



# SCOTTISH EXECUTIVE

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Dear Consultee

## CONSULTATION ON PROTECTING VULNERABLE GROUPS: SCOTTISH VETTING AND BARRING SCHEME

The First Minister made known on 12 Jan 2006 that the Scottish Executive would bring forward legislation in response to the Bichard recommendations in this session of the Scottish Parliament. I am writing to you following the launch of the consultation exercise this week to provide you with a copy of the consultation paper and to invite you to respond.

We are inviting written responses to this consultation paper by **2 May 2006**. We have provided a **response booklet** which contains details of the consultation process and questions to help you focus your response. Please see the response booklet for details of how to respond. If you have any queries which are not answered by the response booklet, contact Scott Wood on 0131 244 7612.

All responses will be analysed and considered along with any information from stakeholder events in order to develop the Scottish Vetting and Barring Scheme. We will issue a report on this consultation process in the summer and introduce legislation later this year.

Yours sincerely,

**Andrew Mott**  
Children & Families Division



## List of consultees

Association of Chief Police Officers in Scotland  
Care service providers  
Chief Constables  
Convention of Scottish Local Authorities  
Crown Office  
Disability Rights Commission  
Disclosure Scotland  
Faith groups  
Housing Associations  
Law Society of Scotland  
Local Authority Chief Executives  
Local Authority Directors of Education / Social Work / Finance / Children's Services  
Lord President and Lord Justice General  
Minority ethnic groups  
NHS Board Chief Executives  
Parent, carer and volunteer groups  
Political parties  
Professional regulatory and representative bodies  
Scottish Court Service  
Scotland's Commissioner for Children and Young People  
Scottish Further Education Colleges  
Scottish Higher Education Institutes  
School and teacher representative bodies  
Sheriffs, Sheriff Principals and Sheriff's Association  
Unions  
Voluntary organisations



# **PROTECTING VULNERABLE GROUPS: SCOTTISH VETTING AND BARRING SCHEME**

## **CONSULTATION PAPER**



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A separate response booklet accompanies this paper.



## 1. Introduction

- 1.1. On 12 Jan 2006, the First Minister made known that the Scottish Executive would bring forward legislation in response to the Bichard recommendations in this session of the Scottish Parliament. This legislation will set the framework for a new Vetting and Barring Scheme for people seeking work, whether paid or unpaid, with children or vulnerable adults.
- 1.2. This legislation is taking forward the principal recommendation made by Sir Michael Bichard following his inquiry into the systemic failures that were highlighted by the tragic deaths of Holly Wells and Jessica Chapman in Soham in 2003. While the report was primarily directed to England and Wales, the Scottish Ministers made clear that they would learn the lessons and also that we should seek to streamline current systems and ensure there are no cross border loopholes across the UK that could be exploited by those who might do harm to vulnerable people.
- 1.3. The proposed scheme will build on the existing Disqualified from Working with Children List and the disclosure system operated on behalf of the Scottish Ministers by Disclosure Scotland and incorporate a new Disqualified from Working with Vulnerable Adults List. It will be designed to provide a comprehensive, centralised, integrated and updated system to prevent unsuitable people from gaining access to vulnerable groups through their work and to ensure that those who become unsuitable are not able to remain in the workforce. A check of a person's barred status would be readily accessible (with appropriate safeguards) to organisations, including those in the voluntary sector, working with vulnerable people and to those employing carers and others under private arrangements, including parents.
- 1.4. The key benefits and features of the new scheme as proposed are:
  - greater consistency of decision-making on unsuitability through the development of a Central Barring Unit to assess information;
  - reduction in administration and bureaucracy as information is continuously updated and information about current status can be provided without the need for a further full enhanced disclosure check whenever an individual moves to a new employer or takes on new voluntary work;
  - continuous updating means that, if an individual who has had a disclosure check becomes unsuitable, their employer can be notified; and
  - controlled access to barred status for personal employers (e.g. parents employing private tutors or carers).
- 1.5. Legislation is required to provide the building blocks for delivery, to ensure the necessary powers are in place to share relevant information appropriately, to allow access to the barred lists for those with a genuine need to know and to streamline the system for the user. This consultation paper sets out the principles of the proposed scheme and the changes likely to be needed in **primary legislation** in order to support the new scheme. Much of the detail will be taken forward in **secondary legislation** or elsewhere and **will be the subject of future consultation**.

**1.6.** It is intended that a programme of implementation will begin in Scotland in 2007 with interim improvements to current vetting arrangements commencing during 2006.

**1.7.** The purpose of this consultation is to:

- outline the new vetting and barring scheme, its key features and benefits;
- provide the detail of the proposed legislation which will include:
  - > the introduction of a new Bichard-compliant Disqualified from Working with Vulnerable Adults List (**DWVAL**);
  - > amending the Protection of Children (Scotland) Act 2003 which introduced the Disqualified from Working with Children List (**DWCL**) to ensure it is Bichard compliant;
  - > amendments required to Part V of the Police Act 1997 and, possibly, the Rehabilitation of Offenders Act 1974; and
- seek your views.

**1.8.** The consultation closes on **2 May 2006**. Details of how to respond are contained in a separate response booklet.

## 2. Background and Context

### 2.1. The Bichard Inquiry

2.1.1. An inquiry led by Sir Michael Bichard was commissioned by the Home Secretary in December 2003 following the conviction of Ian Huntley for the murder of Soham schoolgirls Holly Wells and Jessica Chapman. The Inquiry investigated failings in child protection measures, record keeping, vetting and information sharing. The Report setting out Sir Michael's findings and recommendations was published on 22 June 2004 and can be found at [www.bichardinquiry.org.uk](http://www.bichardinquiry.org.uk)

2.1.2. While primarily targeted at England and Wales, Scottish Ministers welcomed the publication of Sir Michael Bichard's report. It was agreed that it was important to consider all 31 recommendations in Scotland, with colleagues in the rest of the UK, to ensure that in taking these forward, cross border anomalies or loopholes did not develop which could be exploited by those who might seek to harm children or vulnerable adults.

2.1.3. 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.

### 2.2. The Vetting and Barring Scheme

2.2.1. This consultation paper focuses on Recommendation 19 in the Bichard report because it is central to the improved regime and to take it forward requires legislation. (The other 30 recommendations are being taken forward as required in Scotland through a variety of actions.) This recommendation proposed the development of a registration scheme covering all those who work with children and vulnerable adults. The scheme, administered by a central body and with appropriate appeals mechanisms, would confirm that there was no known reason why an individual should not work with children or vulnerable adults. The register would be continuously updated with relevant information from the police and other bodies and available to prospective employers and parents for checking online.

