



Help the Aged

Making Safeguarding Everybody's Business: A Post-Richard Vetting Scheme

The Help the Aged Response

July 2005

Help the Aged's vision is of a future where older people are highly valued, have lives that are richer and voices that are heard. The Charity is working to combat poverty, reduce isolation, defeat ageism and to promote quality in care.

Company limited by guarantee
Registered in England No: 1263446
Registered Charity No: 272786
Registered Office: 207-221 Pentonville
Road, London, N1 9UZ

A Post-Bichard Vetting Scheme

The Help the Aged Response



Introduction

Help the Aged welcomes the opportunity to comment on the proposals to create a new centralised vetting and barring scheme for people working with vulnerable adults.

In this response, we provide comment on those consultation questions relevant to Help the Aged's interest in this issue.

The introduction of preventative measures into a vetting and barring system could go some way towards closing the gaps in the current system. We hope that the creation and implementation of a new system will be used as an opportunity to tackle some of the challenges that have been experienced under the PoVA scheme.

We are pleased to see that steps are being taken to work across government departments. We believe that such cross-government working is crucial to the success of vetting and barring. We recognise the steps taken by the Department of Health to extend protection for vulnerable adults, particularly in light of the Health Select Committee Inquiry in to elder abuse. However, we would like to see this momentum maintained in the form of further cross governmental working, incorporating action from all government departments that have a responsibility for services or legislation that affect older people. We note that a cross government progress report outlining how the Government is meeting the recommendations of the Bichard inquiry is available. Help the Aged would like to see a similar cross government progress report made available to outline how the Government is meeting the recommendations of the Health Select Committee Inquiry in to Elder Abuse.

While we recognise the importance of providing protection for children, Help the Aged believes that equal consideration must be given to older people's needs. We remain concerned that older people continue to be placed further down the list of priorities. There are aspects of this consultation that we believe should better reflect older people's needs, such as the register established as a result of the changes which should be made available to carers, as well as employers or parents¹.

The introduction of a new vetting and barring system for those working with vulnerable adults must reflect the context of both broader measures to tackle abuse of older people and the current changes within adult social care. Help the Aged would like to see:

¹ Point 2.2.1, p4.

- Careful consideration of how to ensure that the new system is used to provide effective protection for older people using direct payments
- The publication of a timetable for the registration of all social care staff, and for registration to be completed as quickly as possible
- The continued roll out of the PoVA scheme
- Continuation of the positive work begun by the Commission for Social Care Inspection
- The rapid delivery of any required legislative changes to implement the new system
- The new vetting and barring scheme to be established and implemented without delay

Help the Aged has particularly welcomed the opportunity to contribute to the implementation of the PoVA scheme through the PoVA Implementation Working Team. We believe that this has had a positive impact and has been a useful mechanism for ensuring that information about the scheme is disseminated effectively. We would recommend that this is continued as part of the continued implementation of the PoVA scheme and its remit extended to incorporate the introduction of the new vetting and barring scheme.

We look forward to hearing the outcome of the consultation in due course, and to working with the Department of Health and the Department for Education and Skills in implementing the new system in the coming months.

Help the Aged
4 July 2005

Summary of key recommendations

- There should be clear mechanisms for cross referral between the lists of people deemed unsuitable to work with children and with vulnerable adults
- Employers and regulatory bodies should benefit from the streamlining of information shared on those considered unsuitable to work with children or vulnerable adults
- Conviction rates for acts that constitute harm to older people are low. 'Soft' sources of information, such as that gathered by Adult Protection Committees, should also be considered in making decisions about an individual's suitability
- Training on elder abuse should be provided to all those making decisions about unsuitability
- All disclosures should be returned as soon as practically possible
- Lessons should be learned from the experience of the implementation of the PoVA scheme as it has impacted on the recruitment and retention of the social care workforce
- All those who would come under the proposed scope of entitlement to an Enhanced Disclosure should be required to undergo enhanced checks prior to employment
- All those within the scope of categories providing care to 'vulnerable' adults as it is currently defined should be required to undergo checks
- There should be an equivalent and equal quality checking system to supplement the proposed online facility
- Requiring the consent of the potential worker to undertake a check may deter some older people employing care workers directly from making such checks. Consideration should be given to how this potential problem could be addressed.
- There must be an effective means of issuing notifications of changes to the barring status of workers which does not penalise those without easy access to the internet, such as older people using direct payments
- Further consideration should be given to penalties that should be imposed on employers knowingly employing a person who has been barred, where the employer is also the service user (such as in the case of direct payments)
- The barring threshold should be set as low as possible in order to afford the maximum protection to older people
- Individuals with relevant offences or allegations should be provisionally listed

Help the Aged's Response to the Consultation Questions

Q1: Do you agree that the proposed model for a central vetting scheme is appropriate?

