

Governing risks and benefits: mobile communication technologies in British universities

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Abstract

MCTs pose new opportunities and challenges to university governance. Not only are the devices widespread, they have particular capabilities and constantly changing uses which makes any governing of them difficult. Furthermore most devices are individually owned. Thus universities are unable to directly control how they are used but do have a duty of care towards those learning and teaching within their spaces. This article outlines preliminary findings on how some British universities are responding to these challenges by seeking to capitalise on potential pedagogic benefits while limiting information-privacy risks posed by new patterns of usage. It found that these universities converge in their recognition that students are using or want to use MCTs to capture content in teaching spaces. However they diverge in how they respond, in particular, on what uses are restricted and how competing rights, for instance, disability versus privacy, are negotiated.

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Introduction¹

Video clips of lecturers breaching university policy, ranting or trying to provoke debate in class have gone viral (Carvin, 2007; Stripling, 2010; Deci, 2013). Audio clips recorded on a mobile phone are at the centre of a court case into allegations of sexual harassment by a professor (Hindustan Times, 2013). The internet posting and tweeting of a webcam recording of a sexual encounter in a dormitory room is understood to be behind a student killing himself (Gray, 2012). What were quasi-private spaces in universities are becoming increasingly porous as mobile communication technologies (MCTs) - mobile phones, tablets, netbooks and laptops – enable the capture, upload and mass dissemination of everyday engagements. This article explores how some British universities are responding to the pedagogic benefits and the unpredictable risks and consequences for institutions and individuals of the capture and dissemination of classroom interactions.

Universities have a long history of using new technologies to enhance teaching and MCTs are no exception. Higher education studies have highlighted the potential benefits to learning from including MCTs into teaching as well as classroom disruptions from ringing mobile phones, texting, etc. (see Campbell, 2006) However,

little attention has been paid in this literature to the more serious information-privacy risks posed by ungoverned capture of daily interactions and the implications for universities. The social science literature has drawn attention to these risks in other contexts as well as government attempts to curb abuses (see Ibrahim, 2010b) but little attention has been paid to the particular implications for university governance. This article argues that this is a major gap and its response has been to attempt to bridge these two bodies of literature through an exploration of emerging policies on the use and misuse of MCTs in British universities.

MCT-related information-privacy risks arise from how the devices may be used to capture and upload personal information exchanged in everyday engagements (see Ibrahim, 2010b). The potential for large-scale dissemination on the internet not only raises the possibility of wider public scrutiny it also presents possible risks for institutions and individuals when private and/or sensitive personal information is made public (see, Solove, 2004; Ibrahim 2010b). These possibilities need to be managed if universities if the new technologies are to be used to enhance education. The problem, however, is policies devised to govern the recording, use and dissemination policies governing older technologies may be ill-equipped to deal with MCTs because of the particular functionalities of the latter. Some British universities have recognised this and begun to develop MCT-specific policies to manage the particular opportunities and challenges, benefits and risks they pose. These institutions are in the vanguard of thinking about the governance of new technologies and the dissemination of what they are doing may provide a useful steer to other institutions around the world dealing with similar issues. The empirical analysis outlined here is located within and framed by social science studies on the

nature of MCTs and of information-privacy risks. The findings are preliminary ones and more research is needed but hopefully a useful start has been made here.

Historical Context: Governing Communication Technologies into Higher Education

For well over a century universities have used new technologies to enhance teaching and learning in a wide range of fields from languages and music to medicine (see Salaberry, 2001). Traditionally this involved bringing captured sounds, images and texts from the outside world into the classroom to illustrate theory, concepts and models, analyse phenomena and case studies or to engage students. Or it has involved the use of computers for record management, data analysis, word processing and plagiarism checks. Much of this usage went largely unchallenged by the wider society. However, in the 1980s this changed with the advent of the new technologies including the facsimile machine, photocopier, video player/recorder and computer databases. These exposed competing interests and rights between users and owners of information which needed to be negotiated and managed (see Ginsburg, 1991). For instance the recording, copying, reproducing, analysis and storage capabilities of these technologies not only offered new ways to enhance teaching, learning, student engagement and administration, they also put at risk intellectual property and data protection rights and interests. The resulting tensions were negotiated in three ways in Britain.