2.2.2. Following discussions with key partners and a detailed feasibility study carried out by the Department for Education and Skills in England 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*. This followed confirmation by Sir Michael that such an approach met all the material requirements of his recommendation and that he was happy to endorse it.

## 2.3. The Current System in Scotland

- 2.3.1. The current vetting system operates through individuals obtaining a disclosure from Disclosure Scotland. There are three levels of disclosure: basic, standard and enhanced. All applications for disclosure are initiated by the applicant, so an employer cannot require a disclosure without the agreement of the applicant. The basic disclosure results in one certificate being issued to the applicant. In the case of the standard and enhanced disclosures, the application must be countersigned by an authorised person who will receive a copy of the certificate that is issued to the applicant.
- 2.3.2. In a **basic disclosure** only convictions which are unspent under the Rehabilitation of Offenders Act 1974 are disclosed. Under a **standard disclosure** both spent and unspent convictions are disclosed and, where the applicant is applying to work with children, whether the applicant is on the Scottish Disqualified from Working with Children List (DWCL) or the equivalent lists held in other UK jurisdictions. Where someone is so listed they are disqualified from working with children and commit an offence in applying to, or continuing to, work in a child care position. An organisation also commits an offence if they take on such a listed person into a child care position, whether in a paid or unpaid capacity.
- 2.3.3. In addition to the information provided by a standard disclosure the police have discretion in an **enhanced disclosure** to disclose non-conviction information that they consider relevant to the position being considered. Applicants for jobs (paid or unpaid) working with children or vulnerable adults are currently eligible for either a standard or enhanced disclosure depending on the regularity of the contact. We plan to introduce **interim changes** to the current disclosure arrangements to allow those posts working with children and vulnerable adults which are currently only eligible for a standard disclosure check to be eligible for an enhanced check. This change will be implemented by summer 2006.
- 2.3.4. The disclosure process provides organisations with access to information about criminal convictions and, in the case of enhanced disclosures, relevant non-conviction information, that assists them in making informed decisions about suitability for employment. It helps to screen out the tiny minority from the workforce who are deemed unsuitable to work with these vulnerable groups.
- 2.3.5. Unless somebody is included on the DWCL (or its equivalents in other parts of the UK), decisions on who is or is not unsuitable are taken locally by employers. There are two main problems with the current scheme. Firstly, some small organisations, who have relatively little experience of handling raw information about offences and non-conviction information, can have difficulties in interpreting this information. Secondly, the disclosure certificate is only valid on the day of issue – it is not subject to updating – which can lead to multiple disclosures being requested as

people move jobs or take on voluntary work with children or vulnerable adults.

2.3.6. While the Protection of Children (Scotland) Act 2003 was commenced in January 2005, there is no equivalent list in Scotland for those who work with vulnerable adults. It is our intention to introduce such a list through this legislation. This is a priority for the Scottish Ministers who recognise the need to increase the protection of vulnerable adults from those who are unsuitable to work with them in broadly the same way as that for children.

2.3.7. We are considering extending the provisions of the Rehabilitation of Offenders (Exceptions) Order to include those who have indirect contact with children or vulnerable adults via the phone (for example, Childline counsellors or NHS Direct staff) or internet (for example, children's chat room moderators) and those who have substantial access to personal and sensitive information about children or vulnerable adults. This would allow enhanced disclosure checks to be requested for such posts.

#### **2.4. Developments in the rest of the UK**

2.4.1. Consultation on a new vetting and barring scheme for England and Wales took place in 2005 and the Department for Education and Skills will be introducing a Bill at Westminster in February 2006. The aim is to obtain Royal Assent in this session of the Westminster Parliament, with a view to beginning phased implementation from 2007. Northern Ireland intends to use the vetting and barring system being set up under that legislation while retaining responsibility for other elements of the process and overall responsibility.

### 3. Proposals for Scotland

#### 3.1. Timetable for Implementation

3.1.1. We are working towards the implementation programme for the new Vetting and Barring Scheme beginning in Scotland from late 2007 with any interim measures being introduced as soon as it is feasible. This consultation is the beginning of the process of change for those aspects which require primary legislation. Scotland already has robust systems in place for the protection of children and this legislative process is about extending protection to vulnerable adults and improving systems even further.

#### Milestones

<b>February-April 2006</b>	Consultation on framework legislation
<b>May-August 2006</b>	Drafting of Bill
<b>Autumn 2006</b>	Introduction of Bill
<b>Autumn 2006 –Spring 2007</b>	Parliamentary consideration of Bill
<b>Spring / Summer 2007</b>	Consultation on detailed implementation
<b>Autumn 2007</b>	Secondary legislation made
<b>Winter 2007</b>	Programme implementation begins

#### 3.2. Vision, Aims and Objectives

##### Vision

3.2.1. The Scottish Ministers have set out the high-level vision for children and young people in Scotland, wanting them to have ambition for themselves and to be confident individuals, effective contributors, successful learners and responsible citizens. Ministers want to see all Scotland's children and young people being nurtured, **safe**, active, healthy, engaged in learning, achieving, included, respected and responsible. This legislation is about keeping Scotland's children safe from those who pose a danger to them whilst reducing the bureaucracy for those who provide services to children. We believe that strong child protection systems do not need to be at the expense of children's engagement in learning, sport and leisure activities, for example, which are so important in their development.

3.2.2. It is equally important that Scotland's adult population be afforded appropriate care and protection. The Scottish Ministers are committed to protecting and improving the health and quality of life of people in Scotland, and to promote better health and community care services, ensuring there is treatment, care, support and protection for those in greatest need. These legislative proposals are an important step to enhancing care and protection for vulnerable adults; other measures are

scheduled for introduction to the Scottish Parliament as part of vulnerable adults legislation later this year.

3.2.3. Article 19 of the UN Convention on the Rights of the Child upholds children's right to be protected from 'all forms of physical or mental violence'. This scheme is designed to uphold that right by improving their protection from unsuitable people seeking access to them through their work.

3.2.4. On 2 February 2005, the Committee of Ministers of the Council of Europe adopted Resolution AP(2005)1 on safeguarding adults and children with disabilities against abuse. The new scheme would also support implementation of this Resolution.

### Aims

3.2.5. In line with the vision, the two aims of the new vetting and barring scheme are that:

- those who are known to be unsuitable do not gain access to children or vulnerable adults through their work; and
- 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.

3.2.6. These aims must be met whilst respecting the human rights of individuals in the vulnerable groups' workforce. These include the need to deal with individuals fairly and justly and the right of individuals to earn a living. Scottish legislation is required by the Scotland Act 1998 (establishing the Scottish Parliament) to be compliant with the European Convention on Human Rights.

