

Response ID ANON-8Z9G-EU5R-K

Submitted to **Protection of Vulnerable Groups and the Disclosure of Criminal Information**

Submitted on 2018-07-18 15:35:36

Section 1 - Introduction

Section 2 - Disclosure Products

1 Do you agree that reducing the disclosure products will simplify the system?

No

If you have answered no, what do you think will simplify the system?:

Social Work Scotland recently responded to the consultation on the Management of Offenders Bill which will reform of the Rehabilitation of Offenders Act (1974). We were supportive of a move to reduce the length of time most people with convictions will have to disclose an offence. In that document we expressed the view that excessive disclosure requirements negatively impact on reintegration and employability.

We believe that the current disclosure system is unnecessarily complex and is difficult for people to negotiate. We therefore agree with the need for reform. We share the Scottish Government's view that there is a need to balance the public's right to protection with the right of all citizens to move on with their lives following an offence. We believe that the legal need for disclosure should be reduced in order to facilitate social inclusion and allow people to reintegrate and once again be accepted as contributing members of society.

People who have committed offences face many financial disadvantages due to excessive disclosure requirements, for example being refused access to employment, education, banking and insurance (often regardless of the type of offence).

Social Work Scotland supports progressive measures which promote community inclusion, signalling to the community, and the person themselves, that punishment has ended. We know that having hope is central to establishing an identity which is incompatible with offending. It is important that as a society we send a strong message to people that their punishment is finite and that it is possible for them to have the rights and responsibilities of citizenship going forward.

As Social Work Scotland advocates an evidence based approach to policy development, we recognise that addressing systemic barriers to reintegration is a crucial step if we are to continue to reduce reoffending. We regard the disclosure system, in its current form, as one such barrier and its reform as a vital opportunity to adopt measures which increase complexity and the need for legal disclosure, with no obvious benefit in terms of public protection.

Social Work Scotland supports protection for employers and vulnerable groups and this can be achieved by disclosing those convictions that are recent and relevant, reflecting a focus on human rights and the principles of fairness and proportionality.

Given the evidence that adolescence extends up to age twenty-five, developmental stage should also be considered in the proposed reforms (Johnson et al 2009). Evidence of the impact of adverse childhood experiences and trauma are also shown to increase developmental difficulties highlighting the pressing need to reform the disclosure system as it relates to young people (Vaswani, 2014).

Johnson, S. B., Blum, R. W., & Giedd, J. N. (2009). Adolescent maturity and the brain: the promise and pitfalls of neuroscience research in adolescent health policy. *Journal of Adolescent Health*, 45 (3), 216-221.

Vaswani, N (2014) The Ripples of Death: Exploring the Bereavement Experiences and Mental Health of Young Men in Custody. *The Howard Journal of Criminal Justice*, 53(4), 341-359. doi: 10.1111/hojo.12064

This indicates a need for the system to be more flexible and responsive in order to reflect the general thrust of Article 8 of the ECHR regarding the right to have one's private and family life respected.

The reform of the system also provides an opportunity to address disclosure concerns in relation to the abrupt transfer from the children's hearings system, with its focus on the young person's welfare, into the adult criminal justice system. This should give us pause to consider the merit of expunging certain offences automatically and establishing an independent review process to make decisions on whether disclosure remains necessary in cases which are considered more serious. This would serve to minimise discrimination and disadvantage and to promote successful reintegration following punishment.

Social Work Scotland would welcome measures which would reduce the complexity of the current system for people who have had previous convictions, those who support them, potential employers, educators and others in order to enable successful reintegration and restore full economic and social participation. Given the complexity of the system at present, establishing an independent body to provide individualised support and advice would be appropriate. Navigating the current system is a particularly challenging task for certain groups including young people.

The proposed changes would be expected to have a minimal impact. The reduction of disclosure products will simplify the operation of the system to a degree but the proposed changes are not far reaching enough. The spectrum of offences included in each part of section 8 is very broad, too vague and, in the absence of information to provide context, will remain too difficult for employers to interpret. Extensive review of the current system would appear to be necessary in order to allow individuals to move on with their lives and be successfully reintegrated in their communities.

