

Protection of Vulnerable Adults (Scotland) Bill, Partial Regulatory Impact Assessment

Response of the Scottish Council of Jewish Communities

The Scottish Council of Jewish Communities supports the intention to 'put in place modern and strengthened measures to afford greater protection for Scotland's vulnerable adult population' and to 'improve inter-agency co-operation and enhance preventative action' and supports the establishment of a Vulnerable Adults List.

As the Registered Body with the Central Registered Body for Scotland (CRBS) responsible for submitting Disclosure applications on behalf of the majority of Jewish communal organisations in Scotland, we have a particular interest in the proposed 'Disqualified from Working with Vulnerable Adults List' and associated procedures.

Note

We welcome the changes to the Disclosure system announced by Peter Peacock on 8th February 2006. It is clear that some of the proposals in the Protection of Vulnerable Adults RIA will have to be reconsidered in the light of those changes. However, in this response we have commented on the measures set out in the existing document many of which we believe will be much improved by the proposed new measures.

Scope of the Vulnerable Adults List

We note that the background information in the RIA (p2: section 5) states that: 'there is no single reference point in Scotland where all employers can obtain information about individuals who are considered unsuitable to work with Vulnerable Adults who need care in their own homes or other settings' [our emphasis]. Given that many vulnerable people employ carers themselves, as individuals, we strongly recommend that regulations should permit them to access the Vulnerable Adults List and other relevant information by means of the Disclosure system. This would be in line with recent developments in the Childcare Disclosure system announced by Peter Peacock (Minister for Education and Young People) in relation to parents employing tutors for their children (Official Report <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-06/sor0126-02.htm#Col22811>)

Administration of the Vulnerable Adults List

i) The RIA states (p7: section 30) that 'the Vulnerable Adults List will be administered by Scottish Ministers who will take barring decisions based on the evidence presented' and that 'it is intended to replicate the administrative arrangements and appeal mechanisms used for the existing Children's List.' Recent experiences in England have demonstrated undesirability of Ministers making barring decisions in relation to Childcare posts and we urge that barring decisions relating to Vulnerable Adults should not lie with Ministers. We suggest that the mechanisms employed by

the General Teaching Council for Scotland have been shown to be robust during the past 40 years and could provide a model in this respect; indeed their remit might be extended in order to take on this wider responsibility.

ii) As a result of our experience with submitting Childcare Disclosure applications we have a number of concerns about the way a Vulnerable Adults List would impact on small organisations, particularly in the voluntary sector. The RIA indicates (p9: section 42) that the Vulnerable Adults List will be accessed via Disclosure Scotland and the CRBS.

We appreciate that new bodies will inevitably take some time to become established and to develop appropriate procedures. However, the extremely poor working practices of the CRBS have resulted in numerous unnecessary difficulties and delays which have lost the Disclosure system considerable goodwill from voluntary sector organisations. We are greatly concerned at the prospect of an enlarged role for the CRBS when it does not appear able to cope with its current remit. (Please note that we have discussed our many concerns with the CRBS itself and continue to do so. We commend the working practices of another newly established body, the Office of the Scottish Charity Registrar (OSCR), and suggest that it should be used as a model by the CRBS and/or any new body undertaking Disclosure checks.)

iii) The requirement for individuals to apply for a new Disclosure check for every organisation with which they wish to work in a Childcare role is unduly onerous and has impacted heavily on the voluntary sector, and are aware that some people have chosen not to volunteer their services as a result of the burden of multiple Disclosure checks. This has a devastating effect on small communities such as our own.

We are also concerned that a Disclosure certificate is only valid at the time of issue (see Disclosure Scotland: Explanatory Guide on Code of Practice <http://www.disclosurescotland.co.uk/PDF/EXPLANATORY%20GUIDE.pdf>) and we believe that even the 3-yearly cycle of rechecking currently recommended by the CRBS leaves children, young people and vulnerable adults at risk of abuse.

In our view a single administrative change would both close this loophole and provide for portability of Disclosure checks doing away with the need for multiple checking.

We strongly urge that a notification procedure should be put in place whereby the police, SCRO and other relevant bodies are obliged to consult a register of all Disclosures undertaken (whatever the outcome), and to notify Disclosure Scotland of all relevant information relating to a person already on the register. Disclosure Scotland should then be required to notify all organisations at whose behest the individual concerned has undergone a Disclosure check.

On the other hand, we would caution that information should be verified before being included on the Disclosure register to guard against the possibility of malicious complaints being dignified as facts.

Such a notification procedure, in combination with the identifying number on an individual's Disclosure certificate, would also permit Disclosure checks to become portable. An individual would simply inform a prospective employer of his/her

certificate number to enable an employer who is authorised to conduct Disclosure checks to access up-to-date Disclosure information speedily and without the need for a new check being made.

Streamlining procedures

Whilst supporting the introduction of a Vulnerable Adults List and associated procedures, we are concerned that the associated workload should not become too heavy for small organisations and communities. We therefore emphasise that Vulnerable Adult and Childcare Disclosure checks should follow exactly the same procedure. We welcome the information that the procedures will enable both Lists, where relevant, to be checked by means of a single Disclosure application.

Impact on employers and voluntary sector organisations

The RIA refers (p11: section 53) to 'the administrative impact on smaller firms in terms of increased paperwork'. We would point out that this is even more of a concern for the voluntary sector, and may result in some organisations having to close down.

We therefore regard it as of the utmost importance that adequate support mechanisms should be put in place and that the Scottish Executive should fund these at an appropriate level to ensure effectiveness.

Summary

The Scottish Council of Jewish Communities support in principle the establishment of a Vulnerable Adults list accessed via the Disclosure system, but is concerned that the legislation should be administered in such a way as to minimise the burden on employers, employees and volunteers whilst providing vulnerable adults with effective protection from abuse.

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.

In preparing this response we have consulted widely among members of the Scottish Jewish community.