### Objectives

3.2.7. In support of these aims, we have the following objectives:

- reduce the bureaucracy around the disclosure process;
- 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;
- deliver a vetting service which will support effective recruitment practices; and
- ensure consistency, compatibility and connectivity across the UK, even though we may adopt different approaches to some of the detail.

3.2.8. We will seek to deliver these objectives through the most efficient and effective means.

## Costs, benefits and proportionality

3.2.9. Before turning to the specifics of the proposed scheme, it is important to recognise that there will be implications in delivering expected benefits which may impact in a number of interrelated ways:

- **opportunity cost:** expenditure on these proposals, whether incurred by the Executive or other bodies, will be met from money which could have, for example, been spent on frontline service delivery or other measures which have an impact on the safety and quality of life of vulnerable groups;
- **speed versus scope of checks:** the more extensive the checking regime is, the longer than the process will take. For example, if a large number of lists of offenders or professional registers needs to be checked, this will take time and effort;
- **cost to the providers of information and user:** the more extensive the checking regime is, the more expensive this is likely to be. This could result in a higher fee; and
- **loss of capacity:** the more precautionary and less flexible the scheme is, the more individuals will be precluded from the vulnerable groups' workforce and, with them, will be some who would not actually harm anyone.

3.2.10. These points illustrate the importance of balancing the wish to develop as robust a system as we can with the need for proportionality. The goal must be to devise a scheme which leads to an overall improvement in protection of vulnerable groups with costs which are identified and acceptable.

3.2.11. Respondents are asked to bear this in mind when considering their response to this paper. *In particular, we would welcome an indication of what respondents think are the top priorities and those measures whose benefits which, although worthy in themselves, might have too great an adverse impact.*

## **3.3. Outline**

3.3.1. We are proposing a scheme that builds on the existing DWCL and the infrastructure provided by Disclosure Scotland and its network of registered bodies. The new system will be comprehensive, integrated in approach and have an element of centralised decision-making on unsuitability.

3.3.2. Building on Sir Michael's recommendations, the Scottish Bichard Vetting and Barring Scheme will operate as follows. For the purposes of this paper, **applicant** means the person making the application for disclosure (the subject of the disclosure) and **employer** means the person or body accessing the information. We use **position** to mean the job, role or setting for which disclosure is required and it includes working in the voluntary sector or volunteering. **Vulnerable groups** means children and vulnerable adults.

3.3.3. Not everything will change; there is a lot that works in the current system. Unless the person is barred, suitability for employment will remain for the employer. Referrals by employers, regulatory bodies and the courts will continue to be made to the DWCL and will be extended to include the new Disqualified from Working with Vulnerable Adults List. Pro-active consideration of offences and other police intelligence by a central body is the main new component of the system.

#### 3.3.4. Application and first contact

Range of applicants	We will extend the scope of vetting to enable <b>parents and personal employers</b> to ask nannies, music teachers, carers for vulnerable adults etc to apply for enhanced disclosure. Applications will be mediated through a registered body just as employers countersign applications now.
Range of positions	The range of <b>potential positions will be expanded</b> to cover indirect contact with vulnerable groups (phone and internet) that provide opportunities for grooming and about those with substantial access to personal and sensitive information relating to children and vulnerable adults.
Making an application	Applicants will find the process of applying for an enhanced disclosure clearer and more straightforward. Anyone wanting to work with vulnerable groups will apply for a new <b>Vetting and Barring Disclosure</b> .

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### 3.3.5. Barred lists

Checking the applicant against lists of barred persons	A new <b>Disqualified from Working with Vulnerable Adults List (DWVAL)</b> will be created. The scope of the DWCL will be extended. The applicant will be checked against a comprehensive list of people barred from working with children or the separate list of people barred from working with vulnerable adults.
Checking for convictions	Information on the applicant's <b>previous convictions</b> , spent and unspent will be gathered.
Checking police intelligence on the applicant	<b>Information sharing</b> will be further improved between the police, Disclosure Scotland and decision-makers.
Determining whether the applicant should be entered onto the lists of barred persons.	A new <b>Central Barring Unit</b> will determine whether the applicant should be placed on one or both lists of barred persons depending on the conviction information and police intelligence available to Disclosure Scotland and any previous referrals (see below).
Provisional listing	Sometimes, usually only in the case of a referral from an organisation, it may take time to determine whether the individual should be listed. In such circumstances, the individual will be <b>provisionally listed</b> . This means the individual will be able to continue to work pending the final determination, employers will be notified, and the fact of the provisional listing will appear on a disclosure check, or check of current barred status. The individual will receive relevant information and be able to engage in the determination process.
Appeal against barring	In any case where an individual is barred as a result of a determination by the Central Barring Unit, the individual may <b>appeal against the barring decision</b> to the sheriff court.
Final decision on employment	Unless the applicant is barred, the <b>final decision to employ</b> the subject will rest with employer on the basis of their robust recruitment and selection procedures. The exception will remain when individuals are listed as barred – employing someone in the relevant workforce who is on the DWCL (or the new DWVAL) will be an offence.

### 3.3.6. Information sharing

Information sharing	The ability of the scheme to provide <b>accurate, relevant and timely information</b> will require legislative provision to allow and improve information flow between relevant bodies. It is also dependent on ongoing improvements to the disclosure and police systems and we will continue to work with other parts of the UK to ensure systems and process are coherent and compatible.
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### 3.3.7. Referrals

Referrals by employers and other agencies	As with the current DWCL, where an employer, or other agency, is concerned that an individual poses a risk to vulnerable groups and they have taken action as a result of that, they will have a duty to make a <b>referral to the Central Barring Unit</b> . It will consider whether the individual needs to be added to either or both lists through a determination procedure as above, and any relevant current employer(s) / regulatory bodies informed.
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## 3.4. Proposals and Issues Arising

### Application and first contact

#### **Proposal 1: individuals requiring Vetting and Barring Disclosure**

Any individual new to the children and vulnerable adult workforce or changing positions (whether paid or unpaid) will need to apply for a Vetting and Barring Disclosure from Disclosure Scotland. (A Vetting and Barring Disclosure is a new type of Disclosure for the children and vulnerable adult workforce.)

3.4.1. If an individual is new to the workforce or changing positions (whether paid or unpaid) they will need to apply for a Vetting and Barring Disclosure from Disclosure Scotland. This is the entry route into the new vetting and barring scheme. On subsequent changes of position, organisations will be able to check the barred status of the individual rather than seek a full disclosure. There will be security measures to prevent unauthorised access of barred status.

