

## FROM RSI TO NATIONAL IDENTITY NUMBER? TRACKING THE DEVELOPMENT OF THE PERSONAL PUBLIC SERVICE NUMBER<sup>1</sup>

### I: INTRODUCTION

“Ideally, the PPS number would act as a nudge in the ribs to the Government, prompting a reminder that it's time to immunise your child, prompting the payment of child benefit for example, and when the child grows into an adult enabling them to easily access welfare services, health services, even finding a reminder in the post that it's time to renew their driving licence.”<sup>2</sup>

The drafting of legislation to provide for a national identity card in the United Kingdom<sup>3</sup> has once more reopened the question on this side of the Irish Sea. Concerns that Ireland may be forced to join the United Kingdom, and the rest of Europe, in operating a national identity card scheme have been voiced by the public, by politicians, and by the media.<sup>4</sup> The adoption of such a measure has been openly opposed by the Minister for Justice, Michael McDowell, T.D. Nevertheless, as biometrics become a feature of passports, and identity fraud continues to worry business and legislators, the questions hangs in the air.

Identity concerns are growing, in a time when the Government seeks to take bold strides in the provision of eServices to citizens and businesses alike. The REACH project, with its aim of a one-stop-shop for all Government services, is technologically and bureaucratically ambitious. It will require inter-Departmental co-operation on a scale hitherto unseen in Irish public service, and a technological infrastructure to facilitate it.

This paper will:

- Set out the concepts associated with identity and identity management.
- Describe the development of the PPS No. since its introduction in 1998.
- Examine whether the number is developing into a National Identity Number.
- Examine relevant data protection and privacy concerns.
- Submit some recommendations for further consideration.

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<sup>2</sup> Minister Mary Coughlan, Press Release 23<sup>rd</sup> March 2005. Available: <<http://www.reach.ie/archive.htm>>, last accessed 31<sup>st</sup> March 2006.

<sup>3</sup> Identity Cards Bill 2005.

<sup>4</sup> 'Government looks to UK on ID card issue', *Sunday Tribune*, 2<sup>nd</sup> April 2006, 4.

## II: IDENTITY MANAGEMENT & THE PUBLIC SERVICE IDENTITY

Before discussion the substantive issues in this paper, it is useful to first outline the concepts relevant to national identity numbers and identity management.

### *Identity Management Defined*

Identity Management is a broad term used to refer to the administrative area dealing with the identification of individuals and businesses, largely for the purpose of controlling access to information and services.<sup>5</sup> The degree to which an identity is authenticated should be proportionate to the level of trust required to conduct the transaction in question.

Traditionally, the main driver behind identity management has been the need to combat fraud.<sup>6</sup> Identity theft is a serious problem, which can lead to individuals having compromised credit ratings, or criminal offences committed in their name. Fraudulent travel is also a problem, with fake passports and visas being used to gain unauthorised entry to countries. In recent times ID management has focused on the provision of services in the most efficient and convenient manner, which often means a move away from face to face, over the counter human contact, and towards a system of online, telephone, and automated transactions.

Identity management is the key to integrated service delivery in the public sector. It is inherently risky: “poor identity management solutions count amount to almost total surveillance of some, if not all individuals”.<sup>7</sup> The combination of diminished practical obscurity<sup>8</sup>, and increasing function creep<sup>9</sup> can lead to the undesirable situation of the surveillance society.

### *The REACH Project and Client Identity Services*

Reach is a cross-departmental agency established by Government to improve the quality of service to customers of the Irish Public Service<sup>10</sup>. It has particular responsibility for developing the framework for the integration of public services and the implementation of eGovernment in Ireland. It reports to the Minister for Social Community and Family Affairs, and also works closely with the Departments of the Taoiseach and Finance.

The REACH Terms of Reference state that the Public Services Broker (PSB) is to comprise common procedures and systems to facilitate the citizen in establishing identity, a standard way or entry point for citizens to public services, and a secure environment to guarantee privacy, integrity, and protection for data and electronic transactions between the citizen and the public service.<sup>11</sup>

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<sup>5</sup> See generally: Office of the Federal Privacy Commissioner, *Proof of ID Required? Getting Identity Management Right*, Australian IT Security Forum, 30<sup>th</sup> March 2004.

