



CONSULTATION EXERCISE: REVIEW OF THE ACCESSNI REGISTERED AND UMBRELLA NETWORK

Summary

1.1 This paper sets out AccessNI's proposals to review its Registered and Umbrella Body network. AccessNI believes the current network is too large, it cannot be supported effectively and ultimately that applicants are not receiving the best service. This consultation asks a number of questions about AccessNI's conclusions. The responses to this consultation will be provided to the Minister of Justice, David Ford, before any final decision is taken on the way forward. Your views are important and we would be grateful if you could take the time to complete the attached sheets and return to us at accessni@ani.x.gsi.gov.uk. The consultation will end on 24 December 2010; the short time frame recognises this is not a public consultation, but a consultation limited to AccessNI signatories only.

2. Current Situation

2.1 At present 1,800 Registered Bodies (RB) can countersign applications for Standard and Enhanced disclosures, which account for around 88% of all applications received in AccessNI. At the current rate of growth, this will increase to around 2,000 RBs by the end of March 2011. Within these 1,800 bodies there are 4,000 countersignatories, eligible to countersign forms. Of the 1,800 RBs, around 200 are classified as Umbrella Bodies (UBs), i.e., they

have the ability to countersign applications of behalf of other organisations. The AccessNI web-site provides details of all those UBs who place an administrative charge of their service and some of those who do not charge.

2.2 While the number of RBs has grown significantly over the past 12 months, the number of disclosures has actually declined

2.3 During 2009/10 AccessNI processed 120,000 Enhanced Disclosure applications. Figures indicate that 482 RBs submitted 21+ applications, accounting for 113,851 of all Enhanced applications submitted. This means that the remaining organisations submitted only 5% of all Enhanced disclosures. 359 RBs submitted 5 or less applications, and many did not submit any disclosure applications at all.

3. Problems with current system

3.1 The key issue is that AccessNI cannot properly support a RB and UB network of this size. AccessNI has to ensure that RBs and UBs are both complying with the Code of Practice and the conditions of registration as set out in the Police Act 1997 (Criminal Records) (Registration) Regulations (NI) 2007. Given the size of the current RB network this is impossible to do. AccessNI has issued Self Assessments Questionnaires but has a limited capacity to undertake follow-up compliance visits. This means that **AccessNI cannot provide the required level of assurance about the validity of the disclosure system.**

3.2 In addition, there are clear indications that some RBs are not, or do not, take seriously their responsibilities in relation to registration. These include;

- A return rate of 12% of application forms, where errors/omissions have been identified upon receipt in AccessNI. This creates additional work

(and expense) and subsequent delays in obtaining disclosure certificates and in getting individuals appointed into work;

- Seeking Standard and Enhanced Disclosures where there is no eligibility to do so. The AccessNI Helpline continues to receive many calls about eligibility. These are questions that can only be answered by the organisation seeking the disclosure in the first instance;
- Evidence of blanket checking, without consideration of the post the applicant will be undertaking;
- Evidence of “just to be sure” checking, where there is no obvious requirement for that applicant to have a Standard or Enhanced disclosure;
- Concern that identity checks are not being carried out to the full extent they should be, and that evidence of the identity check is not being recorded / retained by the RB;
- Lack of knowledge about both the Code of Practice and the existence of legislation covering registration;
- Significant failure to notify AccessNI of changes in signatories, and their details;
- A lack of understanding among signatories about the “exempted question” and “prescribed purpose”.

Questions :

1. Do you agree there are problems with the current size of the RB and UB network?

2. Do you think AccessNI has correctly identified the issues faced by both AccessNI, and some RBs and UBs, and that this requires to be addressed?

4. Options

4.1 AccessNI has identified 4 options to address the situation as follows;

Option 1

4.2 AccessNI could **expand its compliance team** to provide improved compliance checking. We estimate that for the size of the current network,

that an additional 4-6 staff would be required to undertake that task (each person would have a case-load of around 200 RBs). However, this would create significant pressure on AccessNI's business model and would require an increase in the cost of disclosures to pay for this. If the network grows further then resources become more tightly stretched.

