

RadcliffesLeBasseur



Healthcare Briefing

March 2010

A basic guide to the New Vetting & Barring Scheme

What is the new scheme?

Under the provisions of the Safeguarding Vulnerable Groups Act 2006 the Government has recently introduced a new scheme for vetting and barring individuals who wish to work or volunteer with children or vulnerable adults in England and Wales. A new body, the Independent Safeguarding Authority (ISA), has been created to carry out the role of vetting and barring individual applicants.

Who needs to apply?

Under the new system all individuals who want to work or volunteer with children or vulnerable adults must apply to the ISA to join the scheme. Employers or voluntary organisations will not be able to take on someone to carry out what is known as “regulated” or “controlled” activities without first checking that they have been registered with the ISA.^[1] It will be a criminal offence for an employer or voluntary organisation to engage an unregistered person to undertake regulated activities. It should be noted that the scheme covers NHS staff that want to work or volunteer with children or vulnerable adults.

How do you apply?

Under the new scheme, those who wish to apply to work or volunteer with children or vulnerable adults will make a specific ISA application via the Criminal Records Bureau (CRB), if they pass that stage they will be ISA registered and will receive an ISA registration number.

If information is found during the processing of that application, this will be passed to the ISA who will make a decision about whether to place the individual on a ‘Barred List’.

Will the new scheme mean that a CRB check is no longer required?

No. The new scheme does not alter the general requirement to carry out CRB checks. However, since October 2009, “standard CRB checks are no longer available for posts working with children and vulnerable adults. For positions involving work with children and vulnerable adults, an Enhanced CRB check is required.”^[2] The CRB have confirmed that “there is no requirement at this point to request an Enhanced CRB check for existing staff who are now eligible under the extended criteria; they can be checked at the same time they are registered with the new scheme in line with the...”^[3] timeline below.

Timeline for implementation of the new scheme

From October 2009

- From October 2009, the three previous barring lists (POCA, POVA and List 99) were replaced by the creation of two new barred lists, one for children and one for vulnerable adults. Checks of these lists can be made as part of an Enhanced CRB check. Employers, social services and professional regulators now have a duty to refer to the ISA any information about individuals who may pose a risk. There are criminal penalties for barred individuals who seek or undertake work with vulnerable individuals and also for employers who knowingly take those people on.

From July 2010

- From July 2010 Employees who are new to the workforce, or those who are changing roles to take on regulated activity and those changing jobs whilst working in regulated activity may apply for ISA registration. From July 2010 an application for ISA registration and a CRB check can be made on one form.

From November 2010

- Employees who are new to the workforce, or those who are changing roles to take on regulated activity and those changing jobs whilst working in regulated activity must register with the ISA.
- Employers who intend to employ these types of new staff must check their status with the ISA.

From 2011

- Existing employees and volunteers with no CRB check must apply for ISA registration.
- Existing employees and volunteers with CRB checks will also need to apply for ISA registration, starting with staff whose CRB checks are the oldest. [4]

For further details about the scheme and its implications for employers and employees please contact Andrew Parsons or Oliver Donald on 020 7222 7040.

[1] Further details about 'Regulated' and 'Controlled' activities can be found in the RadcliffesLeBrasseur Care Home Briefing No 64 <http://www.rlb-law.com/care-home-uploads/ch64-feb2008.pdf> as well as http://www.isa.gov.org.uk/PDF/283896_ISA_A4_FactSheetNo3.pdf.

[2] See CRB statement at: http://www.crb.homeoffice.gov.uk/media/news/launch_of_the_vetting

[3] Ibid

[4] This timeline and further details can be found on the ISA website at <http://www.isa.gov.org.uk/default.aspx?page=333>

Disclaimer

This briefing is for guidance purposes only. RadcliffesLeBrasseur accept no responsibility or liability whatsoever for any action taken or not taken in relation to this note and recommend that appropriate legal advice be taken having regard to a clients own particular circumstances.

LONDON: 5 Great College Street, Westminster, London, SW1P 3SJ, Tel +44 (0)20 7222 7040, Fax +44 (0)20 7222 6208

LEEDS: 6-7 Park Place, Leeds, LS1 2RU, Tel +44 (0)113 234 1220, Fax +44 (0)113 234 1573

CARDIFF: 25 Park Place, Cardiff, CF10 3BA, Tel +44 (0)29 2034 3035, Fax +44 (0)29 2034 3045

