

## NORTH LANARKSHIRE COUNCIL

## REPORT

To: SOCIAL WORK COMMITTEE EDUCATION COMMITTEE		Subject: "SEX OFFENDERS: A BAN ON WORKING WITH CHILDREN" - HOME OFFICE CONSULTATION PAPER
From: DIRECTOR OF ADMINISTRATION		
Date: 19 May, 1997	Ref: CA/SW/35 LD/MR	

**Introduction**

The Home Secretary and the Secretary of State for Scotland recently published a consultation paper entitled "Sex Offenders: A Ban on Working with Children". Any Member wishing a copy of the full consultation paper is asked to contact the Administration Department and arrangements will be made accordingly.

The consultation paper proposed the creation of a new offence of seeking to work with or provide services to children for those with convictions for certain sex offences, particularly against children. This is set in the context of other initiatives to improve child protection such as increased access to criminal records and the requirement for convicted sex offenders to register changes of name and address under the Sex Offenders Bill. The paper sought views on various aspects of the proposal including:-

- \* the age of children to be protected;
- \* the kind of work and services to be included;
- \* the length of time any ban should last;
- \* the qualifying offences;
- \* avenues of appeal, and
- \* the implications for employers and voluntary bodies.

Comments were sought from the Director of Social Work and the Director of Education on the consultation paper. To meet the consultation timescale a response, based on their comments and as set out in the Appendix to this report, was forwarded to the Home Office.

**Recommendation**

The Committee are asked to endorse the response set out in the Appendix to the report as the Council's formal response to the consultation paper entitled "Sex Offenders: A Ban on Working with Children", and to homologate the action taken by the Director of Administration in forwarding the response within the timescale for consultation.

  
Director of Administration

RESPONSE BY NORTH LANARKSHIRE COUNCIL TO THE CONSULTATION PAPER  
'SEX-OFFENDERS: A BAN ON WORKING WITH CHILDREN'

The option to limit the provision to all those under 16 and to extend that protection to specified vulnerable children up to the age of 18 is preferable. The vulnerable categories should include young people who, in terms of the Children (Scotland) Act 1995, are 'in need', 'looked after', and 'looked after and accommodated'.

There is concern that the existing arrangements and the arrangements set out in the Paper are/would be open to abuse. Perhaps the proposals could be tightened by:

- \*Making it an offence for a sex offender to seek to be involved in providing a direct service to children whether the service is supervised or unsupervised, or whether the service is provided by formal employment or on a voluntary basis.

- \*Reducing the possibility of an offender inadvertently applying for a position involving children by requiring that any job adverts, job descriptions and details of voluntary services etc. include clear information to the effect that the position includes services to children.

- \*Making it an offence where the provision of services extends beyond family members.

- \*Applying the offence to all services, whether paid or unpaid.

The provision should apply to any job/training where supervised contact with children may reasonably be expected to be a feature. It would also be appropriate for employers and training personnel to indicate in advance that any job/training would require an enhanced criminal record certificate and that it would be an offence for anyone with a relevant criminal record to make application therefor.

The difficulty in making arrangements for situations where an offender is already in relevant employment is recognised, and the undernoted views are supported :

- \*The offence should apply to internal job moves which would bring the offender into contact with children.

- \*It should be an offence for someone to remain in employment which includes contact with children if convicted of a relevant offence as, in practice, such an act would be no different from the act of seeking employment which involves work with children.

- \*A person convicted of an offence should have the responsibility of informing their employer.

The proposals would enhance existing arrangements for the scrutiny of those who seek to work within the fields of social work and education. They may, however, have some additional cost implications in terms of the advertisement of posts and of the requisite increased liaison amongst education, health, social work and police authorities.

Whilst the range of qualifying offences seems to be appropriate, it is recommended that consideration be given to the inclusion in the ban of individuals who are not convicted, but are found in civil proceedings through the Children's Hearing System in Scotland to be responsible for the committal of sexual offences against children. While this is not technically a conviction, there will have been a finding in court proceedings of responsibility for the injury to a child. It is also recommended that the ban should include individuals who are cautioned as well as those who are convicted.

Notwithstanding the concept of the rehabilitation of offenders, when looking at the interests of children compared to the interests of sex offenders, child protection should remain the priority. Accordingly, it is recommended that the ban be lifelong and that the prohibition should also be applied to sex offenders who have been sentenced before the legislation comes into force.

The view that the Courts should retain discretion for sentencing and for the dis-application of a ban in exceptional circumstances is supported. In the interest of Natural Justice, there should be a right of appeal in cases where the Court has decided to refuse an application to dis-apply a ban on the basis of exceptional circumstances. The reasons for any decision to dis-apply a ban should however be justifiable in open court and should be subject to appeal. Once the judicial process has been exhausted, there should be no consideration of future review of the ban.

It should be noted that in Scotland many sex offenders are prosecuted in terms of Breach of the Peace, rather than under a specific sexual offence. As detailed information on the circumstances of such offences is not available from the Scottish Criminal Records Office, it is impossible for employers to adequately vet people for jobs. To be effective the proposals in the Paper would have to be aligned to either a review of the wider legislation in relation to sexual offences to ensure that the police can charge someone in terms of an appropriate sexual offence, or a review of police practice on this issue.

The Consultation Paper which has recently been issued by the Scottish Office on 'The Vetting and Supervision of Adults Working with Children and Young People' sets out proposals for the introduction of measures which would screen out those who might seek to be involved in either employment or voluntary work which would involve access to children. It is considered that this accreditation should be compulsory and support the related proposals contained in this Consultation Paper to make it an offence for those convicted of sexual offences to either seek to work with or to offer services to children.