3.4.2. We are not proposing to make a Vetting and Barring Disclosure mandatory for a list of specified positions or settings. Rather we intend to build on the wide ranging definition of child care position in the framework of the Protection of Children (Scotland) Act 2003 (Schedule 2) amending this as necessary to improve clarity for organisations when considering if their posts could be considered 'child care'. A similar framework will be established for vulnerable adults.

### **Proposal 2: range of applicants**

Parents and personal employers, as well as organisations, will be able to ask individuals to apply for a Vetting and Barring Disclosure or check the barred status of somebody already in the system.

3.4.3. Under the disclosure system, applications for standard and enhanced disclosures must be countersigned by a registered person. There are two reasons for countersignature by a registered person, firstly to verify the identity of the applicant and, secondly, to confirm that the post applied for is one that is exempt from the Rehabilitation of Offenders Act 1974 (ROA), which is the mechanism allowing the disclosure of spent convictions. At present, parents and personal employers are unable to request that an individual apply for a standard or enhanced disclosure because there is no mechanism to allow them to confirm that the post is exempt from the ROA. To implement this proposal, we will need to put in place arrangements for a registered body to confirm identity and allow access to spent convictions for applicants wishing to work for parents and personal employers.

### **Proposal 3: range of positions**

The range of positions for which a Vetting and Barring Disclosure can be obtained will be expanded beyond those for which disclosure can currently be obtained. It will include occupations with indirect contact with children and vulnerable adults.

3.4.4. As well as covering those who work primarily and directly with vulnerable groups, the new Vetting and Barring Disclosure will be available to those people:

- whose work offers them the opportunity for regular contact with vulnerable groups (for example, telephone helpline operators and internet chat-room moderators);
- whose work places them in a position of trust in relation to vulnerable groups (for example, police officers); and
- who have substantial access to personal and sensitive information about vulnerable groups (for example, database operators).

### **Proposal 4: costs of Vetting and Barring Disclosure**

The Scottish Ministers will have a power to set charges for Vetting and Barring Disclosure (as they do now for all Disclosures) and any other new processes. Detailed costs have still to be established but there will be additional costs in conducting a Vetting and Barring Disclosure which are likely to be met through the application fee. The current intention is that subsequent checks of barred status will be free, or at a lower cost. A fee would be charged for a subsequent full disclosure.

3.4.5. Under the new system, there are likely to be different fees for the initial disclosure procedure and subsequent checks. As now, it will continue to be the responsibility of the applicant to pay for disclosure, although many employers choose to cover the cost. The revenue raised through the

collection of fees will need to cover the costs of the new system. One way to do this is for the initial check to be more expensive and subsequent checks of barred status to be cheaper or free of charge.

3.4.6. It is too early to calculate what any new fee might be since it will depend on the additional costs of the new system compared to the current system and the number of applications for Disclosure and subsequent checks. These, in turn, depend on the coverage of the new system and the lifetime of certificates, amongst other things being consulted on here and as we develop the detail of the system.

**Proposal 5: free Vetting and Barring Disclosure for volunteers**

It is planned that volunteers working in voluntary organisations with children or vulnerable adults will receive the Vetting and Barring Disclosure at no cost to themselves.

3.4.7. This proposal reflects the current position. We believe it is important that it should remain the case so as not to be a barrier to people who wish to volunteer.

**Proposal 6: Vetting and Barring Disclosure of existing workforce (retrospective checking)**

Retrospective Vetting and Barring Disclosures will not be an immediate requirement when the new scheme first becomes operational. The Scottish Ministers will have a power to set a time by which the entire relevant workforce should have been through the new procedures. This may be phased by occupation/sector. Such a time is likely to be in the range of within 3-5 years of operation of the new scheme.

3.4.8. Disclosure Scotland currently processes around 500,000 applications a year. To provide a check for all existing staff when the new scheme first becomes operational would present a significant burden and would deflect Disclosure Scotland from checking people new to the workforce. Organisations should have in place robust recruitment practices, of which disclosure checking is only one element, and sound child protection practices and procedures. The first priority for the new scheme when it goes live will be to operate efficiently in respect of new entrants to the vulnerable groups workforce or those moving between positions.

3.4.9. From day one, any employer will have the opportunity to request that existing employees apply for the new Vetting and Barring Disclosure, but there will be no obligation to do so. Once the scheme is established, time limits will be set by which the entire workforce should have been through the new procedures. To prevent the system being overloaded and to prioritise effectively, the most sensitive positions may have earlier time limits set than others. This information will be provided in sufficient time to allow organisations to plan how they will manage this process.

## **Barred lists**

- 3.4.10. The Protection of Children (Scotland) Act 2003 makes provision for a Disqualified from Working with Children List (DWCL).

### **Proposal 7: Disqualified from Working with Vulnerable Adults List (DWVAL)**

There shall be a list of persons barred from working with vulnerable adults.

- 3.4.11. We are proposing that there will be a Disqualified from Working with Vulnerable Adults List (DWVAL) which will operate in a similar way to the Disqualified from Working with Children List.

### **Proposal 8: definition of vulnerable adult**

The intention is to improve protection for those vulnerable adults aged 16 or over who are in receipt of care services and/or support from employees (including paid and unpaid volunteers) in regulated and NHS care settings. Therefore, the definition of "vulnerable adult" will primarily be a service-orientated definition.

- 3.4.12. A consultation paper, Protecting Vulnerable Adults - Securing Their Safety, was published in February 2004. Analysis of the consultation responses was published in August 2004 and views expressed in the consultation will be taken into account in developing this legislation. Since that consultation, the definitions of a vulnerable adult, and vulnerable adult care position, have been expanded. We are not looking for views on these definitions in this consultation exercise *unless the context raises new issues*.

- 3.4.13. More information on previous consultations and current proposals in respect of the protection of vulnerable adults is available on the Scottish Executive's website:

<http://www.scotland.gov.uk/Topics/Health/care/VAUnit/ProtectingVA>

### **Proposal 9: changes to the Disqualified from Working with Children List**

Schedule 2 of the Protection of Children (Scotland) Act 2003 will be amended to clarify and extend the definition of child care positions. (Other amendments will be required to this Act in relation to other proposals in this paper.)

- 3.4.14. The 2003 Act provides for a Disqualified from Working with Children List (DWCL) to be established and maintained by the Scottish Ministers and for those on the list to be barred from working with children. An individual who knows that he or she is listed commits an offence if he or she applies for, offers to do, accepts or does any work in a child care position (within the meaning of schedule 2) whilst listed, other than provisionally.

