

Vetting and Disclosures: Getting it right in practice.

A Report from the Child Protection All Party Parliamentary Group

The Child Protection All Party Parliamentary Group

The Child Protection All Party Parliamentary Group was formed to raise the profile of child protection in Parliament and to investigate policy matters. The officers of the group are: Chair, Meg Munn MP (Labour), Vice Chair Andrea Leadsom MP (Conservative), Treasurer Annette Brooke MP (Liberal Democrat) and Secretary Cathy Jamieson MP (Labour). The group is grateful to the NSPCC who provide the secretariat.

In summer 2011, the Child Protection All Party Parliamentary Group held an enquiry into the implementation of the Government's changes to the vetting and barring and criminal records disclosure systems.

Members of the group who participated in this enquiry were Meg Munn MP, Jessica Lee MP, Nic Dakin MP, Ann Coffey MP, Andrew Percy MP, Bill Esterson MP and Baroness Dame Tanni Grey-Thompson.

Evidence was given to the group by Sue Law (Football Association), Nicola Sheldon (RFU), Abby Wood (Girlguiding UK), Shaun Kelly (Action for Children), Mike Locke (Volunteering England), and the Minister with responsibility for the scheme, Lynne Featherstone MP.

The report was also informed by two separate online surveys one for practitioners and organisations and one for volunteers and parents.

The group wishes to thank all those who gave evidence and responded to our surveys.

Executive Summary

This report draws out the key messages from the evidence we received, and sets out the following recommendations for Government:

1. Government should bring forward an amendment to the Protection of Freedoms Bill during report stage to tighten up the definition of supervision for the purposes of the vetting and barring scheme.
2. Government guidance and communications about the vetting and barring scheme must be very clear about activity that is included in the scheme, and what supervision is required for positions outside the scheme.
3. Government needs to communicate better with large organisations that use the online Criminal Records Bureau (CRB) service (e-bulk) to reassure them about how the system will work in the future, and should encourage other organisations to sign up to the scheme.
4. Government must clarify whether individuals who do not subscribe to the new online updating service will be able to use their CRB disclosure when they move between positions, and whether their employers will be alerted if they are barred from working with children.
5. Government should produce statutory guidance setting out in more detail how employers and volunteering organisations should use the scheme, and must make this guidance easily accessible for those who might use the scheme.
6. Government must ensure there is sufficient support for all employers and voluntary organisations that use the scheme. This could include funding intermediary organisations to provide training and resources.
7. Government should explore ideas for interactive support to help employers make decisions about safer recruitment.
8. Government should create an advice service to help employers make informed decisions on the basis of information they receive through CRB checks. The contact details for this service should be contained on all CRB certificates.

9. Government must communicate with the public about the scheme, and do so in a way which builds public support for the proportionate use of checking.
10. Government must support and encourage employers to develop safe practice, and incorporate messages about safeguarding in any communications relating to the revised vetting and barring scheme.

Introduction

1. The UK Government is changing the way in which the vetting and barring and criminal records disclosure systems work in England, Wales and Northern Ireland. There has been a lot of debate about, and scrutiny of, the changes to the scheme which are contained within the Protection of Freedoms Bill currently making its way through Parliament.
2. However the proof of the pudding is in the eating. Barring and checking will only help to keep children safe if employers and voluntary organisations use the systems properly: seeking out information on individuals who work with children and using this information to make sensible decisions about recruitment and management of staff.
3. With this in mind, the Child Protection All Party Parliamentary Group held an enquiry in June and July 2011 into the implementation of the changes to vetting and disclosures. We heard evidence from representatives of organisations that employ staff or volunteers to work with children, met Lynne Featherstone MP the Minister responsible for the scheme, and conducted two online surveys to seek further views. This report draws out the key messages from the evidence we received, and sets out recommendations for Government.
4. We hope that our work will play a valuable role in challenging and assisting Government to consider how best to ensure that employers and voluntary organisations use the new vetting and disclosure scheme effectively, and take other necessary steps to keep children safe.

Part I: The design of the scheme

5. This enquiry set out to investigate the implementation of the new vetting and disclosure scheme, not their design. However, unsurprisingly, we did end up discussing some of the design of the scheme, and feel it is appropriate to reflect the key points of those discussions in this report.

The changes to the vetting and barring scheme

The Vetting and Barring Scheme aims to prevent unsuitable people from undertaking certain paid or volunteer work with children or vulnerable adults ('regulated activity'). It does this by vetting all those who wish to do such work and barring those who have committed a certain offence or where the barring authority believes they pose a risk of harm to vulnerable people.