Help the Aged agrees with most of the principles underlying the proposed model for a central vetting scheme. Staying safe is as important an outcome for older people as it is for children. Indeed, the Department of Health has included 'freedom from discrimination or harassment' as one of the intended outcomes of the changes that arise from the Green Paper on Adult Social Care².

We would welcome further information on the detail of how the principles underlying the proposed changes would be put into practice. We believe that further clarity is needed on what the new model would look like.

Help the Aged believes that the proposed principles, as set out within the outline, provide a sound basis upon which to build a new scheme. However, we would like to see further consideration of the following:

- There should be an integrated list of those barred from working with children and those barred from working with vulnerable adults.

It is difficult to envisage that somebody who is found to have caused harm to a child would be suitable to work with vulnerable adults, or vice versa. It is unclear whether referrals to each of the lists will be automatically cross-referenced. Help the Aged believes that there should be clear mechanisms for cross referral between the two lists.

- The transfer of information between the police, the criminal records bureau and the new body should be streamlined.

We recommend that similar streamlining in the transfer of information is also achieved with regard to employers and regulatory bodies. It will be essential that those providing and inspecting services are able to make fully informed decisions about employees and those delivering the services that they are inspecting.

- Enabling expert judgements on unsuitability to be made on the basis of relevant conviction, caution and reprimand information and available soft information

We believe that the importance of so-called 'soft information' should not be underestimated in the construction and delivery of a new system. It is commonly accepted that conviction rates for acts that constitute harm to older people are low, for a variety of complex reasons. Soft information will therefore be crucial in judgements on unsuitability to work with vulnerable adults. We recommend that information gathered by Adult Protection Committees is also considered for use in making such judgements.

² Department of Health (2005) 'Independence, Well-being and Choice'. p10.

- Ensuring that the final decision regarding the relevance of information is made by those with appropriate expertise

Help the Aged recommends that training on elder abuse is provided for all those tasked with making the final decisions about unsuitability.

We welcome the intention of the proposals for a new vetting and barring scheme, in particular the fact that the scheme will enable a more proactive approach and continuous updating of records. We are also pleased that the Government is considering extending the range of employers and bodies able to make referrals. Help the Aged believes that users of direct payments and health and social care inspectorates should also be considered here.

Help the Aged is concerned that, where a decision is made to bar an individual on the basis of new information and where an individual is new to the workforce, users of direct payments may not access relevant information, either through the vetting system or as a consequence of not being covered within the audit trail of online checks. The majority of older people have limited access to the Internet and are, in many cases, unlikely to have made online checks against barred lists. It is also possible that where one individual is employed by another, in the case of direct payment users, that checks may not be carried out. We therefore recommend that the Government should identify a mechanism for addressing these gaps, perhaps through the delivery of information to such employers.

Furthermore, Help the Aged believes that information about the existence of the scheme and the details of how to access it must be widely disseminated, in particular to users of direct payments. This will be crucial in ensuring that older people are able to take informed decisions about their protection needs. We would welcome further clarity about the access that users of direct payments will have to barred lists, with consideration of the fact that some may be using services.

Q2: Do you agree that the new scheme will have a positive impact in terms of improving safeguards for children and vulnerable adults by preventing unsuitable people from entering the workforce and eliminating them if new information comes to light?

Help the Aged welcomes the introduction of an improved vetting and barring scheme. The proposed principles upon which to base this scheme potentially provide for a positive impact in improving safeguards for vulnerable adults. Help the Aged is pleased that the new scheme would allow the incorporation of information from a wider range of sources, that access to the scheme will be extended and simplified and that vetting and barring will be proactive rather than reactive. We are concerned however that there is a need for further detail about how the new scheme will work in practice, and would welcome further information.

Q5: Please state how quickly employers would need the majority of initial disclosures to be returned in order to support effective recruitment practices. Also, please comment on the maximum acceptable timeframe for the tiny minority which have information that needs to be assessed and therefore take longer to process (including time for appeals if necessary). And please state whether any additional mechanisms could be put in place to support employers.

Difficulties in recruiting to social care staff as a result of low wages and low status are well documented. These difficulties are further compounded by retention problems. In

Help the Aged's view, it is therefore essential that all disclosures are returned as soon as possible to employers whether there is information to be assessed or not. We would also suggest that the opportunity is taken to reinforce the messages that have arisen through consultation on PoVA around the difficulties of recruitment and retention in social care, and the challenges created in using PoVA/criminal record check requirements.

