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## **DOCTORAL STUDENTS' UNDERSTANDING OF LEGAL AND ETHICAL OBLIGATIONS IN CONDUCTING EDUCATION RESEARCH**

### **Abstract**

Conducting education research requires researchers to observe key legal and ethical obligations and to respect the rights of research participants. Legislation pertaining to data protection, in particular, has important implications for the way in which research data is collected, used, stored and shared. Researchers are also required to conduct their work within an ethical framework set by the academic community, with the relevant body in this case being the British Educational Research Association (BERA). It is essential that researchers are aware of and observe these protocols, in order to protect all of those involved in their research. The aim of this paper is to examine the understanding by students on Doctor of Education degree programmes of the legal and ethical requirements in conducting education research. This paper is based upon information gathered from 15 Doctoral students in 3 inner-London universities, whose research practice was explored through a combination of questionnaires and interviews. The findings indicate a clear understanding among the Doctoral students of the importance of observing their legal and ethical obligations, but a key conclusion is that these students would benefit from more instruction and guidance on how these should be *applied* to their particular research projects.

### **Background**

#### ***Ethical considerations in education research***

Education research is a field of social science research that undertakes 'the collection and analysis of information on the world of education so as to understand and explain it better' (Opie, 2004: 3). Research in education should be relevant to practising teachers in that it should be: *Viewed as critical, reflexive, and professionally orientated activity... regarded as a crucial ingredient in the teacher's professional role... generating self-knowledge and personal development in such a way that practice can be improved* (Hitchcock & Hughes, in Opie, 2004: 3). Educational research is also a problem-solving activity (Anderson with Arsenault, 1998) that is concerned with seeking answers to established 'problems' or 'issues' in education, asking new questions about these issues (looking at things in a different way), or posing completely new questions for the teaching profession and raising new issues by 'making the familiar strange' (Clough & Nutbrown, 2002: 45).

As Sikes notes, 'any research that involves people has the potential to cause (usually unintentional) damage' (2004: 25). This is especially true of research involving young people, some of whom may be considered 'vulnerable'. Denscombe (2003: 136-138) suggests three underlying principles that should guide the activities of researchers:

*Principle 1: The interests of participants should be protected* – this refers to the need to ensure that participants do not come to physical or psychological harm as a

result of the conduct of the research, and that the confidentiality of the participants is respected (see also Gregory, 2003; Lankshear & Knobel, 2004: 110; McNamee, 2002).

*Principle 2: Researchers should avoid deception and misrepresentation* – this principle applies both to the conduct of fieldwork (by being honest and open with the research participants) and also to the writing-up and reporting of the research findings.

*Principle 3: Participants should give informed consent* – this means that ‘participation must always be voluntary, and [people] must have sufficient information about the research to arrive at a reasoned judgement about whether or not they want to participate’ (Denscombe, 2003: 138; see also Cohen *et al.*, 2007: 52; Gregory, 2003; Lankshear & Knobel, 2004: 104; Mason, 2002: 80-82; McNamee, 2002).

In addition to these principles, the most recent BERA (2011) ethical guidelines stipulate that ‘Researchers must recognise the right of any participant to withdraw from the research for any or no reason, and at any time, and they must inform them of this right’. In relation to working with children, vulnerable young people and vulnerable adults, the BERA guidelines also state that ‘Researchers must recognise that participants may experience distress or discomfort in the research process and must take all necessary steps to reduce the sense of intrusion and put them at ease. They must desist immediately from any actions, ensuing from the research process, that cause emotional or other harm’ (2011: 7-8).

The BERA guidelines also stipulate that privacy and confidentiality should be maintained – ‘The confidential and anonymous treatment of participants’ data is considered the norm for the conduct of research’ (2011: 7) – whilst noting that researchers ‘must carefully consider making disclosure to the appropriate authorities’ if behaviour that is harmful to the participant or which is illegal is disclosed.

### ***Legal obligations in education research***

Education researchers are frequently in the business of collecting, storing and analysing (processing) various forms of personal data, and therefore must pay careful attention to the Data Protection Act 1998. The eight core Principles within the Act are that data must be:

1. fairly and lawfully processed;
2. processed for limited purposes;
3. adequate, relevant and not excessive;
4. accurate and up to date;
5. not kept for longer than is necessary;
6. processed in line with your rights;
7. secure; and
8. not transferred to other countries without adequate protection (ESRC, ND; Market Research Society, 2003).

