

## HOMELESS LINK UPDATE SAFEGUARDING, VETTING AND BARRING



In 2009/10 Homeless Link had significant concerns about the potential impact of a proposed new national Vetting & Barring Scheme, run by the Independent Safeguarding Authority (ISA). It was proposed that a much greater proportion of people who wished to work or volunteer with children or vulnerable adults would have had to undergo a more stringent process before starting work and have information held on them assessed. We raised these issues with the Labour government at the time in a letter to the chief executive of the ISA. As a sector our key concerns were:

- To which homeless people the definition of vulnerable people applied
- Whether all hostel and day centre staff would need to be registered with the new Vetting and Barring Scheme
- The administrative burdens associated with the registration process
- The barriers the scheme would put in the way of individuals with an offending history from making a fresh start and seeking to work in the sectors where their insight and knowledge would be an asset.

A key part of the proposals was a scheme for the registration of those people who wished to work or volunteer in certain specified roles with children or vulnerable adults on a regular basis – known as “regulated activity”. This included roles such as teachers, nurses and social workers and it was unclear whether everyone working with homeless people would be included under the scheme. Those covered would have to apply to become registered with the Scheme, and hiring organisations would have to check that registration.

The Coalition government considered the Vetting and Barring Scheme a disproportionate response to the issues and halted it in June 2010 before anybody started registering with the scheme. The government has now carried out two reviews<sup>1</sup>, one into the Vetting and Barring Scheme and a broader review of the Criminal Records regime.

### CURRENT SITUATION

In reviewing the Vetting and Barring scheme the government did not remove the framework of the Scheme and the duties introduced in October 2009 remain in place, in order to ensure that there has been no diminution of safeguarding during the review period. We are currently in an interim period where the 2009 regulations are in place, and the Coalition government’s new regulations have been introduced in Parliament but are not yet law. The current situation is that the Criminal Records Bureau (CRB) is responsible for the disclosure of criminal records and the Independent Safeguarding Authority (ISA) for the barring functions.

The provisions remaining in place include:

- It is an offence for a barred individual to work or volunteer with children or vulnerable adults, or to seek to do so;
- It is an offence for employers knowingly to employ barred individuals in roles with children and vulnerable adults;

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<sup>1</sup> Department for Education, Department of Health and Home Office (Feb 2011) *Vetting & Barring Scheme remodelling review: Report and recommendations*; Sunita Mason (Feb 2011) *A common sense approach: A review of the criminal records regime in England and Wales*; both available at <http://bit.ly/eGWm8T>

- Employers are under a legal duty to refer individuals they believe to pose a risk of harm to the ISA;
- If, following consideration of all held information, the ISA considers a bar to be appropriate, it invites representations from the individual, and will take these into account in reaching its final decision;
- Anybody barred will continue to be so until the new system is introduced;
- Enhanced CRB checks remain in place and it is good practice for them to be carried out by housing care and support providers when assessing somebody's suitability for particular roles.

## PROPOSED CHANGES

The aims of the government in making the proposed changes are to scale the checking regime 'back to common-sense levels', not to discourage people from volunteering due to red tape and to put the responsibility onto employers to decide on and put in place safe recruitment practices. The definition of 'regulated activity' is being changed,<sup>2</sup> and will focus on situations where staff or volunteers have close or regular contact with children or adults.

Homelessness services, generic floating support, refuges (where staff do not supervise children), services for young people, ex-offenders or Travellers will all be outside the definition of 'regulated activity.' Charity trustees, cleaners and maintenance staff with little contact with vulnerable people will not be required to be vetted.

Services providing housing support because of somebody's age, illness or disability, or providing personal care, e.g. sheltered housing, mental health settings, alcohol or drug misuse services and those for people with learning or physical disabilities will be included within the definition of 'regulated activity.' For these services criminal records checks will be available so that, using a proper risk assessment framework, employers can make an informed decision about the checking regime they wish to have in place. For most people, a simple criminal records check when they first enter these areas of work will be the result, with no compulsory Government monitoring to follow. The new scheme will include volunteers but only where their contact with vulnerable groups is of 'the closest and most intensive kind.'

## TIMESCALE FOR CHANGES

The Protection of Freedoms Bill, which contains these proposed changes, was introduced in parliament on 11 February 2011. The relevant provisions are expected to come into force in 2012/13. When the new system is in place the Criminal Records Bureau and the Independent Safeguarding Authority will merge to create a single body to oversee the process. This will combine the criminal records disclosure responsibilities of the CRB, with an independent

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<sup>2</sup> **Regulated activity** is defined as:

- Any activity of a specified nature carried out frequently that involves contact with children or vulnerable adults
- Any activity allowing contact with children or vulnerable adults that is in a specified place frequently or intensively
- Fostering and Ofsted registered childminding
- The exercise of functions by people in certain specified positions of responsibility (should this number be here?)
- The exercise of any function of an officer of the Children and Family Court Advisory and Support Service (CAFCASS) or CAFCASS CYMRU.
- The exercise of a function of certain inspectorates, or activity that involves, on a regular basis, the day-to-day management or supervision of people carrying out activity of a specified nature or in a specified place, or inspection activity or functions of CAFCASS or CAFCASS CYMRU officers.

barring function which is currently the responsibility of the ISA. The full details of the plans, including the fee levels, have not yet been set.

## OUTLINE OF NEW SYSTEM

- Fewer people will have to be vetted: only those working closely and regularly with children and vulnerable adults.
- CRB checks will become portable from one job to the next. For a small fee employers can access continuous online updates. The change to continuous updating will take place during 2012 and will require primary legislation.
- In regulated activities it will still be a duty to check a person's barred status by requesting a CRB check. In non regulated activities employers will have greater responsibility to decide safe recruitment processes and what checks are appropriate for the level of risk involved.
- If a volunteer is working in close contact with vulnerable groups but under supervision, there will not be a duty to check their status. However if volunteers are carrying out 'regulated activity' unsupervised then there is a duty on the organisation to check their barred status.
- The ISA (or body which replaces it) will be allowed to review a barring decision at any time. This is particularly welcome in the light of our concerns that individuals who have turned their lives around should be encouraged to work in services in which they are familiar with the challenges people face, e.g. former drug addicts working as support workers in drug services.

## CONTACTS AND FURTHER INFORMATION

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 Criminal Records Bureau Customer Services team on 0870 90 90 811. For information relating to referrals and barring decisions, see the Independent Safeguarding Authority (ISA) website: [www.isa.gov.org.uk](http://www.isa.gov.org.uk)

If you would like to be kept informed of the changes, please put your details on the ISA website <http://www.isa.gov.org.uk/Default.aspx?page=299> to receive information directly in the future.

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