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WHERE NOW FOR VETTING AND BARRING IN THE VOLUNTARY SECTOR?

Out of the blue in mid-June, the new government pulled the plug on the former government's Vetting and Barring Scheme, an overwhelming regulatory system which had been three years in the making. From July 2010 the scheme would have had a significant effect on the activities of churches in relation to children and vulnerable adults. Over the next five years it would have required the registration of nine million people – one in five of the adult population of the UK. That figure would have been more than 11 million people had not Ed Balls, the then Secretary of State for Children, Schools and Families, intervened in the Autumn of 2009 to relax some of the criteria.

The Vetting and Barring Scheme was an outcome of the Safeguarding Vulnerable Groups Act 2006, which established a new body, the Independent Safeguarding Authority (ISA), to take responsibility for it. Compulsory registration with ISA was seen as a way of identifying unsuitable people, and barring them from working with children and vulnerable adults in roles which put those children and vulnerable adults at increased risk. The ISA, already set up with offices in Darlington, was about to begin the registration process.

All this is now put on hold, while the government has a re-think. This moratorium gives the whole nation a welcome opportunity to reflect on what exactly was about to be inflicted upon the nation, and why. There are some searching questions to be asked:

[1] Why is it that in today's society, it is assumed that the safety of children and vulnerable adults requires the registration and monitoring of nine million people?

[2] How is it that a Scheme described by Home Secretary Theresa May on 15 June 2010 as 'draconian' could have come within a few weeks of taking effect without much more than occasional murmurs of opposition during the three years in which the arrangements for the new Scheme were taking shape?

[3] Why is it that law and regulation are regarded as the only means by which a better and safer

society can be achieved?

These questions will challenge some of the assumptions on which a vetting and barring scheme is based, but there's no harm in that. Even if the eventual outcome is more of the same, or, more likely, somewhat less of the same, it will have been constructive to ask these deeper questions. Unless the reflection includes the wider implications, there is a risk not only that wrong answers will emerge, but right answers for the wrong reasons.

My three questions above are not exhaustive. Other serious questions could no doubt be usefully addressed. However, insofar as my three questions are fundamental to the core issue, some brief answers do suggest themselves:

1. To understand this question, one has to identify the difference between a tier 1 and a tier 2 question. A tier 1 question is one which addresses the big picture, and is not tainted by assumptions or presuppositions which rob it of its objectivity. A tier 2 question is a practical one, which may have widespread beneficial consequences (and, just as easily, may not), but is nonetheless based on an assumption which, if challenged, may not only prove to be non-negotiable, but may be found not to have been previously recognised as an assumption at all. An example of a tier 1 question would be 'How can we make our children safer?' An example of a tier 2 question would be: 'How can we make our child care database more effective?'

   Over recent years, too many potentially significant tier 1 questions have been replaced by assumptions, and the questions now seem only to begin at tier 2. It is easy to see how the same mindset which begins with a question like 'How can we make our child care database more effective' would come up with a monitoring scheme which involved the registration of nine million people.

2. The answer to this appears to be that we have become inured to bureaucracy. Over the last three years, we have been introduced to the demands of the vetting and barring scheme a little at a time, and the sheer quantity of regular announcements, adjustments, clarifications, guidance and promises of further guidance, has reinforced the assumption that the whole system must be vital to the welfare of the nation and its people. We have been conditioned, and now accept bureaucracy more readily and more extensively. This is an example of the State mind control, whether witting or not, of which George Orwell warned 60 years ago.

3. In the 1950s, Britain was still outwardly a Christian country, and there was still a widespread adherence, across the majority of society, to Christian values in respect of right and wrong. In the 50 years since 1960, those shared Christian values have gradually but inexorably eroded, so that very little remains.

Society in 1950 would do the right thing instinctively, but now it doesn't, and wouldn't even have

a common view about what the 'right thing' was. As a result the only way any government can achieve a desired social pattern of conduct is by means of law and regulation. Even this does not guarantee conformity, as is demonstrated by the current congestion in the courts and prisons. But it is the most obvious instrument to hand, and the outcome has been a frightening and relentless flow of law and regulation.

The tier 1 question 'How can we make our children safer?' has long since been replaced by the tier 2 question 'What news laws and regulations can we introduce?'

An exception to this analysis has been the recent work of Iain Duncan Smith, currently Secretary of State for Work and Pensions, and his Centre for Social Justice. This work has identified and addressed a number of factors which have led to Britain's 'Broken Society,' and has been the starting-point of some of the present government's policy initiatives. His verdict on present-day society has essentially been that the vital tier 1 questions have been overlooked in the pursuit of tier 2 solutions. He has been stark in his assessment:

'A sense of deepening anarchy hangs over Britain.' (Daily Mail, 24 August 2007)

But he has also been realistic in his expectations:

'Britain can't just turn back the clock,' he says. 'It's not as simple as going back to where we used to be earlier in the last century; we need to look at the things that matter.' (The Times, 22 January 2010)

In the same way, the government will not be able simply to 'turn back the clock' when it revisits the details of the proposed vetting and barring scheme. It is faced with the present social condition of the nation, empty of moral strength and focus, and dependent on prescribed procedures to maintain whatever degree of public order and safety it can achieve.

