

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

Healthcare Improvement Scotland response

Healthcare Improvement Scotland (HIS) is responsible for regulating independent hospitals, voluntary hospices, private psychiatric hospitals and independent clinics in Scotland.

HIS started to regulate independent clinics in April 2016. Independent clinics are defined in the National Health Service (Scotland) Act 1978 as clinics that are not part of a hospital and from which a medical practitioner, dental practitioner, registered nurse, registered midwife or dental care professional (clinical dental technician, dental hygienist, dental nurse, dental technician, dental therapist, orthodontic therapist) provides a service, which is not part of the National Health Service. The term 'service' includes consultations, investigations and treatments.

We would like to draw the committee's attention to the requirements of the [Healthcare Improvement Scotland \(Requirements as to Independent Healthcare Services\) Regulations 2011](#). These regulations set out the standards independent healthcare services have to comply with in order to maintain their registration. These regulations impose a duty on HIS and the providers of independent healthcare to check the backgrounds of anyone who provides, manages or is employed in an independent healthcare service.

In particular regulation 9 states:

- (1) A person who is listed in the children's list in the Protection of Vulnerable Groups (Scotland) Act 2007(1) must not provide, manage or be employed in an independent health care service which provides care for children
- (2) A person who is listed in the adults' list in the Protection of Vulnerable Groups (Scotland) Act 2007 must not provide, manage or be employed in an independent health care service

In order that both HIS and the providers of independent healthcare services can discharge their duty under this regulation, it is important that they can establish the listed status of individuals that act as providers, managers or employees in independent healthcare services using the PVG scheme.

The Protection of Vulnerable Groups (PVG) (Scotland) Act (2007) was recently amended to allow HIS to undertake suitability checking of providers of independent healthcare services as part of the registration process and it is important that these arrangements are maintained under any new scheme.

The current PVG scheme also allows the providers to enrol their employees in the scheme if they are undertaking regulated work within the service. It does not, however, permit them to check the listed status of every employee and therefore their suitability for employment. This restricts their ability to comply with regulation 9 above. It would be helpful if the ability of providers to undertake a check in this way was considered as part of any new scheme.

We would also highlight that within the independent healthcare sector there are a number of mechanisms to 'employ' people in a service in addition to direct employment, for example healthcare professionals can be granted practicing privileges within a registered service or employed on a sessional basis. In order to ensure that a provider can comply with regulation 9 it is important that all methods of engagement are considered employment for the purposes of checking listed status.

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