



**INDEPENDENT SAFEGUARDING AUTHORITY
VETTING AND BARRING SCHEME
POLICY**

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1. Introduction

- 1.1 The Safeguarding Vulnerable Groups Act 2006 was passed as a result of the Bichard Inquiry arising from the Soham murders in 2002, when the schoolgirls Jessica Chapman and Holly Wells were murdered by Ian Huntley (their school caretaker).
- 1.2 The Inquiry questioned the way employers recruit people to work with vulnerable groups, and particularly the way background checks are carried out. Recommendation 19 of the Inquiry Report highlighted the need for a single agency to vet all individuals who want to work or volunteer with children or vulnerable adults and to bar unsuitable people from doing so.
- 1.3 The Act was created in response to recommendation 19 and the Independent Safeguarding Authority (ISA) was set up to fulfil this role across England, Wales and Northern Ireland.
- 1.4 A new vetting and barring scheme is to be set up for people who work with children and vulnerable adults. Further information is available from the ISA website (www.isa.gov.org)

2. Scope

- 2.1 This policy will apply to all prospective and existing employees, relevant Council Members, School Governors, volunteers, certain taxi drivers (see below), foster and adoptive parents, including schools based employees/volunteers. Wherever prospective employees or existing employees are mentioned, the provisions also apply to relevant Council Members, School Governors, volunteers, taxi drivers, foster and adoptive parents.
- 2.2 Transport, including in taxis, will only be a regulated activity when it is transportation solely for children or vulnerable adults and people who are accompanying children or vulnerable adults, to and from regulated activity and it is organised by an organisation on behalf of the providers of the regulated activity.

3. Purpose

- 3.1 The purpose of this policy is to set out the Council's obligations under the new arrangements. It must be noted that the new arrangements do not absolve employers of their responsibility for safer recruitment and recruiting managers have a continuing responsibility to undertake all other checks, such as references, identity, etc.

4. The Council as a Commissioner

- 4.1 The Council commissions a large number of services for both child care and elder care from the independent sector and has a clear responsibility to ensure that those providers are adhering to the new requirements.

5. Vetting and Barring Scheme

5.1 The new Vetting and Barring Scheme (VBS), involving the Independent Safeguarding Authority (ISA), will have a major impact on the recruitment and monitoring practices of people working or volunteering with children and vulnerable adults. The aim of the vetting and barring scheme is to reduce the incidence of harm to children and vulnerable adults by helping to ensure that:

- employers benefit from an improved vetting service for those who work with children and/or vulnerable adults;
- those who are known to be unsuitable are barred from working with children and/or vulnerable adults at the earliest possible opportunity.

5.2 The Department of Health and the Department for Education and Skills (now the Department for Children, Families and Schools) jointly carried out a public consultation on the proposals for a new vetting and barring scheme from 5 April to 5 July 2005. The proposed model for vetting and barring was widely welcomed, with 88% of respondents either agreeing or strongly agreeing that the new scheme would have a positive impact on safeguards for children and vulnerable adults.

5.3 Changes to current vetting and barring processes

The new scheme will:

- replace the current List 99, the Protection of Children Act List (PoCA), The Protection of Vulnerable Adults list (PoVA) and Disqualification Orders regimes. The ISA will decide who is unsuitable to work or volunteer with vulnerable groups. It will base its decisions upon information collected from various agencies, government departments and the Criminal Records Bureau (CRB), be more comprehensive in coverage, with a wider workforce eligible for checks;
- enable a barring decision to be made on the basis of an individual's criminal record history, as well as following a referral from an employer or another body;
- enable organisations to make secure, instant online checks of an applicant's status in relation to the scheme;
- update barring decisions as soon as any new information is made available and notify organisations if an employee/other registered person is deemed unsuitable.

5.4 Once the scheme is fully rolled out, it will be illegal to hire someone in a regulated activity (see section 7 for details of regulated activities) that is not registered, and has therefore not been checked by, the ISA. The new scheme will cover employees, relevant Members, Carers, etc in the education, care and health industries, affecting some 11.3 million people.

5.5 This scheme is a mandatory addition to the existing safeguarding system and not a replacement. Neither does it replace the current Criminal Records Bureau Disclosure Scheme where the statutory requirements for CRB checks in certain sectors still remains.

6. Implementation

6.1 The scheme will be implemented in a staged process, as recommended by Sir Michael Bichard. Implementation of the scheme will begin on 12 October 2009, although the bulk of the new systems required to support the scheme will be put in place in 2010.