<sup>6</sup> *op. cit.*, 6.

<sup>7</sup> *op. cit.*, 8.

<sup>8</sup> Practical obscurity is a combination of practical difficulties which together prevent data from being linked.

<sup>9</sup> Function creep is the incremental expansion of use of a previously limited number.

<sup>10</sup> Reach Agency, *Statement of Intent*, July 10, 2000

<sup>11</sup> *ibid.*

The PSB is intended to serve as a one-stop-shop for citizens wishing to interact with the Government, be it to conduct a transaction, or simply to receive information. Reach intend to develop a multi-channel delivery system, with access through a web portal<sup>12</sup>, interactive kiosks in public buildings, telephone assisted service, and walk-in office service.

The benefits of the Reach project for the public bodies that use it are manifold. By providing certain electronic services, Reach ensures that Departments do not have to develop their own systems in parallel – they can simply subscribe to Reach. Services that will be available in this manner include online forms, ID management and access control, payment services, and address validation.

The Interagency Messaging Service (IAMS) is a centralised ‘messaging hub’ for public sector agencies which began operation in 2003. It allows the exchange of customer-related information between agencies in accordance with standards developed by Reach. The IAMS currently facilitates information exchange between the General Registrar’s Office (GRO), the Department of Social and Family Affairs (DSFA) and the Central Statistics Office (CSO). When a ‘life event’<sup>13</sup> notice is received by the GRO, that information can be made available to subscribing agencies, and relevant action taken. For instance, when a birth is registered with the GRO, the IAMS is used to notify Client Identity Services in the DSFA, which then issues the newborn child with a PPS number. The IAMS exists on, and is only available to, the Government’s Virtual Private Network (GVPN).

### ***The Public Service Identity***

The Government has already introduced a method of identity management. This may come as a surprise to most, as it was innocuously contained in the Social Welfare (Miscellaneous Provisions) Act 2002. It consists of a person’s PPS No., surname, forename, date of birth, place of birth, sex, all former surnames (if any), all former surnames of their mother, address, nationality, date of death in the case of a deceased person, and any such other information as may be prescribed by the Minister.<sup>14</sup> The Central Records System (CRS) database is the central repository for the PSI, and is managed by Client Identity Services (‘CIS’) for the Department of Social, Community and Family Affairs.

The PSI was designed to improve “administrative efficiency and effectiveness across all public service agencies”, and “help reduce bureaucracy and begin the process of eliminating red tape”.<sup>15</sup> Central to the Public Service Identity is the Personal Public Service Number. Every database has to have a primary key – one that no two records share, and the PPSN is the Public Service Identity’s primary key. To truly appreciate the extent to which identity management has developed in Ireland it is necessary to examine the Personal Public Service Number in greater detail.

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<sup>12</sup> <http://www.reachservices.ie>

<sup>13</sup> i.e. Birth, death or marriage.

<sup>14</sup> s.12, Social Welfare (Miscellaneous Provisions) Act 2002

<sup>15</sup> Minister Dermot Ahern, Seanad Éireann, 22<sup>nd</sup> March 2002, Vol. 129 C1081.

***A Single Unique Identifier***

Identity management, in particular when conducted by the Government, can be greatly simplified if a single unique identifier is used for all public transactions. In Malaysia, the MyKad card is used, which contains a chip with a unique identifier for the owner.<sup>16</sup> The SingPass ID card was introduced in 2003 to enable Singaporeans access Government services. It too contains a unique citizen identifier, and holders use a single password to interact with a wide range of Government services.<sup>17</sup> Other countries, such as Australia, use multiple numbers – sometimes for tax, health, and driving insurance purpose. This approach developed partly due to privacy concerns, but primarily due to different agencies developing systems in parallel.

Ireland has traditionally resisted both a National ID card and number. However, recent developments in Government policy, including the introduction and expansion of the Personal Public Service Number, and the launch of the eGovernment agenda mean that even if a national identity number is not currently in existence, it appears increasingly likely that one will be developed.

The advantages of a single number used for interactions with the State are obvious, and include ease of use for the citizen, easy identification for the State, and the ability to bundle related services. The debate on an SU1 in Ireland has never gotten off the ground, due primarily to the way in which citizen identifiers are being developed. Debate on the broader issue of a national identity card is lively, if somewhat sporadic.

