

EAST AYRSHIRE COUNCIL

COUNCIL - 22 JUNE 2006

PROTECTING VULNERABLE GROUPS: SCOTTISH VETTING & BARRING SCHEME CONSULTATION PAPER

Report by Head of Administrative & Legal Services

1 PURPOSE OF REPORT

- 1.1 To advise Council of the current position in relation to the Protection of Children (Scotland) Act 2003; the Protecting Vulnerable Groups: Scottish Vetting and Barring Scheme Consultation Paper and anticipated future developments.

2. BACKGROUND

- 2.1 The Protection of Children (Scotland) Act 2003 provides for a list of individuals considered unsuitable to work with children to be established and maintained by the Scottish Ministers and for those on the list to be banned from working with children. Organisations including Local Authorities are required to refer people who are or have been working in child care positions for inclusion on the list if they harm a child or put a child at risk of harm and, as a consequence are dismissed or transferred from those positions or where their employment is otherwise terminated in such circumstances. An organisation may also refer an individual to the Executive where the dismissal, transferral etc. took place before the coming into force of the relevant sections of the Act. The Executive determines whether an individual so referred is to be included on the list by means of a defined process which gives the individual concerned an opportunity to challenge his/her inclusion. An organisation will commit an offence if it offers work in a child care position to an individual on the list. The Act also provides for an offence of failing to remove such an individual from a child care position, but that part of the Act has not yet been implemented.

- 2.2. In so far as the Act has been implemented the Council has taken various steps to ensure compliance as follows:-

- (i) The Council undertook a review of both the Council's disclosure and letting procedures.
- (ii) A number of individuals were referred on a retrospective basis to be included in the list.
- (iii) The Council reviewed all positions for designation as childcare positions.
- (iv) Recently appointed Members of certain committees concerned with the provision of education, accommodation, social services or health care services to children have been, or are in the process of being , disclosure checked.

- (v) Disclosure checks have been undertaken in relation to new employees or existing employees undertaking a new post; bank / supply registered individuals; volunteers / parent helpers / foster parents etc; those involved with the Children's Panel; contractors who provide services to the Council in relation to children e.g. drivers of school buses, taxi drivers

- 2.3** There is currently no legal requirement to carry out disclosure on existing employees in relevant positions. This requires to be considered and is being reviewed in the light of the proposed new legislation which will arise following the consultation on the vetting and barring scheme.
- 2.4** In December, 2003 an enquiry led by Sir Michael Bichard was commissioned by the Home Secretary following the conviction of Ian Huntley for the murder of Soham schoolgirls Holly Wells and Jessica Chapman. The enquiry investigated failings in child protection measures, record keeping, vetting and information sharing. The Report was published on 22nd June, 2004. Officials from the Scottish Executive, the Association of Chief Police Officers in Scotland and Disclosure Scotland, in particular, have been working closely with colleagues in the Home Office, Department for Education and Skills, Department of Health and the Criminal Records Bureau in taking forward consideration and implementation of the recommendations of that Report.
- 2.5** The Consultation Paper: Protecting Vulnerable Groups, Scottish Vetting and Barring Scheme focuses on the recommendation in the Bichard Report proposing the development of a registration scheme covering all those who work with children and vulnerable adults. Following further discussion, it has been agreed that a Barring Scheme through which unsuitable people would be barred from working with children and/or vulnerable adults should be developed rather than a Registration Scheme, through which suitable people would be registered.

3 DISCUSSION

- 3.1** The Consultation Paper is the first stage in the implementation programme for the new Vetting and Barring Scheme.
- 3.2** The two aims of the proposed scheme are that (i) those who are known to be unsuitable do not gain access to children or vulnerable adults through their work; and (ii) those who become unsuitable are detected at the earliest possible stage and are prevented from continuing to work, or seeking to work, with children or vulnerable adults.
- 3.3.** The objectives of the scheme are (i) to reduce the bureaucracy around the disclosure process; (ii) to reduce the burden on employers by including an assessment on unsuitability to work with vulnerable groups as part of the disclosure process and so improve consistency of decision making; (iii) to deliver a vetting service which will support effective recruitment practices; and (iv) ensure consistency, compatibility and connectivity across the UK even though we may adopt different approaches to some of the detail.

- 3.4** A response to the Consultation Paper was submitted following due consideration by relevant officers of the Council, and this was broadly in favour of the proposals. Most significantly, it is proposed to create a vulnerable adults list to work much the same way as the disqualified from working with children list. It is not clear from the Consultation Paper, however, how the scheme will work in practice and the Council's response deals mainly with the practicalities of the scheme. The scheme will involve the mandatory disclosure of all existing employees in relevant positions, phased in over a specified period of time.
- 3.5** The timescale for commencing phased implementation of the proposed new scheme is Winter 2007.

4 FINANCIAL AND LEGAL IMPLICATIONS

- 4.1** The main cost implication is that each disclosure costs £20. At the moment new employees and existing employees with a new appointment to a relevant post meet this cost themselves. However, existing employees whose role or post location have been changed have not been required to make that payment. If all employees in positions relevant to childcare or vulnerable adults are required to apply for a vetting and barring disclosure there will be considerable cost, not just in terms of the disclosure but in the ongoing administration within the relevant services. This cost implication will also apply to small employers, in particular voluntary organisations with whom we deal. Further consideration will require to be given as to how these costs are to be met on a corporate basis and also whether the Council wish to review the current costing arrangements.
- 4.2** There will ultimately be introduced new primary and secondary legislation to set up the new scheme.

5 RECOMMENDATIONS

- 5.1** It is recommended that Council note the terms of this report.

David Mitchell
Head of Administrative & Legal Services

8 June 2006

BACKGROUND PAPERS

- 1.** Protecting Vulnerable Groups: Scottish, Vetting and Barring Scheme.
- 2.** Response on behalf of East Ayrshire Council to the Consultation Paper.

- 3.** Report to Policy & Resources Committee – 18th April 2002 – Disclosure of Criminal History Information.

For further information on the contents of this report contact Julie McKinlay, Solicitor, Legal Section on 01563 576218.

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