

**Address by Peter Williamson**  
**President of the Law Society of England and Wales**  
**At the Public Debate on ID cards held at the LSE**  
**'Mistaken Identity'**  
**Wednesday 19 May 2004**

Good afternoon ladies and gentlemen. May I say first how pleased I am to be here at the LSE and to have this opportunity to address you today. I would especially like to thank Simon Davies, Director of Privacy International, and Visiting Fellow at the LSE, for inviting me to take part in this important debate on the government's proposals to introduce a national identity card scheme.

The Law Society has been actively involved in the debate since the Government announced its proposals in July 2002. We provided a substantive response to the Government consultation on entitlement cards, gave written and oral evidence to the Home Affairs Select Committee and on 22 March this year we hosted a debate not dissimilar to this one which brought together interested people and organisations such as MPs, lawyers and academics to discuss the key issues. That debate was borne out of the Society's view that the Government has yet to give a clear rationale for adoption of an ID card scheme.

In fact, we have consistently argued that the case for a compulsory identity card scheme has simply not been made out and we have continued to query the cogency of the Government's arguments in its favour.

In an effort to shore up its proposals the Government has provided a range of rationales for introducing an identity card scheme. They have been variously heralded as the answer to a whole range of criminal activities and areas of concern, such as identity fraud and health tourism, crime, terrorism, illegal immigration and illegal working. However, we believe that the government has not yet spelled out convincingly how any of those benefits will be achieved and the recent publication of the draft Identity Cards Bill on 27 April has not allayed our concerns.

I know that many of you share the Society's concerns. Of course there are those who take a different view, it goes without saying that opinions in a debate such as this will vary. Some people will be opposed in principle to any identity card scheme, whether or not the Government can demonstrate its effectiveness for those purposes. Others will argue that there is no reason at all why identity cards should not be mandatory even if no such benefits can be shown.

It would seem, however, that over all, the public has little appetite for the scheme and political consensus around the question of ID cards continues to be shaky.

The fact is, having to register for an identity card marks a distinct shift in the balance between the rights of the individual and the power of the state. The only circumstances in which it might be deemed acceptable are where there is a clear pressing social need and where the benefits of such a scheme outweigh its impact on personal liberty. It is up to the government to demonstrate clearly to the public that the benefits obtained from an ID card scheme justify the intrusion into their personal privacy. It is up to them to provide a convincing argument for the ID card scheme. In my view it is questionable whether this will ever be achieved.

Taking each of the government's arguments in turn it is clear to see why this is the case. In our view it is very unlikely that ID cards will ever be effective in combating identity fraud. History shows that all types of cards are forgeable. From National Insurance numbers to passports, each scheme has been riddled with technological problems and linked with forgery and a profitable black market. We believe these cards will be no different. Biometrics will make forgery more difficult but not impossible.

The scheme may well reduce the incidence of individuals with multiple identities. But we are far from reassured by the Home Secretary's statement that if people register in a false identity "they'll have to keep that false identity for the rest of their lives"<sup>1</sup>.

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<sup>1</sup> Home Office Evidence to the Home Affairs Committee inquiry on identity cards

Surely it's not beyond the realms of possibility that individuals in this situation will simply claim that an administrative or technological mistake has been made? I'm not convinced that the Home Secretary really believes that the database and its supporting technology will be faultless and that mistakes will not occur. I doubt that any one could be convinced that this level of perfection would exist in a government led initiative.

ID cards are unlikely either to do much to address illegal working. The stark reality is that those employers who are willing to employ people illegally now will probably continue to employ people illegally regardless of whether or not they have legitimate identity cards. Nor would they have a huge impact on crime reduction. The fact is, for the police the real challenge is linking criminals to their crimes, not establishing a suspect's correct name and address. An identity card would do little to solve that problem.

As regards the war on terrorism, Home Secretary David Blunkett has admitted in his evidence to the Home Affairs Committee that he does not believe that an identity card scheme will prevent terrorism.<sup>2</sup> We only have to look at Madrid's recent history to see that tough rules in relation to ID cards sadly do not prevent extreme terrorist activity.

Finally we do not believe that an ID card scheme will combat health tourism. The majority of people who are not able to get on to GP lists tend to use hospital accident and emergency centres for primary care. The Government

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<sup>2</sup> Home Affairs Committee Evidence session Tuesday 4 May 2004

has conceded that accident and emergency treatment should not be subject to proof of identity.