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<sup>16</sup> <<http://www.jpn.gov.my/kppk1/Index2.htm>>. Last accessed 1<sup>st</sup> April 2006.

<sup>17</sup> <<http://www.ida.gov.sg/idaweb/media/infopage.jsp?infopagecategory=egovernment.mr:media&versionid=4&infopageid=I2131>>. Last accessed 1<sup>st</sup> April 2006.

### III: PERSONAL PUBLIC SERVICE NUMBER

#### ***Birth of the PPSN***

The Personal Public Service Number was introduced by the 1998 Social Welfare Act, to replace the existing Revenue and Social Insurance (RSI) Number. In introducing the Social Welfare Bill to the Seanad, the Minister concluded that “the use of a single number across the wider public service will make for easier and speedier access to services for customers, will streamline administration within the specified bodies, will facilitate the sharing of data where such sharing is specifically provided for in legislation and will, of course, aid control of public funds”<sup>18</sup>. The number can only be used by a body if there is statutory provision for it to do so.<sup>19</sup> It is currently used as a unique client identifier by many different public bodies<sup>20</sup>.

The initial list of public bodies entitled to use the Number is set out by the 1998 Social Welfare Act. This list included Government Ministers, local authorities, Revenue Commissioners, FÁS, An Post, the General Register and the Legal Aid Board.<sup>21</sup> Piecemeal expansion of the list of specified bodies has occurred over the past six years. Section 27 of the 1999 Social Welfare Act added the General Medical Services Payment Board, and twenty-eight voluntary hospitals. In 2000, Section 32 of the Social Welfare Act gave the power of use to the National Breast Screening Board as well as limited use by schools, universities, and certain other educational institutions. The Civil Service Commissioners were added in 2002.<sup>22</sup>

Another ten bodies were added in the Social Welfare (Miscellaneous Provisions) Acts 2003 and 2004. Additions have also been provided for by legislation other than Social Welfare Acts. Use of the PPSN for cancer screening programmes,<sup>23</sup> education and training history tracking,<sup>24</sup> the Special Savings Incentive Scheme,<sup>25</sup> the Pensions Board,<sup>26</sup> the Personal Injuries Assessment Board,<sup>27</sup> and the Garda National Immigration Board has also been authorised by the Oireachtas.<sup>28</sup>

#### ***Sector-by-Sector Use of the Number***

Though a wide range of bodies have been authorised to use the Number, the degree to which each body has implemented it as a single unique identifier varies greatly. A perusal of the CIS-maintained register of uses reflects the great diversity in use.

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<sup>18</sup> Seanad Éireann Debates, 25<sup>th</sup> March 1998, Vol. 154 C1072.

<sup>19</sup> s14, Social Welfare Act 1998.

<sup>20</sup> PPSN Code of Conduct, Appendix C. Available: <<http://www.welfare.ie/topics/ppsn/cop.html>>. Last accessed 31<sup>st</sup> March 2006.

<sup>21</sup> s14, Social Welfare Act 1998.

<sup>22</sup> s12, Social Welfare (Miscellaneous Provisions) Act 2002.

<sup>23</sup> s10, Social Welfare (Miscellaneous Provisions) Act 2003.

<sup>24</sup> Education (Welfare) Act 2000.

<sup>25</sup> Finance Act 2001.

<sup>26</sup> Pensions (Amendment) Act 2002.

<sup>27</sup> Personal Injuries Assessment Board Act 2003.

<sup>28</sup> Immigration Act 2002.

### *Education*

Since August 2000, the PPSN has been adopted as the single unique identifier on the Post-Primary Pupils Database (PPPDB), replacing an existing identifier. This was accomplished by two data-matching exercises in 2000 and 2001. The Department has now matched 94% of its 360,000 post-primary pupils, and the numbers are constantly being updated.

The PPS Number is recorded in the student registration process of Institutes of Technology in Letterkenny, Tralee, Tallaght, and Dublin. This practice has been extended to all universities covered by the Universities Act 1997. The National Education Welfare Board, and the National Council for Special Education both envisage further use of the Number. The former body intends to use it to track school absentees, while the latter seek to use it as the key identifier for children with special educational needs.

