The Vetting and Barring Scheme
Independent Safeguarding Authority (ISA)

When you recruit someone new to work with children or vulnerable adults you will need to check their ISA status. This will determine whether or not you can employ them (or take them on as volunteers), and may affect what activities they can undertake. It is illegal to employ or engage someone who has been ‘barred’ from undertaking certain activities with vulnerable groups.

1. Background

The Vetting and Barring Scheme was introduced in October 2009 in response to shortcomings identified in the Bichard Report with regards to the then current schemes for vetting staff following the Soham murders.

There are two bodies involved in the scheme:

- The Independent Safeguarding Authority (ISA) which makes all barring decisions relating to individuals and is responsible for the upkeep of the lists of barred individuals.

  The ISA will assess every person who wants to work or volunteer unsupervised with children or vulnerable adults. They will do this by working closely with the Criminal Records Bureau (CRB) and deciding on the information produced by the CRB whether to give the individual concerned an ISA registration or if requested add them to one of the barred lists.

- The Criminal Records Bureau (CRB) which has a processing function in relation to the barred lists and the online database.

  The CRB will receive applications to the ISA and will gather and monitor information. It will also use the information previously found in:
  - the Protection of Vulnerable Adults (PoVA) list;
  - the Protection of Children Act (PoCA) list; and
  - List 99 (a list of people considered unsuitable for work with children, held by the Department for Children, Schools and Families).

In 2010 the Coalition government whilst recognising there was a clear need for the Vetting and Barring Scheme was concerned that the scheme and its planned phased implementation was too onerous for employers.

Following a review, the Coalition government changed the vetting and barring scheme. These changes are included in the Protection of Freedoms Act 2012. The majority of the proposed changes were rolled out on 10th September 2012 with further changes scheduled to take effect later in 2012 and into early 2013. For further information on forthcoming changes, please see section 4.

2. What’s changed?

On 10th September 2012 the following changes took effect:

- **New definition of regulated activity.**
  The definition of ‘regulated activity’ has been scaled back to focus on work which involves close and unsupervised contact with vulnerable groups including children.

  It is important to note that the activities and work which have been taken out of the ‘regulated activity’ category will still be eligible for enhanced CRB checks (but they will not be eligible for barred list checks via the ISA First Check) e.g. fully supervised volunteers and assistants.
Repeal of ‘controlled’ activity. The controlled activity category will no longer exist. This category previously covered people who were involved in care but had less interaction with a vulnerable group – maybe someone who was responsible for the management of records.

- Repeal of registration and continuous monitoring.
- Repeal of additional information, as currently provided by the police.
- Minimum age set at 16 for applicants of a CRB.
- More rigorous ‘relevancy’ test for when the police release information held locally on an enhanced CRB check.

Revised definition of regulated activities in relation to adults:

- activities that involve the provision of healthcare to an adult by or under the direction or supervision of a healthcare professional;
- the provision of relevant personal care to an adult (e.g. physical assistance with, prompting of or training, instruction, advice or guidance in relation to, eating drinking, toileting, washing and dressing);
- the provision of social work to an adult;
- the provision of assistance with general household matters to an adult (namely managing cash, paying bills and shopping);
- the conduct of an adult’s affairs (e.g. through a power of attorney); and
- the transportation of adults where this is necessary because of their age, illness or disability.

Revised definition of regulated activities in relation to children (under 18):

- The teaching, training or instruction of children.
- Care for, or supervision of children.
- Advice and guidance for children relating to their physical, emotional or educational wellbeing.
- The driving of children in prescribed circumstances.
- Paid or unpaid activity carried out at an establishment listed in the Safeguarding Vulnerable Groups Act 2006 (the Act) e.g. educational institutions, children’s homes and centres and premises on which childcare is carried out.

For the activity to be regulated it must also:

- Be carried out frequently by the same person (once per week or more) or
- Be carried out intensively which is 3 days or more in a 30 day period or
- between the hours of 2am and 6am
- Regulated activity does not include family or personal arrangements.

Note that “relevant personal care” (physical assistance with, the prompting of, or training, instruction, advice or guidance in relation to, eating and drinking, toileting, washing and dressing) or healthcare provided, directed or supervised by a healthcare professional is always a regulated activity regardless of when it is carried out.

Revised definition of vulnerable adults:

A vulnerable adult is any adult (i.e a person aged 18 or above) in relation to whom regulated activities are carried out. In other words, adults are regarded as vulnerable adults if they require regulated activities to be provided on their behalf at that particular time.

Revised definition of regulated activities in relation to adults:

- activities that involve the provision of healthcare to an adult by or under the direction or supervision of a healthcare professional;
- the provision of relevant personal care to an adult (e.g. physical assistance with, prompting of or training, instruction, advice or guidance in relation to, eating drinking, toileting, washing and dressing);
- the provision of social work to an adult;
- the provision of assistance with general household matters to an adult (namely managing cash, paying bills and shopping);
- the conduct of an adult’s affairs (e.g. through a power of attorney); and
- the transportation of adults where this is necessary because of their age, illness or disability.

There is no longer a requirement for the activity to be carried out frequently or intensively.

2. Legal Responsibilities

It is illegal to employ or engage someone on one of the ISA Barred Lists in ‘regulated activities’ and could result in imprisonment or a fine. Therefore employers should only permit a person with an ISA First Check (see section 3) to undertake ‘regulated activity’ with vulnerable groups.