- 3.4.15. The 2003 Act places a duty on organisations to make a referral for possible inclusion in the DWCL where:
- an individual is in a child care position;
  - that individual harms or places a child at risk of harm; and
  - the organisation has dismissed the individual or moved them away from working with children or the individual has left before that action could be taken.
- 3.4.16. Individuals convicted of an offence against a child (within the meaning of section 10(9)(b)) may also be placed on the DWCL at the discretion of the courts.
- 3.4.17. An organisation commits an offence if it offers work in a child care position to an individual whom it knows is listed. The information that an individual is on the DWCL is released as part of a disclosure check.
- 3.4.18. As well as amending schedule 2 to extend the definition of childcare positions, we are proposing the following amendments to the 2003 Act (which relate to other proposals in this paper):
- extension of the list of regulatory bodies which can make referrals (section 4);
  - inclusion of new offences created in the Protection of Children and Prevention of Sexual Harm Bill (schedule 1);
  - possible changes to determination procedures (Determination Regulations 2004);
  - granting the police powers to access the DWCL directly; and
  - changes required to enable retrospective checking.
- Some of these changes can be taken forward through secondary legislation.
- 3.4.19. More information on the operation of the Disqualified from Working with Children List can be found on the Scottish Executive's website:

<http://www.scotland.gov.uk/childprotection>

**Proposal 10: decisions on barred lists to be taken by a new Central Barring Unit**

There shall be a new Central Barring Unit which will make decisions about which individuals should be placed on either list. Disclosure Scotland will continue to gather information and this will be passed to the Central Barring Unit for decision.

- 3.4.20. As now, the application to Disclosure Scotland would be the starting point for entry into the system. In those cases where information is revealed by a search, all relevant information will be passed on to a central expert team, the Central Barring Unit, to consider whether an individual should be barred from working with children or vulnerable adults. Based on the relevance and seriousness of the information

received, a decision will be made as to whether that person is unsuitable to work with children and/or vulnerable adults. System improvements should speed up the process but this proactive barring assessment may delay the issuing of the Disclosure in the very small number of cases where an assessment needs to be made.

3.4.21. We need to determine whether the decision to bar should be made by a special panel, a "case conference" or by an administrator. The procedure is likely to be set out in secondary legislation but the primary legislation needs to contain the right enabling provision.

#### **Proposal 11: status and governance of the Central Barring Unit**

The status and governance arrangements for the new Central Barring Unit are to be determined, as is its precise relationship with Disclosure Scotland. The status and governance arrangements for Disclosure Scotland itself may also need to be adjusted.

3.4.22. Whatever model of governance is adopted for the Central Barring Unit, the Scottish Ministers are ultimately accountable for its decisions. But the model of governance does affect who is immediately responsible for making decisions on listing. We have identified three possible options for structure:

- a **Non-Departmental Public Body** (NDPB, for which we would need to make legislative provision) with responsibility resting with a panel of experts or administrators;
- an **Executive Agency** linked to Ministers but one step removed – under this responsibility would ultimately rest with Ministers; or
- a **core civil service function**, as with the current DCWL arrangements, so that the Central Barring Unit is part of the Education Department or Health Department and Ministers are more directly responsible. (Even within this option, there is scope to alter the composition and operation of the Determination Panel, perhaps to include external representation.)

3.4.23. Alternatively, the Central Barring Unit could be part of Disclosure Scotland which, under current governance arrangements, would again mean that the Scottish Ministers were responsible for listing decisions. Currently, Disclosure Scotland operates the disclosure system on behalf of the Scottish Ministers. Staff of Strathclyde Joint Police Board, based in the Scottish Criminal Record Office (currently a common police service) and BT plc work in partnership to deliver the service. The Police, Public Order and Criminal Justice (Scotland) Bill, currently before the Scottish Parliament, will establish the Scottish Police Services Authority (SPSA), a new NDPB. Disclosure Scotland is currently expected to become part of SPSA.

3.4.24. In identifying the best structure, the following factors need to be taken into account:

- **effective information sharing** -- remembering the drivers for these changes, we need governance arrangements which make it easy for the Central Barring Unit to access the information it needs;
- **accountability** -- whatever individual or panel actually makes the barring decisions, somebody, if not the Scottish Ministers, needs to be publicly accountable;
- **cost effectiveness** -- there is a presumption against setting up new NDPBs if the work can be taken forward appropriately by existing bodies.

#### **Proposal 12: responsibility for maintaining barred lists**

As well as making decisions, the Central Barring Unit shall maintain the Disqualified from Working with Children List and the Disqualified from Working with Vulnerable Adults List on behalf of the Scottish Ministers.

- 3.4.25. The Central Barring Unit will maintain a list of those barred from working with children, based on the current DWCL, and a separate Disqualified from Working with Vulnerable Adults List, which will be introduced through this legislation. It will be possible for some individuals to be barred under both sets of criteria and named on both lists. Volunteering will be covered as well as paid work.

#### **Proposal 13: continuous updating of barred lists**

Any new information on an individual who has previously been the subject of a Vetting and Barring Disclosure will be passed to the Central Barring Unit to enable the barred status of the individual to be reviewed.

- 3.4.26. Even where the initial search reveals no information, the fact that a Vetting and Barring Disclosure has been carried out for work with vulnerable groups will be recorded by the Disclosure Scotland system with a link to the criminal history system. This will effectively be the equivalent of registration, since the record will be flagged so that Disclosure Scotland will be automatically alerted to any new information that subsequently becomes available relating to a flagged individual. They will pass that information to the Central Barring Unit. This continuous updating will allow the barring decision to be kept under review. The actual system for doing this is still to be determined and will be informed by the range and type of checks that will be required.
- 3.4.27. Where a decision is made to bar an individual on the basis of new information, for example from the police or from a referral, the applicant and any relevant organisations will be notified. The precise mechanism for doing this is currently being explored.

#### **Proposal 14: provisional listing**

Where it will take time to determine whether an individual should or should not be added to one or other list, the individual shall be provisionally listed and entitled to continue to work whilst the determination is made. This will particularly apply when the determination is based on a referral from an organisation.

- 3.4.28. Provisional listing means that the individual can continue to work whilst the determination is made. (This is different to *provisional barring* which would mean that the individual could not continue to work pending determination.) Organisations will be notified of provisional listing so as to allow consideration of any action to mitigate risk.

#### **Proposal 15: appeals against listing**

Appeals against listing in respect of either the DWCL or DWVAL, in any case other than a court disposal, shall be made to the sheriff court. Legislation shall provide for the appeals to be heard and determined in private. The subject shall have three months to appeal.