### *Health*

The PPS number was not originally used as a single unique identifier throughout the healthcare system. The reasons for this are manifold, but include (a) different practices by different health boards, hospitals, and practitioners, (b) the lack of a client-centred approach to healthcare to date, and (c) concerns over use of the number in an area where both public and private services are provided.

The Department of Health and Children's *Health Information Strategy Report*<sup>29</sup>, launched in July 2004, addresses the issue of unique identification of clients in the healthcare sector. Considering the need for the provision of a 'complete' healthcare service to each individual patient, it concludes that "the only safe and practical method of being able to draw together the separate parts of an individual's health record is through the use of unique identification". The action decided upon is to plan "a unique identification system that meets the functional requirements of the sector, and which is based upon the PPS Number and its supportive infrastructure".

This policy will entail the use of the Number in the private sector and has attracted the criticism of the Data Protection Commissioner. It "would potentially make it very difficult in the future to resist its use by other sectors".<sup>30</sup> In this respect, it is unfortunate that the adoption of a separate unique identifier for the health sector was not favoured by the Department.

### *Other Government Departments*

The attitude towards the Personal Public Service Number varies in other Government Departments. Communications, Marine and Natural Resources commits itself only to "consider the options"<sup>31</sup>. Environment, Heritage and Local Government however, hopes to use the number as the primary driver identifier in relation to Driving License records. Practical difficulties regarding the population of

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<sup>29</sup> Department of Health & Children, *Health Information: A National Strategy* (2004). Available: < <http://www.dohc.ie/publications/nhis.html> > Last accessed: 31<sup>st</sup> March 2006.

<sup>30</sup> Office of the Data Protection Commissioner, *Annual Report* (2002), 50.

<sup>31</sup> PPSN Register of Users: < <http://www.welfare.ie/topics/ppsn/rou.html> >.

the database, in addition to privacy concerns have, to date, hindered progress in this respect. Equally, the Department of Enterprise, Trade and Employment intend to use the PPS Number as a single unique identifier for those dealing with their Department.

#### *Local Authorities*

As is currently the case with the Health Boards, the approach of Local Authorities to the PPSN is inconsistent. Kerry County Council uses it “as the unique identifier in respect of most of their interaction with their customers”. A further seven intend to expand its use to that of a unique identifier, or to use it in conjunction with eGovernment services. Two of these mention REACH explicitly. Six local authorities on the other hand cite Human Resources and/or Payroll as the sole use of the PPSN, and none of these have any intention of expanding its use. Offaly County Council explicitly states that the PPS Number is not used as a primary or unique identifier.

#### **Conclusion**

This haphazard expansion indicates a lack of centralised control for the use of the Number, which is a consequence of the manner in which usage is permitted. Some public bodies clearly wish to use the PPS Number as their primary identifier for those they interact with, others do not. This disparity is at odds with stated Government and REACH policy.

The net effect of this approach is that there is no clear debate on the overall Government policy to expand the use of the PPSN. Each expansion can be introduced as merely a small step further than the status quo, just as the present status quo was once a mere incremental advance. There is a process of function creep underway, the PPSN has not yet reached the boundaries of its functionality, especially when one considers the intentions of those now authorised to use it.

The implications of this decision are widespread. For a start, it indicates a clear intention on the part of the Department of Health to allow some the use of the PPSN in the private sector. This was warned against by the Data Protection Commissioner in his 2002 Annual Report, where he reiterated that such an action would give rise to “the very real possibility that it could become a National Identification number by stealth”<sup>32</sup>.

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<sup>32</sup> Office of the Data Protection Commissioner, *Annual Report (2002)*.