Option 2

4.3 We could **increase our communication effort** with RBs. We have however provided a significant amount of written and other material to RBs, including guidance documentation for completing forms, a DVD following the switch-over to new application forms and a regular Newsletter. Despite this, we have not seen a reduction in the problems.

Option 3

4.4 AccessNI could **establish a "super UB"** along the lines of the Central Registered Body in Scotland which is supported by Disclosure Scotland. CRBS provides free disclosure checks, guidance, advice and support to voluntary sector organisations and manages the essential service of providing Disclosure Certificates to voluntary sector organisations working with children, young people and adults at risk. This could address some of the problems identified and improve the overall service. This would however require the injection of significant funding from across Government in Northern Ireland (which is unlikely to be forthcoming in the current financial climate) or, a substantial increase in the price of disclosures, or a cost to be levied for disclosures from the voluntary and community sector, or for the super RB to charge an administration fee for processing disclosures.

Option 4

4.5 An alternative model, which has been tried and tested by the Criminal Records Bureau (CRB), is to **reduce the size of the RB network**. This has the advantage of requiring no additional central resources, yet can achieve specific benefits. A smaller, but better trained cadre of experienced and skilled RBs would improve efficiency and accuracy within the disclosure

process which in turn would benefit those applicants that are required to obtain disclosures. **This is AccessNI's preferred option.**

Questions :

3. Do you think AccessNI has identified all the various options available to deal with the issues or are there others?

4. Is AccessNI's preferred option the best solution to the issues identified?

5. How can this be achieved?

5.1 Section 120AA(3) of Part V of the Police Act allows AccessNI to suspend a person's registration or remove that person from the register where according to sub-section 2(b) *"that person has in any period of 12 months countersigned fewer applications...than the minimum number specified in Regulations"*. At present we do not have a Regulation that specifies a minimum number of applications, but this can be taken forward by adding to the current registration Regulations.

5.2 AccessNI proposes to set a minimum threshold of **21 applications** per annum (this compares with 100 in England and Wales). This means that when the legislation becomes applicable, no new applications would be accepted from any organisation that could not sign a declaration to the effect that they propose to countersign at least 21 disclosure applications per annum. In addition, one year after the legislation becomes applicable, any RB or UB which has not countersigned at least 21 applications within the previous 12 months would be removed from the register and would no longer be able to countersign applications.

Question :

5. Has AccessNI correctly identified the minimum number of applications per annum to address the issue?

6. What impact would this have?

6.1 AccessNI estimates that setting a minimum of 21 Standard or Enhanced applications in a 12 month period would reduce the RB network from 1,800 to c. 650 organisations. AccessNI consider this a much more manageable number of RBs which would allow for improved relationship building and help address the issues outlined in paragraph 3.2.

6.2 This would mean that 1,150 organisations currently registered with AccessNI may have to find some other means to obtain their disclosure certificates within 12 months of the legislation becoming operational. These organisations would in the main, turn to Umbrella Bodies already registered with AccessNI to obtain their disclosures in the future. A number of Umbrella Bodies, including those in the voluntary and community sector, charge an administration fee (normally between £5 and £20) for the processing of disclosures, so the organisations affected could find they are effectively paying more for disclosures. A number of other UBs do not levy such fees.

6.4 AccessNI recognises that RBs paid a registration fee of £150 at the time of registration which will not be refunded. However, RBs have been able to avail of the service during their period of registration. In addition, RBs should be aware that the legislation surrounding conditions of registration are subject to legislative change which could impact on them at any time.

