

# Vetting and Barring System Update – Briefing Note

**March 2011**

The purpose of this briefing, provided by the National Safeguarding Unit, with thanks to the Voluntary Sector North West briefing service, funded by The Big Lottery Fund, is to outline:

- Current Government policy on vetting
- The Vetting and Barring System (VBS) Remodelling Review recommendations
- Future of ISA, CRB and VBS Contact Centre
- Sources of further information and updates
- Two page Q&A on changes and future process.

## Vetting and Barring Update

The Coalition Government have recently announced that Labour's Vetting and Barring Scheme (VBS) will no longer go ahead, with the vetting of individuals "very significantly" curtailed. This follows publication of a *VBS remodelling review and report*, which has been published by the Home Office.

The Coalition have pledged to restore vetting to "common sense" levels through the Freedom Bill. The aim is to reverse the idea that everyone is a potential risk to children. Only those in sensitive posts or who have intensive contact with children or vulnerable people will need to be cleared and undergo criminal record checks.

Instead of many, many people having to register themselves with the Independent Safeguarding Authority (ISA), which was supposed to conduct criminal record checks and oversee a national database, the responsibility will shift to the employer to ensure staff are properly checked and cleared to work. The number of people affected is expected to more than halve. Related to this, criminal record checks will no longer be sent directly to potential employers but to the individual first to allow them to challenge any concerns or suspected errors.

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It is recommended that new rules will also lay out the way for minor offences in the past no longer to be included in checks.

Children's Minister Tim Loughton said:

"Protecting children and keeping them safe is our top priority, but it's also important that well meaning adults are not put off working or volunteering with children. The new system will be less bureaucratic and less intimidating. It will empower organisations to ask the right questions and make all the appropriate pre-employment checks, and encourage everyone to be vigilant. This is a common sense and proportionate approach which will ensure that children are properly protected without driving a wedge between them and adults."

The VBS was set up in the wake of the Soham murders. Ian Huntley was given a job as a school caretaker after checks failed to pick up sex-related allegations. The scheme was to have taken effect last autumn but was halted by the Coalition pending a review. The VBS will not go entirely, but will be dramatically reduced and is likely to be renamed.

#### **Summary of the VBS remodelling review recommendations:**

- A state body should continue to provide a barring function to help employers protect those at risk from people who seek to do them harm via work or volunteering roles.
- The Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) should be merged and a single non-departmental public body or agency created to provide a barring and criminal records disclosure service.
- The new barring regime should cover only those who may have regular or close contact with vulnerable groups.
- Barring should continue to apply to both paid and unpaid roles.
- Automatic barring should apply for those serious offences which provide a clear and direct indication of risk.
- Registration should be scrapped – there should be no requirement for people to register with the scheme and there will be no ongoing monitoring.
- The information used by the state barring body (currently the ISA) to make a barring decision should be serious in nature.
- Criminal records disclosures should continue to be available to employers and voluntary bodies but should be revised to become portable through the introduction of a system which allows for continuous updating.
- The new regime should retain current arrangements for referrals to the state barring body (currently the ISA) by employers and certain regulatory bodies, in circumstances where individuals have demonstrated a risk of harm to children or vulnerable adults.

- The current appeals arrangement should be retained.
- The state barring body should be given a power to vary review periods in appropriate circumstances.
- Services related to criminal records disclosure and barring provisions should be self-financing. We recommend the Government consults on raising the cost of the criminal records disclosure fee to cover the costs incurred.
- The new system will retain two offences; it will continue to be an offence for a barred person to work with vulnerable groups in regulated activity roles. It will also be an offence for an employer or voluntary organisation knowingly to employ a barred person in a regulated activity role.
- Finally, the Government should raise awareness of safeguarding issues and should widely promote the part everyone has to play in ensuring proper safeguarding amongst employers, voluntary organisations, families and the wider community.

The full *Vetting and Barring Remodelling review: report and recommendations* (Home Office, February 2011) are here: [www.homeoffice.gov.uk/publications/crime/vbs-report](http://www.homeoffice.gov.uk/publications/crime/vbs-report).

## Restructuring

The £80 million ISA will be merged with the Criminal Records Bureau into a single organisation responsible for checking people's backgrounds and clearing them for work. The VBS contact centre ceased operation on 31 December 2010.

## Updates

Latest information will be available from these websites:

- CRB/AccessNI: For information relating to the current Disclosure process visit: [www.crb.homeoffice.gov.uk](http://www.crb.homeoffice.gov.uk) or [www.accessni.gov.uk](http://www.accessni.gov.uk). You can also contact the CRB Customer Services team on 0870 9090 811.

Independent Safeguarding Authority (ISA): For information relating to referrals and barring decisions: [www.isa.gov.org.uk](http://www.isa.gov.org.uk) – sign up here for updates by email.

