

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE**DATA PROTECTION FORM**

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Date:	23/08/19
Organisation: (if required)	Social Work Scotland
Topic of submission:	Disclosure (Scotland) Bill

I have read and understood the privacy notice about submitting evidence to a Committee.

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EDUCATION AND SKILLS COMMITTEE, SCOTTISH PARLIAMENT

DISCLOSURE (SCOTLAND) BILL

SUBMISSION FROM SOCIAL WORK SCOTLAND

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice within social services. We are grateful for this opportunity to comment on the Disclosure (Scotland) Bill at Stage 1, and to offer our strong support for the policy aims and its general principles. The extent of consultation, engagement and deliberation which has fed into these proposals is evident, and while some details remain unclear, the Bill's provisions reflect a considered, evidence-based effort to bring the disclosure system up to date, balancing public safeguarding and individual human rights.

At this stage we limit our comments to a few key areas.

Principles behind the Bill's central reforms

Throughout the development of these reforms Social Work Scotland has articulated a view that the current disclosure system is overly complex and punitive, negatively impacting on individual's prospects for reintegration and employability. Like many other organisations, we also highlighted the specific issues relating to children and young people (particularly those with care experience), where disclosure rules appeared out of step with both the evidence and Scotland's broader, children's rights based policy programme. We urged the Scottish Government not to squander the opportunity of reform by making minimal changes, or by adopting measures which increase complexity with no obvious benefit in terms of public protection.

We are pleased that the Bill confronts these issues robustly, setting out bold yet proportionate reforms, coherently connecting in with or building on a wider legislative agenda (e.g. Age of Criminal Responsibility, Management of Offenders, etc.). Underpinning these separate elements is a commitment to human rights, and a progressive view that we should attend to individual's needs and current circumstances, rather than their past. This is not to say, however, that public safety is secondary. As a profession in the front line of keeping people safe, social work is uniquely well placed to attest to the importance and value of an effective disclosure system. But the operation of such a disclosure system does not have to run counter to the evidence that people have the capacity to change, and that with the right support and opportunity, much to contribute to society at large. The proposals in the Bill appear to bring the disclosure system in line with this understanding, while at the same time enhancing its central function of protecting vulnerable groups.

Coherence across legislation, policy, implementation

The Disclosure (Scotland) Bill is being considered in parallel with, or soon after, legislation relating to the Age of Criminal Responsibility and Management of Offenders. There are also important, relevant policy developments in relation to sentencing, support for victims, human rights. All of these are interconnected, and to a significant degree, interdependent, shaping the context within which the others are to be implemented. It is critical that Scottish Government and its agencies have a coherent and comprehensive understanding of how all these parts piece together, with systems in place for managing risks, tensions and overlaps. In the progress of this Bill we would encourage officials to share this map / plan with stakeholders, to provide reassurance that appropriate links are being made.

Childhood convictions

We strongly support provisions in the Bill which propose to end the automatic disclosure of convictions accrued by children under the age of 18, and if such behaviour must be disclosed, that it will be listed separately from convictions accrued when aged 18 and over.

Other Relevant Information

We welcome provisions within the Bill to end the process of Other Relevant Information (ORI) being disclosed to third parties before applicants have the opportunity to challenge it. The introduction of the process of independent review is also very welcome. However, as we noted in earlier submissions on reform of disclosure, employers are 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 a job 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. We appreciate the commitment to developing statutory guidance, and have been reassured by Disclosure Scotland's determination to address the issue, but hope that the legislative process is an opportunity to identify satisfactory solutions.

Financial Impact

In the financial memorandum accompanying the Bill, it is estimated that the reforms will present only a 'minimal cost' for local authorities. We appreciate how difficult it is to assess and quantify the impact of such changes, and we agree with the underlying logic that the impact is likely to be relatively small, and over time potentially money saving. However, a 'minimal cost' is not nothing, and when many separate 'minimal costs' are added up together the financial (as well as human) impact can be significant. In line with the comments made above about coherence across legislation, it is important that these changes to the disclosure system are scrutinised alongside the many other changes which local authorities and their partners must, or may have to, make. The pace and weight of change is considerable at the moment, demanding time and attention, placing new burdens of existing

services which are already stretched. Even if each individual change was small and welcome, the cumulative effect merits closer attention.

New referral powers for Scottish councils and Integration Joint Board

The Bill sets out new powers for local authorities and Integration Joint Boards, enabling them to make referrals to Disclosure Scotland where they become aware that a referral ground has been established. Broadly we are supportive of this development, recognising as it does the key safeguarding role which both organisations play. However, we take this opportunity to draw attention to concerns raised by COSLA colleagues; principally that the new powers create an expectation that local authorities will 'police' all those employed by individual's under self-directed support arrangements, and related liabilities which may follow. Social Work Scotland members have articulated similar concerns, and we would welcome further discussion with Scottish Government and Disclosure Scotland throughout the legislative process.

For further information, please do not hesitate to contact:

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