean much more aggressive sharing of information, which could in turn foster a culture of more strident safeguarding decisions', I turn attention to the matter of *CP*[2]. The point about CP is that it is a case, from however small a minority of cases displaying flagrantly poor safeguarding practice, that shows that what matters as much a timely and proactive information sharing is what action is taken in relation to risk management after the information is shared.

This other very recent case saw the detention of a nonagenarian with dementia in a secured care home for nearly two years *without lawful authorisation*. In turn, this was a breach of his right to 'liberty and security of the person' under Article 5 of the European Convention

[2] *Essex County Council v CP* [2015] EWCOP 1

on Human Rights. It transpires, as articulated in the reported facts of the case, that this detention was an initially well-meaning result of a 'safeguarding alert' to the local authority in relation to a perceived (not an actual) risk of financial exploitation by close friends in a position to manipulate him (English, 2015). It would seem that the litigation to secure a change to these unlawful care arrangements had to be brought by CP's own friends on his behalf (CP being a dementia sufferer). What had been prioritised in this case, I would argue, was the *outcome* of a safeguarding process, without sufficient respect (and indeed, entailing respect short of that which the law required) for the *procedural* rights of CP, or for the 'correct' multi agency approach. As the judge in the Court of Protection, dealing with CP's case, made clear, it could have been more prudent, to say the least, for the police to begin (and if necessary abandon) a criminal investigation into these (apparently innocent) friends of CP. By being so 'safeguarded' following the relevant 'alert', nobody was defrauded or victimised but CP himself: a vulnerable elderly man lost two years of his liberty, though Essex County Council received an order for £60,000 in damages to be paid to CP (Mumford, 2015).

In this way, it can sometimes be the case that, although perhaps only rarely, sometimes the risks created are to 'service users' purportedly 'safeguarded' by the public protection routine itself - and arises from a situation where the right to respect for the private and family life of any individual, or even their liberty, perhaps when 'vulnerable' and 'at risk', is actually sacrificed because of the bureaucratic demands of the surveillant public protection demands of multi-agency working and safeguarding (Faulkner, 2012; Peckover; 2013), and in a context, I would argue, of pressures arising from austerity in government.

Next, I proffer a case study of anxiety in relation to the prevention of offending, where the pressure to prevent harm in a safeguarding context, through any and every available means, *as a policy pressure*, had created a climate for a legal innovation that ironically, or arguably, ignored the fundamental requirements of both privacy and procedural rights of a 'risky individual' we would expect under the operation of a purportedly values-driven, human rights-based legal system.

To discuss a third recent case study in the public protection routine, and to return to this matter of my point that "transparency of 'big data' across society will come to create a

comfortable atmosphere at the micro-level with regard to 'naming and shaming' practices", I should turn to the case of *Birmingham City Council v Riaz*[3].

In the *Riaz* case, no less than ten men in Birmingham were identified, purportedly for the purpose of enforcing injunctions for the purposes of preventing 'child sexual exploitation'. This translates to a distinct 'naming and shaming' practice, entailing that these men would be under pressure, and perhaps some level of fear from potential violent or stigmatising reprisals, from their employers and local community respectively, if they were seen to be grooming girls or young women for sex. Pragmatically, it could be argued, these injunctions, which were made using a legally innovative deployment of the 'inherent jurisdiction' of the court, rather than more formalised statutory powers, were issued in a situation, as was the case, when Birmingham City Council were dissatisfied that prosecution could not be commenced against the men for lack of evidence that they had sexually abused a (now) 17-year old girl (AB) when she had (previously) been under the age of consent. The injunctions concerned were wide-ranging, prohibiting the ten men from contacting AB, or initiating new relationships with girls under 18 that they did not already know (Downs, 2014).

Troublingly, however, the injunctions were obtained in family court processes, entailing that some of the men were not legally represented in the proceedings, and with a civil standard (and burden) of proof placed on Birmingham City Council that in reality did not require a standard of proof as rigorous as that required in criminal processes in relation to the work of the Crown Prosecution Service (logically, else the aforementioned prosecutions could have been commenced as a matter of course) (Downs, 2014). Importantly, again, in the context of a purportedly pervasive multi-agency safeguarding culture, the police representations that the ten men were actually to be at risk *themselves* from vigilante-style attacks, as a result of their being named in an open judgment as being subject to these 'innovative' injunctions, were not heeded by the judge in the Family Division of the High Court in Birmingham (Bowcott, 2014). Furthermore, a contrasting decision in a Northern Irish case, *X and Higgins*[4], was not considered in the *Riaz* decision; even though the court in

[3] *Birmingham City Council v Riaz and others* [2014] EWHC 4247 (Fam)

[4] *ZY, Paul Higgins v Northern Ireland Courts and Tribunals Service* [2013] NIQB 8

that case considered that Higgins, a journalist seeking to identify a convicted paedophile as a resident in a particular local community, could not publish a piece identifying the offender concerned, namely X, for fear that X would harm himself or would be harmed by his neighbours (see Grace, 2013b). The politico-legal development, at the more community 'micro-level' of 'naming and shaming', of these extraordinary injunctions in *Riaz* are a troubling advance of the public protection routine, but are, I would argue, a more foreseeable growth of the politics of public protection in the light of child sexual exploitation scandals over the last few years and more (Downs, 2014).

Conclusions

Scholars have previously noted that the notion of the autonomy of 'the risky' as possible perpetrators of harms to vulnerable adults or children is a difficult concept to approach and to manage in a culture of professional anxieties and the 'politics of public protection' (Nash, 2010; Faulkner, 2012; Fenton, 2013; Grace, 2013b; Grace, 2014a; Grace, 2014c).

Surveillance technologies, information-sharing policies and related legal 'innovations' which are implemented as part of the public protection routine may come with their own risks; namely, that the increasing bureaucratisation of risk-management leads to a disregard for the fine balance between the autonomy and safety of clients/care service users/vulnerable adults or children; the privacy and procedural rights of 'the risky' (and even their autonomy and safety); and the requirements under the rule of law to comprehensively, and in detail, repeatedly weigh these competing interests against one another in any given context or setting within that public protection routine. In this way, our system of safeguarding and public protection information sharing should continually embody, and seek to aspire to ever-greater 'clarity, generality, consistency and relative constancy' (Taylor, 2012:15).

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