A key principle of the 1998 Data Protection Act is that of “informed consent”, which has two key aspects in terms of the rights of individuals being asked for or providing information about themselves:

**Transparency** – ensuring individuals have a very clear and unambiguous understanding of the purpose(s) for collecting the data and how it will be used;

**Consent** – at the time that the data is collected, individuals must give their consent to their data being collected, and also at this time, have the opportunity to opt out of any subsequent uses of the data (Market Research Society, 2003).

Care must be taken in any research to ensure at the beginning of the interview that the respondent fully understands firstly, the purpose for which the data is being collected and secondly, their right to withdraw this consent at any point in the interview (Market Research Society, 2003). Children and young people can give their informed consent to participate in research, although if they are under 16 years of age then their parent/carer's consent should normally be obtained as well (Kings College London, 2013).

In relation to the second principle of the Data Protection Act, it is vital that researchers use the collected data only for the purposes specified when obtaining consent and not for any other uses. Researchers also have an obligation to make sure that they are faithful to the data they collect in terms of making sure that it is accurate and up to date (principle 4) and adequate, relevant and not excessive (principle 3). Researchers should avoid collecting and recording information that is beyond the scope of their research and therefore beyond the bounds of the consent that they have obtained.

The researcher's obligations under the Data Protection Act do not end once the data has been collected. How the data is stored and used is also covered by the Act. In particular, it is vital that researchers put in place measures to ensure the security of data (whether in electronic or hard copy format) so that information identifying individual participants could not be accessed by someone else. In practical terms, this means taking reasonable precautions to safeguard against loss or theft of data, such as keeping survey returns or interview transcripts in a locked cabinet, or ensuring that digital information is fully secure through being password protected. This is particularly important if the data is likely to be transported (whether physically or on an electronic device), especially if this involves travel overseas (principle 8). These considerations also apply to the electronic transmission (e.g. by email) of personal data.

Most institutions have a Data Protection Officer who researchers are advised to ask for advice if they have any specific concerns about the way in which the Act may apply to their research (ESRC, ND).

The Information Commissioners Office (ICO) has a range of penalties at its disposal for breaches of the Data Protection Act. Whilst these normally apply to institutions or organisations, they can also be levied against individuals in some circumstances as well. Potential sanctions for data protection breaches include:

- *Undertakings*: organisations have to commit to a particular course of action to improve their compliance and avoid further action from the ICO.
- *Enforcement notices*: organisations in breach of legislation are required to take specific steps in order to comply with the law.
- *Monetary penalty notices*: fines of up to £500,000 for serious breaches of the DPA.
- *Prosecutions* and possible prison sentences for deliberately breaching the DPA (IT Governance, 2014; see also Tarling, 2010).

Given that education research may involve data collection in nurseries, schools, colleges or other settings where children, young people and vulnerable adults will be

present, it is vital that education researchers are also fully aware of the implications of the Safeguarding Vulnerable Groups Act (2006). This stipulates that those working in any capacity with children and vulnerable groups should first be subject to a criminal record check through the Disclosure and Barring Service (DBS). Education researchers should, furthermore, protect themselves and their subjects by avoiding situations in which they are alone and/or unobserved in their interactions with children and young people or other vulnerable groups.

### **Methodology**

In order to carry out this small scale research project, the intention was to seek information directly from those involved in education research in relation to their knowledge of and compliance with ethical and legal obligations in their research. It is focussed on how they have used the knowledge to inform their research practice as they gathered data for their EdD/PhD research.

Following a review of relevant literature and research on ethics and laws guiding research conduct in education, a mixed method of data collection was employed. While quantitative and qualitative methods are sometimes thought of as being opposed, the importance of a 'mixed methods approach' has increasingly been emphasised in recent years as useful. The value of combining methods is that it allows for the triangulation of data (Punch, 2005), recognises the similarities between qualitative and quantitative approaches (Blaxter *et al*, 2001), is less constraining than relying upon a single method (Morse, 2003: 195) and, crucially, strengthens the findings that are produced:

*Combined methods of research, and the combination of data derived through different methods, have been identified by a variety of authorities as a key element in the improvement of social science, including education research. One of the key reasons advanced for this is that research claims are stronger when based on a variety of methods (Gorard with Taylor, 2004: 7).*

This research employed the mixed methods of interviews and questionnaires with 15 PhD /EdD students in three UK higher education institutions. The majority (10 students) were still in the early stages of their research.

### **Findings**

All of the PhD/EdD students in this research reported having spent some time on the legal and ethical dimensions of education research as part of research methods modules that they were required to take by their institution. The Data Protection Act and BERA guidelines figured prominently in respondents' recollections of this training.