The first centred on the intellectual property concerns of third parties. Universities were allowed to copy, record or reproduce content under “fair use” provisions (see, Ginsburg, 1991). That is, use was restricted to educational purposes – teaching and personal research – and was contingent on the terms and express

consent of the owners of the content, the copyright holders. A limited number of copies could be made and in some cases none at all or with strict conditions about how much could be shown, whether a recording could be made of this and responsibility for managing this lay with the institution (see Ginsburg, 1991).

The second negotiation emerged out of government policy shifts in the late 1990s intended to ensure more disabled students went to university. The result was a legal requirement for universities to make “reasonable adjustments” for disabled students so as to ensure any disadvantage accruing from their disability was limited (see Doyle and Robson, 2002). This entailed the waiving of normal copyright restrictions on recordings, copies and transcriptions for certain students with particular disabilities but with the proviso that these were for personal study purposes only. Some universities provided recording devices for students or allowed them to record but specified conditions and procedures rooted in evaluations of need, use and consent.

The third negotiation emerged out of concerns over the capture, storage and management of personal information. As universities began to gather and store more data on staff and students they needed to ensure their management of this was compliant with European data protection law. This seeks to protect the privacy rights of individuals by ensuring that the personal information about them that is “held, processed and used” by organizations is “managed properly” (Lyon, 2002). Central to this is the concept of personal information discussed later. Suffice to say here that data protection is concerned with institutional processes and safeguards intended to ensure that collection of personal information of individuals during the course of their business is not inadvertently released into the wider society.

Traditionally these arrangements – for intellectual property, disabled and data protection rights – allowed universities to use technologies to manage their spaces and enhance teaching but subject to certain conditions which sought to protect the interest of others and balanced possible conflict between competing rights. These policies arguably have been more or less effective because they are institution-centric in the sense that they entail university-controlled capture, use, dissemination or management of content or data. In contrast, mobile devices are individual-centric in that its owner has considerable agency over what to record, when, how and what use to make of it. The problem for universities is that they have relatively little direct control over such devices because they do not own them but they do have a duty of care to staff and students for what happens within their spaces. This conundrum of a lack of control yet responsible offers qualitatively different problems to those posed by earlier technologies. The particular problems related to information-privacy have yet to be seriously addressed in the higher education literature where the main emphasis has been on the teaching and learning benefits accruing from incorporating mobile devices into the classroom.

Higher Education Studies, MCTs and Universities

Higher education studies echo many of the historic arguments for the appropriation of earlier technologies. For instance, they have highlighted the pedagogic value of students being able to access digitally recorded lecture content (Toppin, 2011 p. 383). Playback is seen as helpful in addressing remediation and retention issues in learning as well as in reversing high rates of drop-out, failure and withdrawal (Toppin, 2011, p. 393). Furthermore, there is growing student demand for recorded material; but the central facilities needed to provide this are costly and not all

universities can or are willing to invest in these (Chandra, 2007). Student-owned MCTs, with their inbuilt recording capabilities, are seen as offering a cheaper, more flexible and practical alternative. MCTs are pervasive: 94 percent of students at one British institution are regular users of mobile phones (Davidson and Lutman, 2007) and 95 percent of students in a university in northeastern USA bring theirs to class every day (Tindell and Bohlander, 2012). It is hardly surprising therefore that universities should seek to capitalize on this potential and higher education studies have seen this as signalling a new, individualized approach to learning: “just-in-time, just enough and just-for-me” (Traxler, 2007, p14, in Belshaw 2011). Potential benefits go beyond the cost effective provision of lecture recordings; they include the empowering of the learner through student-controlled capture and mobile, flexible access and use (see Belshaw, 2011 p. 8).