Everyone working in regulated activity must be CRB checked, and barred individuals will be prohibited from working in these positions (although they can work with children in positions outside regulated activity).

The Protection of Freedoms Bill reduces the scope of 'regulated activity relating to children' which specifies what work a person is barred from doing if he or she is included in the children's barred list.

Regulated activity still covers much paid and unpaid work that involves close interaction with children, or work in specified places such as schools where individuals have the opportunity for contact with children. However, as a result of the Government's changes, regulated activity relating to children **no longer covers** the following positions:

- Supervision, teaching, training, instruction or care of children by a person who is subject to regular day to day supervision in their work, UNLESS the activity involves certain types of personal care or takes place in a specified place such as a school or children's home.

- Provision of legal advice to a child.
- Temporary or occasional work, such as building work, in a specified place such as a school or children's home.
- Supervised volunteer work in specified setting such as schools or children's homes.
- The work of people in governance or senior management roles, or officials in the Children and Family Court's Advisory Service or inspectorates.

The changes mean that people on the barred list will be able to work in these positions.

Thresholds for regulated activity

6. Regulated activity refers to the positions which are covered by vetting and barring arrangements. If an individual has been barred, they will still be able to work with children in positions that do not count as regulated activity, and their employers¹ will not be told if they are barred – even if they conduct an enhanced Criminal Records Bureau (CRB) check (which they would not have to do). Therefore it is very important that the regulated activity category covers all those positions where individuals have regular close contact and can develop trusting relationships with children.
7. The witnesses who gave evidence to our enquiry all raised concerns about the fact that many people under “regular day to day supervision” in their work with children will not fall within the category of regulated activity in the changed vetting and barring scheme, and therefore will not have to be CRB checked. We were given the example of a junior football coach, who might take a group of children away to a pitch far away from the head coach, and yet would still be seen as under supervision and so would not be checked.
8. The Minister reassured us that positions such as the football coach, where an individual takes groups of children away from the main supervising adult, would count as regulated activity, and that this would be set out clearly in guidance for employers. This is reassuring: it is very important that employers are told that supervised positions will only be exempt from regulated activity if individuals are under close supervision. The Protection of Freedoms Bill, as currently written, is not clear on this point.

“... a large proportion of activity in our sector is undertaken by those who are technically being supervised by another, but, in real terms the supervision has little control over what happens... and adults therefore still have a significant opportunity to gain trust and influence over children.”

“...abuse won't happen in the middle of a sports pitch, but the relationship is established there whether they are supervised or unsupervised. All coaches hold a powerful positive over a child.”

Quotes from responses to our survey.

Recommendation 1: Government should bring forward an amendment to the Protection of Freedoms Bill during report stage to tighten up the definition of supervision for the purposes of the vetting and barring scheme.

Recommendation 2: Government guidance and communications about the vetting and barring scheme must be very clear about activity that is included in the scheme, and what supervision is required for positions outside the scheme.

Single Disclosures

9. The Protection of Freedoms Bill changes the way in which CRB disclosures will be shared. Currently, when an individual gets a CRB disclosure, their certificate is simultaneously sent to them and to their employer. In the future CRB disclosures will only be sent to the individual involved and employers will have to obtain it from them.

¹ Throughout this report, the term ‘employers’ is used to cover any organisation that may employ paid staff, consultants or volunteers to work with children.

“...it would place a huge burden on our volunteers to chase copies of CRB checks...”

“If we are relying on individuals sending us their certificate, the process will take longer, and as the majority of these people are volunteers, there is not always the urgency in dealing with paperwork. This could mean school and club sessions may not be able to run.”
Quotes from responses to our survey.

10. The witnesses we spoke to raised concerns about this proposal. It was felt that this would result in extra bureaucracy and delay as organisations have to chase people to share their certificates. There were also concerns that once people see the information disclosed they may not want to share it because they are embarrassed about what it reveals, or think that minor offences might count against them.
11. Again, on this point, the Minister offered us some assurance. We were told that if large organisations use the online system for obtaining CRB disclosures (e-bulk), then they will get an alert when individuals’ CRB certificates are issued, and will be told if any disclosure has been made. It is estimated that only 5% of CRB certificates disclose any information.

This system means that organisations will not have to obtain copies of everyone’s CRB certificates, but will be able to focus on those people known to have a criminal record.

Recommendation 3: Government needs to communicate better with large organisations that use the online CRB service (e-bulk) to reassure them about how the system will work in the future, and should encourage other organisations to sign up to the scheme.