Clearly we are not convinced by the governments arguments.

Turning now to the Draft Identity Cards Bill, published last month, our first concern is that the draft Bill leaves far too much to secondary legislation. We strongly believe that compulsion should not be introduced without fresh parliamentary debate and primary legislation.

We also have concerns about the extent of the definition of 'registrable facts' that can be recorded in the National Identity Register and the occasions when such information can be accessed. A data-trail such as this will contain highly privacy-sensitive information and access to it, we believe, goes far beyond the scope of the intent of the Register.

We are also concerned about provisions enabling the government to enter individuals into the National Register regardless of whether or not they have applied for an identity card.

The Bill also states that any application for a designated document must include either an application to be entered in the National Identity Cards

Register or confirmation that the individual is already registered.<sup>3</sup> We believe that this, along with the announcement that it may be compulsory for third country nationals to register before the scheme becomes compulsory,<sup>4</sup> is a disingenuous use of the term “voluntary”. In our view, such provisions should either be deleted or specify clearly that they will only apply during the compulsory phase of the scheme.

The Law Society has repeatedly expressed its concerns about the government’s failure to consider fully the challenges of the ID card scheme for certain vulnerable groups including older people, homeless people, those with mental illnesses and those with chaotic lifestyles.

There are undoubtedly many who would find it almost impossible to fulfil the requirement to notify the Secretary of State of any change of circumstances which might affect information held by the government. How could information be recorded for a person who is homeless? Or someone fleeing a domestic violence situation? Would such individuals be required to notify the Government when changing temporary accommodation?

And how would such people pay the maximum penalty of £1,000 if they fail to notify the Secretary of State of any change in their circumstances?

In my view, the imposition of such an exorbitant fine on vulnerable and disadvantaged groups is entirely unjustifiable.

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<sup>3</sup> Home Office: Legislation on Identity Cards p.49

<sup>4</sup> Ibid p.86 para 4

Furthermore, the loss or theft of an ID card, or an administrative failure, could have an extremely negative impact on those with complex or frequently changing personal information. The up shot of this may be that key services become unobtainable to those who most need them. This is a situation we clearly need to ensure does not happen.

It is essential that the public have complete confidence in the government's pledge to keep highly personal information confidential. This includes information held on the ID card, on the central register and that which is generated every time the card is used, namely the data-trail. In our view, the government has not addressed concerns around privacy, data protection and the disclosure of information. The fact is the public has very little confidence in the government's ability to administer a large-scale scheme before radical and expensive investment in technology has been tested and shown to be secure. Recent MORI poll results show that 58% of the public were "not confident" the Government could introduce an ID scheme smoothly.<sup>5</sup> The results speak for themselves.

The Society supports the proposed restrictions on disclosure of the information contained on an individual's data trail, but believes that individuals themselves should have the opportunity to access all the information held about them on the register. Government powers to disclose certain kinds of information held on the Register without the consent of the registered individual are extremely wide and in our view deeply worrying. Frankly, the

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<sup>5</sup> BBC News 22 April 2004 [http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk\\_politics/3648309.stm](http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/3648309.stm)

government has a long way yet to go to convince the Law Society that the proposed legislation is justifiable, that it will not have a negative impact on vulnerable individuals and that it will not violate human rights, especially in relation to privacy.

And how much is it all likely to cost? Well, the draft Bill fails to provide a break down of expenditure. The Government stated that its absence is due to the commercial confidentiality of the proposals. We find this unacceptable. The financial implications of this scheme are paramount to the ability of the public to make an informed opinion of the proposals. No proper public debate can occur if the financial estimates are not transparent.

On a practical level, implementing a nation-wide identity card scheme will involve enormous difficulties. The work involved in updating change of address requests alone is likely to make this scheme unworkable.

All in all, the Government's proposals do not inspire confidence that the practical problems in relation to the ID card scheme will be effectively addressed or principled fears allayed. The Law Society seriously doubts whether an identity card scheme would significantly reduce the incidence of identity fraud, illegal immigration, or of other crimes. On the contrary, we believe it is likely to increase the administrative burden and put a heavy financial burden on government and on individuals.

Has the Government made the case as to why a complex and costly identity card scheme is needed? We believe the answer is a resounding “no”.

The Law Society believes that extreme caution should be exercised before the Government plunges headlong into implementing these proposals.

Thank you.