Question :

6. *Has AccessNI correctly and appropriately identified the impact of this change or are there other outcomes not identified?*

7. Support from AccessNI

7.1 AccessNI recognises that these proposals may have a significant impact on many RBs. To help address concerns, AccessNI also proposes a series of other measures to drive home the impact of these changes. These include;

- To develop closer working relationship with the smaller number of RBs. This helps not only to deal with the specific issues identified above about also in broader areas, for example forecasting the number of disclosures that are likely to be received;
- To devise and establish a compulsory training course for all new RBs and signatories and, in due course, to hold refresher training for all existing bodies and signatories. Costs associated would be recovered from RBs by increasing the registration fee from its current £150 to £180 and increasing the cost of adding a countersignatory from £10 to £40. AccessNI would not seek to recover additional costs from existing RBs and UBs;
- To develop on-line tools to check and inform RBs understanding of their role;
- To identify more quickly any problems with specific RBs and dealing with these effectively;
- To organise more compliance visits to check adherence to the Code of Practice; and
- To react more quickly to RB concerns.

7.2 To assist the change for those 1,150 smaller bodies most directly affected by the change, AccessNI will;

- identify those UBs that organisations can use to obtain disclosures. In doing so, we will provide information about those bodies that can provide a free service as well as those who may charge;
- encourage RBs that will be affected by the change to combine resources to establish their own Umbrella Bodies within sectors;
- work with existing UB to ensure they do not attempt to exploit this situation. One proposal is to cap the level of administration fee charged for processing an AccessNI disclosure. This however would require us to interfere in what is essentially a commercial decision and some UBs offer wider employment services only part of which is processing the AccessNI disclosure.

7.3 AccessNI also recognises that current UBs are likely to see an increase in the number of applications they will be asked to handle and that this might create resource concerns in some areas. AccessNI will provide support and early, and frequent, communications to UBs during the change process to ensure that they are in a position to react (as they see fit) to the changing circumstances.

Questions :

7. Do the AccessNI proposals improve the drive to address the problems caused by the large RB network and will they improve the service for RBs, UBs and applicants?

8. Are the support measures identified by AccessNI to assist organisations affected by the change adequate and appropriate?

9. Should AccessNI seek to cap the level of administration fee charged by UBs for processing disclosure applications given the specific difficulties involved?

8. General

8.1 AccessNI does not consider that the proposed changes would impact on its statutory obligations under Section 75 of the Northern Ireland Act 1998. Nor does it consider that these would have an adverse regulatory impact to business.

Questions :

10. Do you believe the proposed changes would impact on AccessNI's equality obligations?

11. Do you consider that the changes will have an adverse regulatory impact?

9. Conclusion

9.1 This consultation seeks to address a number of key matters. The questions are designed to elicit the fullest response to the proposals in this document. We do wish to have your views and would encourage you to respond by the due date. Please forward your completed response to accessni@ani.x.gsi.gov.uk.



ACCESSNI : CONSULTATION RESPONSE

Registered Body Name : NSPCC
.....
Counter Signatory Name :
.....
Counter Signatory Number :
.....
Date Response Submitted : 21/12/10
.....

Q1. Do you agree there are problems with the current size of the RB and UB network?

Response

Agree

Comment

We would accept that there are problems managing the current large number of RB's without additional funding. Compliance monitoring is also an important provision in ensuring good practice is followed.

Q2. Do you think AccessNI has correctly identified the issues faced by both AccessNI and some RBs and UBs, and that this requires to be addressed?

Response

Agree

Comment

Yes. Problems are associated with the incorrect storage of confidential information and checking those they are not entitled to check. In addition to the support material referenced we believe AccessNI should make it compulsory for signatories to complete an online learning resource.

Q3. Do you think AccessNI has identified all the various options available to deal with the issues or are there others?

Response

Agree

Comment

We agree that AccessNI have identified the issues however we believe that

the service would be improved by a combination of options rather than exclusively adopting option 4 only.

Q4. Is AccessNI's preferred option the best solution to the issues identified?

Response

Strongly Disagree

Comment

We believe that all signatories should undertake compulsory online training before adopting this role to facilitate greater understanding of the scheme. (Garda Central Vetting Unit have attendance at compulsory training as a requirement prior to becoming a signatory). We support the development of a Super RB for the voluntary sector similar to that which exists in Scotland which would operate a cap on charges to ensure checks are undertaken on a not for profit basis. We agree that the number of RB's need to be reduced, however the choice of a minimum 21 checks as a cut off point could have a disadvantaging impact on smaller organisations and bodies.