As already indicated, in the case of young people more attention should be paid to developmental research. From the early teens up to the age of around twenty-five years the brain is undergoing rapid development. A substantial proportion of young people experience a greater propensity to take risks, to behave

impulsively and to engage in sensation seeking behaviour, leading to impaired social and cognitive functioning and involvement in offending (Johnson, 2009). People who have experienced ACEs/trauma are at substantially higher risk of becoming involved in offending. The complex emotions associated with trauma, adverse childhood experiences and disrupted attachment may manifest as anger, poor concentration and engagement in substance misuse. This may subsequently be interpreted merely as bad behaviour and may be responded to via punitive measures, leading them into the justice system with long term consequences due to disclosure requirements.

Section 8 lists many offences that may be relatively low tariff but the disclosure of these will have a far reaching impact on future opportunities. These include anti-social behaviour, any offence of breach of the peace, any offence of culpable and reckless conduct, any offence of false accusation of a crime, any offence of uttering, offences aggravated by prejudice, assaulting or impeding police (resisting arrest), various public order offences, less serious driving offences, drinking in a public place, drug offences – e.g. possession or a minor role in supply, opening lockfast places and so on.

For young people in residential care, organisations contact police at an early stage when behaviour is difficult to manage, increasing the likelihood that this group will have offences recorded against them. Young people who are not looked after, may engage in very similar behaviours in the course of development, but they are far less likely to have offences recorded against them.

Social Work Scotland would posit that overall the document appears to deal more with procedural concerns than improving the system to address structural or systemic barriers to reintegration. Young people in particular have to be allowed to mature and most people in general require support and educational or employment opportunities to move on to become contributing members of society.

The lists should be shorter and more nuanced, with less serious offences being expunged automatically after a brief period of time. Where serious harm has been caused an independent panel should be appointed to deliberate on whether offences are expunged, taking account of progress a young person has made since the offence. An individualised, strengths based approach should be adopted taking account of context (e.g. Presence of trauma/ACEs for example).

2 As we are trying to simplify the system, do you have any views on what this product should be called?

Not Answered

If other, please state::

No

3 As an applicant, do you have any concerns with this approach?

Yes

4 Which option do you prefer?

Not Answered

Please explain why.:

In response to Q3 (as there is no opportunity to provide more information such as a text box):

Employers are likely to see what prima facie appears to be a serious offence listed without having any information on the detail and context. Many employers will refuse employment on this basis. Employers are also likely to view any delay in information being provided (such as cases in which 'other relevant information' is being sought) as suggestive of wrongdoing reducing the likelihood of an offer being made. This may be stigmatising and defeat the ends of reintegration and rehabilitation, in many cases (given some of the offences listed) having little benefit in terms of public protection.

Social Work Scotland appreciate the commitment to developing guidance and training and the need for a comprehensive programme to ensure dissemination of information in an accessible format for people with different abilities. Independent information and support services should be provided at key stages for young people e.g. when charged, at the point of conviction and when thereafter faced with certain barriers to reintegration.

5 Do you agree that it is appropriate to regulate registered bodies in relation to B2B applications?

Not Answered

6 What impacts, if any, do you foresee from moving from a paper based system to a digital system?

What impacts, if any, do you foresee from moving from a paper based system to a digital system?:

An electronic system would appear to be faster, more efficient and reduce harm to the environment. This would appear to be beneficial provided cyber security safeguards are in place and adequate information is provided to assist applicants online. The proposed changes would offer applicants greater ownership of the information to be shared.

The online system must be readily accessible for all; ensuring that the process and the responsibilities of the individual in sharing information are clearly understood and that provisions remain to facilitate face to face contact and support for those who may need it.

7 Do you agree with our proposed fee for this service?

Not Answered

If not, what do you think the fee should be?:

8 Are there any professions/roles that are not included that should be on the list?

No

If you have said yes, please note what these are.:

9 Are there any professions/roles you think should be removed from the list?

No

If you have said yes, please note what these are.:

10 Do you agree with the proposal to remove certain kinship carers and all foster carers from a membership scheme?

No

11 Do you think that the two types of kinship arrangements should continue to be treated differently under the future arrangements?