Politically, it won't be possible for the government to cancel all the law and regulation which was envisaged under the vetting and barring scheme. No government in living memory has merely sat on its hands, in maintenance mode, with no new legislation in sight. Any such government would have been accused of 'doing nothing' in the face of any number of specified social problems. For all the insistence that there is 'too much law,' politicians still manage to argue that more is needed.

However, it ought to be possible for the government to come back with a version of the vetting and barring scheme which is less dependent on law and regulation, which frees millions of people from direct obligations under the law, and which reduces the amount of bureaucracy imposed upon the nation at large. Here are some suggestions:

1. With regard to those working in State-provided education, care and leisure services, it is hard to see that the system can be anything less than was originally proposed. Given the potential risk in a society devoid of shared values, and the fact that

engagement with public education and care services is not a matter of choice for most of those for whom they are provided, a system of staff registration is probably inevitable. It is a shame that this has to operate solely within a negative, policing, framework. It would be much better and more positive if the oversight involved had a wider remit and offered some form of accreditation to staff, giving even the lowliest of employees an added pride in their work.

2. Those providing education, care and leisure services within the private sector, whether commercially or as charities, could be made subject to a registration regime if their employee numbers exceeded a specified threshold. Larger enterprises are more likely to be commercially-driven, or to operate with a more corporate style of approach, and in such organisations compulsory registration of staff would be both more appropriate, and less irksome, than in smaller undertakings. Those whose staff numbers are below the specified threshold could be treated as in [3] below.

3. The entire voluntary sector, including all churches, does not need to be included in a compulsory registration system at all. If it dawns on the government that it is permissible to address the tier 1 question 'How can we make our children safer?' rather than being blinkered to see only tier 2 issues, the answer will not need to involve more bureaucracy. The character of the voluntary environment could take on the characteristic of a 'private arrangement.' It does not follow that a more relaxed and less bureaucratic regime inevitably leads to a loss of control over safety.

Removing the voluntary sector from the ISA register would take the burden of the law off the shoulders of millions of individuals, and the duty of policing that law off the State. Instead, the voluntary sector could be governed by a law requiring the trustees or other governing body of a voluntary sector organisation to 'take account' of published and regularly up-dated guidance. Such an approach would have several benefits:

- It puts the responsibility where it belongs – wholly into the hands of those who manage organisations;
- It still retains a legal sanction over those trustees and managers, though a much less 'draconian' one than previously envisaged. Where there is a serious incident, genuine complainants would have recourse to the ISA on the basis that insufficient account had been taken of guidance, and there could still be prosecutions. However, there would be little opportunity for malicious complaints, whereas the previous scheme was wide open to them, given the inevitability of procedural failures, wrong interpretations of the requirements of a particular context, and the deficiencies of plan B when plan A is suddenly prevented from happening;
- It enables the qualities of a safe environment to be viewed, and achieved, within a wider framework than can ever be provided by a bureaucratic process, however closely regulated.

The legal obligation to 'take account' of guidelines would require trustees (in independent churches usually elders and/or deacons) to consider the guidelines, and order church practice in the light of it.

This would be a useful exercise even if it wasn't a legal obligation. Churches would be able to tailor the guidance to their circumstances and activities, and establish, in their own written policy, a harmony between the essential advice of the guidance and the biblical principles churches are seeking to uphold. If churches include their written policy in a set of Minutes, this will be sufficient to ensure that they had fulfilled the law in 'taking account' of the guidance.

There are churches out there which would prefer to have nothing to do with the State, and which hold to the belief that in all matters connected with the church, the State has no jurisdiction. This is their definition of the separation of church and State. To them, the church ought to be outside or above the law, since none of it ought to be applicable to it.

The most important thing to say about such a view is that it is not biblical. In Romans 13:1-7 the responsibilities and benefits of the State are clearly set out, and it should be a delight for churches to support and co-operate with the legitimate systems introduced in the interests of the well-being of the people it governs.

The State will not always get it right, and there will be issues which require the church to resist, argue or contend. The fiercest of debates over policy, however, does not threaten the underlying principle that a good State is a good thing, and churches should no all in their power to assist the creation and maintenance of 'a good State.'

The government has not yet indicated when it will come forward with scaled-back proposals on the vetting and barring scheme, nor the extent to which it will consult with professional services and the voluntary sector before coming to its conclusions.

Rod Badams

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The Old Bank House, 17 Malpas Road, Newport, South Wales. NP20 5PA
Telephone: 01633 893925
Email: office@affinity.org.uk
Website: www.affinity.org.uk

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