6.2 Additional safeguards starting on 12 October 2009 are:

- **Reduction of red tape** – two barring lists (the Children’s Barred list and the Adult’s Barred list) will be administered by a single organisation, the ISA rather than the three lists previously maintained by two different Government Departments: PoCA, PoVA and List 99.
- **The introduction of barring from “regulated activities”** – people included on the new barred lists by the ISA will be barred from a much wider range of jobs and activities than before, particularly in areas of work with vulnerable adults such as the NHS.
- **A new duty to share information** – employers, social care and professional regulators will have to notify the ISA of relevant information so individuals who pose a threat to vulnerable groups can be identified and barred from working with those groups.
- **New criminal offence** – it will become a crime for a barred individual to seek or undertake work with vulnerable groups; and for employers to knowingly take them on.

6.3 From 26 July 2010:

- All new entrants/appointments to roles working regularly with vulnerable groups and those switching jobs to a new provider within these sectors, will be able to register with the ISA and be checked. There will be a cost for registration (see Section 11 for details). A policy decision is required as to whether or not this will be funded by the Council or by the individual applicant. At present, the Council pays for the CRB check for applicants for employment, fostering and adoption and for 3 yearly checks. Members and School Governors are regarded as volunteers so there will be no charge.
- Employers will be able to register an interest in an individual’s ISA registration status to be continuously informed of changes in an individual’s registration status.

6.4 From November 2010:

- Employers will be legally required to have completed their registration with the ISA
- Employers will be legally required to have checked all new starters’ (starting from 26 July 2010) registration status and to check all future starters before employment commences.
- The ISA have advised that this delay between July and November 2010 is so as not to disrupt normal recruitment over the traditionally busy summer period.
- Each school will be a regulated activity provider so if a teacher or member of support staff moves to a new regulated activity provider, there is a fresh requirement to gain permission to engage in a regulated activity. Where this move

takes place after November 2010, they must gain their ISA registration before they start in the new school and the new school must check their ISA registration before they can start. This will be the position whatever the type of school, whether it is in the same local authority or a different local authority, or whether or not there is continuity of service. The key issue is that the fresh permission to engage in regulated activity triggers the need for ISA registration.

- When making an application for ISA registration, the school will get a CRB disclosure with the package. (It is possible to elect not to have this, but it is included in the fee of £64 whether or not it is required). **For example:** A teacher or a member of support staff moving schools after November 2010, will trigger the requirement for the individual to gain their ISA registration. Their ISA registration application will include a CRB disclosure. The individual will be ISA registered and the school will also get a new CRB disclosure.

6.5 From January 2011:

- Existing employees, relevant Members, School Governors etc. and volunteers who have never previously had a CRB check must apply for ISA registration.
- Existing employees, relevant Members, School Governors etc and volunteers with CRB checks will also need to apply for ISA registration, starting with individuals whose CRB checks are the oldest.
- Registration will be phased in over a five-year period to help manage the operational and financial impact of the scheme.

7. The scope of the Vetting and Barring Scheme

7.1 The Safeguarding Vulnerable Groups Act defines the scope of the Vetting and Barring Scheme (VBS). It provides that certain activities in relation to children and vulnerable adults are regulated. This is known as '**regulated activity**'.

7.2 **Regulated activity** is any activity, which involves contact with children or vulnerable adults. This could be paid or voluntary work. More information about regulated activities is set out in Appendix 1. A wider definition of regulated activity will be introduced from October 2009.

Such activities include:

- Any activity of a specified nature, which involves contact with children or vulnerable adults frequently, intensively and/or overnight.
- Any activity allowing contact with children or vulnerable adults that is in a specified place frequently or intensively.
- Fostering and childcare.
- Any activity that involves people in certain defined positions of responsibility.

Organisation's duties and responsibilities

- It will be a criminal offence for an organisation to allow a barred person, or a person who is not yet registered with the ISA, to work in any regulated activity.
- It will be a criminal offence for an organisation to take on a person in a regulated activity if they fail to check that person's status.

Individual's duties and responsibilities

- A barred individual must not take part in any regulated activity.
- An individual taking part in a regulated activity must be registered with the ISA.
- It will be a criminal offence for a barred person to take part in a regulated activity.

7.3 The Act also provides that certain activities in relation to children and vulnerable adults are controlled. This is known as “**controlled activity**”. More information on controlled activities can be found in Appendix 1.

Controlled activities include:

- Frequent or intensive support work in general health settings, the NHS and further education settings.
- People working frequently for specified organisations (e.g. local authorities) with access to sensitive records about children and vulnerable adults.
- Support work in adult social care settings.

Organisation's duties and responsibilities

- It will be an offence for an organisation to take on an individual in a controlled activity if they fail to check that person's status.
- An organisation can permit a barred person to work in a controlled activity as long as safeguards are put in place.

