



Scottish Parent Teacher Council

53 George Street
Edinburgh
EH2 2HT

Tel: 0131-226 4378/1917

Fax: 0870 706 5814

Email: sptc@sptc.info

Evidence to the Scottish Parliament's Education Committee on the Protection of Vulnerable Groups (Scotland) Bill

We welcome this opportunity to comment on the principle of the legislation as the consultation made it clear that the intention was for English and Scottish legislation to be identical. As the English legislation has now been passed, we were concerned that there would be no scope for change in Scotland. We hope our fears prove groundless.

Proportionality

This Bill builds on and takes further the Protection of Children (Scotland) Act, but our experience of that legislation is that it is disproportionate, takes no account of actual risk and applies to both low and high risk activities without discrimination. We accept that there is a need to be very vigilant when people are appointed to work in children's homes and in situations where adults have a close, regular one-to-one relationship with children, particularly when the child is dependent on that adult for care. However, the same does not apply to the school based Mums who turn up to help several other parents run a disco for the pupils. We even know of a case where villagers responsible for managing the use of their village hall were required by the local authority to have enhanced disclosure checks. We are unaware of any case of abuse that has arisen out of such activities.

Moreover, the numbers speak for themselves in terms of proportionality. The consultation refers to 500,000 disclosure checks **in one year**, whilst the current estimate is that, once the new legislation is operational, some 1,000,000 people will fall within its scope. That is 25% of the total adult population in Scotland.

The legislation fails to define important terms so that it has no limits

One of the reasons for the excessive level of checking is that the legislation fails to define terms like "child care", "normal" or "for the benefit of the child", so many people are brought within the scope of the legislation as people play it safe. We know of some local authorities where no one is able to enter a school unless they have undergone a disclosure check. This applies equally to parent volunteers and plumbers there to mend the radiator. Moreover, some authorities, just to err on the safe side, exclude anyone with any kind of police record, not just those records that are relevant to child abuse.

Introduces a "back-watching" system that does not help children

It is quite clear from the many seminars and conferences that we have attended on this subject, that many organisations are using the legislation to protect their own backs rather than to protect children. They are concerned that they will be able to provide an audit of

diligence should anything go wrong. Moreover, it is also clear that many organisations are not using the checking process simply to determine whether someone is barred from working with children; they are using the information disclosed to them to pass judgement on people in terms of their whole police record. We know that many parents are unwilling to volunteer because they have some youthful indiscretion in their past which resulted in a conviction and they are worried that this will be rediscovered and, in the small community of a school, label them as “dodgy”. As we have said before, we have written evidence that some authorities have a zero tolerance policy on anyone being involved in their schools if they have any criminal conviction. However, this runs totally counter to the Parental Involvement legislation which the Education Committee recently approved. This latter legislation aims, in particular, to involve hard-to-reach parents – the very folk who are most easily excluded under this vetting and barring process.

Destroys social trust

The legislation, which assumes adults are potentially paedophiles until proven otherwise, is building up a climate of social distrust and destroying the natural and healthy relationship between adults and children. Men in particular are very wary of having anything to do with children or offering help to a child who is in trouble. A recent report by the Institute for Public Policy Research found that “Britain is in danger of becoming a nation fearful of its young people” and that “British adults are less likely than those of other European countries to intervene to stop teenagers committing anti-social behaviour”. It identified “paedophobia” as a significant contributory cause.

The converse of this situation is that children are being taught to fear all adults. They are taught that all – not some – adults are a danger to them. This can pose serious problems when for example a child is lost and does not know to whom they can turn.

Builds a false sense of security

Despite the intention of the legislation, people are starting to treat a disclosure as a qualification, as proof that an adult is “safe”. However, even though the evidence used to provide a disclosure is not just conviction evidence, but also soft evidence, it is still possible for the paedophile with a clean record to get a clean disclosure and the much valued “qualification”. Disclosure offers no guarantee.

It is generating paranoia about the risks of paedophilia

Recently official figures were published for the reasons for children being referred. The headline story was that cases of child abuse had increased by 33%. However, a closer look at the figures painted a rather different figure. Child abuse cases had indeed risen, but this followed a drop last year and in fact there were fewer cases than in 2003. Over all, child abuse accounted for only 11% of the cases. The main reason for referral was child neglect which accounted for 45% of the referrals and is a steadily growing problem. We understand that drug dependency by parents often lies behind such cases but there is nothing like the same focus of energy and spend on this problem. Moreover, in 79% of cases where the main abuser was known, it was the biological parent, with the mother being cited twice as often as the father. (see Appendix 1)

Drives adults out of volunteering

When this legislation was first introduced it was claimed that it had no effect on volunteering. We now know otherwise. There is the well documented shortage of volunteers to help with

Scout Groups. In our own area, we are often told of the problems PTAs have in getting anyone to help in the first place; if you then require the volunteer to undergo an enhanced disclosure check for the doubtful pleasure of policing a teenage disco, the average parent will say “no thank you”. I know of people who have decided not to take part in a walking bus because they couldn’t be bothered with the hassle. Similarly, the requirement for checks is stopping school exchange visits. For many parents having a foreign child to stay for 10 days is a duty rather than a pleasure; the need to undergo a disclosure check is enough to stop many from bothering. We have even had parents phone us concerned to know whether parents who have not been disclosed should be allowed in to watch their children perform in an end-of-term school play.