Yes

12 Do you agree with this proposal?

Yes

13 Do you agree with this proposal?

No

13a. Do you think that anyone else in the foster/kinship carer's network needs to be checked? If so, who and why?:

Q 13 Comment: It is important to maintain as normal an experience as possible for looked after children. Such checking should apply only to instances where agencies are formally approving that the individuals will have some kind of regular unsupervised care of the child. Carers should have sufficient flexibility to make responsible arrangements and decisions, as corporate parents, which are in the interests of the child/young person and promote a child's/young person's needs and rights in as natural a manner as possible.

Q13a comment: It is crucial that the experiences of looked after children remain as similar as possible to their peers to reduce stigma. The PVG system should not be used as a risk assessment tool. There are other processes and procedures in place in order that any identified concerns are proportionately addressed through supportive approaches and discussions with carers. These are monitored via agency involvement, and sit within the context of wider processes such as MAPPA and child and adult protection arrangements. Within this context carers should have sufficient flexibility to make responsible arrangements and decisions, as corporate parents, which are in the interests of the child/young person and promote a child's/young person's needs and rights in as natural a manner as possible.

People undertaking substantial and regular support for carers (such as babysitters) should undergo basic checking.

14 Do you believe that this is the correct approach going forward?

Yes

15 Which option should be the content of the Level 2 disclosure product be based upon?

Option 2b

Please provide the reason for your choice.:

16 Which price option do you prefer for the Level 2 product?

Not Answered

17 Is it proportionate that the free checks should continue for volunteers who obtain Level 2 disclosures?

Yes

18 What issues, if any, do you foresee with a move to a digital service?

What issues, if any, do you foresee with a move to a digital service?:

Some people may not have the ability to a) access a computer b) be able to have the skills to apply online c) have all the necessary ID and other information necessary for their application and d) be able to "securely route or share it with any employer..."

These tasks can be daunting and demanding for people and support, if required, should be in place to provide equality of opportunity for everyone.

There may be an issue where a check is required in circumstances other than employment for example a person over the age of 16 in the same household as a foster carer. People may not be motivated to apply to allow the local authority to check information in some circumstances.

Section 3 - Reforming the policy underpinning the PVG Scheme

19 How should a mandatory PVG Scheme be introduced and how should it work?

How should a mandatory PVG Scheme be introduced and how should it work?:

20 Do you agree with the proposal to replace the “regulated work” definition with a list of roles/jobs?

Yes

21 Do you foresee any challenges for organisations from this proposed approach?

No

22 Are there any roles/jobs not within the list in Annex B that you think should be subject to mandatory PVG scheme membership?

Yes

If so, please provide more detail on why.:

Senior managers and inspectors where their roles involve substantial and privileged access to the personal data of children and vulnerable adults to fulfil their responsibilities.

23 To avoid inappropriate membership, what criteria to you think should be used to decide if an individual is in a protected role?

To avoid inappropriate membership, what criteria to you think should be used to decide if an individual is in a protected role?:

The criteria that they are employed in a role delivering a direct service to children or vulnerable adults i.e. where they are providing a direct service and required to spend time unsupervised with children or adults aside from incidental contact.

24 Do you think that the decision about whether someone who is in a protected role meets an exception which makes them ineligible for the PVG Scheme should be taken by Scottish Ministers?

Yes

25 Are there roles that would not be protected roles and therefore ineligible for membership to the new scheme, that should, however, be eligible for a level 2 disclosure?