Higher education studies have not ignored the potential misuses of MCTs, but tend to view these as “potential pitfalls” (Kukulka-Hulme and Traxler 2005 p. 97) or “challenges” (Tindell and Bohlander, 2012) the implications of which are largely confined to the classroom. For instance, studies found that one third of students play videogames on mobile phones and laptops during class; 92 percent text message during class time; 10 percent did so during an examination; and most believe faculty are “largely unaware” of the extent to which they are accessing SMS, browsing the Internet and sending pictures during class time (Gilroy 2004, in Campbell, 2006; Tindell and Bohlander, 2012). Other concerns are that content delivered via a different platform such as MCTs may disadvantage some disabled students (Kukulka-Hulme and Traxler 2005, p. 192), ringing phones may disrupt learning and MCTs may be used to cheat in examinations (Campbell, 2006). Clearly such disruptive and distracting activities are problems that need to be managed, but their

implications are largely confined to the classroom. The premise in these studies is that classrooms are still bounded spaces where what goes on there remains within that preserve and so is quasi-private. The wider social science literature and real case examples cast doubt on this premise. These highlight how convergence and connectivity not only means MCTs can be used to access course material they also pose a range of potential risks.

MCTs, the Social Sciences and Risk

MCTs are pervasive and embodied in that they are small, lightweight and ultra-portable. They are carried almost continuously on the body by the overwhelming majority of the population and this enables anytime, anywhere use by almost anyone (see Ibrahim 2010b). What distinguishes them from other portable devices is that they are multi-functional, combining the communicative (phone, email, Twitter, Twitpic, etc.), with content (recording, storage and retrieval capabilities), connectivity (access to the Internet and social media sites) and convergence (recording, uploading, downloading, editing, etc).

It is unsurprising, given this multi-functionality and the widespread use of MCTs among 18–24 year olds that universities should seek to extend their long history of appropriating technologies into learning by doing likewise with MCTs. It is surprising how little mention is made in higher education studies of the social science literature that highlights a range of potential risks arising from this that need to be governed. These include enhanced capabilities not only to record, store and retrieve but also to upload what has been captured onto social network sites where anything from the banal to the significant in everyday life can be mass-disseminated and opened to public scrutiny (Ibrahim, 2010b). This makes possible the “narration of ...

spaces which may not be accessible to the rest of the world” and the creation of “a new visibility” in which events, personal accounts and images from everyday spaces – public, private and hybrid public–private – can be shared with a wider audience via social network sites (Ibrahim, 2010a). While much of this research has focused on other spaces there is little reason to believe that university spaces will be immune, especially given a generation of young people who have grown up with social media. Furthermore, the “consumption of private details ... sustains the culture of gaze and the curiosity of the invisible audience” and creates its own demand for content captured in the everyday and communicated within and beyond the networks (Ibrahim, 2010b).

This has a number of potentially unpredictable consequences. On the one hand, “new visibilities” derived when everyday interactions in previously bounded spaces are captured then catapulted into a public arena can expose power, the abuses of it or perceived abuses (see Beer and Burrows, 2007). On the other hand, ethical issues are raised when the recording of image or sound, actions and opinions of the non-powerful takes place without their prior alert or consent and sometimes in ways that misrepresent what was said or done (see Ibrahim, 2010b; Reading, 2009). Subsequent dissemination of such personal information potentially exposes unwilling and unwitting individuals to possible discrimination, manipulation, victimization and abuse thus creating “new vulnerabilities” (see Ibrahim 2010b; 2011). In MCT-dominated conditions, the boundaries between what is public and what is private became increasingly porous and “new risks” emerge (see Ibrahim 2010b; 2011) especially when the dissemination of private information is unlimited by space or time, invisible in that the moment of capture may be impossible to detect, and pervasive and proximate because of the carrying of MCTs on the body everywhere.

The rendering of quasi-private spaces porous has profound implications for information-privacy.

MCTs, Information-privacy and the Managing of a Potentially Porous Space

Information-privacy matters centre on an individual's ability to control the collection, storage and dissemination of personal information about themselves (see Fenwick and Phillipson, 2006 p. 662). Personal information is "about an identifiable living individual" regardless of whether they are captured in image, sound or text (JISC 2012, p.3). It is not limited to demographic characteristics. It includes expressions of political and religious beliefs, opinions, observations, associations and lifestyle choices (see Froomkin, 2000). The premise is that the unauthorized capture of such information in any format on any device including MCTs poses privacy risks by potentially exposing individuals to unwanted scrutiny by others including by governments; discrimination based on their ideas, beliefs or opinions; possible curbs on their freedom to choose what to believe, think or act; or in extreme cases physical harm (see Froomkin, 2000; Marwick, Murgia-Diaz and Palfrey 2010, p. 2).

