

Tinker, tailor, soldier...file?

by Norman Baker (MP for Lewes and Lib Dem Home Affairs spokesman)

If you are one of the 290,000 people on whom MI5 holds a file, there was some good news this week. In a landmark judgement in the courts on Monday, an Appeal Panel cleared the way for individuals to see their files.

It all started last summer when I launched a test case under the Data Protection Act 1998. I wrote to Sir Stephen Lander, Director General of MI5, to ask to see any data held on me by the organisation. Shortly afterwards, the then Home Secretary Jack Straw issued a certificate, effectively exempting MI5 from the requirement to comply with the Act. I then took this to appeal.

Now that certificate has been quashed. It was, in the words of the Appeal Panel, drawn “unnecessarily wide”. The Panel accepted my view that each application to view material held on a person should be treated on its merits, not simply met with a blanket refusal. It also concluded that there may well be cases when information can be released without in any way endangering national security.

When I began my action, I did not know whether or not I had a file. This is actually not the issue. This case is about the right of each of us to know what information is held about us by the state and for what purpose. That after all is the underlying principle of the Data Protection Act.

Interestingly though, soon after I threw down the gauntlet, I received a letter purporting to come from a serving MI5 officer, calling himself “The Mechanic”. It told me that I did indeed have a file, triggered by my environmental campaigning in the 1980s. I suppose the letter could be a spoof, but if so, then someone went to a lot of trouble to construct it, for the information it contains is correct. It also alleges that my file was closed in mid-1989 when I began work in the Lib Dem whips office, but that it still exists. The letter ended in true John Le Carre fashion : “If you do keep a copy of this letter I would appreciate that you made a copy and destroyed the original : there are no limits to the lengths that management will go to expose leaks”.

Now nobody is suggesting that the doors of MI5 should be thrown open to the winds. A security service has necessarily to operate in secret and can only reveal so much about its activities. To do otherwise would be to undermine its effectiveness and even put the lives of its agents in danger. The tragic events of last month only serve to remind us how vital to our democracy the work of our security services is.

But the key question is this : is there information held by MI5 which can be made available to individuals or put in the public domain which will not damage national security? The answer is clearly yes.

After all, MI5 itself has been busy releasing material to the Public Records Office about its past activities, particularly in relation to the Second World War period. It has also become more open about its processes and procedures over the last ten years. In 1997 for the first time, for example, the then Home Secretary revealed to me the number of staff employed by MI5 – 1860 at that point. Yet it wasn't so long ago that

governments would deny that MI5 even existed. Now it seems that even memoirs from former Director General Stella Rimington are permissible.

There has also been the creation of a parliamentary scrutiny committee of sorts – the Intelligence and Security committee – which has beavered away quietly in the background, doing much good work.

All this has happened and the sky has not fallen in.

I was disappointed by Jack Straw's decision to issue a certificate in response to my application, giving MI5 blanket exemption. After all, when I had raised this specific issue with him in the Commons in February 1998, he had replied:

“I believe that we should be prepared to be open about the things that we can reveal without harming the service's capabilities. The service shares that view.”

Now I know that I have never done anything to endanger national security. My environmental activities in the late 1980s, such as they were, were to campaign against a grotesque road proposal that would have disfigured the area of the South Downs, which at that time I represented as a District and Parish councillor, by creating a sort of spaghetti junction at the entrance to the historic town of Lewes. The road proposal was subsequently dropped after bitter public opposition.

It follows therefore that if there is a file on me, it cannot contain material damaging to national security and should be released to me.

And if I have a file, how many countless others have been subject to monitoring and information gathering without very good reason? The Home Secretary has admitted that there are files on 290,000 individuals. Now there may be files on a few terrorists, a few animal rights extremists, a few drug runners – indeed I hope there are - but 290,000? And that figure does not take account of all the files MI5 have been busily destroying.

Serving and former MI5 officers who have broken cover have alleged that in the 1980s in particular, the service compiled lots of files on persons who were thought might be subversive. They are alleged to include Jack Straw and Peter Mandelson, hardly threats to our country, at least not in the security sense! It seems one did not have to do very much to qualify for a file. Even writing to the local paper about nuclear disarmament might have been enough to get you in. Perhaps you who are reading this now wrote such a letter. Who knows what is held on us, let alone whether it is accurate or how it is used.

We are now in uncharted waters, however, and it is not clear yet how the government will respond. My victory on Monday was the first occasion to my knowledge when the ability of MI5 effectively to bypass the law has been limited. The Appeal Panel made it clear that from now on, if MI5 want to withhold information, they should be able to justify that decision. Merely saying we are MI5 is not enough.

Each of us should have the right to see data held on us by MI5, just as we can with the police, the Benefits Agency, the local council and every other arm of state, unless

there are national security reasons to justify withholding that data. It is rights that like that provide an essential check on the power of government.

The government is presently, and rightly, considering what further steps need to be taken to defend our country against terrorist attack. Almost inevitably, any measures taken will increase the power of the state over the individual. The judgement I secured last week gives the government the opportunity to take a step in the opposite direction. I hope they will take it. It is, after all, that sort of democratic right in a free society that we are prepared to take on the terrorists in order to protect.