Are there roles that would not be protected roles and therefore ineligible for membership to the new scheme, that should, however, be eligible for a level 2 disclosure?:

26 Are there any services that should be added, or are there any services that should be removed?

Not Answered

If yes, please state what these are.:

27 Is this appropriate?

Not Answered

28 Do you agree with this approach?

Not Answered

29 Do you think these are the correct facilities, or should any be added or removed?

Not Answered

If yes, please state what these are.:

30 Do you think this approach is clear and helpful?

Yes

31 Do you think that list of positions is correct?

Not Answered

Should it be amended either by adding to it, or by taking away from it?:

32 How long should scheme membership last in a mandatory scheme?

Not Answered

33 Do you think a membership card would be beneficial to you as a member of the PVG scheme?

No

34 Do you think a membership card would be beneficial to you as an employer?

Not Answered

35 Do you agree with these proposals?

Not Answered

36 What is your preferred option?

Not Answered

37 Are you in favour of being able to interact with Disclosure Scotland online?

Yes

38 Are you in favour of using electronic payment method for fees?

Yes

39 Do you have an electronic payment method that you prefer?

No

If you have answered 'yes' please say what it is.:

Different local authorities may vary in terms of their preferred method.

40 Do you have any proposals on how the transitional arrangements should work?

Do you have any proposals on how the transitional arrangements should work? :

The proposed change is not employer focused and therefore would be very different to the previous retrospective checking exercise carried out under the 2007 Act which involved a certain number of applications per organisation per month.

A question arises as to whether the two schemes have to run in parallel for a transitional period and whether the system would be flooded if all those on the revised scheme at the start required their membership to be renewed at the same time.

41 Should volunteers continue to receive free membership?

Yes

If no, should they be subject to a reduced fee?:

Volunteers provide a valuable service to society and should not incur the cost of membership.

42 Do you agree that voluntary organisations seeking to benefit from a reduced fee or the fee waiver should be subject to a public interest test?

Yes

If so, how should that test be defined?:

43 Do you agree that employees and employers alike (including volunteers and volunteering bodies) who work or allow an individual to work in protected roles without joining the PVG Scheme or to stay in protected roles after membership has expired should be subject to criminal prosecution?

No

44 Do you agree that any scheme member who fails to pay the relevant fee to renew their PVG Scheme membership and where there are no employers (or volunteering bodies) registered as having an interest in them in a protected role should exit the PVG Scheme automatically at the expiry of their membership?

Not Answered

45 Should a person who joined the Scheme as a volunteer and benefitted from free entry later try and register a paying employer against their volunteer membership then the full fee would become payable and a new 5 years of membership would commence. Do you agree with

this?

Not Answered

Section 4 - Removing unsuitable people from work with vulnerable groups

46 Do you agree with our proposals to dispense with the current court referral procedure under section 7 of the 2007 Act?

Yes

47 Are there offences missing from the Automatic Listing Order that you think should be included?

Not Answered

If you answered yes to question 47, please list the offences you believe are missing?:

There needs to be consideration and debate regarding the pending domestic abuse legislation in relation to the extension to include categories of emotional, psychological and financial abuse.

48 Do you agree with proposals to create new referral powers for the Police?

Yes

49 Do you agree these powers should be limited to when police have charged a person with unlawfully doing a protected role whilst not a scheme member or where a referral has not been made by a relevant organisation?

Yes

50 Do you think this proposal closes the safeguarding gap in terms of self-directed support?

Not Answered

51 Do you think that this list of regulatory organisations should be amended?

Not Answered

52 If you think the list should be amended, please give details of additions or removals.

If you think the list should be amended, please give details of additions or removals.:

53 Do you agree with the proposal to provide Disclosure Scotland with powers to impose standard conditions?

Yes

54 If yes, how long should the conditions last before lapsing?

6 months

55 Under what circumstances do you think Disclosure Scotland should be able to impose standard conditions and why?

Under what circumstances do you think Disclosure Scotland should be able to impose standard conditions and why? :

This would depend on the allegation and the nature of the work they do, however could include not allowing any unsupervised work with adults/children, or any direct physical contact e.g. could work accompanied by another individual etc. Limits to voluntary/charity work and access to finances.

56 Do you agree that it should be a criminal offence if an individual and employer/voluntary body failed to comply with standard conditions?

No

57 Do you agree the age threshold for the shorter prescribed period for a removal application to be made should be raised?

Yes

58 Which option do you prefer?

Option C

59 Do you think it's appropriate that organisations, irrespective of where the regulated work is to be carried out, should be informed of a listed individual's barred status?