7.4 **Definition of a child for the purposes of the Scheme**

A young person under the age of 18, except in employment settings, where the age limit is 16. So there are no requirements on those working with a 16 or 17 year old in employment settings.

7.5 **Definition of a vulnerable adult for the purposes of the Scheme**

The Safeguarding Vulnerable Groups Act 2006 defines a vulnerable adult in Section 59 as a person who has attained the age of 18 and:-

- They are in residential accommodation
- They are in sheltered housing
- They receive domiciliary care
- They receive any form of health care
- They are detained in lawful custody
- They are by virtue of an order of a court under supervision by a person exercising functions for the purposes of part 1 of the Criminal Justice and Court Services Act 2000 (c. 43)
- They receive a welfare service of a prescribed description
- They receive any service or participate in any activity provided specifically for persons who fall within subsection (9)

- Payments are made to them (or to another on their behalf) in pursuance of arrangements under section 57 of the Health and Social Care Act 2001 (c.15)
- They require assistance in the conduct of their own affairs

8. Making referrals to the ISA

8.1 It is vitally important for the success of the Vetting and Barring Scheme that information about individuals is shared by different organisations. The following organisations have a legal obligation to refer relevant information about an individual to the ISA:

- adult/child protection teams in local authorities;
- professional bodies and supervisory authorities named in the Act;
- employers and service providers of regulated and controlled activity; and
- personnel suppliers.

8.2 All other employers of those working with children and/or vulnerable adults may refer relevant information to the ISA. Parents and private employers should go to a statutory agency who can investigate and refer if necessary.

8.3 The ISA will inform professional and regulatory bodies when it bars someone so that their professional registration can also be reviewed.

9. Recruitment and approval of people working with children and vulnerable adults

9.1 Organisations and volunteer organisations who deal with children and vulnerable adults always need to check a person's ISA status before allowing them to undertake any duties. We cannot take their word for it and neither can we have them in post – even supervised – before we know the outcome of the check.

9.2 From November 2010, when we recruit/appoint someone new to work with children or vulnerable adults we will need to check their ISA status. This will determine whether or not we can use them (or take them on as volunteers), and may affect what activities they can undertake.

9.3 Only an ISA-registered person can undertake **regulated** activity – it is illegal to use an unregistered person and can result in imprisonment or a fine of up to £5000. An unregistered person means that a person has either not applied to register with the ISA or that they are on an ISA Barred List.

9.4 For **controlled** activity it is still mandatory to check the ISA status of an individual before we use them. However, we may be able to use a barred person provided certain safeguards are in place.

9.5 We will also need to carry out a Criminal Records Bureau (CRB) check on most individuals.

- 9.6 Prospective employees can apply for registration with the ISA via their prospective employer. Registered people will be given a personal ISA Registration Number will remain on the ISA database even if they change employers.
- 9.7 There will be no registration charge for volunteers (which includes relevant Members and School Governors).
- 9.8 Anyone applying for a position with children or vulnerable adults when they know they are barred by the ISA will be liable to a fine or could face imprisonment.

10. Existing employees, relevant Members, School Governors, Carers etc

- 10.1 We will also need to ensure that existing employees, relevant Council Members, School Governors, volunteers, taxi drivers, foster and adoptive parents, including schools based employees/volunteers are ISA-registered. First we should ask those who have not been previously checked by the Criminal Records Bureau (CRB) to apply for ISA registration. For Medway Council, there are likely to be few, if any, existing individuals working with children or vulnerable adults who do not have a current CRB check.
- 10.2 Next we should ask those who have been CRB checked to apply, beginning with individuals whose CRB checks are the oldest. The ISA will provide detailed guidance on the timing of this process as the ISA vetting service is phased in.
- 10.3 Existing individuals can apply for registration with the ISA via their organisation. A policy decision is required as to whether or not this will be funded by the Council or by the individual. The fee will be the same as for prospective employees /applicants.
- 10.4 At present, we recheck CRB disclosures every 3 years and there are no proposals to change this as information may come to light as a result of a CRB disclosure that is relevant to continued employment / appointment but may not have been deemed to be serious enough to warrant an individual being barred from working with vulnerable people.

11. Costs

- 11.1 The cost of applying to register with the Vetting and Barring Scheme has been set at £64. This is comprised of a £28 fee to cover the ISA's costs and £36 to cover the CRB's costs as administrator of the applications. The cost will be £64 even if a CRB check is not required at the same time.
- 11.2 The figures and forecasts for the first five years of the scheme's operation have been analysed and the £28 figure is based on cost-recovery for the scheme – that is, what it will cost to ensure the scheme is self-financed during that period.
- 11.3 The fee will be a one-off payment and is intended to cover the applicant for the duration of their career in regulated activity. Only those involved in unpaid voluntary activity will not have to pay the application fee.

