

# **Information for Social Change Number 28 Winter 2008/09**

## **Special Issue on Lifelong Learners**

### **Policing Library Users – Ethics and Practice**

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The last time that I presented a paper on this subject at a professional event I was told by one member of the audience that my presentation was too political. I was advised to keep my political views to myself and to focus on professional issues. Some members of our profession seem to think that library workers should be hermetically sealed off from the big political issues facing our country and the world. They argue that, in order to preserve our professional neutrality, we should not involve ourselves in external affairs such as the ongoing conflicts in Iraq and Afghanistan.

But the so called War on Terror is one huge external event which our profession cannot afford to ignore. There is plenty of evidence to show that the War on Terror abroad has also become a War on Civil Liberties at home. In our professional context this amounts to a war on freedom of information and expression. With language that George Orwell would approve of the government and security services tell us that, in order to protect our freedom and democracy, our civil liberties must be curtailed. The attendant hysteria whipped up by the popular media has created a climate of fear in which many citizens are prepared to give up their hard won historical freedoms. Nearly a quarter of the people surveyed for the 2008 British Social Attitudes study believe that torturing terror suspects is a 'price worth paying' to combat the threat of terrorism. And a staggering 50% find it acceptable to deny them a jury trial. 70% support compulsory identity cards for all adults, while an astonishing 80% say that they will accept phone tapping and the electronic tagging of terrorist subjects. 35% even support a ban on peaceful protests.

I have had two previous forays into this territory. *Hey Minister – Leave those books alone* (Update, March 2008) was a commentary on the Museums, Libraries and Archives Council draft guidance on controversial stock. *Libraries and Liberty* (Public Library Journal, Autumn 2008) considered the 'War on Terror'

and its effects on libraries and civil liberties. Copies of both articles are available for you to take away. I would now like to summarise the arguments which I present in these articles and bring them up to date.

The MLA guidance on 'extremist and inflammatory material' was commissioned by the government following the Prime Minister's national security statement to Parliament in November 2007. The first principle of the guidance was that 'Free expression and open libraries remain essential to British democracy.' But the guidance suggested that this principle is now qualified by the 2006 Terrorism Act which also qualifies the Public Libraries and Museums Act and a wide range of Equal Rights and Human Rights legislation.

The Terrorism Act, as interpreted by the draft MLA guidance, could have the disastrous effect of making library workers risk averse in their stock selection. Something similar happened when Clause 28 made it an offence to 'promote homosexuality.' As a result many library authorities refused to stock the Pink Paper or gay books and this practice remained in place long after Clause 28 was repealed.

Successful lobbying by the library community, led to amendments to the Terrorism Act, which acknowledged that the dissemination of terrorist literature had to be intentional for a conviction to be secured. Despite this amendment the Terrorism Act still contains significant maximum sanctions for a range of offences including: providing access to a terrorist publication (7 years in prison); encouragement to terrorism (7 years); and collecting or making a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism (10 years). Even historical accounts such as *Seven Pillars of Wisdom* by TE Lawrence and *Guerilla Warfare* by Che Guevara could be interpreted as glorifying terrorism if there is a possibility that a current reader would try and emulate the acts described.

The draft MLA guidance also suggested that Equalities legislation should be ignored: 'librarians and library authorities should not be unduly concerned with the provisions of race relations legislation, and focus on avoidance of commission of offences created by the Terrorism Act.' Similar guidance is given with regards to the Public Order Act, the Human Rights Act, and the Local Government and Public Involvement in Health Act.

The professional response to this draft guidance was disappointing. Only 39 responses were received, including just 25 responses from local authorities. Most respondents welcomed the guidance, but there were some strongly expressed views that the guidance should not deliberately or inadvertently deter librarians and library authorities from selecting and holding material which people have a right to see and read. Concerns were also raised that the guidance could create a risk averse response and undermine what many respondents set out to be a core value of the British public library system – it is free, non judgemental and democratic. The biggest area of concern related to community cohesion - 43% of respondents did not think that the guidance would help to promote community cohesion through the provision of a balanced range of information, learning and cultural resources. Some respondents were concerned that the guidance could generate fear and apprehension and deter librarians from being proactive in promoting cohesion.