Online Updating

12. In the future, CRB checks will be portable so that instead of having to get a new disclosure for every position – as now – individuals will be able to move between roles and take their CRB certificates with them. We welcome the introduction of portability, as did many of our witnesses. It reduces a lot of the cost, bureaucracy and frustration associated with the scheme at present.
13. We were grateful to the Minister and her officials for explaining to us in more depth how the new system will work, which we understand to be as follows: An individual will receive a CRB disclosure with a unique number on it. If the individual, or employer, pays a fee (around £9 per year) then any employer will be able to go online, check the unique number and find out if any information has come to light since the CRB certificate was issued. If this is the case, then the employer should not accept the certificate but should ask for a more up to date disclosure.
14. Once employers have checked an individual’s disclosure, they will need to return to the website again in future to check that the disclosure has not changed. However if the individual is subsequently barred from regulated activity, employers will be notified immediately.
15. We feel this system sounds very sensible. However there are some unanswered questions, for example:
- CRB disclosures will be tailored for regulated activity or non regulated activity, and to work with children and work with adults. Is it therefore possible that an individual might have to have four different disclosures and pay for continuous updating of all of them? Will it be clear to employers what information the CRB disclosure they see does and does not show?
 - If individuals do not sign up for, or stop paying their annual subscription for the updating service, will employers still be alerted if they are barred?
 - If individuals do not sign up for their annual subscription, will they still be able to take their CRB certificate to different jobs? How long will they be able to use a disclosure for before it becomes invalid? Will the first year of online updating be included in the original certificate?
16. The Government has said that CRB checks will continue to be free for volunteers. When we asked, the Minister could not guarantee to us that the online subscription service will also be free

for volunteers. She suggested that volunteers could always apply for new (free) CRB certificates, rather than pay the subscription costs. If this is the case, it is important to be clear how portability will work for individuals who have not subscribed to the online updating service.

Recommendation 4: Government must clarify whether individuals who do not subscribe to the new online updating service will be able to use their CRB disclosure when they move between positions, and whether their employers will be alerted if they are barred from working with children.

Part 2: The Implementation of the Scheme

17. It became obvious as we gathered evidence for this enquiry, that there are currently huge knowledge gaps and misunderstandings about how vetting and disclosure systems work. Over recent years we have seen media stories about the scheme being wrongly applied in cases such as the church flower arrangers or parents who give lifts to other people's children. In our evidence sessions we heard of local leaders who had prevented people working with children because of irrelevant information on CRB certificates, or who thought they needed to publicly display CRB certificates in the clubhouse. It is therefore very clear that more must be done to educate the public, volunteering organisations, and employers about the new scheme, and how it should be used properly to protect children.

Government guidance

18. We agree with the witnesses who told us that Government needs to write very clear statutory guidance about the new vetting and disclosure schemes. This should contain:

- Clarity on how to assess whether a position is regulated activity or not;
- Advice on who should be CRB checked, including strong messages on the risks of not doing a CRB check;
- Assistance in completing the CRB form (which should be as simple as possible);
- Clear direction that people shouldn't be allowed to start work until checks have been seen and accepted;
- Help in understanding what CRB disclosures look like and how to use the information they receive effectively to make sensible recruitment and management decisions;
- Guidance on how often people should be re-checked;
- Guidance on the wider child protection policies and practices that employers should have in place.

19. We were assured by the Minister that the Government will produce guidance on the new schemes, and that it will be written in partnership with expert organisations such as the NSPCC. However we were told that the Government is still considering whether this should be statutory. We believe that the guidance should be statutory as this will create a stronger incentive for organisations to read it and act in accordance with what it says.

Recommendation 5: Government should produce statutory guidance setting out in more detail how employers and volunteering organisations should use the scheme, and must make this guidance easily accessible for those who might use the scheme.

Advice, information and active support for employers

20. The new vetting and disclosure scheme is complex, and guidance alone will not ensure that everyone working within organisations will gain the skills and knowledge they need to use the

scheme effectively. It is important that the Government does more to inform and educate employers about how they need to use the scheme in their recruitment and management decisions.

"...In general terms: clear website based advice, with examples and an opportunity to seek further, more in depth advice if necessary. Leaflets/written material is generally poorly distributed. Too much reliance is made by local clubs/individuals on what they read in the press..."
Quote from response to our survey.

21. Respondents to the survey told us they want to see simple explanations about the scheme, and that these need to be repeated regularly. They also told us they wanted to see online resources, fact sheets and training. They suggested that there should be sector specific resources and information for different parts of the children's workforce. These do not have to be provided directly by the Government: indeed we know other organisations already provide very effective resources

about the current arrangements.

