

Written Evidence

Protection of Vulnerable Groups Bill

Sections 1 and 2 – Vetting and Barring



The principle that all children and young people should be protected from individuals who may harm them in any way is unquestionably right. Parents should be secure in the knowledge that those employed to work with children and young people do not pose any known (or knowable) threat to their safety and well-being. Children in Scotland welcomes the vetting and barring provisions as a move to address these issues and to improve the current system of disclosure.

It is, however, worth noting that child harm and abuse **overwhelmingly** is committed by adults that the child already knows personally (e.g., family members) --not by strangers or providers of children's services. Given this reality, the proposed legislation will have an important, but limited benefit. It would be detrimental to the safety of children if this legislation were perceived as a system of **guaranteeing** the fitness of any particular adult to work, or be in contact, with children. This level of certainty is not possible to achieve – and a false sense of security may lead to complacency in relation to other necessary measures.

The question of foreign employees needs to be more thoroughly addressed if this system is to be meaningfully implemented, primarily because of the difficulty of gaining access to reliable, complete background information across international borders. Finally, Children in Scotland also is keen that these improvements do not have a negative effect on the number of people applying to work with children (in a volunteer or paid role).

Key concerns

- **Third country employees largely will be outwith the system**
- **The proposals may act as a disincentive to adults wishing to work with children and young people on a professional or voluntary basis**
- **The cost of the system may burden an already stretched sector**
- **There may be other more fundamental actions the Executive could and should take if protecting children and young people is the primary goal.**

Key recommendations

- **Address the issue of convictions in relation to offences against children**
- **Address the issue of overseas workers**

- **Remove the offence associated with section 47**
- **Make a commitment to keep the cost of vetting and barring to a minimum, particularly for the voluntary sector**
- **Give clear and transparent guidelines as to the criteria that Ministers must employ in the barring of an individual**
- **Improve the opportunities and advice available to children and young people themselves about identifying risks, protecting themselves and taking action when they perceive themselves to be unsafe.**

Improving the system – the limitations of vetting and barring

- **A false sense of security for children, young people and families**
- **Diminished priority for child protection on the grounds that vetting and barring is the key governmental measure – and it now has been taken**
- **Discouragement of people (especially men) for accepting employment and volunteer opportunities dealing with children and young people because of fear of false accusations and other unwarranted negative consequences.**

Children in Scotland broadly welcomes the move to improve the disclosure system, but also believes that it should not be viewed as a system that ever will be capable of preventing all harm to all children. Harm to children from strangers is devastating and shocking -- but, it often is arbitrary in nature, so as to be almost impossible to pre-empt. For example, even if the vetting and barring proposals had been the law of the land at the time of the Soham Murders, they would not have prevented the two girls in question from visiting the home of Ian Huntley.

There may have been a greater possibility of preventing the Soham Murders and the shootings at Dunblane (to cite just two examples) if **the criminal justice system and police force were better able to share information and secure convictions. Children in Scotland would like to see more action taken in this area.**

It will be important to stress that holding a vetting and barring disclosure does not mean that a person cannot or will not cause harm to children. It has little predictive value, let alone a guarantee about anyone's future behaviour. Passing successfully through the vetting and barring system means only that a person has no known history of having harmed children in the past (or of having committed another related offence). Whilst it is right to prevent people with such histories from working with children, this is a more modest outcome than the public discussion of vetting and barring suggests.

This Bill should ensure that other more structural methods of checking someone's background and behaviour are not overlooked or displaced

- **Checking people from overseas**

Scotland has an increasing number of service providers who come from outside of the UK, including nurses, teaching assistants, and doctors. The current proposal will not be able to ensure that these individuals have been properly or reliably vetted. **If ignored, this flaw will further undermine and incapacitate the disclosure system.**

The vetting system ultimately relies on *applicants* to fully disclose information about themselves, including their previous addresses. This information often cannot be cross-checked by any independently verifiable documentation and is open to possible manipulation. Should this information be disclosed, requesting relevant details from foreign police forces and foreign bureaucracies is not always possible or successful. Not all countries collect or maintain relevant information comparable to that held within the UK (for example, sex offender lists). Neither is there international harmonisation of criteria for being considered a 'risk'.

