



Buckinghamshire County Council

Report Scrutiny Review Panel

Date	4 th January 2010
Title	Background to the Vetting & Barring Scheme
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PURPOSE OF REPORT

- To provide a) background and information about the Vetting & Barring Scheme and the implications for transportation and b) an overview of the CRB process.

INTRODUCTION

1. The Scrutiny review panel looking at Safeguarding in Transportation have commissioned a background paper in preparation for the review which will take place during mid January '10.
2. This report intends to provide an overview of the new Vetting Barring Scheme. It should be noted that the scheme itself will be implemented over a period of time so it is not always possible to provide detailed responses to questions that may be asked.

VETTING & BARRING SCHEME

3. The Safeguarding Vulnerable Groups Act, 2006, following Sir Michael Bichard's Inquiry into the Soham murders (recommendation 19), introduced a new Monitoring Scheme for those who wish to work or volunteer with vulnerable groups. This Monitoring Scheme named Vetting & Barring will be run by the Independent Safeguarding Authority (ISA) in partnership with the Criminal Records Bureau (CRB) and will be introduced in phases, registering it's first applicants from July 2010.
4. The Vetting & Barring Scheme (VBS) launched on 12 October 2009 and brought in a number of changes.
 - It introduced the concept of ISA Regulated Activity (see Appendix 1).
 - It made it a criminal offence for barred persons to apply to work with children or vulnerable adults in a wider range of posts. Employers will also face criminal penalties if they knowingly permit barred individuals to engage in ISA Regulated Activity. This can be managed via an Enhanced CRB Disclosure.

- The three current barring lists (POVA¹, POCA² and List 99³) have been replaced by the creation of two new barred lists administered by the ISA. Checks against these two lists can be made as part of an Enhanced CRB check.
 - Employers, social services and professional regulators have a duty to refer to the ISA any information about individuals who may pose a risk to children and vulnerable adults.
5. On 14th December 2009 the 'Drawing the Line' report by Sir Roger Singleton (ISA Chair) was published. This report was requested by Ed Balls MP following considerable media interest during October 2009 and comments received from organisations representing schools. The main focus of this was to review the scope of ISA Regulated Activity to ensure that it remained proportionate.
 6. ISA Regulated Activity⁴ includes:
 - Specified activities including driving a vehicle that is being used for the specific purpose of conveying children or vulnerable adults;
 - Specified positions;
 - Activities taking place in specific settings & establishments.
 Activities must take place frequently or intensively to be regulated;
 - Frequently** meaning once a week or more often
 - Intensively** meaning an activity which happens at any time on four or more days in a 30 day period or overnight.⁵
 7. The day-to-day management or supervision of a person carrying out these activities is also considered to be carrying out regulated activity.
 8. Mutually agreed and private arrangements made between parents and friends for the care or transportation of their children is not included in the VBS. If however, a third party (such as a school, club or Local Authority) is making such arrangements then the Vetting & Barring requirements will apply and relevant checks will need to be carried out.
 9. The Scheme includes those driving a vehicle solely for the purpose of conveying children or vulnerable adults and includes taxi drivers used by schools and care homes to transport children or vulnerable adults, and minibus/bus drivers taking children to or from Scout or Guide camp, or taking vulnerable adults on day trips from care homes. It also includes those employed to teach under-18s how to drive, ambulance drivers and those who drive vulnerable groups on a voluntary basis.
 10. It does not include bus drivers who drive public vehicles, which may or may not pick up children or vulnerable adults on the road, or taxis hailed/hired independently by children or vulnerable adults.

KEY DATES

11. On 26th July 2010 the Registration Scheme will be launched. The Independent Safeguarding Authority (ISA) will assess every person who wants to work or volunteer with vulnerable people. Only those who are assessed to pose 'no known risk' will be given ISA Registration.

¹ Protection of Vulnerable Adults List

² Protection of Children Act List

³ Those barred from working in an educational setting

⁴ See Appendix I for full definition of ISA Regulated Activity

⁵ Revised definitions, December 2009

12. Employees and volunteers will register via an enhanced Criminal Records Bureau (CRB) check and will incur a charge of £64 (which includes the cost of an enhanced CRB and will be waived for volunteers). Part of the process of registration involves the ISA confirming that an individual has not previously been barred from working with vulnerable groups. The ISA considers information from a number of different sources including relevant criminal convictions, cautions, local police intelligence and information referred by local authorities.
13. ISA Registration will be lifelong (unless a person chooses to deregister themselves) and, unlike a CRB check, will involve continuous monitoring by the ISA. However, it will not provide details of a person's criminal record and therefore will not necessarily be sufficient to determine whether a person is suitable to work in a specific job. As presently a full criminal record will only be available via an enhanced CRB check.
14. From 1st November 2010 it will become a legal requirement for all those new to or transferring into regulated activity (including those who have not been continuously engaged in regulated activity in the prior 3 months) to register on the Scheme before they begin work.
15. From this date Regulated Activity Providers (RAPs) will be required to check that all new starters or transfers have ISA Registration status. This will require RAPs to verify identity and use an individual's personal registration number and identification code to check their status online.
16. Employers will also be able to use this online checking facility to register an 'interest' in this person so that should their ISA Registration status change (i.e. they become barred) the employer will be contacted and advised that this person may no longer be engaged in ISA Regulated Activity.
17. Those currently engaged in regulated activity, either employed or voluntary, will be asked to register over the following 5 years on a phased basis. It is anticipated that existing staff/volunteers will register at the time of their first recheck.