A revised version of the guidance has been produced which according to the MLA is 'quite different' to the initial draft. CILIP's Policy Forum has agreed unanimously to recommend endorsement of the new guidance in principle to CILIP Council. It is intended to take the final version of the guidance to the November meeting of the MLA Board with the endorsement of CILIP and the Society of Chief Librarians. Such an endorsement, in my view, would send the wrong signals to government and would indicate our compliance in their unwinnable War on Terror. I have had sight of the revised guidance and it is much improved, but I still strongly believe that our collective professional response should be that we do not need any additional guidance because we already have in place robust and tested stock management policies to deal with controversial, extremist or inflammatory materials. I will continue to argue that the very existence of such guidance, no matter how benign it is made, will have the effect of creating a fear factor among library workers which will tend to make them risk averse. I would now like to consider the wider effects of the War on Terror on libraries, library workers and library users.

The so called War on Terror has been brought back into focus by the current debate on 42 day detention. But the 'War on Terror' also poses a serious threat to libraries and the communities we serve. One threat is that government money is being diverted from UK public services, including libraries, to fund illegal occupations of sovereign nations. Another threat is that the fear and scaremongering engendered by the War on Terror is allowing the government to erode the civil liberties and democratic values which underpin our library services. The freedoms of information and expression have been reduced and undermined; censorship and surveillance are on the increase. The threat to our communities is that the 'War on Terror' is creating tensions and divisions. The Muslim community has been stereotyped and many young Muslims have become alienated and radicalised. Asylum seekers, refugees and migrant workers (all lumped together by the tabloid press) are viewed with suspicion and hostility. The BNP has never been so strong and the threats to diversity and community cohesion are clear.

The policing of library users, however, is not new. When the Poll Tax was introduced enabling legislation was passed which would facilitate the collection of personal data on Poll Tax defaulters. One specified source of information was public library membership records. When this became known to some local communities there was a sharp decline in the number of people joining public libraries because they were fearful of what their personal data would be used for. A similar threat is now posed by the Terrorism Act.

In June 2008 CILIP carried out a survey on police, surveillance and libraries. This was prompted by CILIP receiving a number of reports concerning increased police or other security agency activity with regard to libraries and their users. The survey was intended to collect evidence about this in order to establish how widespread it is and whether there are any issues causing concern to librarians with regard to professional ethics surrounding user privacy, censorship and freedom of access to information. The response to this survey was very disappointing: the survey was sent out to 640 libraries but only 55 responses were received.

However, 75% of responding libraries had been approached by the police or security agencies. Most respondents reported between one and three incidents since January 2006. The most common type of incident was criminal with 'other', terrorism and pornography each at around the same level. Five libraries said they had experienced 'fishing expeditions' by the police. One library was asked to supply details of what Muslim patrons were reading. Another turned down a request for websites visited by a library member. One library commented 'We had reports of Special Branch officers visiting our individual libraries to introduce themselves and to encourage staff to report any suspicious behaviour on the part of customers directly to them, particularly if it involved terrorism, political extremism and animal rights.' The survey also found that 38% of respondents do not have a formal policy for dealing with police requests.

I would treat the outcome of this survey with extreme caution because I think that it significantly underestimates the current situation for two reasons. Firstly, it only records surveillance activity which library staff know about. The request for library user information could be made at a higher corporate level which even the Chief Librarian may not be aware of. More sinister still, under the Terrorism Act, library user information can be retrieved by the security services by electronic means without the local authority knowing or being asked for permission. The second reason why the survey response rate was so low could be the fear factor which I mentioned earlier – library workers may be fearful of reporting police surveillance of their services because of the climate created by the Terrorism Act. In America library workers do not have any choice in the matter. Under Section 215 of the PATRIOT Act the FBI is permitted to access records, including library records, without a warrant. Moreover, the PATRIOT Act makes it illegal for librarians to refuse any police request to see what anyone is reading.

So what can we do about the threat to libraries posed by the War on Terror and the policing of library users? Library and information workers can oppose censorship and attacks on civil liberties by adopting the following measures: (1) Be aware of the anti terrorism legislation and its implications for freedom of information, expression and association. (2) Be aware of equality legislation such as the Race Relations Acts, Sex Equality Acts and Disability Discrimination Act. (3) Develop strategies and policies which incorporate the six strands of the Equality Standard for Local Government (IDeA, 2007) with regard to ethnicity, gender, sexuality, disability, age and faith. (4) Carry out Equality Impact Assessments (IDeA, 2008) on all existing policies and procedures, including stock selection and information policies. Make sure you have a policy in place for dealing with police requests for user information.

(5) Make your staff aware of these issues and carry out appropriate staff training and workforce development. (6) Brief your senior officers and Members on these issues and alert your Legal and Media Relations teams. (7) Engage with your local communities and raise awareness of the importance of public libraries and the access which they provide to unfettered information and democratic public space. (8) Work with national and local groups such as Liberty, trade unions and the media to campaign against censorship and attacks on civil liberties. We should speak out on these issues while we still have the right to do so.