11.4 A policy decision is required as to whether or not this will be funded by the Council or by the individual employee. At present, the Council pays the £36 for the CRB check for applicants for employment, fostering and adoption and for 3 yearly rechecks.

12. Registering with the ISA

12.1 It is the individual's responsibility to apply to register with the ISA. If they have not applied for registration we can't use them. It is our responsibility to check a potential individual or volunteer's status. If an applicant is not ISA-registered they have either not applied, may have de-registered themselves or are on an ISA Barred List. The Council will not be charged for checking someone's ISA status.

12.2 It is envisaged that registration will take 7 days. The individual will receive a card with a 7-digit registration number.

12.3 Once we have registered our interest in an individual as their employer / organisation, we will automatically be contacted should their status change – that is, if new information leads to an ISA decision to bar them. Multiple agencies can register an interest in individuals

12.4 When we check with ISA on an individual's registration using the 7-digit code provided, we will either be informed that the individual is registered to work with children/vulnerable Adults or that they are not registered to work with children/vulnerable Adults.

12.5 For self-employed people – such as childminders, they will need to apply for ISA registration in due course. Details of how and when they should apply will become available from the ISA in due course as the Vetting service is phased in.

12.6 Individuals under the age of 16 (employees or volunteers) will not be eligible to register with ISA.

13. Privacy

13.1 ISA registration does not mean that individuals' details are available to the general public. Only employers will be able to access the information – and only after the individuals give them their ISA Registration Number. Employers will only be able to check that individuals are in fact ISA-registered. Only ISA caseworkers and the police will have access to information that is held.

Signed _____ (Chair of Governors)
Date _____

Signed _____ (Head Teacher)
Date _____

(Adopted at the Governors' Meeting held on 11 November 2009)

ISA FACTSHEET

Regulated and controlled activities

The Safeguarding Vulnerable Groups Act 2006 contains the legislation to create the new Independent Safeguarding Authority (ISA) and enact the Vetting and Barring Scheme. This factsheet explains the terms 'regulated' and 'controlled' activities used in the Act that will be introduced when the new ISA is phased in.

What is a 'regulated activity'?

- Any activity of a specified nature that involves contact with children or vulnerable adults frequently, intensively and/or overnight. (Such activities include teaching, training, care, supervision, advice, treatment and transportation.)
- Any activity allowing contact with children or vulnerable adults that is in a specified place frequently or intensively. (Such places include schools and care homes.)
- Fostering and childcare.
- Any activity that involves people in certain defined positions of responsibility. (Such positions include school governor, director of children's services, director of adult services and trustee of certain charities.)
- 'Regulated activity' is when the activity is frequent (once a month or more) or 'intensive' (takes place on three or more days in a 30-day period).

How does 'regulated activity' work?

- Anyone providing a regulated activity must be registered with the ISA.
- It will be a criminal offence, punishable by up to five years in prison, for a barred individual to take part in a regulated activity for any length of time.
- It will be a criminal offence for an employer to take on an individual in regulated activity if they fail to check that person's status.
- It will be a criminal offence for an employer to allow a barred individual, or an individual who is not yet registered with the ISA, to work for any length of time in any regulated activity.

What does this mean for domestic employees, e.g. private tutors and care workers?

- It will be an offence for a barred individual to take part in any regulated activity in domestic circumstances.
- Domestic employers do not have to check an individual they wish to employ – such as a

home tutor, nanny or carer – but the new scheme will give them the opportunity to check the status of an individual (with his/her consent) if they wish to do so.

What is a ‘controlled activity’?

- Frequent or intensive support work in general health settings, the NHS and further education. (Such work includes cleaners, caretakers, shop workers, catering staff, car park attendants and receptionists.)
- Individuals working for specified organizations (e.g. a local authority) who have frequent access to sensitive records about children and vulnerable adults.
- Support work in adult social care settings. (Such jobs include day centre cleaners and those with access to social care records.)
- 'Controlled activity' is when this type of activity is 'frequent' (once a month or more) or 'intensive' (takes place on three or more days in a 30-day period).

How does ‘controlled activity’ work?

- It will be a criminal offence for an employer to take on an individual in a controlled activity if they fail to check that individual’s status.
- An employer can permit a barred individual to work in a controlled activity **only if sufficient safeguards are put in place**.

In this factsheet the term ‘employers’ refers to both employers and managers of volunteers. The term ‘employees’ refers to both paid and unpaid (volunteer) work/activities.

	Bar applies (Duty on individual)	Individual must be checked (Duty on Employers)	Barred individual can be employed
Regulated activities Employment and volunteer settings	√	√	x
Regulated activities Domestic employment settings	√	x	x
Controlled activities Employers	x	√	√ with safeguards