Concerns about these risks have informed the EU tendency towards a proactive, social protectionist approach to information-privacy rights on the Internet which presumes that "generalized harm already exists ... we need not wait for specific abuses to occur" (Solove, 2004, p.96). It also presumes that government and other public authorities have a moral responsibility to protect the information-privacy rights of individuals through law, policies, protocols and codes of practice (see Reidenberg, 2006). The pervasiveness, ultra-portability, multi-functionality and anytime-anywhere-anyone use of MCTs pose particular challenges here.

Convergence and connectivity mean that any MCT user can capture personal

information in the form of the comments and actions of anyone with whom they come into contact. Doing so in image - or sound - increases the likelihood that the individual subject can be identified and adds credibility to this (see Durham Peters, 2001). The potential for covert capture of conversations and actions on MCTs renders the subject powerless to know if personal information is being recorded, or prevent it from being so. Once captured information can be uploaded onto social network sites; (re)contextualized in that new meanings are created as the original context is minimized or ignored; edited or (re)produced in new creative forms such as mashups, videogames and spoofs; and then potentially mass-disseminated for public scrutiny. These processes create “new visibilities” and “new vulnerabilities” around the unauthorized capture of personal information, and such has been the concern of governments around the world that they are now introducing new laws on the circumstances in which images can or cannot be captured on mobile phones (Ibrahim, 2010b). Crucially these are not aimed at preventing the dissemination of unauthorized images, arguably because in today’s dispersed media ecologies this may be impossible. Instead, they aim to control – and in some cases criminalize – routine, unauthorized or covert visual capture on MCTs of ordinary people without their prior knowledge or consent (see Ibrahim, 2010b). However, universities cannot leave this to governments to regulate; they are responsible for their own spaces.

MCTs, Information-privacy and University Governance

The question then is what are the implications for universities? The “new visibilities”, “new vulnerabilities” and new information-privacy risks in universities pose challenges that earlier technologies did not. The latter entailed the capture of material from the outside world and bringing it into the classroom to aid teaching and

learning but the control lay with the institution and staff. MCTs invert this. Direct control of use does not lie primarily with the institution but the individual owner of the device; the most an institution can offer are indirect controls. That is, they can specify the use or behaviour expected and the consequences for breaches of this. The problem is the multi-functionality of MCTs. That is, they can be used to capture overtly or covertly what goes on in university spaces, the content can then be uploaded onto social media sites and from there it can be mass disseminated so making public what previously would have been contained in the bounded space of a classroom or dormitory room. What may have been a robust, legitimate comment or act in the classroom may not be acceptable, appreciated and understood in other socio-cultural contexts, including the one from which the student (of staff member) comes, may return to or want to enter into in terms of future employment. In these other contexts ideas may assume more culturally and politically subversive, offensive or inflammatory meanings. This re-contextualization of captured content may have unpredictable consequences for individual students and staff.

These risks are not hypothetical. There a growing number of examples of such everyday covert capture, upload and dissemination. In one case, an American school pupil distributed a recording of a teacher making comments that he felt violated school policy; some of his peers complained at being captured without their consent; and the authorities banned the recording of lessons (Carvin 2007). Social media innovations and usages allow for new forms of mass dissemination including viral tweets, emails, Youtube, etc. Clips that went viral include a Cornell University lecturer getting agitated over a student's loud yawns; a Louisiana State professor who attempted to provoke debate by appearing to attack conservatives over global warming; a Central Florida professor criticizing a class he thinks is 'full of cheaters'

(Stripling 2010); and a college professor caught in a seemingly anti-war veteran 'rant' (Deci, 2013).

