



National Vetting Bureau Bill – Committee Stage Debate

October 17th 2012

Introduction

Barnardos and ISPCC strongly welcomes the National Vetting Bureau Bill 2012. While it is disappointing that this Bill copies the 2011 Bill in proposing only the vetting of those in identified employment types rather than prospective employees and volunteers in identified sectors, it will for the first time allow the vetting procedure to include non conviction data or 'specified information' for the protection of children and vulnerable adults. Barnardos and ISPCC have long called for the inclusion of non-conviction data to be available to assist employers when assessing any candidates for positions working with children. Such a system has been in operation for years in Northern Ireland and while the UK Government is scaling back on its Vetting and Barring Scheme it is still advanced in comparison to the current Irish system.

Together with the Children's First Bill and the Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Act 2012, this Bill will play a key part in the reform of Ireland's child protection system. This system will hopefully be further strengthened with the passing of the children's right referendum on November 10th.

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In order to ensure the best vetting procedures from the outset, Barnardos and ISPCC would like to bring your attention to some of our concerns with the current drafting of the bill and ask that you table some amendments to address these deficits.

Volunteers

Unlike the 2011 Bill, there is no explicit mention of volunteers. Within the current draft, they are exempt when it is in the course of a 'personal relationship', for no commercial consideration and on an 'occasional basis' at a school, sports or community event. However, the term 'occasional' is not defined and therefore open to interpretation. We are of the belief that an individual who has unsupervised access to a child for any period of time should be Garda vetted. This would help prevent individuals who may wish to harm children from moving from organisation to organisation working on an 'occasional' basis.

The inclusion of volunteers in general is unclear as it is listed under the 'Interpretations' section of the Bill i.e. 'relevant organisations' who are defined amongst others things as 'a person who permits any person (whether or not for commercial or any other consideration) to undertake relevant work or activities on the person's behalf'. In the interests of clarity, we suggest that under Schedule 1 part 1 it is described as 'any work (**paid or unpaid**) or activity'.

Childminders

The Bill proposes that the childminders that are subject to vetting are those registered with the HSE under the 2006 regulations and those who are registered with an agency. Those recruited by parents through 'private arrangements' are not covered to be vetted. In reality, the vast majority of childminders are recruited directly by parents and only a small number are registered with the HSE. Childminders are the most common form of child care being used by parents and are largely unregulated in Ireland. Excluding this group from vetting could potentially put children at risk and it would also be a significant missed opportunity for professionalising the sector.

Schedule 1 – relevant work or activities relating to children

It is defined in the Bill that those subject to vetting will be persons whose work involves 'having **access to**, or contact with, children'. Further clarity is required on what access means – is it just physical access or does it include access to sensitive/confidential information relating to children?

Section 12 — Requirement for vetting disclosure in respect of certain work or activities

The Bill prohibits persons to do relevant work or activities relating to children unless they have been vetted, to do otherwise will be an offence. However, subsection (3) provides that 'it will be a defence for a person to show that he or she did not know, nor could be reasonably expected to know, that the work for which they were engaged constituted relevant work or activity'. Barnardos and ISPCC would question the rationale for including this clause as it could undermine the effectiveness of trying to establish a comprehensive vetting system.

Section 19 - Scheduled organisations required to notify specified information to Bureau

There is provision in the Bill to require scheduled organisations to notify the Bureau of any specified information that may come to light during the course of inquiries; it would be helpful to clarify if the Bureau shall also share such information with relevant organisations should it come to attention following a person being vetted.

Section 20 – Re-vetting Off Vetting

There is provision in the Bill to enable the re-vetting of employees upon the expiry of a specified period to be prescribed by the Minister. It is disappointing that this timeframe is not explicit in the Bill. In essence, it means that the entire vetting system is applicable to new employees (paid or unpaid) or those who have never been vetted but who are currently in positions which are subject to vetting. This is contrary to best practice; for example in the early years sector, pre-school inspectors recommend that staff who secured vetting clearance more than five years ago should be subject to re-vetting.

Section 31 – Fees

The Minister will prescribe fees to be incurred when seeking a vetting disclosure. However, it is unclear whether registered organisations are to be charged for each volunteer application. Placing such an expense on volunteers would deter people from volunteering opportunities. However, charging registered organisations to have each volunteer vetted could be very costly on already financially stretched voluntary and community organisations and reduce the numbers of volunteers engaged by organisations. Presently, there is no charge for volunteers to be vetted against Irish and Northern Irish records with charges only incurred for international checks.

Exchange of Information

In the 2011 Bill there was a provision to allow for the 'exchange of information' between other jurisdictions for vetting purposes. This provision was strongly welcomed and it was hoped that it would include, where possible, the sharing of 'specified information' as well as conviction data in the interests of protecting children and vulnerable adults. This provision is absent in the 2012 Bill and on the grounds that the forthcoming EU Records Information Systems Bill which is following an EU directive will facilitate the exchange of information between EU countries. Barnardos and ISPCC requests the monitoring of this Bill when it is tabled to ensure it will cover aspects of the vetting procedure.

Conclusion

Barnardos and ISPCC broadly welcome the latest Draft Heads of the National Vetting Bureau Bill 2012 and believe it is a step in the right direction for building a comprehensive vetting system in Ireland. The inclusion of 'specified information' is particularly welcome. This is an opportune time to ensure that the system is underpinned by best practice standards in child protection, anything less than this is unacceptable as it will fail to significantly protect children and vulnerable adults from all those who seek to harm them.