

Protecting Vulnerable Adults; Ensuring their Safety

Response of the Scottish Council of Jewish Communities

The Scottish Council of Jewish Communities supports the Scottish Executive's intention to improve safety and reduce risk to vulnerable adults. Since the 2004 consultation the Council has become a Registered Body with the CRBS to submit applications for childcare-related Disclosure Checks, and our response is informed by our experience of this procedure. We do not have direct experience of the majority of issues included in the current consultation and have therefore confined ourselves to commenting on those issues with which we have had some involvement.

Consultation September 2005

Question 1: Do you agree with the revised definition of a vulnerable adult?

We do support the revised definition of a vulnerable adult, and welcome its recognition that vulnerability may be due to reasons other than physical frailty. We would emphasise the importance for effective implementation of having a clear definition that applies across the board to all relevant legislation and policy, rather than vulnerability being defined differently in different measures.

Question 3: Do you agree with the definition of abuse?

We do not agree with the proposed definition of abuse which is too narrow, since it is possible for abuse to take place where there is no relationship of trust. We are also opposed in principle to the subjective definition of an offence that identifies guilt with being accused, as this does. A vulnerable adult may well be distressed by a carer refusing to accede to a request that would be positively harmful to the vulnerable adult; that is not abuse but the reverse.

Question 4: If you do not agree with the definition of abuse, what changes do you think require to be made?

Any definition of abuse must be objectively verifiable, independently of the mere fact that an accusation has been made. There must also be a test of the reasonableness of the carer's action or refusal to act.

Consultation February 2004

Question 8: Should any discretion be built in to the checks for groups of staff or students who move frequently from one employer to another? If so, what would this consist of, and what groups would be included?

In our view, the requirement for staff or students who move frequently from one employer to another to have repeated Disclosure Checks is both over-regulatory and ineffective in reducing risk to vulnerable people, whether children or adults. In the case of small organisations that rely on volunteers, it also poses a threat to their continued existence as their workforce may be put off volunteering by the prospect of having to complete yet another Disclosure application form.

We note that this issue has been raised in a number of questions in the Scottish Parliament, and welcome the recent Ministerial response stating that the Scottish Executive is *'working towards the implementation of a new vetting and barring scheme for those who work with children and vulnerable adults in response to the recommendations in the Bichard Report. The proposed scheme will include continuous updating of an individual's barred status as new information comes to light. That coupled with the intention to provide the facility for organisations with a genuine interest to check an individual's current status, will remove the need for multiple disclosure checks.'* (Scottish Parliament Written Answers 6-9-2005)

In our view, in addition to a system such as that described by the Minister, there should be mechanisms for notifying organisations that have previously requested a Disclosure Check on an individual when new information about that individual comes to light. This would both improve the level of protection afforded by Disclosure Checks, and at the same time improve and reduce the current heavy workload of many organisations, particularly those in the voluntary sector.

We strongly urge that any scheme for checking those working with vulnerable adults should follow the above model rather than the model currently employed for checks on childcare workers.

Question 9: From your experience, what would be the risks to vulnerable adults in having such discretion? How could these known risks be reduced?

Every Disclosure Check should be allocated a unique reference number by means of which new employers could access relevant and up-to-date information about an applicant without the need to apply for a new check. Combined with a procedure that included continuous updating and notification of new information, this would considerably reduce risks to vulnerable adults whilst simultaneously removing the necessity for repeated checks whether an individual moves frequently between posts or remains in the same employment. In our view this would be by far the most effective means of improving the safety of vulnerable adults and children in this respect.

Question 10: Are repeat checks necessary for long-term staff? If so, how frequently should these be conducted?

Disclosure checks are currently no more than a snapshot, and the subject could be convicted of a relevant offence the following day without it becoming known. Since frequent repeat checks are unduly onerous to both the individual and the organisation, we are strongly of the view that a system of automatic updating of disclosures as described above would prove more effective in safeguarding vulnerable individuals. This could be easily accomplished by regular comparison of new entries on the Criminal Records Office database with the list of current disclosures.

However, should a system of continuous updating and notification of new information not be implemented, we suggest that validity of disclosures should be limited to three years, so that repeat checks would have to be undertaken no less than three-yearly. We wish to make clear that this would be very far from an ideal solution.

Question 11: Would there be difficulties for employers in operating the protection of children measures and the protection of vulnerable adult measures if there were variations between the schemes? If so what would those difficulties be?

We strongly recommend that there should be as few differences as possible between measures for the protection of children and of vulnerable adults. Many small and voluntary organisations, our own included, have had to invest much time, effort and financial resources into training as well as into implementing Disclosure Checks for child protection, and the administrative burden of administering different measures for vulnerable adult protection would be prohibitive. In our view, differences between the child protection and vulnerable adult protection legislation would inevitably lead to a greater likelihood of mistakes and misunderstandings, and consequently to a greater risk to vulnerable individuals, both children and adults.

Note: The Scottish Council of Jewish Communities is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges.

We have consulted widely among members of these communities in the course of preparing this response.