Q7: Do you agree with the scope of vulnerable adult-related employment and therefore entitlement to Enhanced Disclosures? Please add any categories of people who may not be covered by this definition and state any difficulties with the definition.

We welcome the extension of categories of employment to which Enhanced Disclosure will be made available. We are concerned, however, that this scope will only include an entitlement to Enhanced Disclosure as opposed to a requirement to undergo an Enhanced Disclosure. We would therefore recommend that all of those covered by the outlined categories are required to undergo enhanced checks prior to employment.

We also remain concerned that, despite this extension in scope, there will be many vulnerable older people who should be granted protection, but who are not presently covered as a consequence of the way in which vulnerability is defined for the purposes of the PoVA scheme. The fact that current legislation and guidance only includes people that are receiving nursing or personal care, leaves many older people in receipt of care, who may well be vulnerable, open to unnecessary risk. Help the Aged is committed to seeking to empower all older people. We believe that the provision of health and care services necessitates a relationship of trust between the person delivering the service and the recipient. This implies a certain power imbalance towards the person delivering the service, requiring the recipient to trust that that person will not intentionally or otherwise cause them harm. This arguably makes all people in receipt of health and social care services vulnerable. In order to ensure that older people are not placed at avoidable risk, Help the Aged would like to see all those covered within the scope of the outlined categories be given *entitlement* to enhanced disclosure, in addition to those within the scope providing care to 'vulnerable' adults as it is currently defined being required to undergo checks.

Q8: Do you agree with the proposal to extend the categories of position for which it should be compulsory to carry out a CRB check (or subsequent barred list check) to include all those services exclusively targeted at children or vulnerable adults? Please name groups of people who you believe should be subject to compulsory checks.

We agree with the proposed extension of the categories of position for which it should be compulsory to carry out CRB checks. We would, however, like to see this extension taken further. In particular, we would like to see any extension include services targeted at older people. Help the Aged is concerned that extending categories only to those services targeted *exclusively* at vulnerable adults will not ensure effective protection for all those older people that might need it, as mentioned in response to question 7. Staff at a day centre for older people for example, which catered for both older people within the scope of current definitions of vulnerable and people that are not, would not be required to undergo an enhanced disclosure.

Q9: Do you agree that the impact of the increase in compulsory checks would be acceptable? Please state whether your answer refers to either children of vulnerable adults or both

Vulnerable adults:

Help the Aged believes that the potential benefit of the increase in compulsory checks is sufficient to justify the potentially challenging impact. We hope that the Department of Health and Criminal Records Bureau will learn from experience to date in administering disclosures and the PoVA register and that resulting improvements in implementation of the new barring system will help to minimise the impact of increases in compulsory checks.

Q10&11: In what situations would you request a new Enhanced Disclosure rather than simply checking the barred list for work with children/vulnerable adults?

Help the Aged emphasises the importance of continuing to make disclosures available to all employers recruiting new staff.

We agree that where an employer is concerned that it would be necessary to acquire specific information to assess an applicant's suitability, such as with the example given, they may request a new enhanced disclosure.

We also believe that confidence in the likelihood of a check against the barring list alone being effective and/or revealing enough information to offer sufficient reassurance will vary depending upon a number of factors, including

- the nature of the position
- the employers experience of use of the scheme
- the final criteria upon which people will be placed upon the barring list.

Q12: Do you agree that a secure online checking facility is the best way for employers to determine whether or not an applicant is barred? Please state any concerns you may have about this approach.

We agree that an online checking facility should be made available if this can be implemented securely and reliably.

However, this must not be provided at the expense of, or to the detriment of, other forms of checking facilities. It is likely that the number of older people employing staff themselves will increase in coming years, particularly if the Department of Health is successful in its efforts to increase the take-up of direct payments. At the moment only around one in five people over 65 have ever used the internet³. Even less will access the internet on a regular basis. It is essential therefore that other means of checking are made available, and an equivalent service of equal quality is provided to those not using the internet.

In the context of older people employing staff directly, we would also raise some concern about the intention to ensure that a list check can only be undertaken with the consent of the applicant. Help the Aged would agree that where this is possible, it would be the preferred option - open communication is much more likely to foster

³ National Statistics Omnibus Survey

trusting and constructive relationships. However, it is possible to envisage some circumstances where the older person might be discouraged from undertaking a list check by virtue of the fact that they have to obtain the consent of the potential worker. This is more likely to occur where the older person has little real choice in who to employ. Help the Aged therefore recommends that further thought is given to how such problems can be avoided.

