

<p>COMMUNITY CARE PROVIDERS SCOTLAND Protection of Vulnerable Groups (Scotland) Bill (stage one) Written evidence to the Scottish Parliament Education Committee November 2006</p>
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Community Care Providers Scotland (CCPS) is the association of voluntary sector organisations providing care and support services in Scottish communities. Its membership comprises all of the leading national non-profit and charitable providers in Scotland.

CCPS members provide a variety of services for children and protected adults, both in registered residential settings and in their own homes. The majority of these services are provided under contract on behalf of local authorities.

CCPS, as a representative body for service providers, is only able to comment on issues arising from the Bill which will affect voluntary organisations in their role as service providers and employers; CCPS does not wish to comment on the effect that the Bill may have on people who use services. Our response also raises issues on which we would like clarification. Members of CCPS have been encouraged to make individual submissions to the Committee in relation to aspects of the Bill which have a wider impact on them or the people they support.

CCPS supports the Bill's intention to ensure that children and protected adults are kept as safe as possible. CCPS members already have rigorous safer recruitment policies in place, and work hard to ensure that people they support are not at risk of abuse.

Many of CCPS' concerns relate to how the Bill will be implemented in practice. We understand that much of this is to be a matter for secondary legislation and guidance, yet feel we must raise these concerns now to allow the Committee to have full possession of the facts when making decisions on the passage of the Bill and considering amendments. CCPS supports the work of SCVO in pressing for funding for training and awareness-raising, to assist in the implementation of the Bill.

What are the likely impacts of the bill on employers, employees and volunteers who work with children and protected adults?

The main effects of the Bill on voluntary sector service providers, as employers, will be in terms of financial and administrative resources.

The financial memorandum accompanying the Bill states that employers will not face additional costs from changes to the disclosure system, as those likely to pay for employees' checks already do so. We would make two points in relation to this.

- It is likely that the cost of a full scheme disclosure will be higher than for an enhanced disclosure. Even supposing that this increased cost would be offset by cheaper subsequent checks on a persons barred status (which, as detailed below, we do not believe will work in practice), this will still result in an increased initial outlay, which many voluntary organisations will find it difficult to absorb.

- Plans to retrospectively check the entire workforce will also lead to considerable extra costs for voluntary organisations, both in terms of the actual fee paid for the disclosure and in terms of administrative time and costs. There may also be costs attached to systems which will have to be put in place for dealing with existing staff whose disclosures either show them to be barred or reveal other significant information. It will be extremely difficult for voluntary organisations to absorb all of these costs within the period of three years suggested for the phasing in of retrospective checking. We would encourage the Executive to undertake an impact assessment on the costs to all organisations, voluntary and statutory, of introducing retrospection, before implementation.

We do appreciate that it is not actually an employer's responsibility to pay for employees' disclosure checks. Again, two points are worth mentioning here.

- Problems around recruitment and retention are widespread within the world of social care; asking employees to pay for disclosure checks may well make these problems more acute.
- The Executive is at pains to point out that it is not actually compulsory for everyone to join the scheme; it is an offence, however, for a person to undertake regulated work if they are barred, or for an organisation to employ someone who is barred. As the individual would presumably know their barred status without a disclosure, they would not need to join the scheme to find out whether or not it was an offence for them to undertake regulated work; if the only way for an employer to check an individual's barred status is to see a scheme disclosure, then it is they who will need the employee to join the scheme, not the employee themselves, making it even more difficult for them to ask the employee to cover the cost.

Voluntary sector providers will also incur costs in providing information to the CBU following a referral to Scottish Ministers, whether by them or by another organisation. While we accept that this is not likely to affect voluntary organisations as often as it will affect, say, the police, there is a stark contrast in the Bill between the fact that the police are to be recompensed for resources used in providing information, while other organisations, including voluntary organisations, will be financially penalised for non-compliance. Voluntary organisations are happy to assist with work which will help to protect vulnerable people, and do not have a problem with providing any information requested; this should not, however, result in the organisation incurring significant extra costs.

It may be useful for the Committee to consider that for voluntary organisations, compliance costs with the proposals in the Bill are just one of several financial obligations they have to regulators. At a time when voluntary organisations rarely receive uplifts on their contract prices for inflation, and where short-term contracts are the norm, costs such as Care Commission fees, training staff to SSSC registration standard and disclosure checks are increasingly difficult for voluntary organisations to meet. This is, of course, a wider issue about funding, and the lack of Full Cost Recovery, than the Committee need consider, but it is useful to note that additional disclosure costs come against a backdrop of increasing financial difficulty for the sector.