Expected timetable for Registration

New entrants to the workforce	From 26 July 2010
Staff moving within the workforce	From 26 July 2010
Existing staff/volunteers who have never been CRB checked	From Jan-'11
Those with - CRB checks over 3 years' old - Older CRB checks followed by newer checks	tbc – phased <i>likely to be in line with recheck</i>
All Regulated Activity	By end Jun-'15

18. The Scheme is intended as an addition, not a replacement, to current safeguarding requirements, including CRB checks. The main aim of the Scheme is to prevent those who pose a threat to vulnerable groups from gaining access through employment or voluntary activities. The Scheme is not designed to assess whether someone is suitable for a specific job so the legal obligation for CRB checks, where appropriate, will remain, and safeguarding guidance issued by bodies such as the DCSF or CQC on CRB rechecks will also need to be considered.

19. The Scheme can provide no full guarantees and all other safer recruitment and safe working best practices must continue to be followed.
20. Further information about the scheme can be found at www.isa-gov.org

CRB CHECKS

21. The current operation of the CRB checking process for Amey is not dissimilar to that of the rest of the Authority.
22. The CRB Application form is completed by the applicant. A named Senior Officer from Transportation acting on behalf of the County Council confirms the identity of the applicant, that the CRB Application form is completed accurately and undertakes the formal Counter Signatory of the application form prior to its despatch to the CRB in Liverpool.
23. Upon receipt of the CRB Disclosure, by the same named Officer, this is passed to the Amey representative to make the suitability of employment decision taking advice from named Senior Officers within the Safeguarding in Employment Team of HR. This team is seeking to ensure consistency with the rest of the Authority, compliance with the CRB Code of Practice and the Rehabilitation of Offenders Act 1974.

CONCLUSION

24. In conclusion please note that a CRB Check and in the future ISA Registration are only elements of a robust Safer Recruitment process that should be in place for any recruitment of adults working or volunteering with Children and Young People. It is important to understand that if a sufficiently devious person seeks employment all we can do is to make it as difficult as possible for them to succeed.

25. APPENDIX I

DEFINITION OF REGULATED ACTIVITY

Taken from The Vetting & Barring Scheme Guidance, October 2009

Regulated activity is the term used in the Safeguarding Vulnerable Groups Act (SVGA) 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order (SVGO) 2007 to cover activities where people are working or volunteering with children or vulnerable adults.

Regulated activity covers anyone working closely with children or vulnerable adults, either paid or unpaid, not part of a family or personal arrangement on a frequent or intensive basis.

It can include, but is not limited to, any of the following:

- Teaching, training or instruction, care or supervision of children or provided wholly or mainly to vulnerable adults.
- Providing advice or guidance for children.
- Providing advice, guidance or assistance wholly or mainly to vulnerable adults.
- Any form of healthcare treatment or therapy provided to children or vulnerable adults.
- Driving a vehicle that is being used for the specific purpose of conveying children or vulnerable adults.
- Working in a specified place
 - Specified settings are limited to:
 - schools (educational institutions exclusively or mainly for the provision of full-time education to under-18s)
 - childcare premises (including nurseries)
 - residential homes for children in care
 - children's hospitals (hospitals exclusively or mainly for the reception and treatment of children)
 - children's detention centres (institutions exclusively or mainly for the detention of children)
 - children's centres (subject to Royal Assent of the Apprenticeships, Skills, Children and Learners Bill) in England and Wales, and
 - adult care homes
- fostering and childcare
- specified positions such as school governor or director of children's or adult social services
 - specified positions - the children's workforce
 - school governors (members, associate members and clerks of governing bodies of educational establishments which exclusively or mainly provide full-time education to under-18s)
 - members of relevant local government bodies, including:
 - a member of a local authority who discharges any of that authority's education or social services functions, or
 - a member of an executive of a local authority that discharges any of that authority's education or social services functions, or
 - a member of a committee or sub-committee (or an area committee or sub-committee) of a local authority that discharges any of that authority's education or social services functions
 - chief executives and directors of children's services of local authorities in England, and directors of social services or education of local authorities in Wales
 - all charities that carry out work targeted at children are considered to be children's charities and all trustees are engaging in regulated

activity, and it will be an offence for a barred person to hold such a position

- lead directors of children and young people's services in Wales
- the Children's Commissioner or Deputy Children's Commissioner for England, and the Children's Commissioner or Deputy Children's Commissioner for Wales
- members of the Youth Justice Board for England and Wales
- anyone who establishes or maintains a ContactPoint database or otherwise exercises functions in relation to the management or control of a ContactPoint database (England only)
- members of Local Safeguarding Children Boards
- members of CAFCASS, including the chief executive (CAFCASS, Health and Social Care body in Northern Ireland)
- a deputy appointed by the Court of Protection to make decisions on behalf of a child under section 16(2)(b) of the Mental Capacity Act 2005, and
- members and staff of the ISA, including the chief executive.
- specified positions - the vulnerable adults workforce
 - members of relevant local government bodies, including:
 - a member of a local authority who discharges any of that authority's education or social services functions, or
 - a member of an executive of a local authority that discharges any of that authority's education or social services functions, or
 - a member of a committee or sub-committee (or an area committee or sub-committee) of a local authority that discharges any of that authority's education or social services functions
 - chief executives and directors of adult social services of local authorities in England, and directors of social services of local authorities in Wales
 - Commissioner and Deputy Commissioner for Older People in Wales
 - trustees of charities for vulnerable adults. All charities that carry out work targeted at vulnerable adults are considered to be vulnerable adult's charities and all trustees are engaging in regulated activity, and it will be an offence for a barred person to hold such a position, and
 - members and staff of the ISA, including the chief executive.
- roles that involve managing, on a regular basis, the day-to-day work of those carrying out specified activities or working in specified settings.

Frequent & Intensive

- "frequent" is now defined as once a week or more often (formerly once a month or more often).
- "intensive" is now defined as four or more days in a month, or overnight (formerly three or more days in a month or more often and overnight).