Yes

60 Do you agree with our approach for PVG Scheme Members in a protected role overseas or organisations employing PVG members to do a protected role, such as providing aid services?

Not Answered

61 We are proposing that there should be criminal offences in relation to organisations who employ barred persons overseas. Do you think that we should also consider introducing criminal offences in relation to barred individuals offering to undertake a protected role overseas?

Not Answered

Section 5 - Offence Lists and Removal of spent convictions from a disclosure

62 Are there any offences missing from either list that you think should be included?

No

If so what are they, on what list should they appear and why?:

Aside from convictions which indicate a risk to vulnerable groups there is perhaps a need for this to be reviewed in its entirety. We would welcome further discussion on this issue. A means of simplifying the disclosure process would be for spent convictions to 'drop off' the certificate automatically unless a case can be made for this information to remain.

Given the implications for human rights and the significant detriment to individuals in terms of social inclusion and barriers to economic participation, perhaps the responsibility to evidence why provision of certain information to employers remains useful, or necessary, should fall to the state. As we know from the research that many of those subject to disclosure were previously in local authority care, an argument could be made that the state has failed on some level in its duty as corporate parent. Should we accept that this argument has merit, it follows that the state has a responsibility to act to end practices which could be seen as the continuation of punishment beyond the end of sentence.

In order to simplify the system discussion should focus on having one smaller list in which only those offences which require specific consideration are included and offences which indicate a risk to vulnerable adults and children are clarified as barring access to working with certain groups going forward.

A growing body of evidence on desistance from offending promotes an individualised approach and emphasises the importance of addressing barriers to reintegration if long term desistance from offending is to be achieved. The current review seems to afford an opportunity to address some structural barriers to reintegration. The context of offending must be taken into account such as the impact of care experience, trauma, presence of mental health difficulties etc alongside consideration of the passage of time since the offence, progress made towards rehabilitation and evidence relating to assessed risk. This needs to be balanced with state's responsibility to uphold the care and protection of vulnerable people and children. The current proposals for reform of the PVG system do not appear to go far enough when viewed alongside the Justice Vision and Priorities which focus very much on rehabilitation, reintegration and social inclusion to reduce reoffending in the longer term.

We advocate that for children and young people only the most serious of offences should be subject to disclosure. We would urge consideration of the international evidence which highlights provisions used for the expunging and sealing of childhood criminal records.

We would argue that in both 8A and 8B offence listings require careful reconsideration. Placement on the Current 8B list of: - the inclusion of Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016, s.1. and the Sexual Offences (Scotland) Act 2009, s37(1) or (4) (Older children engaging in sexual conduct with each other) and the new additions of Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s.2 (disclosing or threatening to disclose intimate photograph or film) to schedule 8A. Where these offences apply to children and young people this is of concern. In the case of the latter we recognise the need to signal the extent of the harm that such behaviour causes, however, in the case of young people, the requirement for their ongoing disclosure could have a particularly damaging and unnecessary long term impact, arguably in some cases, with relatively little obvious benefit in terms of public protection.

63 Are there any offences on schedule 8A that you think should be on schedule 8B?

Not Answered

If so, please list them and explain why.:

64 Are there any offences on schedule 8B that you think should be on schedule 8A?

Not Answered

If so, please list them and explain why.:

65 Do you agree with the categorisation of the new offences?

Not Answered

If no, please state how they should be categorised. :

66 Do you believe the rules for disclosure in the current form of 15 years and 7.5 years provide appropriate safeguarding and privacy protections?

No

67 Do you agree that a reduction in the disclosure periods from 15 & 7.5 years is appropriate considering the changing policy on rehabilitation of offenders?

Yes

68 What period between 11 and 15 years do you think is appropriate for disclosure?

11

69 Do you think the application process to seek removal of a spent conviction should be reviewed?

Yes

70 At present, an individual has three months from the date of notification of an intention to appeal to make an application to a Sheriff. Do you think this time period is:

Not Answered

If you indicated that the time period is too long or too short, what do you think the time period should be?:

71 Do you think any of the options set out above offer viable alternatives to an application to a Sheriff?

Yes

If yes, which one? :

The introduction of an independent reviewer or making an application to a tribunal offer viable alternatives.

