

# Employment Briefing

Solicitors

## NEWSFLASH

### Further update on the Wright case/POVA

Further to our briefing yesterday on the House of Lords decision in the *Wright*<sup>1</sup> case we can confirm that as of the **20<sup>th</sup> January 2009**, employers are to direct all new referrals under List 99, POVA and POCA to the Independent Safeguarding Authority (ISA)<sup>2</sup>. In addition, the Government has confirmed that from the 20<sup>th</sup> January new referrals under POVA or POCA **will not** be considered for **provisional listing**. These provisions<sup>3</sup> were introduced by the Government as part of the transitional provisions bringing in the new vetting and barring scheme under the Safeguarding Vulnerable Groups Act 2006. The cessation of provisional listing is, in light of the *Wright* decision, an important step by the Government and will require employers to carry out thorough recruitment procedures so as to fully understand why an applicant left a previous post. In the

absence of provisional listing, employers will now need to be satisfied, by conducting a thorough recruitment procedure, that applicants have not in the past been the focus of POVA/POCA related concerns. This should include taking up references and ensuring applicants have given a full career history and have provided clear reasons as to why they left any previous employment.

Details of the vetting and barring scheme can be found in our Care Homes Briefing 64. Further commentary on the scheme and the transitional provisions is set out in the article written by Oliver Donald of our Care Homes team and published in the November/December issue of *The Modern Registered Manager*.

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If you would like any information on any of these or other employment matters, then please contact Michael Elks ([mike.elks@rlb-law.com](mailto:mike.elks@rlb-law.com)), Stephen Levinson ([stephen.levinson@rlb-law.com](mailto:stephen.levinson@rlb-law.com)) or Andrew Parsons ([andrew.parsons@rlb-law.com](mailto:andrew.parsons@rlb-law.com)).

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

<sup>1</sup> R (on the application of Wright and others)(Appellants) v Secretary of State for Health and another (Respondents) [2009] UKHL 3

<sup>2</sup> The address for referrals is: Independent Safeguarding Authority, PO Box 181, Darlington DL1 9FA

<sup>3</sup> The Safeguarding Vulnerable Groups Act 2006 (Transitory Provisions) Order 2009