While some of these may be amusing or offensive, others may entail more sinister public humiliation, entrapment or manipulation with tragic consequences. One such case was Rutgers student Tyler Clementi whose roommate used a secret webcam to record him in a sexual encounter, posted on the clip on the internet and tweeted it. Clementi killed himself. His tormenter was found guilty and jailed for (homosexual) bias, intimidation and invasion of privacy (Gray, 2012). The incident shocked America, drew attention to the problem of cyber-bullying at university and led to a new federal law (see The Eagle Online, 2012). Clips captured on mobile devices need not be visual to be damaging. A professor in Gurgaon, India, is currently on bail after 'allegedly molesting and seeking sexual favours from a third year law student' in return for good grades (Hindustan Times 2013). The student produced audio clips purportedly of the conversation captured on her mobile phone. The case has divided students with some protesting against the college's inaction over the complaint of sexual harassment and others submitting a memorandum to the police commissioner claiming accused had been "framed" (Hindustan Times 2013).

The risks are not limited to the capture and dissemination of engagements, Cheap, easily available editing tools mean clips can be altered in ways that, according to Cary Nelson "amounts to the public misrepresentation of what has taken place in classrooms' but is 'combined with the incredible persuasiveness of video'" so given a degree of credibility (Stripling, 2010). There have been cases of students selective editing videos of teachers in class then posting them on YouTube or creating fake Facebook pages in the teacher's name with the purpose of

damaging their reputation. A recent report highlighted the growing problem of educational professionals being subjected to online abuse and added that 'we are also starting to see the use of mobile phone technology for abuse' (Phippen, 2012 p. 2). A similar pattern is happening on student chatrooms and Facebook pages (Phippen, 2012).

The problems for universities is that these potential risks are still largely unknown and little understood. Innovation and new capabilities are evolving rapidly, usage is adaptive and not always in ways that the creators of the technology envisaged. Furthermore, organizations have to balance existing rights – disabled and intellectual property – with the potential pedagogic benefits and the likelihood that recording could be happening anyway. Notwithstanding these difficulties a handful of universities in Britain have developed MCT-specific policies that take account of the distinctive features – in particular the connectivity and convergence – of the technology and attempt to facilitate appropriate use while discouraging inappropriate use in the classrooms. The advantage of focusing on Britain is that the student population is diverse, it includes a large international contingent and that one of the researchers is located there so has some familiarity with developments. The following empirical analysis sets out preliminary findings from the first research of its kind to explore university policies specifically aimed at governing MCT use within their spaces. This is not to suggest that other more generic policies at other British universities cannot be evoked to manage the potential use and abuses of MCTs. What it does signify is the recognition by some that MCTs pose particular challenges that may require particular policies.

Empirical Analysis

The aim was to create a snapshot of MCT-policies across the sector at a particular moment in time. In order to create a comprehensive data-set a freedom of information (FOI) request was sent to 121 British universities – excluding the Open University and private ones – in late 2011 and early 2012 for their formal policies on recording teaching sessions. The request was restricted to formal policies, that is, those that had been adopted at the time so were in operation and should be available to staff, students and the public. The result was an 89 percent response rate. The analysis that follows needs to be caveated. First, the theoretical emphasis in this article is on MCT pervasiveness and multi-functionality, and the information-privacy implications of this. The data on lecture capture and other social media policies have left for another paper. The empirical analysis has been restricted to MCT-specific policies that deal with student recordings – just over 12 percent of all the policies provided – and is based on the analysis of documents provided by universities. This is not to say that universities that do not have MCT-specific policies do not draw on other mechanisms for governing these; for example, in more generic IT or information/social media policies. What it does say is that a handful of universities perceive MCTs as posing particular, distinctive challenges that warrant governance by policies that specifically cater to these. That is, they signify the most evolved thinking and policies in the sector at a moment in time. Second, a number of universities at the time indicated that their policies in this area were currently under review and some kindly provided these draft documents. These have not been analysed here because they had yet to be adopted, were still open to change and so not yet formal policies being implemented at the time of data collection. Follow-up research will capture these and the policies analysed here that subsequent to data

collection were reviewed, for instance, in the case of Manchester. The following findings need to be seen as a snapshot in time. Third, all the universities cited here were sent the 'findings' to check that these were fair and accurate representations of their policies in early 2012. Where they have responded with changes these have been incorporated; where they did not respond it has been assumed the analysis is accurate.