22. We were told that Government is planning to hold a series of road shows in up to 20 areas to talk about the changes. Whilst this is positive, it is only a fraction of what is needed. Materials should be produced and disseminated through a range of channels. It was suggested to us that government websites, volunteering umbrella bodies, local volunteering centres, local government, and health and education workforce organisations should be utilised to disseminate messages.

Recommendation 6: Government must ensure there is sufficient support for all employers and voluntary organisations that use the scheme. This could include funding intermediary organisations to provide training and resources.

23. One respondent suggested that there should be an online checklist to help employers to identify whether positions fall in regulated activity or not. We think that this, and any other ideas about tools which can help employers make decisions about the vetting and disclosures should be welcomed and explored.

Recommendation 7: Government should explore ideas for interactive support to help employers make decisions about safer recruitment.

24. Organisations told us that people who deal with CRB checks need training on relevant offences and risk management. Alongside information and education, we were also convinced of a need for active support to help employers make decisions about who to check and what to do with the information they receive. This could be a confidential phone or email service, or local network of advisors. Whilst large organisations might have dedicated people with the expertise to make decisions about how to use disclosures, smaller organisations may struggle and will need support in using the scheme correctly. Without such support and reassurance, we think it is more likely that employers will take the 'safest' option and not recruit people who have a criminal record.

"...In our experience, clubs do not have the necessary skills and knowledge to make fair, accountable, consistent and robust decisions about recruitment based on conviction information..."
Quote from response to our survey.

Recommendation 8: Government should create an advice service to help employers make informed decisions on the basis of information they receive through CRB checks. The contact details for this service should be contained on all CRB certificates.

Public education

25. Whilst the general public do not all need to understand the detail of the vetting and disclosure service, as potential employees, volunteers and parents, it is important that they have a general understanding about the scheme and know where to go to get more information.

26. In the past, media driven misconceptions that everyone has had to be CRB checked, and that people who have committed minor misdemeanours cannot work with children, have perpetuated the misuse of the scheme and eroded public support. Organisations who contacted the enquiry argued that in future Government should more robustly rebut stories of inappropriate checks and myths and misconceptions about the scheme in the media.

“...There needs to be direct communication from the Government to parents...”

Quote from response to our survey.

27. We welcome Government’s ambition to ensure that the new scheme are proportionate, but are concerned that their rhetoric suggests that many people will be able to avoid checks completely in the future. As one witness suggested, if the Government continue to promote the message that far fewer people need to be checked in the future, this may make people more resistant when asked to have a check done. Public messages about the scheme therefore must be carefully crafted to ensure people are willing and supportive of proportionate use of checking.

Recommendation 9: Government must communicate with the public about the scheme, and do so in a way which builds public support for the proportionate use of checking.

Part 3: Wider messages about safeguarding.

28. Disclosures and barring are necessary, but not sufficient to keep children safe, and we agree with the Minister that it is important that employers do not think that conducting a CRB check is the end of their safeguarding responsibilities.
29. Cases like that of Vanessa George, illustrate that individuals with clear CRB certificates can still carry out awful abuse of children in their care. The Serious Case Review into the Vanessa George case identified the characteristics of safe settings as:
- Staff are respectful to all employees as well as children
 - Staff are open about discussing good and poor practice
 - Blame only happens in extreme circumstances
 - Leaders model the appropriate behaviour
 - Staff are knowledgeable about the vulnerability of the children whom they look after and aware that abusers may already be in the employ of the organisation
 - Children are listened to
 - Staff are empowered to challenge poor practice
 - Parents are encouraged to be involved in their child’s plan and welcomed to the setting
 - Whistle blowing procedures are in place and staff know how to use them.²
30. Throughout our enquiry, we were repeatedly told that employers and voluntary organisations need to implement robust child protection policies and practices, and to develop a culture and values which will keep children safe. Some organisations told us about their own work in this area, including publishing welfare policies, and developing networks of trained welfare officers. We think that this good practice should be identified and shared, and would like to see sector-led voluntary codes of practice on child protection accompanied by good practice guidance.
31. In the original terms of reference for the review of vetting and barring in October 2010, Government said that they would consider “how to raise awareness and understanding of risk and responsibility for safeguarding in society more generally”. We think this is incredibly

² http://www.plymouth.gov.uk/serious_case_review_nursery_z.pdf

important and would welcome more clarity from the Government about what it is going to do to achieve this.

Recommendation 10: Government must support and encourage employers to develop safe practice, and incorporate messages about safeguarding in any communications relating to the revised vetting and barring scheme.