

BY E-MAIL

Ms Clare Adamson  
Convener, Education and Skills Committee  
The Scottish Parliament

23 December 2019

Dear Ms Adamson,

### **Disclosure (Scotland) Bill**

I am writing regarding the Disclosure (Scotland) Bill which is currently undergoing scrutiny by the Education and Skills Committee.

We note the intention of the proposed Bill to strengthen the safeguarding framework in Scotland including streamlining the process for voluntary organisations and individuals seeking to gain assurance about the credentials of those undertaking work with vulnerable groups. We have however identified a potential further opportunity in the Scottish safeguarding framework which the Bill does not currently address but in our view could. This is the ability of Accredited Registers (registers of health and care practitioners who are not regulated by law) to access information about the safety of the practitioners who apply to join their registers.

As well as its role overseeing the work of the statutory health and care professional regulators the Professional Standards Authority (the Authority) has a statutory responsibility to run the Accredited Registers programme which accredits voluntary registers of practitioners who are not regulated by law. The programme covers 25 registers and 88,000 practitioners including counsellors and psychotherapists, play therapists, sports therapists and complementary therapists amongst others. The intention is to enable patients, employers and commissioners to choose practitioners from a register that has been accredited knowing that it must meet our standards. These include protecting the public, risk management, complaints handling, governance, setting standards for registrants, education and training, and managing the register.

The Authority has previously highlighted the need to address the legislative barriers which are preventing the Accredited Registers programme from providing full public protection. This is caused primarily by the limitations of the Rehabilitation of Offenders Act 1974 and the Safeguarding Vulnerable Groups Act 2006 in England and Wales. In Scotland, as you will be aware, the system is underpinned by the Protection of Vulnerable Groups (Scotland) Act 2007.

The Accredited Registers are currently prevented from accessing and holding safeguarding information about prospective or current practitioners under the respective legislation. This

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may include both information about individuals barred status (either from the Disclosure and Barring Service or Disclosure Scotland) and/or spent relevant convictions and therefore suitability to work in roles where they may be in contact with vulnerable individuals.

The risk exists that an individual with a spent conviction for a relevant offence (such as a violent, sexual or dishonesty-related offence) or on a barred list, could apply to join an Accredited Register and the Register would not be able to access that information, which is needed to properly assess suitability to join the register. Although some employers do have the power to obtain this information, many registrants work on a self-employed basis and therefore would not be subject to the relevant checks but may still come into contact with vulnerable people, including children. We believe that provision for the Accredited Registers to access the relevant information would strengthen the public protection offered through the Accredited Registers programme.

As Scotland are currently making changes to the safeguarding legislation via the Disclosure (Scotland) Bill we have discussed with Disclosure Scotland and subsequently sought legal advice about whether the changes proposed are likely to allow the Registers to gain assurance about those applying to join their register.

The proposed change to expand use of accredited umbrella bodies to act as counter signatories for other bodies seeking assurance about individuals working with vulnerable individuals e.g. voluntary organisations or individuals employing care assistants directly, initially appeared to be a possible solution. This would mean that the umbrella body will be able to receive the relevant safeguarding information and provide assurance about the safety of the relevant individual to the organisation or individual who needs it. However, our legal advice suggests that the current proposals would not be broad enough to enable the Accredited Registers to access the information in order to assess applicants for registration.

As we understand it, the intention in Scotland is to ensure that those working in particular roles and undertake specific activities are covered by protection of vulnerable groups requirements. We therefore wanted to highlight what we believe is an ongoing gap in the framework which could be addressed by making changes to the Bill before it comes into law.

I understand that the Committee held a call for evidence earlier in the year, but we have only recently received clarity on the implications of the Bill's proposals on this issue, hence only being in a position to raise this now.

I would be very happy to discuss any of this further with you.

Yours sincerely,



Alan Clamp  
**Chief Executive**