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## Questions and Answers about the remodelling of the VBS

### **1. What was wrong with the Vetting & Barring Scheme planned to be rolled out by the last administration?**

The Government considers elements of the previous scheme to be disproportionate and unnecessarily bureaucratic. As part of the Coalition Agreement, the Government is committed to scaling the Vetting & Barring Scheme back to common sense levels.

### **2. Which Government departments are involved with the remodelling of the Vetting & Barring Scheme?**

The Department of Health (DH), the Department for Education (DfE) and the Home Office are working together on the remodelling of the Vetting and Barring Scheme.

### **3. Who conducted the VBS Review?**

The VBS review was jointly carried out by civil servants from DfE, DH and the Home Office on behalf of Government, consulting key partners. It's recommendations were considered carefully by Ministers.

### **4. Why are you looking to scale the VBS back, surely it's important that all of those who have access to children or vulnerable adults should be checked?**

Under the previous arrangements proposed, some nine million individuals would have been required to register under the Vetting & Barring Scheme, as their work fell within the definition of the prescribed work (i.e. regulated or controlled activities involving children or vulnerable adults). The Government has conducted a review of these proposals and come to the view that they were not proportionate. We will seek amendment to the Safeguarding Vulnerable Groups Act 2006, which provides the framework for the VBS, and redefine the scope of the scheme (i.e. reduce the range of posts that fall within 'regulated activity' and scrape 'controlled activity' altogether) so that only essential posts (from a public protection perspective) will fall within its requirements.

## 5. How long will it take to create a new scheme?

We expect the primary legislation to be in place by early 2012 and will begin introducing changes as soon as practicable. This could take many months to fully roll out and we will need transition arrangements in the meantime. Appropriate and timely guidance about the remodelling arrangements will be provided before any further changes commence. Appropriate and timely guidance about the remodelled scheme will be provided before any further aspects commence. We will continue to use Government websites to ensure that appropriate information is available to relevant audiences.

## 6. What are the changes being made?

Under the pre-review system those who worked or volunteered with children or vulnerable adults in England, Wales or Northern Ireland, or employed people to do so, were to have been affected by the Vetting & Barring Scheme. Anyone undertaking a special type of activity – called a ‘regulated activity’ or ‘controlled activity’ – on a regular basis would have had to become part of the Scheme by registering and having their records checked and becoming subject to continuous monitoring, thereafter. The original scope of the scheme was designed to comprehensively cover anyone working closely with children or vulnerable adults, either paid or unpaid, on a frequent or regular basis. We are proposing to redefine the definition of regulated activity (and so scope to bar) and scrape the notion of controlled activity all together. Further, those undertaking posts which fall within the scope of the new arrangements will not be required to register with the scheme and there will be no continuous monitoring arrangements.

## 7. So what is happening to ‘regulated activity’?

The definition of ‘regulated activity’ will be narrowed under these amendments, meaning the range of posts subject to barring decisions will be reduced. As we will also be scrapping the previous requirement for registration and continuous monitoring, the overall burden on those posts still within the scope of the scheme will be greatly reduced, and we believe, more proportionate. A smaller (and more proportionate) group of roles will now be defined as regulated activity.

## **8. What is happening to 'controlled activity'?**

The concept of 'controlled activity', where an individual has some contact with children and vulnerable adults, but not as intense, frequent or regular as that deemed a regulated activity, will be scrapped under these amendments. Previously, controlled activity would have covered posts like receptionists in outpatient clinics, catering staff in further education colleges and hospital records clerks, for example. Employers would have had to check people applying for these posts but could have employed them providing safeguards were in place.

## **9. Do employers still have to make referrals to the ISA whilst the VBS remodelling process is underway?**

Yes. Whilst the scheme is being remodelled existing duties to make referrals to the ISA remain in force. The following changes came into effect from 12 October 2009:

- The previous barred lists were replaced by new barred lists administered by the ISA. Checks of these new lists can, as for the old lists before, be made with an enhanced CRB/Access NI check.
- A new legal duty was created for employers, local authorities, professional regulators and inspection bodies requiring them to refer information to the ISA where they considered an individual had caused harm or posed an ongoing risk to vulnerable groups.
- Existing criminal penalties for barred individuals who seek or undertake work with vulnerable groups and for employers who knowingly take them on now applied to a wide range of work.

### **One East Midlands**

One East Midlands is the regional voluntary and community sector infrastructure organisation for the East Midlands. We work to ensure that the voluntary and community sector is actively engaged with key regional bodies and other partners, from across the public, statutory, business and social enterprise sectors. We bring together organisations that support voluntary and community groups across the region to influence and shape policy, improve services and provide a point of contact at a regional level.

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