*I started my Doctorate degree in education two years ago, although I am not yet on the thesis stage of my research. However, during my research methods lessons, as well as when I carried out my preliminary investigations, it was obvious that I had to comply with the (BERA) Ethical Guidelines for Educational Research 2011 as well as the content of Data Protection Act 1998. (Participant 4)*

*I am at the initial stage of my research but have read a lot about research methods, as well as attended extra lessons on this. (Participant 11)*

The process of gaining access to research participants, which typically involved writing to the head teacher or another senior manager in an institution, was often the point at which these considerations were then expressed formally and explicitly by the researchers.

*Being aware of the legal and ethical implications in my research if breached, I sought the consent of my institution before conducting the initial investigation. In addition, my research involved year one students whom I had to seek their opinion on their experience coming to higher education; I needed the consent of the head of department for access to interview the students. I also reassured all of the confidentiality of my research and having given these assurances, I was allowed to carry out my interviews with the students concerned. (Participant 6)*

*As my work is based on a case study of an institution, I first needed to obtain the formal permission of the respective institution Head of School and other staff that will be affected. In order to protect the anonymity of the participating institution, I formally wrote a letter to the Head of School and staff to explain the nature and purposes of the research. I did this to reassure participants of the voluntary nature of their involvement and about the confidentiality of the responses which is in compliance with the content of the Data Protection Act and BERA guidelines. (Participant 8)*

In general, the participants were more strongly attuned to the ethical considerations in their research where they were working with vulnerable groups:

*My research has been drawn up in accordance with the British Educational Research Association ethical guidelines, especially as my research will be involving young people, some of whom may be considered 'vulnerable'. For this reason, the ethics of my investigation are major considerations. The interests of those involved in this work need to be protected which means ensuring that participants do not come to physical or psychological harm as a result of the conduct of my research and that I take extra care to protect the confidentiality of the participants and treat them with respect. Just like I would not allow anybody to take advantage of me in terms of the information shared, so should I ensure that I do not abuse the opportunity given to conduct this research on young children? The consent of their parents is also vital to me. (Participant 11)*

Where participants admitted to not having fully thought through the ethical implications of their approach at the outset, they reported that this could then impact on their research as in the following example:

*In my preliminary investigation, I was ignorant of creating a conducive atmosphere when interviewing participants ... One of the participants was very intimidated and shy to speak to me on a sensitive issue. I did not know that she wanted to be reassured of confidentiality which I should have addressed before talking to her. This was due to my rush to collect the data, instead of taking time to explain to her why she was being asked to*

*participate in the research. I later realised that assuring confidentiality of her response should have helped in gathering valid information needed... I realised that the issue of confidentiality in research is essential to the participants and must be addressed to avoid the implications associated with it. (Participant 12)*

Another participant spoke of how they were very aware of the importance of presenting their findings with integrity after recalled on how a colleague had come unstuck when they had misrepresented what a research subject had told them:

*It is important in my research to maintain the ethics of my research findings. The experience of my colleagues in trying to present what was not said by a participant made me ensure that I am honest in reporting my findings as presented by the participants – the [only exception is if it was something that needed to be presented in a different] manner so that it will not be harmful to the respondent. (Participant 15)*

Both of these examples highlight the value of learning through doing, which applies as much to the ethical and legal dimensions of conducting educational research as to other elements such as effective survey design, interviewing techniques and statistical analysis. This is where the structure in EdD and PhD research, of smaller scale preliminary investigations, can be an extremely valuable in enabling students to get the ethical and legal considerations right before they embark on their main research investigations.

## Conclusions

The EdD and PhD students in this study all had a good understanding of the importance of ethical and legal considerations in the design and conduct of their education research. All reported that these had formed a key part of their research methods training and they demonstrated a good awareness of the relevant frameworks – namely the 1998 Data Protection Act and BERA ethical guidelines. However, in some cases there was a significant time gap between when students covered these aspects and the time when they were ready to go out and start collecting their data. Moreover, some of the students expressed a degree of uncertainty about how these considerations might affect their particular research plans.

The main conclusion from this small study is that some of the students would have benefitted from greater clarity about *how to apply the relevant ethical and legal considerations in relation to their own research*. To some extent, these uncertainties would come to the fore and be resolved during either the students' preliminary investigation work or when it came to writing to institutions to gain access to potential research participants. However, given the importance of questions of ethics and data protection – both for preventing harm to research participants, as well as protecting the individual researcher and their institution from reputational damage – we suggest that more guidance needs to be given to EdD and PhD students on putting ethical and legal considerations into practice *at all stages of their research*. Certainly, given the importance of the issues at stake, this is an area for further investigation with a larger group of education research students.

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