- 3.4.29. Consideration for listing can arise as a result of: information coming to light as part of disclosure; referral by an organisation; or referral as part of a court disposal. In relation to the first two cases, as much information as possible received by the Central Barring Unit must be shared with the applicant so that the individual has an effective appeal right. This is because the applicant needs to understand the basis on which the barring decision was made. However, in an extremely small number of cases, there may be some information which cannot be shared with the applicant. (See paragraph 3.4.37.) Any appeal is made to the sheriff court.
- 3.4.30. Where listing occurs as part of a court disposal, the defendant can appeal against being listed in the same manner as any appeal against conviction. Independently of how an individual ends up on either list and whether any appeal was made at first listing, they will be able to apply to the sheriff court for removal from the list after a period of time, usually 10 years.

#### **Proposal 16: access to barred status**

All "employers" with a legitimate interest shall have access to the applicant's barred status.

- 3.4.31. Access to the applicant's barred status will be available to all employers with a legitimate interest – this will include personal employers such as parents and those employing carers for vulnerable adults. Access will possibly be made available through the Internet with suitable security systems in place to limit access to the applicant's current or potential employers. In the case of small-scale and personal employers

and parents, access may need to be mediated via a registered body. The principal function of the registered body would be identity checking. Whatever the access system decided upon the intention is to make it as quick and simple as possible for that to happen for those who have an authentic, legitimate interest in this information while ensuring an individual's privacy and rights are protected.

### **Information sharing**

3.4.32. Effective information sharing will be crucial for the new scheme to work. Effective information sharing means:

- getting the relevant information to the decision-maker;
- avoiding overwhelming decision-makers with irrelevant information;
- restricting sensitive information to only those who need to know; and
- making sure that information is high-quality and accurate.

3.4.33. It is important to remember that the fundamental decision for which the whole system is being developed is **whether an individual is unsuitable to be offered, or continue in, a position with access to vulnerable groups.**

3.4.34. There are three main players in making this decision:

- the **Central Barring Unit** which decides whether the applicant should be barred from working with children or vulnerable adults;
- the **regulatory body** which decides whether the applicant continues to be professionally registered;
- **the employer** who decides whether to offer the applicant the position.

3.4.35. For these players as well as the other stakeholders (including the applicant himself, Disclosure Scotland, the police, the Scottish Criminal Record Office, the court service etc), we need to make sure the legislation recognises:

- the **information which they hold** and are allowed to hold (e.g. police databases);
- the additional **information which they receive** and from whom it comes (e.g. registration status from a regulatory body);
- the **decision which they need to make** (e.g. whether to make a referral); and
- the **information which they can/must provide** and to whom it shall be provided (e.g. barred status).

3.4.36. The flow of information between all those involved in vetting and recruitment currently, and in the future, is very complicated. It is important that we are clear that the purpose of sharing information is to determine unsuitability of those who would work with vulnerable groups.

The following proposals highlight proposed changes and are not a comprehensive summary of the current or future position.

**Proposal 17: information released to applicant by Central Barring Unit**

Where a Vetting and Barring Disclosure has revealed information about the applicant, but there is not sufficient cause for that person to be added to one or other barred list, the information will normally be released as part of the disclosure. This gives the employer and professional body some discretion as to whether to offer the applicant the intended post.

3.4.37. Where a Vetting and Barring Disclosure does not result in the applicant being barred, but there is conviction and/or non-conviction information, this information will normally be made available to the applicant and employer, as is the case currently. In a very small number of cases, there may be information that the police consider should not be passed on to the applicant, usually because it would compromise an ongoing police operation or would put the source of the information at immediate risk of harm. The current legislation (section 115(8) of the Police Act 1997) makes provision for this information to be passed to the employer only or to be withheld. Whilst recognising that the individual has a right to know the basis on which decisions are made about him, we also need to make provision for the Central Barring Unit to withhold that information in those exceptional circumstances.

**Proposal 18: duty on public authorities to share information**

Legislation shall place a duty on the police and other agencies to share relevant information with the Central Barring Unit (effectively the Scottish Ministers). The Scottish Ministers shall have a power to specify what constitutes relevant information in regulations.

3.4.38. Information includes intelligence and other facts about the individual. Intelligence ranges from allegations, at the soft end, to criminal investigation, at the hard end. There is also semi-public information such as convictions. (Convictions are a matter of public knowledge at the time but no publicly searchable database exists for obvious reasons.) A balance needs to be struck between exchanging useful relevant information and the rights of the individual under ECHR. For operational reasons, the police need to be able to exercise some discretion in the information which they share with others (e.g. protection of sources).

3.4.39. Bichard also proposed that other public bodies, e.g. social services, who might hold information which could be relevant to the unsuitability of an individual to work with vulnerable groups should be under a duty to share it. It is our intention to place such a duty on local authorities, the details of which will be covered in regulations or elsewhere, following further consultation.

**Proposal 19: changes to arrangements for notifying employers of convictions**

Continuous updating of the barred lists will complement the current arrangements whereby the Scottish Criminal Records Office (SCRO) provide details of subsequent convictions to employers and regulatory bodies for a range of occupations. The notifiable occupation scheme will need to remain for those occupations to which it currently applies and which will not be included within the vetting and barring scheme. It also has a continuing role in ensuring that employers are made aware of *all* convictions even where these might not be relevant to the protection of vulnerable groups.

- 3.4.40. Under circular 4/89 there is a range of professions where SCRO provide the employer and regulatory body (if appropriate) with details of any convictions. A number of the professions included in this scheme, including, for example, teachers and nurses, will fall within the vetting and barring scheme. The system for notifying offences will need to remain in place: for professions not within the vetting and barring scheme; to ensure that employers within the scheme continue to be notified of *all* convictions; and on a transitional basis until all staff have been through the new Vetting and Barring Disclosure.

**Proposal 20: police powers to require details of occupation**

We plan to give the police a power to require an individual to give them details of their occupation in cases where the actions of the individual would be of concern if they worked in the vulnerable groups' workforce. This would be defined in such a way as to cover voluntary work as well as paid employment. This will enable the police to take appropriate action in terms of notifying third parties if the individual is a member of that workforce. Failure to give the required information, or giving false information, would be an offence.

- 3.4.41. At the moment there is no requirement on an individual who has been arrested to provide the police with details of their occupation. Although the police can request this information, there is no obligation on an individual to provide it. This can prevent the notification of convictions to an employer where it would be appropriate. This proposal will also help to ensure that the Central Barring Unit is informed of subsequent information so that an individual's barred status can be reviewed.

**Proposal 21: role of the regulatory/professional bodies in disclosure process**

Regulatory bodies should be notified of a change in the barred status of an individual. Regulatory bodies should be under a duty to consider making a referral to the Central Barring Unit if they have concerns about any individual. The Central Barring Unit should be able to access professional registers.