The Bill, and in particular the creation of new disclosure categories, is intended to simplify the disclosure process, and prevent individuals from having to apply for multiple Disclosures. We are not sure that this will work in practice.

- It is presumed in the explanatory notes, policy memorandum and financial memorandum that employers will be happy to accept a small scheme disclosure when employing someone who has had a scheme disclosure with a previous employer. We contest this, as 1) good employers will also want to see the vetting information (which is only provided in a scheme disclosure) as part of their safer recruitment process and 2) the fact that employers who find out from a small scheme disclosure that other information has become available then have to pay for a scheme disclosure to find out what this information is, will discourage employers from asking for small scheme disclosures. This will increase the costs to employers and to the system estimated in the financial memorandum.
- The Bill does not take account of the fact that not only employers require to see disclosure certificates; the SSSC, for example, also requires a disclosure to be issued as part of its registration process. It would be useful if these systems could be streamlined in some way, and if clarification could be given as to what kind of disclosure these other regulatory bodies will wish to see.

Are there any other issues that are raised by the Bill's provisions?

CCPS has the following concerns about how the scheme will work, and would welcome clarification of these issues.

- We are still concerned about there being two separate lists for those unsuitable to work with children, and for those unsuitable to work with adults at risk. We find it hard to accept the Executive's policy that there may be occasions in which someone unsuitable to work with one group would be suitable to work with the other, and would be interested to see examples of such cases to illustrate the Executive's thinking.
- Where two lists will run in tandem, there are very real concerns for employers around not knowing that someone applying to work with adults is barred from working with children and vice versa. We believe that full scheme disclosures should tell employers whether someone is barred from working with either group; even where this information would not make it illegal for that organisation to employ them in the post for which they have applied, employers should have access to this information for use in their wider safer recruitment processes. It is our understanding that this information will not be made available.
- There is some confusion around the fact that children are defined in the Bill as those aged under 18 and adults are those over 16. The notion that those having 'incidental contact' with adults do not have to register for the adult workforce is also puzzling, particularly as in the example given in the explanatory notes the contact a teacher has with 5th and 6th year pupils does not seem to us to be incidental.
- We wonder why, if the system will automatically update scheme members' records, and flag up potential areas of concern, there is a need to make the lifetime of scheme membership 10 years.
- In considering court referrals and vetting information, Scottish Ministers will only list someone who 'does, has done, or is likely to do regulated work with children or protected adults' – we would question how someone's likelihood

to do this kind of work can be judged, and suggest that this may leave a potential gap in the system's effectiveness.

- We would welcome further information on what kind of information voluntary organisations providing children's services under contract to local authorities will be obliged to share under Part 3 of the Bill.

How helpful do you find the policy memorandum and financial memorandum accompanying the bill?

As much of the detail of the Bill is to be implemented through secondary legislation and/or guidance, the policy memorandum and explanatory notes were very useful in explaining the intent of some of the Bill. However, this opens up some concerns about whether or not secondary legislation/guidance will be brought in as suggested – we support what we understand to be the intentions of the Bill, but without knowing the detail of how it will be implemented, we must express some reservations about the speed at which the Bill has been introduced, and the lack of detail it contains. We very much welcome the Executive's commitment to consult on all aspects of the secondary legislation, particularly with the voluntary sector, and look forward to the opportunity to work with the Executive on this.

We do not believe that the financial memorandum presented with the Bill takes full account of the costs which the implementation of the Bill will bring about, either for employers or for the system as a whole. In particular we believe that the anticipated willingness of employers to accept short scheme records is misjudged, but feel that overall the Executive would benefit from conducting a wider, more thorough, investigation of likely costs, together with employers and other stakeholders, before taking the Bill further forward.

Do you have any comments on the consultation the Scottish Executive carried out prior to the introduction of the bill?

CCPS has been involved in several consultations regarding the vetting and barring proposals, both as they were originally envisaged as part of what is now the Adult Support and Protection Bill and latterly as the Protecting Vulnerable Groups proposals. We welcome both Bill teams' engagement with us on the issues, and are grateful for clarification in the Bill and accompanying documents of many of the uncertainties we raised.

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