#### IV: A NATIONAL IDENTITY NUMBER?

Despite growing concerns about the Number's increasing scope, the Department of Family and Social Affairs, and the REACH agency still maintain the PPSN is not a national identity number.<sup>33</sup> However, the increased expansion of use of the number keeps the question hanging in the air. In *The Limits of Privacy*, national ID cards are identified as having three primary characteristics:

- (i) All citizens and residents of a given jurisdiction must have it.
- (ii) All who have it must carry it, and present it upon request by authorities.
- (iii) The card is linked to a database with other information about the person.<sup>34</sup>

Privacy International state that "the majority of cards in use in developed nations have the holders name, sex, date of birth, and issuing coordinates printed on the card itself. An expiry date, and number is also embossed, along with a space for a signature".<sup>35</sup>

It is necessary at this point to recognise the difference between a national identity number and a national identity card. The existence of such a number does not necessarily mean a national identity card will be introduced. The number would merely provide a convenient SUI were a card to be developed. The purpose of the current analysis is to identify if the PPS Number has developed sufficiently to be used as such.

This noted, the extent to which the PPSN is a national identity number, (and the Public Service Card a national ID card) and can be assessed with reference to (a) whether the Number is mandatory or not, (b) the right of 'authorities' to demand it, (c) the extent of personal information contained on any related national ID card, and (d) whether the Number is linked to a wider database of information.

#### **(a) Mandatory or Voluntary?**

Section 14(2) of the Social Welfare Act 1998 provides:

"The Minister may allocate and issue a number (in this Act referred to as a 'personal public service number') to each person who is the subject of any transaction with a specified body".

In practice, 5.1 million PPS numbers populate the Client Identity Services database. Since September 2003, the PPS Number has been allocated automatically on the basis of birth registration with the General Registrar's Office. A PPS number is required for revenue purposes in all employment, for welfare receipt, local authority grants and tax relief at source. It is, in effect, almost impossible to function in the State without a PPS number.

<sup>33</sup> PPS Number FAQ's, Available: <<http://www.welfare.ie/topics/ppsn/faq.html>>. REACH FAQ's, available <<http://www.reach.ie/faqs.htm>>. Last accessed 1<sup>st</sup> April 2006.

<sup>34</sup> Etzioni, *The Limits of Privacy* (New York: Basic Books, 1999).

<sup>35</sup> Privacy International, <[http://www.privacy.org/pi/activities/idcard/idcard\\_faq.html](http://www.privacy.org/pi/activities/idcard/idcard_faq.html)>. Last accessed 1<sup>st</sup> April 2006.

***(b) 'Authorities' Right of Demand***

Before such a right can be examined, it is first necessary to ascertain who the authorities in question are. The Social Welfare Act 1998 states that only “specified bodies” may use the PPS number.<sup>36</sup> As outlined above, a body may only be permitted to use the PPS number if it is prescribed by statute. The list of specified bodies is set down in that Act, and has since been extended.<sup>37</sup>

Once a body is authorised to use the number however, it is entitled to demand the PPSN or public services card “for the purposes of a transaction”. The right of demand therefore is limited by the list of authorities entitled to use the PPS Number. Certainly, by denying the Garda Síochána and the private sector the use of the number, there is less likelihood of the number becoming a National ID number, but even these two stopgaps have been weakened in recent years. Since the implementation of the Immigration Act 2003, the Gardaí have had certain powers with regard to the processing of the PPSN of nationals from states outside of the European Union.

Financial institutions are required to use the PPSN with regard to certain financial services. When the Special Savings Incentive Account scheme was being administered, banks acting as agents of the Department of Finance were entitled to use the PPSN to ensure that no-one could set up two accounts under the Scheme. In addition, Tax Relief at Source, when administered by the Revenue Commissioners, gives rise to the need for financial institutions to use the PPSN. Regulations implementing the EU Taxation of Savings Income Directive require all financial institutions to establish the identity of prospective customers. Because of this, banks may keep a manual record of a document containing the PPSN, but may not use the Number on their computer system, or for any other purpose.

Where the authority is an authorised body, there is no fetter on their right to demand the Number. While originally the list of bodies concerned was relatively limited, the spread of use into areas of security and the private sector, albeit to a limited extent, makes it increasingly likely that it is only a matter of time before the Number is universally used.

***(c) Information in the PSI/ Public Services Card***

The Public Services Card itself has the person’s name, PPSN, primary account number and date of issue inscribed, and the person’s date of birth, gender, primary account number, expiry date of card and card service code electronically encoded, as well as “such other information either inscribed or electronically encoded on the card as may be prescribed.”<sup>38</sup> Therefore, while the card certainly lacks the primary

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<sup>36</sup> S.14(6) Makes it an offence for any other person to use a PPS Number.

