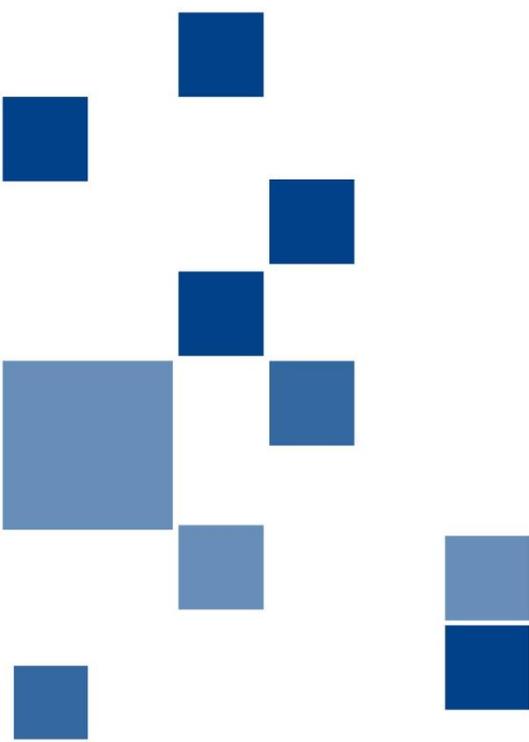


Scottish Government call for evidence on the Disclosure (Scotland) Bill

August 2019



Introduction

The Scottish Social Services Council welcomes the opportunity to respond to the Committee's call for evidence on the Disclosure (Scotland) Bill (the Bill). As a progressive regulator, we consider that the Bill presents an opening to revitalise disclosure and learn from the past with a view to enhancing public safeguarding for the future.

The Scottish Social Services Council (SSSC) is the regulator for the social service workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce.

We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We also have a responsibility for workforce data and intelligence. We produce workforce data, information and intelligence for employers and other customers to support the development of the sector. We develop and publish Official Statistics and National Statistics on the social service workforce, including on people employed as Mental Health Officers (MHOs) by local authorities.

Every worker on our Register is carrying out regulated work and we expect them to be PVG Scheme members.

We have considered the Bill and acknowledged in our response areas that provide clear improvements as well as those aspects that we believe require clarification.

Comments from the Scottish Social Services Council

The Bill sets out multiple policy objectives. We welcome mandatory membership of the PVG Scheme for anyone undertaking work with vulnerable groups, and the requirement for Police Scotland to make referrals when they have detected a person unlawfully working with vulnerable groups. This approach complements and reinforces our requirement that registered workers be PVG scheme members.

Engagement with stakeholders has identified confusion around what 'type' of disclosure they require for their role. We therefore also welcome that the Bill proposes a reduction in the number of disclosure products available and recognises the benefits of simplifying the range.

Information and data sharing

We note the proposals that allow Disclosure Scotland to assess what information to include in disclosures.

With specific reference to our Fitness to Practise proceedings, we need to receive all information that may affect a registered worker's fitness to practise and will make targeted requests to Disclosure Scotland for specific material where necessary. Where Disclosure Scotland considers a worker for inclusion on the children's list or adults' list, we have on occasion been unable to secure the release of information concerning why the worker is being considered for inclusion. This means that we are not in possession of all necessary information.

In consideration of this and in the event that the above proposals are taken forward, we would welcome Disclosure Scotland adopting an approach that encouraged data sharing where it is in the public interest to do so, for example to assist with regulatory proceedings which have public protection implications.

In relation to conditions, it is sensible that individuals who are being considered for listing be subject to conditions. We note that the Bill requires notification to the regulator of the fact and details of the condition, but not of the information leading to the imposition of the condition. If it remains the position that this information is not to be shared with regulators, their ability to regulate effectively and protect members of the public is potentially compromised. As such, we again advocate for increased data sharing in the public interest.

Tests for inclusion

We consider that clarity is required regarding the tests that will be applied to determine the inclusion of information and the factors that will be taken into account. Specifically:

- Is it proposed that relevance would be assessed differently depending on the Scheme member's profession and regulator?

- Would a pattern of behaviour be taken into account when assessing relevance?
- In the context of the SSSC, would the wider public interest in effective regulation and confidence in social services be taken into account?
- How would the regulators be involved in developing and reviewing the criteria?
- If information is deemed relevant, how would Disclosure Scotland assess whether it 'ought to be disclosed'?

Offence Lists

We note the lists accompanying the Bill. In consideration of these as a regulator, we would welcome clarification or guidance on the rationale behind the inclusion and exclusion of offences from the lists.

For example, we note that embezzlement has been categorised as a List A offence, but fraud is not.

Renewals

The Bill states that Disclosure Scotland are allowing a four-week discretionary period for renewal of membership. Disclosure Scotland will advise Members three months in advance of renewal about the need to renew. In our experience of processing renewals, we feel it is helpful to state that the introduction of this discretionary period could encourage and result in late applications for renewal.

Section 7 (4) states that Disclosure Scotland will advise employers when someone has failed to renew and is no longer a Scheme member. It is our position that a further essential step is to also notify regulatory bodies to allow them to consider the removal and determine if any interim action is necessary to protect the public.

Regulated roles

Whilst on our Register and fit to practise, social workers are available to carry out regulated work and as such, must be PVG Scheme members. In light of this, we consider that the Bill should contain provision to ensure that Scheme membership for social workers continues.

We are also responsible for regulating and registering Care Inspectors and their seniors. We would welcome clarification regarding whether the term 'regulated roles' covers these workers. Our position in relation to these roles is the same as our stance on social workers. Specifically, that the Bill should ensure that those employed in these register parts continue to be eligible for Scheme membership.

For further information on this response,
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