Findings

The starting premise in most of these specific policies is that MCT capture is already a fact of university life. The devices are seen as pervasive and that recording by students is either already taking place (St Andrews University, 2011) or that they want to record (see Durham University, 2011; Roehampton University 2011). Beyond this, three broad approaches are discernible. The first approach can be found in those university policies premised on an understanding that irrespective of use, any recording has implications for "third party's right to privacy, data protection and copyright" and that policy needs to manage this (University of York, 2010). There is also the assumption that information-privacy "is affected" by capture because it renders the "personality, behaviour and opinions" of individuals "open and potentially freely accessible" (Durham University, 2011). The policies are comprehensive in that they cover capture of any teaching session in video or audio format on any device used by any student, including those with disabilities (see Durham University, 2011; St Andrews University, 2011; Westminster University, 2009). Beyond this, different strategies can be discerned. Westminster University starts from the premise that all mobile devices will be switched off during teaching sessions unless the consent of the lecturer/tutor has been secured for recording to take place (2009). Others

assume MCT recording by students is taking place and that the university needs to prevent covert capture by setting out conditions when it would be legitimate (see Durham University, 2011; Manchester University, 2011; n.d.; St Andrews University, 2011). Responsibility for managing this is devolved to the individual lecturer/tutor. In some cases students are required to be informed that the recording of lectures is taking place and their consent is required for recording of sessions other than lectures (see Durham, 2011). In other cases, no recording at all is allowed without the prior consent of staff and students (see Manchester University, 2011, n.d.; St Andrews University, 2011); and conditions are also placed on MCT-capture by disabled students. It is assumed that they will normally be allowed to record provided that they have registered with Disability Services and have secured the consent of the lecturer/tutor (Westminster University, 2009) and/or other students (Durham University, 2011). There is also recognition in University of York's policy (2010) that the "legal requirement" to allow a disabled student to record gives rise to "potential conflicts" should other students object to being recorded, and these need to be "handled sensitively" given the pre-eminence of disabled rights. Other university policies presume disabled students will be allowed to record but do not treat this as an absolute right. Instead they set out the conditions in which the lecturer or tutor retains the right to instruct recording to stop during the teaching session because of information-privacy risks where minors or client/patient confidentiality is implicated, sensitive topics are being discussed or other students have objected to being recorded, particularly in seminars (see Durham University, 2011; St Andrews University, 2011; Westminster University, 2009).

Breaches of MCT policies include covert capture, and the consequences include possible formal disciplinary action by the university (see Durham University,

2011) or action by a professional body in the event that patient/client confidentiality is breached (see Manchester University, 2011), in which case the student could be disbarred from ever practising. The pre-eminence of information-privacy is entrenched in the right of the individual to know, to consent and to object to being recorded; in the procedures needed to ensure this right; and in the consequences for breaches of it. Disabled rights are not equated with an entitlement to record but with an obligation to make alternative arrangements that meet the needs of the disabled students without compromising the rights of others. The negotiation of competing rights is thus not seen as a zero-sum game in which information-privacy rights are subordinated to disabled ones; both are seen as having equal validity and the responsibility of the university is to find ways to respect and meet both.

The second approach distinguishes between MCT capture of lectures and seminars. Audio-capture is assumed to pose minimal information-privacy risks, so the recording of lectures is seen as acceptable but students have a right to be alerted that this is taking place; the recording of seminars is at the discretion of the lecturer; and the consent of staff and students is only required where video-capture is taking place (see Reading University 2011a; 2011b). The exception is where recording would include children or issues of client/patient confidentiality, in which case it would be deemed “inappropriate”. Any recordings can be used for the student’s personal study, they cannot be handed to anyone else and they must be destroyed at the end of their studies. Breaches of this rule can lead to disciplinary action. Such policies start from a much narrower conception of personal information based on the assumption that the individual can be recognized if their face is captured but not their voice. Students are afforded some individual agency in their right to know their oral contributions are being recorded but not in their right to object

to this. The only power of veto they have is over visual capture. Interestingly, third party privacy rights – children and patient/client confidentiality – supersede the presumption that disabled students will be allowed to record.