Problems with accuracy of database

Anyone who works with a database is aware of how easy it is for errors to creep in. Data is entered by people and people make mistakes. This problem is compounded because many old records are not precise enough to bear this level of scrutiny. We are aware of a retired vet who volunteered to give talks to children on animal management and care. He was asked to undergo an enhanced disclosure check. Five weeks later he was shocked to be told his check showed that he had spend time in Barlinnie in the Sixties. It transpired that his record had been confused with that of another man with the same name and date of birth who came from the same part of Scotland. Moreover, when the record is based not just on conviction evidence, but on “soft” evidence, the opportunities for error are compounded. In May, it was reported that in England some 3,000 innocent people had been falsely labelled as having a criminal record. It has to be assumed that errors work both ways and that there were also those with criminal records who were falsely deemed not to have them. These problems are compounded by malicious allegations. Given that the system requires checks to be made on the slightest suspicion, and evidence of being charged is treated the same as a conviction, it does not take much before such allegations become significant and damaging facts.

It is worrying that under the new legislation, if someone is listed as a result of a conviction, then even a successful appeal against conviction will not mean that the person is automatically removed from the list. As with the death penalty in America, innocence is not a sufficient reason to have the penalty removed.

Information sharing

Use of “soft information” based on suspicion or concern, means that proposals to share information could result in considerable files of circumstantial evidence being generated about some people without their knowledge. The limits and terms of knowledge-sharing are again not well defined and will result in everyone sharing everything, just to be on the safe side. As has been pointed out, in the recent Western Isles case there was plenty of shared knowledge; it was use or non-use of that knowledge that was the problem.

Value for Money

The consultation document (3.2.9) did briefly suggest that opportunity costs of the legislation should be considered, but that suggestion does not seem to have carried much weight. The Scottish Executive’s own figures (which, if true to experience, will be an underestimate) put the cost of implementing the legislation at £23 million, but this does not take account of the costs incurred by the various groups and organisations required to have their appointees checked. Many organisations are having to set up special administrative arrangements/ departments, at considerable cost, to manage the checking procedure.

Age confusion

We note that the age of the child is taken as being up to the age of 18, whilst a vulnerable adult is deemed to be aged 16 or over. In Scotland, youngsters move into adult decision-making at the age of 16, and it would make sense to use this as the dividing date between adult and child and not increase the confusion that exists for 16-18 year-olds as to their legal status. Moreover, when youngsters put themselves into the adult world of work, perhaps even to work one-to-one as the apprentice of a master tradesman, none of the adults responsible for their supervision needs to be checked. However, when youngsters put themselves into the adult world of further or higher education and generally sit in a public environment, whether that is the lecture or tutorial, then all lecturers and tutors have to be checked. We support the exclusion of the work situation but challenge the anomaly as regards HE and FE and would urge that the adult/child division be placed at the age of 16 years for all situations.

Conclusion

There are those who would argue that it doesn't matter about the cost, the bureaucracy, how many people are caught up in the process, how much it reduces volunteering – as long as it saves one child, it would all have been worth it. We strongly disagree. We think the opportunity costs are considerable.

- We think the destruction of social trust is very damaging to society; we think the divisions that are growing between adults and children are damaging to children's well-being; we think the loss of volunteering, particularly for children's activities, is similarly damaging to children; we think the limiting of children's trust in the society in which they live is damaging to children.
- We think the costs and bureaucracy are facing in entirely the wrong direction. They are focused on the lowest areas of risk leaving children exposed in areas of much higher risk. The figures for child referrals would suggest that there is a need to spend more and take more action to address the problem of physical neglect. Children suffer most at the hands of their own families or from friends of their families (facts born out by figures on child murders where more than 50% are committed by parents). There is clearly a need to spend more money on front line social workers.
- There have recently been a number of tragic cases where children have been killed or abused by known paedophiles who are no longer in protective custody. There is a serious need to develop a better system of monitoring such people.

If we could free ourselves from this over-burdensome, costly and bureaucratic checking system which is more effective in creating jobs than in protecting children, then we could start to address better the risks that children actually face.

Finally, it is worth pointing out that this system of vetting and barring might have stopped Ian Huntley from becoming a janitor at the Soham Village College; it would not necessarily have stopped him killing children, although he might have done it in a different place and at a different time. As far as we know the girls went to his house to visit Maxine Carr. She was out and they met her partner. The circumstances would have been the same if he had worked in a local supermarket. It was a chance and tragic encounter. He was not in a child care post in respect of the girls. Their tragic encounter with Ian Huntley was similar to Rory Blackhall's tragic encounter with Simon Harris. Proper care of children needs proper analysis of the situations.

November 2006

Appendix 1

**CHILDREN REGISTERED FOLLOWING A CASE CONFERENCE: 1999/00-2005/06
BY CATEGORY**

								% of total	% change
Category of abuse/risk	2000	2001	2002	2003	2004	2005	2006	2006	2000-06
Physical injury	713	688	644	766	741	628	779	28%	24%
Sexual abuse	286	256	249	310	234	226	301	11%	33%
Emotional abuse	235	270	264	438	434	376	442	16%	18%
Physical neglect	639	558	809	969	1,015	1,035	1,243	45%	20%
Failure to thrive	18	11	13	33	16	11	6	0%	-45%
Unknown	-	-	-	-	-	18	20	1%	11%
Total	1,890	1,783	1,979	2,517	2,440	2,294	2,791	100%	22%