<sup>37</sup> The full list of bodies is available in Appendix B of the PPSN Code of Practice.

<sup>38</sup> Social Welfare Act 1998, Section 14.

characteristic of an identity card – a photograph of the owner – it fulfils most of the requirements outlined above by Privacy International.

***(d) A Wider Database of Information***

The PPS Number is the unique identifier used in the Public Service Identity. As already described, the identity consists of a person's PPS Number, surname, forename, date of birth, place of birth, sex, all former surnames, all former surnames of their mother, address, nationality, date of death in the case of a deceased person, and such other information as may be prescribed by the Minister.

Linking to such a database is central to the idea of a national identity number (and any card based on it). Steinbock notes "The basic function of a national identity system would be to link a stream of data with a person ... human identification is the association of data with a particular human being".<sup>39</sup> In this respect the PPS Number and PSI clearly fulfil the criteria, as they form the basis for all information held by an authorised public body.

***Conclusion***

There are two parts to this question: first, whether the PPS Number is a national identity number and second, whether the Public Service Card is a national identity card. The latter question is easily answered, as the card is by no means an ID card. It lacks the most basic requirement: a photograph of the holder, and authorities are instructed to seek additional identification from citizens seeking to use a public service.<sup>40</sup>

On the other hand, the PPSN is clearly well on its way to becoming a national identity number. Successful integration into the Health Information Strategy, and full implementation of the Public Services Broker will assure that the number becomes key to the administrative identity of all persons in the State. From birth, a person's progression through different life events will all be capable of being monitored through the use of a single eight digit number: full 'cradle to grave' tracking will be possible.

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<sup>39</sup> Steinbock, 'Fourth Amendment Limits on National Identity Cards' quoting Clarke in Strandburg & Stanraicu (eds) *Privacy and Technologies of ID: A Cross-Disciplinary Conversation* (New York: Springer, 2006).

<sup>40</sup> PPSN Code of Practice, 3.2 General Principles.

## V: PRIVACY CONCERNS & RECOMMENDATIONS

Concerns regarding the Personal Public Service Number, and the implementation of the Reachservices project, while stemming from data protection, embrace much wider-ranging issues of privacy and human rights.

### ***Privacy Concerns***

Mention the phrase 'ID card' to a civil libertarian the immediate reaction is one of concern for the right of privacy. In Ireland this right finds its constitutional basis in the unenumerated right originally pronounced in *McGee v Ireland*.<sup>41</sup> The eight principles of data protection are embodied in the Data Protection Act 1988. Furthermore, the Charter of Fundamental Rights of the European Union, 'solemnly declared' by the institutions of the Union in December 2000 recognises the rights of the data subject. Those rights now form Article II-68 of the Constitutional Treaty.<sup>42</sup> Though privacy is often only noticed in its absence, general privacy concerns can be explored as several interrelated issues.

#### *Diminished Practical Obscurity*

The combination of privacy laws, custodianship culture, and the difficulty of integrating personal data stored in different forms and mediums constitutes practical obscurity. It is the sum of practical difficulties which combine to ensure a certain level of protection for data subjects by making access to and manipulation of their data difficult by means of practical concerns. The effect of integrating all information pertaining to a data subject into a single Public Service Identity, accessible by the use of a single number, is to diminish the level of practical difficulty associated with the abuse of the data.

A further barrier to unauthorised use of data – physical access – is undermined when information is no longer kept in individual silos or databases, but linked together on a network. The PPS Number and the PSI diminish practical obscurity in this manner by making data matching exercises and unauthorised access to information easier.

#### *Data Security*

Once practical obstacles to data abuse have been reduced, the onus on data controllers and processors to ensure that data is kept in a secure environment takes on an increased importance. Under Section 2C of the Data Protection Acts, a data controller must "provide a level of security appropriate to the harm that might result from unauthorised or unlawful processing". When a number which previously pertained only to a motor tax application suddenly becomes the key to education and healthcare information, the latter being 'sensitive personal data', security measures must be reviewed.

Legislators have sometimes treated computer security with cynicism, as one Senator noted in reference to the security of the PPS Number – "there is no such

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<sup>41</sup> [1974] IR 294.