- 3.4.42. Some positions in the vulnerable groups' workforce are governed by a regulatory body (e.g. teachers are regulated by the General Teaching Council for Scotland). When an individual goes

through the Vetting and Barring Disclosure in respect of a regulated position, there is the possibility of sharing information with the regulatory body. We need to determine which regulatory bodies should receive information and what information that should be. We believe that it is appropriate for the regulatory body to be notified of the barred status since it may mean that the individual should not take up any position governed by that body. It is also important that regulatory bodies are provided with information, and only information, which has a bearing on the registered status of the individual.

3.4.43. Normally, referrals will be made by the employer because of an incident, or series of incidents, which takes place at work. However, it is important that regulatory bodies can *and do* make referrals to cover the following potential loopholes: where the employer fails to make a referral; where a complaint is made to the regulatory body directly; and where the regulatory body potentially has more information than anyone else because the individual has more than one employer. We need to consider how to make sure that regulatory bodies correctly identify when to exercise this power and do so effectively.

3.4.44. The Central Barring Unit should know whether an individual has been struck off any regulatory body's professional register. Obviously, being struck off should prevent the individual taking up a registered position. However, depending on the reasons for being struck off, it may be relevant to other positions. For example, an individual going through Vetting and Barring Disclosure for the purposes of becoming a Scout leader may have been struck off the General Teaching Council for Scotland's register of teachers many years before and this fact, and the reasons behind it, should be available to the Central Barring Unit.

**Proposal 22: disclosure of civil orders**

There shall be a requirement to include civil orders specified in regulations as part of a new Vetting and Barring systems disclosure check, for example Risk of Sexual Harm Orders should be disclosed. Some civil orders may not be relevant and there will be a discretion to disclose them.

3.4.45. We propose to specify in regulations the civil orders which should be disclosed. We do not believe it is appropriate to specify that all civil orders should be disclosed as some of them will have no relevance to protection of vulnerable groups.

**Proposal 23: cross-referencing with offender registers and other lists**

As part of the new vetting and barring procedure, if an individual is on the Sex Offenders Register or other list (e.g. the English and Welsh Protection of Children Act List), Disclosure Scotland will be required to pass that information to the Central Barring Unit. The Unit can then consider that information as part of their assessment of the individual.

3.4.46. The presence of an individual on the Sex Offenders Register or other list will not automatically lead to that individual being barred. (Of course, certain court disposals will include barring without further consideration.) We believe that to do so would inevitably lead to people being unfairly excluded from the vulnerable groups' workforce. However, the presence of an individual on the Sex Offenders Register or other list clearly needs to be **identified** and any potential **risk assessed**. At the moment, the fact that an individual is included on the Sex Offenders Register is normally included on a Disclosure certificate. We are proposing to make this a requirement so that it happens in every case. We will also monitor developments in England and Wales closely to make sure the approach both sides of the border is consistent.

## Referrals

### **Proposal 24: referrals of new incidents**

As now, employers, regulatory bodies and courts will be able to make referrals to the Central Barring Unit in respect of those posing a risk to children. The legislation will extend this regime to those posing a risk of vulnerable adults.

3.4.47. Referrals will be received, as now, from employers when an individual's employment is terminated as a result of reasons associated with harm, or risk of harm, to children or been moved away from working with children or left the organisation before that could happen. Regulatory bodies will be able to highlight concerns about an individual and courts will be able to put individuals on either or both lists as part of the disposal. The proposed legislation will introduce a broadly similar arrangement for those working with vulnerable adults.

### **Proposal 25: retrospective referrals of incidents**

Any employer may make a referral about an incident which occurred before commencement of the new scheme to the Central Barring Unit at any time, subject to the appropriate tests being met. There will be no obligation to do so.

3.4.48. We believe that retrospective referrals should be optional not mandatory, not least because there is no meaningful way of imposing a sanction on those who do not make a referral. However, responsible employers will wish to consider carefully whether there are any individuals whom they employ, or have employed, who should be referred in respect of an incident which occurred before the new scheme is in effect. In the case of someone working in a childcare position, the organisation is already under a duty to refer, should the appropriate tests be met.

## **Lifetime of certificates and checks**

### **Proposal 26: lifetime of Vetting and Barring Disclosure certificate**

The Vetting and Barring Disclosure certificate will be valid for a period of 10 years. The Scottish Ministers will be able to vary this time period, if necessary.

3.4.49. Many employers and regulatory bodies may require their employees to go through full disclosure on a regular basis but, to capture cases where this is not so, we are proposing that full disclosure should be undertaken at least every 10 years. This will be achieved through having the certificate expire 10 years after issue. This measure is in addition to the continuous updating of barred lists (proposal 13) and access to those lists (proposal 16) at any point during the life of the certificate and beyond.

### **3.5. Working with Other Jurisdictions**

3.5.1. As is currently the case, vetting and barring in Scotland will be conducted separately to vetting and barring in England and Wales and Northern Ireland. If the new system works as intended, it should not matter in which jurisdiction in the United Kingdom a disclosure check is carried out and anyone barred in one part of the UK will be barred throughout. However, we need to make sure that UK-wide employers do not divert checks from one system to another for whatever reason (speed or cost) because this could overwhelm smaller systems. We also need to make sure that employers in each jurisdiction can utilise appropriate checks carried out, and certificates produced, by other jurisdictions.

## 4. Conclusion

4.1. We believe that we have set out a framework which will:

<b>For children...</b>	extend a measure of protection to a range of children who may currently be cared for by adults who are not checked and ensure a more proactive rather than reactive approach;
<b>For vulnerable adults...</b>	introduce a Disqualified from Working with Vulnerable Adults List and extend a measure of protection to situations where people currently working with vulnerable adults may not be checked;
<b>For parents, carers and families...</b>	provide a degree of reassurance about the people who work with their children or vulnerable relatives and a mechanism for referring those people who have behaved in a way which causes concern;
<b>For employers...</b>	reduce some of the burden of taking vetting decisions (although they will still be expected to follow other aspects of good recruitment practice) and speeding up the checking process for those already in the workforce;
<b>For workers...</b>	make it easier and quicker to gain employment and move between positions in the vulnerable groups workforce once they are in the system; and
<b>For regulatory bodies, the police and social work...</b>	provide a more robust system and the necessary information and mechanisms to enable them to contribute to the protection of vulnerable groups efficiently and effectively.

4.2. The scheme should extend a more comprehensive and consistent measure of protection for children and vulnerable adults. However, by itself, the scheme cannot fully guarantee the safety of vulnerable groups from unsuitable people. It will be vital for employers at all levels to maintain sound recruitment and child and vulnerable adult protection policies and practice.

4.3. We welcome your views.

**Scottish Executive Education Department  
Children and Families Division  
February 2006**





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# Protecting Vulnerable Groups: Scottish Vetting and Barring Scheme

## Consultation Paper

## Response Booklet

### Responding to this consultation paper

We are inviting written responses to this consultation exercise by **Tuesday 2 May 2006**.