If not, do you have any other suggestions? :

A simpler process of less serious offences being automatically expunged is needed. People from disadvantaged groups may find the legal process too daunting a prospect to effectively be able to exercise their rights. Consideration should be given to the responsibility for removal of spent convictions lying with the state rather than the individual in order to address this.

Section 6 - Additional Policy Questions

72 Do you agree that Ministers should have a power to issue statutory guidance to Police Scotland on the processes governing the generation and disclosure of ORI, including seeking representations from the individual before issuing it for inclusion on an enhanced disclosure or PVG scheme record?

Yes

73 Do you agree with Ministers' proposals to allow for representations to the chief constable before disclosure of ORI to a third party and for providing the individual with the option to appeal to an independent reviewer before ORI is disclosed?

Yes

74 Do you agree that the independent reviewer being appointed under the ACR Bill should be used for reviewing ORI?

Yes

75 Should there be specific provisions reducing the possibility of the state disclosure of criminal convictions accrued by young people 12 years or older on all types of disclosure?

Yes

12 – 21 years

Please tell us why you have selected an age range or given your answer.:

Consideration should be given to age range 12-25 if this is to reflect the research on young people and offending, on developmental stages/ACEs and trauma highlighted earlier in this document (see also our more comprehensive response submitted via email).

We advocate that for children and young people only the most serious of offences should be subject to disclosure. We would urge consideration of the international evidence which highlights provisions used for the expunging and sealing of childhood criminal records.

We would argue that in both 8A and 8B offence listings require careful reconsideration. Placement on the Current 8B list of: - the inclusion of Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016, s.1. and the Sexual Offences (Scotland) Act 2009, s37(1) or (4) (Older children engaging in sexual conduct with

each other) and the new additions of Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s.2 (disclosing or threatening to disclose intimate photograph or film) to schedule 8A. Where these offences apply to children and young people this is of concern. In the case of the latter we recognise the need to signal the extent of the harm that such behaviour causes, however, in the case of young people, the requirement for their ongoing disclosure could have a particularly damaging and unnecessary long term impact, arguably in some cases, with relatively little obvious benefit in terms of public protection.

A simpler process of less serious offences being automatically expunged is needed for all age groups. People from disadvantaged groups may find the legal process too daunting a prospect to effectively be able to exercise their rights. Consideration should be given to the responsibility for removal of spent convictions lying with the state rather than the individual in order to address this.

Social Work Scotland strongly supports the raising of the age of criminal responsibility to 12 years old and would support moves to increase this over time. We believe that the approach taken for criminal convictions accrued by young people 12 years or older should reflect that of the proposed system for disclosing Other Relevant Information in respect of children under the age of 12. That is, disclosure should only be made following independent review as to whether such disclosure is proportionate and necessary for the protection of vulnerable groups, having had regard to the context of the conviction and the development and progress of the young person following the conviction

It is also very difficult for people to understand what will or will not be disclosed via ORI and standards should be produced against which individual decisions can be measured and understood, given the far reaching implications of these in terms of life opportunities.

At present there appears to be a lack of transparency regarding ORI disclosure. Lack of awareness regarding what information may be disclosed via ORI may have the impact of discouraging people in general from making application for employment in the first place.

76 Should there be a presumption against the disclosure of all convictions accrued between 12 and a specified upper age, with the only possibility being police disclosure as ORI after ratification by the Independent Reviewer on the Level 2 and PVG Level disclosures?

Yes

77 Should there be no state disclosure of any conviction between the age of 12 and the specified upper limit, except where the conviction is for an offence listed in schedule 8A or 8B?

Yes

78 If there is a disclosure of an 8A or 8B conviction(s) should all other unspent convictions be disclosed even if the other unspent convictions are for offences not listed in schedule 8A or 8B?

No

79 Should disclosure applicants with 8A and 8B convictions be able to apply immediately to a sheriff (or other authority) to have those treated as protected regardless of the passage of time?

Not Answered

80 When including ORI on any disclosure about conduct between the age of 12 and the upper age limit should the police only be able to refer to matters they reasonably considered to be serious?