Obtaining secondary information (such as references) also may be difficult for a variety of reasons, including the personal safety of the applicant. **This makes the additional employer-led checking system for verifying a person's appropriateness for working with children less reliable.** Accepting that this is a *reserved* issue, Children in Scotland believes that a UK-wide solution needs to be found in relation to this aspect of the vetting and barring proposal.

Possible adverse effects of vetting and barring proposals

- **Disincentive to the voluntary sector (and male workers)**

Children in Scotland believes that the vetting and barring enhanced disclosure system, may put people (particularly men) off working or volunteering in the very sectors where they are needed the most. Children in Scotland rejects the suggestion that this is necessarily indicative of any wrongdoing. In addition to the complexity of the disclosure system, there are many unanswered questions about enhanced disclosures that would encourage fear and trepidation in possible applicants. For example, it is feared that wrong information and discredited accusation might be disclosed to every prospective employer. The Bill does not adequately account for how this potential negative consequence (albeit an unintended consequence) will be reduced or eliminated.

- **Duty to notify certain changes - Section 47**

The offences attached to this duty seem excessive in relation to the 'crime'. Updating a change of address should be encouraged by employers as normal practice, but making the failure to do so within three months a criminal offence is excessive and may add to the negative perception of the disclosure system by potential workers. **Children in Scotland recommends that this criminal penalty be removed.**

- **The cost of vetting - Section 67**

The service sectors that deal with the most vulnerable young people and children are seriously stretched in relation to finance and funding. Given that well-documented reality, **Children in Scotland recommends eliminating any new costs for vetting and barring that would decrease the amount of money available to actually help to meet the needs of children and young people.**

However, we support the changes to the disclosure system that would mean that the vetting and barring disclosure would remove the need for multiple applications. In this respect, we agree with the broad proposal for a more expensive initial disclosure, which also includes **free** subsequent checks and **free** disclosure for volunteers for a set period of time. **We are concerned by the reference made to recurring fees and would seek reassurance from Ministers that the cost of this system will not adversely affect the voluntary sector's financial ability to provide services.**

Criteria for barring - Section 14

The current proposals place a lot of discretionary power in the hands of the Minister. Children in Scotland believes that this is neither a transparent governmental process, nor is it practical. **Individuals should be barred from working with children based on objective and transparent criteria, agreed by the relevant sectors.** We do not believe that it is advisable for a Minister to make these decisions *huis clos*.

Ideally, the criteria upon which people are disqualified from working with children should be the result of consultations with service providers, as well as parents. The level of acceptable risk should not be determined from the top down, but should involve children, young people, parents and those professionals who work directly with children and young people.

Key Questions

- 1. Will the Minister be addressing the issue of overseas workers in the context of this Bill?**
- 2. Will the Minister consult on and publish the criteria for barring an individual?**
- 3. Will the Minister remove the offences attached to Section 47?**
- 4. Will the Minister address the costs attached to this system for the voluntary sector?**
- 5. What will the Minister do to address the possible negative impact of this Bill on potential employees wishing to work with children and young people?**

6. Will the Minister be addressing other issues affecting the safety of children and young people such as the monitoring of ex-offenders and the conviction rates in child protection cases?

About Children in Scotland

Children in Scotland is Scotland's national agency for organisations and professionals working with and for children, young people and their families. It exists to identify and promote the interests of children and their families and to ensure that policies, services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents over 400 members, including all major voluntary, statutory and private children's agencies, professionals organisations, as well as many other smaller community groups and children's services.

The work of Children in Scotland encompasses extensive information, policy, research and practice development programmes. The agency works closely with MSPs, the Scottish Executive, local authorities and practitioners. It also services a number of groups such as: the Cross Party Group on Children and Young People; the National Children's Voluntary Forum; the National Early Years Forum and the Additional Support Needs Network. Children in Scotland also hosts Enquire, the advice service for additional support for learning.