We would be grateful if you would indicate clearly in your response to which questions or parts of the consultation paper you are responding. We recommend using this response booklet, if possible. Please complete the respondee information form contained within the booklet.

### Please send your response to:

[bichard.legislation@scotland.gsi.gov.uk](mailto:bichard.legislation@scotland.gsi.gov.uk)

or

Scott Wood  
Scottish Executive Education Department  
Children and Families Division  
Area 2B (North)  
Victoria Quay  
EDINBURGH  
EH6 6QQ

If you have any queries or any comments on the consultation process, please contact Scott Wood at the address/email above or telephone 0131 244 7612

### Consultation seminars

It is intended that a number of consultation seminars will be held, including one on 16 March in Glasgow and another on 20 March in Edinburgh. All seminars will cover the same material and will follow the same format. Spaces at the seminars will be limited: if you would like to attend one, please email [bichard.legislation@scotland.gsi.gov.uk](mailto:bichard.legislation@scotland.gsi.gov.uk) or call 0131 244 7612 to register your interest. You will be contacted in due course to confirm whether or not you have a place and to confirm the details of the venue and timings.

Information on the Bichard Inquiry can be found at [www.bichardinquiry.org.uk](http://www.bichardinquiry.org.uk).

### **Accessing this and other consultations**

This consultation, and all other Scottish Executive (SE) consultation exercises, can be viewed online at <http://www.scotland.gov.uk/consultations>. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is. The Scottish Executive now also has an email alert system for [SE consultations](#). You can register to receive a weekly email containing details of all new SE consultations at <http://www.scotland.gov.uk/consultations/seconsult.aspx>.

### **Access to consultation responses**

We will make all responses available to the public in the SE Library by 1 June 2006 unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library.

All respondents should be aware that the Scottish Executive is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

**Scottish Executive Education Department  
Children and Families Division  
February 2006**

## RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

### Your details

Name
Address
Postcode
Contact telephone number
E-mail

1. Are you responding as: (please tick one box)

- (a) an individual  (go to 2a/b)
- (b) **on behalf of** a group or organisation  (go to 2c)

### 2a. INDIVIDUALS:

Do you agree to your response being made available to the public (in SE library and/or on the SE website)?

Yes (go to 2b below)

No, not at all  (We will treat your response as confidential.)

2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

### 2c. ON BEHALF OF GROUPS OR ORGANISATIONS:

Your name and address as respondees **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

Yes

No  (We will treat your response as confidential.)

## BACKGROUND

3. In analysing your response, it would help us to know what your background is. Please indicate using the boxes provided below the area which best describes your involvement with children and vulnerable adults and add any further comments you wish to make about this.

Early Years	<input type="checkbox"/>	Education	<input type="checkbox"/>	Health	<input type="checkbox"/>
Justice	<input type="checkbox"/>	Parent/Carer	<input type="checkbox"/>	Police	<input type="checkbox"/>
Social Work	<input type="checkbox"/>	Sport and Leisure	<input type="checkbox"/>	Voluntary Organisation	<input type="checkbox"/>
Other	<input type="checkbox"/>				

Further comments:

## SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No



**4** **Interests of employers.** Do you have any concerns on the impact of the proposals on the recruitment and selection of individuals to work with children and vulnerable adults? What could be done to mitigate this?

**5** **Interests of applicants.** Do you have any concerns on the impact of the proposals on those who might apply for disclosure to work with children and vulnerable adults? What could be done to mitigate this?

**6** **Other matters.** Please make any other comments which are relevant to the Scottish Richard Vetting and Barring Scheme.

## **Part II. Consultation Paper Proposals**

This part asks about the specific proposals contained in the consultation paper. Part I asks more general questions.

**Proposals 1-3** **Scope of new Vetting and Barring Disclosure.** Do you have any comments on the type of position for which the new scheme will apply?

**Proposal 4** **Costs of Vetting and Barring Disclosure.** How much more would you be willing to pay upfront for the new Vetting and Barring Disclosure? Please be as specific as you can, e.g. £10.

**Proposals 4-5** **Funding the Vetting and Barring Scheme.** Do you agree with the broad proposals for: a more expensive initial disclosure, low-cost or free subsequent checks and free disclosure for volunteers?

**Proposal 6**      **Retrospective Vetting and Barring Disclosure.** Do you agree with the proposals for phasing the vetting and barring of the existing workforce?

**Proposals 7-8**      **Disqualified from Working with Vulnerable Adults List.** We are not looking for comments on the DWVAL, since this has been covered by previous consultation. However, *we would like to know if this new context raises any new issues.*

**Proposal 9**      **Changes to the Disqualified from Working with Children List.** Are there any changes, other than those outlined, which you would like to see made to the DWCL?

**Proposal 10**      **Decisions on barred lists by new Central Barring Unit.** Do you think decisions on barring should be made by a special panel, a case conference or administrators?

**Proposals 11-13**      **Central Barring Unit.** Do you have any comments on the status and governance arrangements for the Central Barring Unit? What degree of separation is needed from the Scottish Ministers?

**Proposal 14**      **Provisional listing.** What should the criteria be for provisional listing? Do you agree that the individual should be able to continue to work during the determination process?

**Proposal 15**      **Appeals against listing.** Do you agree that the right of appeal should be to the sheriff court with a three-month time-limit?

**Proposal 16**      **Access to barred status.** Who has a legitimate interest in the barred status of an individual and how should "fishing trips" be prevented?

**Proposal 17**      **Information released to applicant.** How much information passed on to the Central Barring Unit should be released to the applicant and employer? What criteria should there be for not releasing information?

**Proposals 18-20** **Information sharing between the Central Barring Unit, public authorities, employers, police and regulatory bodies etc.** Do you have any comments on who should be required to pass what information on to whom?

**Proposal 21** **Role of regulatory bodies.** Which regulatory bodies should receive information through disclosure? What information should they receive?

**Proposal 22** **Disclosure of civil orders.** Which civil orders should be disclosed?

**Proposal 23**      **Cross-referencing with offender registers and other lists.** How do you think the DWCL and DWVAL should relate to other registers and lists, e.g. the Sex Offenders Register or Protection of Children Act List in England and Wales?

**Proposals 24-25**      **Referrals.** Do you agree with the proposals for who can make a referral? Should parents and personal employers be able to make a referral?

**Proposal 26**      **Lifetime of certificates and checks.** Do you agree that the vetting and barring disclosure certificate should have a finite lifetime, after which a new application for full disclosure needs to be made?

**Thank you for your time.**