Yes

81 Do you agree with the proposal to place a lower age limit on applicants for criminal record checks?

Yes

82 In what circumstances should a criminal record check for a child under 16 be permitted?

In what circumstances should a criminal record check for a child under 16 be permitted?:

83 Do you have any concerns with this proposal?

Do you have any concerns with this proposal?:

84 Do you think a supported person arranging self-directed social care should have access to vetting information which could include details about previous convictions relating to a prospective carer?

Yes

If you responded 'No' to Q84, do you have any suggestions about how Disclosure Scotland checks could be structured to assist a supported person making their own arrangements for self-directed social care? :

85 Do you think this approach is correct?

Not Answered

86 Do you think that it should be?

Not Answered

87 Should vetting information be available if the arrangements are being made by a private individual?

Not Answered

88 Do you agree that the law be changed to sort this anomaly?

Not Answered

89 Do you think that provision should be made to bring into force the amendment at section 78(1) of the 2007 Act?

Not Answered

90 Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on any particular groups of people?

Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on any particular groups of people?:

We believe that the legal need for disclosure should be reduced in order to facilitate social inclusion and allow people to reintegrate and once again be accepted as contributing members of society.

People who have committed offences face many financial disadvantages due to excessive disclosure requirements, for example being refused access to employment, education, banking and insurance (often regardless of the type of offence).

This must be proportionate and balanced with the importance of safeguarding and protecting vulnerable groups. We believe these reforms go some way to achieve this.

91 Please tell us what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups?

Please tell us what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups?:

There is a need for structural change to promote reintegration whilst maintaining proportionate safeguards for the public and this must be reflected in the reform of the PVG system. The entire system must be made much simpler and more proportionate.

92 Please tell us about any potential impacts you think there may be to particular businesses or organisations?

Please tell us about any potential impacts you think there may be to particular businesses or organisations?:

93 Please tell us about any potential impacts you think there may be to an individual's privacy?

Please tell us about any potential impacts you think there may be to an individual's privacy?:

There is a need for structural change to promote reintegration alongside proportionate privacy safeguards for the public and this must be reflected in the reform of the PVG system. The entire system must be made much simpler and more proportionate.

94 Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on children?

Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on children?:

Children and young people who commit harmful behaviour are frequently subject to a number of adverse experiences which impact on their development and wellbeing. The response to this in Scotland, as outlined in the GIRFEC approach and enshrined in the Hearing system, is to focus on promoting the child or young person's wellbeing and not to punish. We believe that the opportunity afforded by reforms to PVG should bring disclosure in line with Scotland's approach to supporting young people by ensuring that only those offences accrued in childhood are disclosed where there is clear concern that there is continuing risk to vulnerable people and other children. Such an approach will balance a young person's need for support to grow into a contributing citizen while affording sufficient protection to vulnerable groups and children.

Social Work Scotland would highlight the following from the Scottish Government document "Reintegration and Transitions for Young Offenders: Guidance" as being of relevance here.

"Local Authorities and community planning partners have a responsibility to ensure resources are available for young people returning to communities from secure care and custody to reduce the risk of them reoffending. . . . The services that form part of the whole system approach to improve reintegration and transitions, to support young people and reduce offending include . . . learning, skills and employability; by young people having access to these when returning to communities . . ."

The aforementioned highlights the importance of co-ordinating policy and strategy to effectively meet the need for social inclusion. Social Work Scotland consider that more extensive reform of the PVG system will be central to assisting people into employment and achieving successful reintegration of those who have previous offences in general and young people in particular.

About you

What is your name?

Name:

Social Work Scotland

What is your email address?

Email:

karen.stewart@socialworkscotland.org

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Social Work Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very dissatisfied

Please enter comments here.:

We felt that the consultation document was not constructed in a manner which allowed a comprehensive nuanced response to the many important areas discussed. Many of the questions appeared to demand a yes or no answer with little opportunity for full comment. Social Work Scotland have therefore also submitted a more comprehensive response via email.

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

The aforementioned difficulties relate more to the consultation construction as opposed to the platform used.