<sup>42</sup> Treaty Establishing a Constitution for Europe, OJ 2004/C 310/01.

thing as total confidentiality... any good hacker can access information"<sup>43</sup>. The possibility of a breach of security can never been entirely eliminated, however, that is no excuse for a lax approach to security. A culture of 'can't-do, won't bother' among those responsible for ensuring safeguards exist is unacceptable given the legal obligations arising from the Act, and what should be a corresponding increase in moral obligation.

#### *Ownership of Personal Data*

A key principle behind data protection is that personal data remains at all times the property of the data subject. This is the logic behind many of the rights of data subjects under data protection legislation. Bodies holding personal data are custodians of it, entrusted to carry out their tasks with the privacy of the individual uppermost in their minds.

Earlier in the evolution of the Reach project, the issue of the initial database population was raised by the Data Protection Commissioner<sup>44</sup>. It was agreed that rather than simply copy the CRS database, Reach would only record an individual's data when they voluntarily supplied it. This is in keeping with the general data protection principle that data must be obtained fairly. It also reinforces the principle that "personal data is only accessed with the consent of the individual in the context of a specific transaction"<sup>45</sup>.

The Data Protection Act provides that, subject to certain exceptions, data must only be processed with the consent of the data subject. One exception is that the processing is provided for by law.<sup>46</sup> The obvious logic in this respect is that consent is given indirectly through the mandate of the elected representative. However, this is undermined by the manner in which use of the PPS Number is being expanded: in 'miscellaneous provisions' of legislation primarily dealing with other issues.

#### *Identity Creep*

One of the concerns raised by the Australian Federal Privacy Commissioner in respect of identity management is the issue of 'identity creep'. That is, the identification of data which was previously held anonymously. The current expansion of the PPSN clearly involves a degree of 'function creep', in that the Number is being used more and more widely than was originally envisaged. It would be unfortunate if this process was coupled with one of identity creep, by which individuals were required to identify themselves to obtain data they could previously access anonymously: be it about welfare entitlements, cancer screening programmes, or car tax. It is important to ensure that a user of public services is only required to identify themselves to a degree appropriate for the service required.

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<sup>43</sup> Seanad Éireann – Volume 154 C1088, Senator Don Lydon.

<sup>44</sup> Office of the Data Protection Commissioner, *Annual Report* (2000), 40.

<sup>45</sup> REACH Statement of Intent, at 11

<sup>46</sup> s. 2, Data Protection Act 1988, as amended.

### ***Towards a Surveillance Society?***

The sum of the above concerns, the omnipresent fear of a Big Brother society becomes a reality when all of one's actions can be monitored by a Government. The ideal situation proposed by Minister Coughlan may be many citizens' nightmare. Privacy, "the right to be left alone"<sup>47</sup>, is one of the most important rights in a democratic society. It must be kept at the forefront of any discussions about integrating public services.

### ***Recommendations***

On the basis of these concerns, a number of recommendations can be made, the purpose of which is not to derail the project, but to ensure public trust in an effective system of identity management.

#### *Data Subject Control*

The preservation of this principle and its precedence over other considerations, such as efficiency and ease of use, is perhaps the most important recommendation that can be made in the context. Data-matching exercises without public knowledge or consent undermine trust and run counter to the spirit of data protection.

Earlier this year the public expressed increased concern regarding the PPS No. as a privacy issue.<sup>48</sup> This is not necessarily a criticism of the Reach programme; it merely indicates that the PPS Number enjoys greater recognition than before. It is hoped that this concern will prompt an increased sense of ownership over personal data.

In their entry in the Register of Users, University College Dublin noted "the PPS No is strictly governed by legislation and as such it is treated in strictest confidence". Such a culture of custodianship, rather than ownership, amongst data processors is important if use of the Number is continually expanded.

#### *Consolidating Legislation*

It would greatly benefit transparency, and consequently public confidence if legislation was introduced specifically dealing with the Personal Public Service Number, the conditions for its use, and the privacy principles to be upheld.

In this regard the PPSN Code of Practice, issued by the Department of Social and Family Affairs is greatly instructive. Since this paper was first drafted in 2004, there have been some developments in this respect. While the legislation has yet to materialise, the now-improved Code of Practice is a valuable document for public bodies and citizens alike.

