

Association of Directors of Adult Social Services written evidence to Public Bill Committee – Protection of Freedoms Bill 2011.

The Association of Directors of Adult Social Services (ADASS) represents Directors of Adult Social Services in Local Authorities in England. As well as having statutory responsibilities for the commissioning and provision of social care, including the safeguarding of vulnerable adults, ADASS members often also share a number of responsibilities for housing, leisure, library, culture, arts, community services, and increasingly, Children's Social Care within their Local Authority.

Context

The Protection of Freedoms Bill 2011 is a wide ranging piece of legislation which aims to protect individuals "from unwarranted state intrusion in their private lives" and within the context of the roles and responsibilities of council Adult Social Care, ADASS is specifically commenting upon Part 5 of the bill, which specifically deals with Safeguarding Vulnerable Groups and Criminal Records.

Summary:

ADASS welcomes many of the measures within the Bill, it takes steps towards a more proportionate and common sense approach to balancing the freedoms of the workforce and ensuring that safeguarding is promoted. However, the changes come at a time when public sector resource is shrinking, particularly in back office functions. It will therefore be essential that any guidance during implementation is clear and takes account of the need for a shared understanding to ensure that all agencies are aware of their respective responsibilities.

Response

1. It is noted that the Safeguarding Vulnerable Groups Act 2006 (which introduced the Vetting and Barring Scheme) has been the subject of two reviews. The current system is currently felt, and experienced, as risk averse and bureaucracy heavy by both applicants and employers.
2. The key role for local authorities in safeguarding vulnerable adults must not be compromised. There is a need to balance individual freedoms and rolling back bureaucracy with appropriate safeguards that ensure that the risk of harm being caused is minimised.
3. The Bill reforms the current definition of vulnerable adults. The amendment means that there is a category of activity which a worker might be engaged in, with or on behalf of, adults which is defined as regulated activity (social work is specifically mentioned). The Protection of Freedoms Bill also removes the section of 'controlled activity' from the Safeguarding Vulnerable Groups Act 2006, which focuses in particular on frequency of activity. The amendments made

by the bill are felt to be clear and proportionate in this regard. ADASS welcomes assurance that social work and community care will continue to be considered regulated activity. Clearly this needs to explicitly include all care and support activities commissioned through Personal Budgets and Direct payments under statutory duties (currently NHS and Community Care Act).

4. The Bill will therefore result in a reduced number of individuals working (paid and unpaid) in redefined regulated activity to be covered by the scheme. This is welcomed by ADASS as a common sense and proportionate response. Although there is a risk that as the definition of regulated activity changes, some individuals will cease to be covered, and therefore they would no longer be barred from working with vulnerable adults, appropriate local safeguarding systems will mitigate against any risk.
5. The changes to the Vetting and Barring Scheme retain a national barred list. This is welcomed by ADASS. Local Authorities should retain a power, rather than a duty, to make a referral to the Independent Safeguarding Authority. The burden of responsibility in this case should be with the employer. Similarly, the duty for a regulated provider or personnel supplier to check whether a person is barred before commencing regulated activity is welcomed. However, the Bill does not make clear whether individuals employed directly or by non-regulated providers will be covered by the list. Additionally, individuals who are employers via a Personal Budget, Direct Payment or own resources could access the list. This is a major concern for ADASS as individuals organising their own care, or those organising it on their behalf, would not be able to make checks on prospective providers of care and support.
6. A streamlined checking service for those who work "closely and regularly" with children or vulnerable adults is welcomed. Additionally, the portability of checks will reduce administrative burdens and potentially delays in commencing employment. However, the changes appear to be being funded by an increase in the cost of enhanced applications. This will increase costs to Councils at a time when resources are diminishing. At present this cost is unable to be quantified.
7. There are clear moves in the Bill to ensure that individuals take responsibility for their information. Allowing job applicants to see the results of their criminal record check before their prospective employer will allow mistakes to be corrected. It is not clear whether this may lead to delays at recruitment stage which can be costly for employers. On balance, the overall gains from the portability of checks outweigh this.
8. In relation to the alteration of the test for barring decisions, we would query on what basis the decision will be made of whether someone

might be working in regulated activity in the future. This lack of clarity could lead to confusion.

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