Q5. Has AccessNI correctly identified the minimum number of applications per annum to address the issue?

Response

No

Comment

It is not clear how AccessNI have come to the figure of 21. In 2009 in England and Wales 4,198,277 checks were undertaken compared to 120,000 in NI. The percentage of checks in NI compared to E & W is approximately 2.85%. Therefore it is misleading to use E & W figures as comparators, but if you are to do this then the figure in NI to remain proportionate would be 3 (100 in E & W) rather than the 21 proposed by AccessNI. We think the threshold needs to be re-examined.

Q6. Has AccessNI correctly and appropriately identified the impact of this change or are there other outcomes not identified?

Response

Disagree

Comment

In E & W where the limitation is 100, a number of voluntary organisations have had to start paying another body to process checks. This places financial penalties on the smallest organisations who may also not have implemented other safe recruitment practices. We believe that as part of the ending of the relationship with the RB, AccessNI should proactively assist

organisations in their registration with appropriate umbrella bodies to ensure smooth transition and reduce the risk of the organisations "opting out" or breaking the law depending on the outcome and implementation of the Vetting and Barring review.

Q7. Do the AccessNI proposals improve the drive to address the problems caused by the large RB network and will they improve the service for RBs, UBs and applicants?

Response

Neither Agree nor Disagree

Comment

We agree with the drive to develop on-line tools to check and inform RB's understanding of their role. We believe that AccessNI should support specific sectors such as sport, arts or dance to combine in some way to establish their own sector specific Umbrella Body for the sole purpose of administering checks. We believe that risk assessment is not the role of this type of UB. AccessNI should be proactive in working with the funding bodies for these sectors to assist them develop a not for profit umbrella body to enable the smaller organisations or club's not already affiliated to a RB to access checks.

Q8. Are the support measures identified by AccessNI to assist bodies affected by the change adequate and appropriate?

Response

Disagree

Comment

Please refer to previous comments in Q6 and Q7 regarding additional support AccessNI should provide during the transition period of reducing access to a number of smaller bodies.

Q9. Should AccessNI seek to cap the level of administration fee charged by UBs for processing disclosure applications given the specific difficulties involved?

Response

Strongly Agree

Comment

We understand that charging for checks is a commercial decision but believe that a cap should be placed on the cost of administering the basic disclosure process. We recommend that the threshold for excluding organisations is reduced to 5 rather than 21 to limit the financial impact on the smaller organisations. We are aware that some umbrella organisations in England and Wales charge over £70 (exclusive of the cost of the actual check) and we

are concerned that the implementation of such a high threshold (21) would not consider the risks to small organisations not being able to access vetting as part of their safe recruitment process.

Q10. Do you believe the proposed changes would impact on AccessNI's equality obligations?

Response

Yes

Comment

They would clearly impact on the smaller organisation or day care facilities rather than those who are already more likely to have robust procedures in place and who already adhere to the Code of Practice. To comply with Section 75 requirements we are of a view that a full EQIA is necessary.

Q11. Do you consider that the changes will have an adverse regulatory impact?

Response

Yes

Comment

The timing of this consultation process is unfortunate given that organisations are not yet aware of what their legal obligations are following the review of the Vetting and Barring scheme. Organisations may find that for the first time they have to legally check people rather than it just be good practice while also finding out that they can no longer access the vetting system without a real time cost or charge.

Other Comments : Please provide any other comments you may have in relation to this consultation document

Comment

We are concerned about the timing of this limited consultation and that consideration has not been given to a gradual process of reducing RD's i.e. targeting those who have not used the process in the last year, then moving on to those who have not undertaken more than 5 checks per year and then moving up incrementally until AccessNI reach their upper limit, though we still believe the threshold of 21 is to high.