

## **The Sovereignty of Patient Data**

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Dentistry is facing some significant challenges where the use of Information and Communications Technology (ICT) in dental practice is concerned. I am left with a strong feeling that the tail is wagging the dog at present and a dangerous situation is gathering momentum very quickly.

The problem arises from the fact that the dental profession – unlike the medical profession - has not had the benefit of significant taxpayer investment dedicated to post graduate education and training where the use of computers and ICT is concerned. Computers first appeared in schools in about 1985 and those aged under 36 years of age have all had the benefit of being taught computer studies as part of their formal education curriculum. There is as a result a massive knowledge gap that places senior members of the dental profession together with their colleagues in other regulated professions at a serious disadvantage. Practice principals are placed at particular risk as the buck stops in their hands.

The Leveson Inquiry and headline news stories concerning computer hacking should have alerted dental professionals to the risks involved with the use of electronic and wireless communications. What is the nature of the problem? Is it widespread and is it serious? The answer to all of these questions is YES and if you are left in any doubt you may be guilty of criminal activity already and ignorance of the law cannot be offered as an excuse. **The GDC has powers to strike you off the Register, the Information Commissioner's Office has statutory powers to fine you up to £500,000 and the Care Quality Commission has powers to close your practice down.** All these severe sanctions can be imposed as a result of failing to implement Parliamentary Statutory Instruments arising from EU Directives and the Data Protection Act 1998. This Act incidentally is now the subject of a major review in Brussels and new EU legislation is being enacted to ensure that every Member State complies. The Council of European Dentists (CED) seems to be leading the way for Dentistry here and I suggest that visitors access the following Internet e-links for the latest news on the subject:-

- 1) [http://ec.europa.eu/justice/data-protection/document/review2012/com\\_2012\\_9\\_en.pdf](http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_9_en.pdf)
- 2) [http://ec.europa.eu/justice/newsroom/data-protection/news/120125\\_en.htm](http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm)

I recognize this is all rather depressing stuff but HM Revenue and Customs have already forced some Accountants out of their cosy offline professional niche and from 1 April 2012 all VAT Returns have to be completed in electronic format and submitted online in addition to Annual Tax Returns. There is no hiding place for any member of a regulated profession – it is not just dentists that are suffering.

So how is the tail wagging the dog? Simply because the technology and the geeks who make a living from promoting this extraordinary ICT revolution often call the shots without any knowledge of the regulations that our clinical responsibilities bring. Whilst the benefits can be massive, things can go horribly wrong in nanoseconds and the practice principal left with a bout of depression and possible legal proceedings.

The offline data protection (traditional paper and pen) now seems simple by comparison with the online (ICT) world of the Internet. The former has metamorphosed with practice management and digital radiography being introduced but we are now faced with a Big Bang situation.

A quick trawl through the BDJ Classifieds reveals the extent of the problem where the largest provider of e-communications (e-mail) is Hotmail (Internet Service Provider or ISP) and job applicants are often instructed to transfer their personal CV's via an e-mail address @hotmail.co.uk . Not even the GDC sees fit to include the use of computers and ICT in the list of compulsory verifiable CPD subjects – extraordinary!

One final piece of advice for dental practice principals who outsource their ICT advice and services – make sure the agency is registered with the Information Commissioner's Office and check upon where their data storage facilities are domiciled.

11 June 2012