Q13: How much per person per year would you be willing to pay for a comprehensive updated system which will reduce the need for repeat CRB checks and provide notification of change of barred status? Please comment on preferred funding arrangements.

Help the Aged agrees that it should continue to be the responsibility of the applicant to pay for an enhanced disclosure. We are concerned that the proposals only refer to the cost of checking the barred list in terms of the proposed online service. While we welcome the indication that this service would be provided free of charge, we believe that it is essential that an equivalent service is made available given the relatively small proportion of older people with regular access to the internet. This must offer the same benefits to users as the online service, in particular being free of charge, and offering the facility to update and check for 5-10 years.

Systems for notification of changes in the barring status of workers should also be equally available to those not using the internet. Help the Aged is concerned that older people using direct payments must not be discriminated against or otherwise disadvantaged by the implementation of the new barring system. It will be crucial that an effective and reliable offline means of notifying those who employ staff if the list status of any of them changes is found. It is vital to ensure that older people are not placed under pressure to pay for disclosures or for checking against the barring list (either initially or for updates) if we are to ensure that they are not discouraged from accessing such protection.

Q15: Do you agree with the proposal not to impose a requirement on employers of vulnerable adults to check other members of their workforce who have contact with them, but to enable them to do so if they wish?

Help the Aged agrees with this proposal.

Q16: Do you agree with the intention to keep the existing penalties for non-compliance?

Help the Aged agrees with this proposal.

Q17: Do you agree that the same penalties should apply to private employers (such as parents) as to larger employers, where they knowingly employ a barred individual to work with children or vulnerable adults?

We agree that the same penalties should apply to private employers where they are employing the worker to deliver a service for another person. However, we believe that further consideration of enforcement is needed where the employer is also the recipient of the service. In some cases, it may be potentially disempowering to enforce the same penalties upon someone who has made the 'positive' decision to employ someone despite their being barred. We believe that the most effective way of addressing this challenge is to ensure that a balance is struck in determining the scope of those required and those entitled to run checks.

We would also reinforce messages outlined previously about the importance of accessible and appropriate information and support being made available for older people using direct payments.

Q18: Do you think that there should be a high barring threshold whereby only the most serious offences lead to barring meaning a quicker and cheaper system with fewer people barred; or a low barring threshold meaning that more offences and allegations are considered, more people are barred and the system is more expensive?

Help the Aged believes that the priority in administering protection for vulnerable adults must be the protection of vulnerable adults, and not the administrative convenience of the new system. While we recognise and support moves to minimise the expense and time taken to deliver the system, this should not be achieved at the expense of effective protection. Given the low conviction rates for many acts that constitute abuse or harm to older people, we believe that it is essential that 'soft' information beyond criminal convictions is also considered, and that the threshold is set at the lowest possible level.

Q20: Should an individual with relevant offences or allegations be 'under review' and therefore able to work with vulnerable adults pending the barring decision or should they be 'provisionally listed'? If they are under review, please state what interim safeguards could be put in place?

We believe that the protection of vulnerable adults must take priority, and would therefore support a system where such individuals with relevant offences or allegations would be provisionally listed. We recognise that this will inevitably mean that there are cases where a person is subsequently cleared of suspicion, but we are hopeful that improvements in the system will mean the number of such cases will be kept to a minimum.

Q21: Do you agree that the new scheme should take into account information from professional and regulatory bodies in considering an individual's suitability to work with children and vulnerable adults even if it delays the process?

Help the Aged agrees with this proposal.

Q22: Do you agree that the new scheme should take into account referrals from social services in considering an individual's suitability to work with children and vulnerable adults even if it delays the process?

We strongly agree with the proposal outlined above. In our view, the sharing of such information may be particularly useful in tackling instances of elder abuse.

Q24: What other consequences do you think the scheme might have for the vulnerable adult's workforce?

Help the Aged is concerned that the proposals do not appear to have adequately taken in to account the changing patterns of adult social care, and particular the Government's desire to increase the take up of direct payments. We therefore recommend that particular consideration is given to the implications of the proposals for the new barring and vetting scheme for those using direct payments.

For more information on any part of this response, contact:

Rachael Childs
Policy Officer – Community Health & Social Care
Help the Aged
207-221 Pentonville Road
London
N1 9UZ

Tel: 020 7239 1888

Fax: 020 7239 1889

Email: rachael.childs@helptheaged.org.uk