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<sup>47</sup> Attributed to a U.S. Supreme Court Justice.

<sup>48</sup> Office of the Data Protection Commissioner, *Press Release 'Privacy fears still on the increase'*, 16<sup>th</sup> January 2006. Available: < [http://www.dataprotection.ie/docs/Press\\_Release\\_-\\_Awareness\\_Survey\\_2005/296.htm](http://www.dataprotection.ie/docs/Press_Release_-_Awareness_Survey_2005/296.htm) >  
Last accessed April 1<sup>st</sup> 2006.

Similarly, the Register of Users of the Personal Public Service Number, maintained by Client Identity Services is to be welcomed. However, several registry entries are out of date, and the Register has only been updated once due to budgetary constraints.<sup>49</sup> An up-to-date Register of Users would be a cost-effective measure to ensure the public were kept informed of the Number's use.

### *Computer Security*

Given the increased dependence in public administration on networked systems, it is vital that data controllers duties are strictly observed in terms of computer security. Regular review of the adequacy of protection is vital to the security of the data held. In particular, measures must be taken to ensure that the room for human error – be it deliberate or accidental – is reduced as much as possible. This means implementing a 'need to know' policy for personal data, and ensuring that all staff are fully aware of their obligations under the Act.

Personal information held by a Government Department is always sensitive in the popular sense, and not trivia to be carelessly dealt with. The importance of staff awareness of their data protection responsibilities is heightened when the ability to link data is expanded. Thus it is important that adequate training is provided by all bodies intending to use Reach, the IAMS, and the PPS Number as a unique identifier.

Computer security must be integrated into any database system from the ground up. In designing and implementing a networked public service system requires security must be the first, rather than the last concern. One can no more hide behind a firewall than one could behind a Maignot line.

### *Public Debate*

The oft-cited answer to all ailments, public debate, really is a necessity with regard to eGovernment. If a system of e-governance is to be accepted by the Irish public, they must be satisfied that its merits have been fully assessed. This is particularly pertinent where there is a real risk of infringing fundamental rights. Privacy is becoming ever more important to the Irish public. Those who seek to drive e-governance forward must not forget the 'right to be left alone'. It is likely, given the developments in the United Kingdom, that this debate will take place as part of the wider debate on a national identity card. However in one respect Irish citizens seem fortunate – the drive for better identity management appears to be motivated by the desire for efficient public services, rather than the securocrat concerns dominating policy-making elsewhere in the world.

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<sup>49</sup> Information provided by CIS in private correspondence.

## VI: CONCLUSIONS

It is clear that the Revenue and Social Insurance Number has come a long way since its 'rebirth' as the PPSN. Its continued growth over the past eight years is testament to the Government's commitment to rolling out eServices in the public sector. Unfortunately this growth has come at the cost of complete transparency - the primary concern is not necessarily the development of a national identity number, but the manner in which that development is being carried out.

While it is possible to be supportive of the substantive developments, the strict prohibition on use by the private sector has been undermined by the integration of the Number into the National Health Information Strategy. Proliferation of use within the private sector raises far graver concerns for individual's privacy, including the possibility of use for marketing, unauthorised data matching, use by the insurance and credit sectors.

Finally, four points are suggested that would go a long way towards securing privacy rights for the individual, without hampering the Reach project in any real way. These are (i) continued commitment to data subject control, (ii) strong emphasis on computer security, (iii) consolidating legislation to clarify current use of the Number, and (iv) an effective campaign to increase public awareness and promote debate of the issues. It is only on the basis of informed consent that the public can be expected to trade their privacy for more effective public – and possibly private – services. If we are to accept such a Faustian contract, it must be with our eyes wide open.<sup>50</sup>

The PPS Number has the potential to become the lynchpin of a 21<sup>st</sup> century integrated public service provided by REACH. It could also become an Orwellian nightmare. Eternal vigilance by legislators, public service providers, and most of all, the public, is the only way to ensure the correct path is chosen.

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<sup>50</sup> Easton, *Card-Carrying Americans: Privacy, Security and the National ID Card Debate*, (New Jersey: Rowman & Littlefield, 1986), 208.

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