

Education and Skills Committee call for evidence on Disclosure (Scotland) Bill

Submission from Royal Blind and Scottish War Blinded

August 2019

Royal Blind and Scottish War Blinded welcome the publication on the Disclosure (Scotland) Bill and the opportunity to respond to the call for evidence from the Education and Skills Committee to inform Stage 1 consideration of the Bill.

Royal Blind is Scotland's largest vision impairment organisation. Our vision is to see a community in which blind and partially sighted people, including those who have other disabilities, are fully included and lead fulfilling lives. We care for, educate and employ blind and partially sighted people from across Scotland and the UK. We support people of all ages - from babies and toddlers at our pre-school playgroup, children and young people at the Royal Blind School and Kidscene after school club, young adults through our supported accommodation and respite care, employees with vision impairment at the Scottish Braille Press and older people in our care homes. Our sister charity, Scottish War Blinded provides a free service supporting individuals who have served in the armed forces and currently live with a vision impairment.

Royal Blind and Scottish War Blinded broadly welcome the Disclosure Scotland Bill to ensure a robust and efficient legislative framework for safeguarding young people and protected adults in Scotland. We believe the proposals will be beneficial in making the system accessible, simpler and proportionate. There are a number of specific issues we wish to draw to the attention of the Committee which are of particular interest to us in relation to the work of our charity and the needs of people living with vision impairment.

Membership of the Protection of Vulnerable Group Scheme for Charity Trustees

Royal Blind and Scottish War Blinded welcome the Bill as an opportunity to close a loophole in existing legislation identified by Disclosure Scotland. This was identified by Disclosure Scotland during a sample check on eligibility in relation to applications for our charity trustees to join the Scheme.

There are virtually identical definitions in respect of charity trustee in Part 4 of Schedules 2 and 3 of the Protection of Vulnerable Groups Act (2007). These state that regulated work with children is where the charity's main purpose is to provide benefits for children, and that regulated work with protected adults is where the charity's main purpose is to provide benefits for protected adults. The consequence

of this is that the charity can only have one “main purpose” in relation to these provisions, and therefore the trustees are only eligible for either the children’s workforce or the protected adults workforce, but not both. If the charity is providing benefits to both children and protected adults equally, then the trustees are not eligible for a PVG check at all.

It has been accepted that this was an unintended consequence of having two separate types of regulated work, and clearly our view as a charity is that it is important that we are able to request PVG checks for both our work for children and young people as well as for our work with protected adults for our trustees.

We have been informed by Disclosure Scotland that the revised definitions of regulated work in the Disclosure Scotland (Bill) will close the loophole relating to charity trustees of charities who deal equally with both children and protected adults. Given there are a significant number of charities who work with both groups, we welcome this matter being addressed through the new legislation. We believe further detail on how this is being achieved in the Bill would also be beneficial. Our reading of the Schedules to the Bill indicate that this is achieved by trustees of charities providing benefits to protected adults no longer having to join the Scheme, but further detail on this matter would be welcome.

Equality of access to the new Scheme

We recognise the consultation process for the Bill found strong support for a simpler system with fewer disclosure products and also for services to be provided online, and that this will make accessing the scheme easier for many of those using it, including employers. However it is important that this should not result in a “digital by default” approach as non-digital alternatives are important for many people, including those with sight loss. As a charity which provides accessible media for people with vision impairment, we welcome the Policy Memorandum stating that non-digital alternatives will be made available.

The Policy memorandum refers to the potential for introducing membership cards, to a more limited extent than had been proposed in the consultation, so that they are available to scheme members who cannot interact digitally with Disclosure Scotland. The provision of membership cards may therefore be important for people with vision impairment, but their introduction is not on the face of Bill, with the Policy Memorandum stating that this will be achieved through regulation-making powers under section 72(1) of the PVG Act. The Policy Memorandum does not state whether there will be a fee for a membership card, which would potentially see additional costs imposed on those employees who couldn’t access the scheme digitally. We believe this would create an inequality in the system for those with access requirements. Therefore, we believe further clarity would be welcome on how a membership card will be introduced, whether there are any plans to charge fees for cards and the timescale for their introduction. We also believe there is a case for statutory instruments for the arrangements for membership cards to be considered through the affirmative procedure.

Voluntary sector organisations and the new system

As a member of the Coalition of Care and Support Providers, Royal Blind is aware of a number of concerns the organisation has raised in relation to impacts of a number of proposals for the new system set out in the Bill. We would urge the Committee to consider carefully the issues highlighted in that submission which sets out a number of priorities for third sector organisations. These include the need to for process changes to Disclosure to minimise the risks of time delays and increased costs which are likely to be seen as further barriers to employment in a sector which already faces significant challenges in recruitment and retention.

Additionally, we believe further detail and consideration should be given to the potential cost impacts of third sector employers of moving to a recurrent five year scheme membership, and the additional administrative burden. We understand the strong policy drivers for this proposal, and that it reflects the most popular option from the consultation. However, a number of voluntary sector organisations will pay for their employees' membership of the scheme. This is of particular importance for third sector organisations working in areas such as the care sector where there are already concerns over low pay. The financial memorandum provides an example indicating that for some individuals, or organisations paying membership fees on their behalf, costs could rise from £59 to £236. Either for individual employees in low pay sectors or third sector organisations employing large numbers of staff, the financial impact is potentially not insignificant. Consideration should be given to how additional costs for such employees or third sector providers can be minimised.

Richard Baker, Policy Manager