Duties & Responsibilities

- It is the employer’s responsibility to check a potential employee or volunteer's status on the ISA Barred lists if it is intended that they will carry out ‘regulated activities’.
- Employers, professional and regulatory bodies, and child/adult protection teams in local authorities will be under a duty to refer relevant information to the ISA. For more information about referrals, read the factsheet ‘An employer’s duty to refer information’.
- The process of the police providing additional information to employers over
and above that supplied on the Enhanced Disclosure has been repealed in the Protection of Freedoms Act 2012. However if the police feel there is the risk of crime or harm to others they may decide to use common law powers to provide that information to employers directly.

- The police currently provide information held locally on Enhanced CRB certificates when they consider it ‘might be relevant’ to the purpose for which the certificate was requested. This will continue, but the police will now apply a more rigorous ‘relevancy test’ to determine if they ‘reasonably believe it to be relevant’.

If any of that additional information is included on an Enhanced CRB certificate and the applicant does not think it should be, they will be able to ask the Independent Monitor to review it. The Independent Monitor could ask the CRB to issue a new certificate or an amendment to it.

3. The Scheme in Operation

Making an application
People applying to carry out ‘regulated activities’ will have to apply, via their employer, to the Criminal Records Bureau (CRB) for an ISA First Check (a check against the ISA Barred lists) and an Enhanced CRB Check. Volunteers will be required to complete an application form in the same way as an employee however, the employer/organisation will only be charged for the ISA check.

The vetting process
For some employees carrying out ‘regulated activities’ with vulnerable groups but in a fully supervised capacity there may still be the requirement for employers to apply for an Enhanced Criminal Records Bureau Check, but they will not need the ISA First Check (for further details see the CRB Eligibility Guidance). The CRB will check whether there is any relevant information from the police or referred information from other sources, such as previous employers or professional bodies. If there is no incriminating information, the CRB will send the employer a notification that the CRB check is satisfactory, and the applicant an Enhanced Disclosure Certificate which they can show their employer.

From 10th September 2012 if an employer considers that an individual will be engaged in a ‘regulated activity’ then an Enhanced Disclosure will be required along with an ISA First check.

This is done by ticking an additional box on the CRB Application Form called ‘Request ISA First Check’. The employer will receive an email showing the person’s ISA status within 3 working days of the CRB receiving the application. The response will either determine that ‘No Match’ on the barred lists has been found or ‘Wait For Full Disclosure’ which suggest they may have found something of relevance or that they need longer to carry out the full CRB check (can be related to more popular surnames such as Smith, meaning there is much more data to search). If the ISA shows no match and the CRB is clear the CRB will send the employer a notification that the CRB check is satisfactory, and the applicant an Enhanced Disclosure Certificate which they can show their employer.

Online checking
The progress of an application to the CRB can be checked online via the CRB Online Tracking Service using the following link:

To do this the disclosure applicants form reference number will be needed, along with the applicant’s date of birth.

There are further plans in the pipeline for an Online Update Service, see section 4.

Existing employees
The CRB process takes a snapshot of the applicant at the point of application, and now that the continuous monitoring requirements have been withdrawn employers will need to make a decision on how long they deem a CRB Disclosure to be valid. There is little guidance on this subject and employers with their management teams and relevant regulators will need to determine how frequently they require employees to go through the application process.

Challenges to Information on CRB Certificates
Applicants who believe that information disclosed on their certificate is inaccurate can apply to the CRB for a decision about whether it is accurate. The Protection of Freedoms Act 2012 has extended this to allow individuals other than the applicant to challenge information disclosed.
How long will the application process take, and what is the cost?

It is anticipated that in the majority of cases (approximately 9 out of 10 cases) where no information is known about the applicant, the ISA First Check should take no longer than 3 working days from when the Criminal Records Bureau (CRB) receives the form for processing with the Enhanced Disclosure certificate following in approximately 2 weeks.

Where there is relevant information which needs consideration by the CRB or the police, this process will take longer and you may be asked to wait for full disclosure.

The cost of an Enhanced Disclosure with the CRB is £44.00 with an additional £6.00 for the ISA First Check. There is no charge for volunteer applications with the CRB, however there will still be a charge of £6.00 for the ISA First Check if required.

There are many companies called ‘umbrella bodies’ that will accept and process CRB applications on behalf of smaller organisations who do not process enough applications to warrant setting themselves up as an ‘Umbrella Body’. These organisations will charge an administration fee for their services, therefore the total cost of an Enhanced Disclosure with an ISA First could cost in the region of £60.00.

3. Phased introduction of the scheme

There will be additional changes following the 10th September roll-out and more information will be published as it comes to light, however in summary:

December 2012 – The work of the CRB and ISA will be merged into one single, new Non-Departmental Public Body. This will be called the Disclosure and Barring Service (DBS). The DBS carry out the CRB’s and ISA’s functions. This will not represent a change to the service provided, it will just be provided by one organisation rather than two. Contact details for the DBS will be published in due course.

Early 2013 – There are plans for the DBS to develop and deliver a new Update Service which will allow individuals to apply for a CRB check once and then reuse their existing certificate should they need a similar check. They will need to subscribe to this service and pay a small fee. This will allow potential employers and organisations the opportunity to check the individual’s CRB status online to see if it is up to date and will avoid the need for repeat applications.

More information will be available later in the year.

Resources and Further Information

For further information:

Home Office
www.homeoffice.gov.uk/disclosure-and-barring

CRB
www.homeoffice.gov.uk/

ISA
www.isa.homeoffice.gov.uk

DirectGov
www.direct.gov.uk

You can now follow the HR Services Partnership on Twitter, Facebook and LinkedIn:

www.hrservicespartnership.co.uk

T: 01403 240205