



ILPA's response to the LEDS Consultation Response to the College of Policing

Background

ILPA is a professional association founded in 1984, the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with a substantial interest in the law are also members. ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, to act as an information and knowledge resource for members of the immigration law profession and to help ensure a fair and human rights-based immigration and asylum system. ILPA is represented on numerous government, official and non-governmental advisory groups and regularly provides evidence to parliamentary and official enquiries.

Response

The Code and the Guidance document do not contain adequate safeguards to ensure that the right to privacy is upheld.

We are concerned that the information which is to be held on the database will be inaccurate. The Code of Practice states at 6.3 that 'the data set is proactively reviewed and updated for accuracy and currency'. This is inadequate because the procedure to be adopted is not specified, nor is any commitment made as to how frequently the data will in fact be reviewed.

The broad nature of the sources of data, together with the potential to increase the data pool, makes quality control challenging. The Code and Guidance do not specify how LEDS will be resourced to ensure the data 'is of high quality'. The reality is that, without sufficient funding in place, the information will not be accurate and any such inaccuracies will not be remedied promptly. If the database is to proceed, there must be adequate resources to ensure that the aims of LEDS are met (outlined on page 6 of the Code).

The Code is also not transparent about who will have access to the database. The Scope of the Code (contained in Section 4) states that:

*“This Code and the Guidance Document should be considered by organisations other than police forces in England and Wales. By contractual arrangements, **it will be applicable to other agencies within the United Kingdom that can access LEDS and selected data sets.** This includes police forces that are not covered by the Police Act 1996, s 1, as well as other agencies with access to LEDS that exchange information with the police service in England and Wales.”*

Clarity around which organisations may use the database is required because LEDS must only be accessed by agencies to ‘prevent crime and better safeguard the public’ (Code of Practice, 1.5). As it stands, this is not guaranteed. The Public Guide states that ‘Non-governmental bodies will have very limited access to LEDS. This will follow an assessment of their need to access information and their ability to protect that data’. The process by which non-governmental organisations may have access to LEDS must be clear and transparent from the outset. The measures must be legally sound and robust to minimise breaches of privacy.

The Public Guide states at 8.2 that:

“Law enforcement purposes (as defined above) may encompass the majority of policing responsibilities but some police activities, such as providing educational programmes or supporting immigration enforcement, fall outside that definition.”

We are concerned that LEDS will have negative consequences on migrants and in particular, information sharing between the police and Home Office could limit access to employment, state benefits and undermine individuals’ immigration status. Data sharing under LEDS is also capable of being used to deport migrants from the United Kingdom.¹

Clear mechanisms for scrutinising LEDS including Parliamentary oversight and/or public scrutiny over new data sources and access rights must be specified. There must also be robust safeguards which ensure that LEDS is not used for immigration enforcement.

¹ Operation Nexus, concerning data sharing between the Home Office and the police, has been successfully relied upon in deportation:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/599878/Operation-Nexus-High-Harm-v1.pdf (p.7)