The third approach sanctions MCT capture by “all students” in nearly all lectures and seminars on any device and, given the silence on this in the documents provided, presumably in visual and audio format as well. There is an expectation that as a “courtesy” requests should be made to record guest speakers and that in seminars it be “cleared with the group as a matter of courtesy” (Roehampton University, n.d.). Thus there is no explicit information-privacy provision in the policies for student or staff right to know, to object to or to consent to recording. The justification for this would appear to be that “teaching staff are required by law and ... university policy to allow disabled students to record” unless the discussion is of a “highly personal nature” to students. These are limited to exceptional circumstances and then the lecturer has to “ask” disability services “first” before intervening to stop recording. Roehampton University did consider the possibility that recording might “inhibit” seminar discussion but decided this was not a reason to prevent it (2008). While the other two approaches seek to govern MCTs at the point of capture and of use, this approach aims to control it only at the point of use by specifying that recordings may only be used for personal study and cannot be passed on to anyone else.

Summary and Conclusions

This article has been concerned with the preliminary findings on how some British universities are responding to the information-privacy challenges and risks posed by the content, capture, connectivity and convergence features of MCTs. It suggested

that the nature of these technologies is such that it can no longer be assumed that private spaces are bounded spaces; they are becoming porous. The emphasis in the existing higher education literature on the potential pedagogic benefits of these devices is invaluable; but it only tells half of the story. If the potential educational benefits are to be realized then the potential social risks need to be recognized and managed. However responses to earlier technologies do not provide much of a steer. These evolved policies aimed at balancing intellectual property, disability and data protection interests, rights and uses but their effectiveness lay in the control staff had of the technologies. MCTs now threaten to destabilize these by introducing a new category of risk – that of information-privacy. The governance of this is fiendishly difficult because most of the mobile devices carried and used on campuses are not owned by the university but the institution has a duty of care to those on its premises. At the same it has legal obligations to facilitate the engagement of disabled students. The project outlined here therefore sought to ascertain how British universities were seeking to negotiate these limitations and competing obligations.

The preliminary work has focused only on those that have evolved MCT-specific policies to address both the potential benefits and risks of student capture of classroom interactions as well as the negotiation of conflicting interests and rights. It found some convergence in the justification for MCT specific policies based on the pervasiveness of the devices, the likelihood students were already recording covertly or overtly, and demand to be able to record for learning purposes. However, the difficulties of how to respond to these become apparent in key divergences between university policies over:

- whether control the university could have should be at the point of capture, use and dissemination or only at the point of dissemination;
- whether staff should control what is recorded, when and how or whether this should be largely devolved to students albeit with some caveats on the use of the captured material;
- whether disabled rights took precedence over information privacy rights or whether there would be circumstances where they do not and in which case alternative provision is required by law;
- whether students and staff had a right to know, to consent and to refuse consent to be recorded or not
- whether that only applied to visual recording or to audio as well

These contradictions point to the recognition on the part of these universities of the distinctiveness of MCTs that warrant a specific policy; considerable uncertainty about how to negotiate competing rights and interests; as well as practical problems of governing the use of device that the university does not own nor directly control.

These findings are from a preliminary work on a self-selecting sampling of universities that indicated they had MCT-specific policies. This is not to suggest that other universities do not have policies that govern these. Nor does it imply that these are stand-alone policies because in practice they may well need to be read in conjunction with other ones on the use of social media sites such as Facebook. However, it does provide a snapshot in time of those universities that recognized that MCTs warrant specific policies governing their use and thus signify some of the most evolved thinking in the British sector on these. Other papers are in the process of being written and a bigger project is planned. For now it was felt the preliminary

findings should be made available as they are potentially of practical use for universities around the world grappling with similar issues.

Notes

¹ This project initially emerged in the author's capacity as a local union official and the wish to make an informed contribution to an internal policy debate at the time. When she stepped down from this official role she turned the work into a formal research project able to inform debates in other universities. All of the universities were contacted and informed of the aims, objectives, publication intentions and the conflicts of interest arising from union involvement in the original work. They were also informed that the findings would be published using similar principles that apply to research council grants.

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