

VETTING AND BARRING SCHEME

The Vetting and Barring Scheme was introduced within the Safeguarding Vulnerable Groups Act 2006. However, following extensive consultation concerns were raised about the degree of contact with children which should trigger the requirement to register with the Independent Safeguarding Authority (ISA). There were inaccurate and misleading reports about the wider operation of the scheme.

Sir Roger Singleton, Chief Adviser on the Safety of Children, responded with careful consideration of any adjustments which may have been necessary. The report, 'Drawing the Line', addresses the requirement to ensure that children and vulnerable adults are protected from those who seek to harm them.

This briefing, which is an edited version of the full report, intends to highlight the key areas and recommendations within it.

Executive Summary

1. Mutually agreed and responsible arrangements made between parents and friends for the care of their children will not be affected by the Vetting and Barring Scheme (VBS).
2. Where organisations such as schools, clubs or groups make the decisions as to which adults should work with their children then the requirement to register will apply, subject to the frequent and intensive contact provisions.
3. The frequent contact test will be met if the work with children takes place once a week or more. The intensive contact test will be met if the work takes place on 4 days in one month or overnight.
4. Individuals who go into different schools or similar settings to work with different groups of children will not be required to register unless their contact with the same children is frequent or intensive.
5. The minimum age of registration for young people who engage in regulated activity as part of their continuing education will be reviewed.
6. Overseas visitors bringing their own groups of children to the UK e.g. to international camps or the Olympics, will have a three months exemption from the requirement to register.

7. Exchange visits lasting less than 28 days, where overseas parents accept the responsibility for the selection of the host family, will be regarded as private arrangements and will not require registration.
8. The Government will consider the position of some self-employed health care practitioners and whether a duty should be placed on them to register with the scheme.
9. The Government will review the continuing need for 'controlled activity'.
10. The Government will review both the statutory requirements and its advice in relation to the continuing need for CRB Disclosures for safeguarding purposes once the VBS is in place.

Concluding Comment

There is an urgent need for the Government to renew its efforts to communicate the details and safeguarding benefits of the scheme.

Background

The Vetting and Barring Scheme is one of the Government's responses to the Bichard Inquiry which followed the murders of Holly Wells and Jessica Chapman by Ian Huntley. Its aim is to prevent harm to children or vulnerable adults by those who seek to work with them either as paid staff or volunteers.

The VBS aims to ensure that people whose behaviour towards children has given grounds for legitimate concern are not free simply to move down the road or across the country and engage in similar behaviour.

From November 2010 people wishing to work with children in specified settings or in specified ways (known as 'regulated activity') will be required to register with the Independent Safeguarding Authority (ISA). This will provide assurance that there are no grounds for believing that they present a risk of harm to children and that they have not been statutorily barred from working with them. This does not replace employers' responsibilities when recruiting staff.

People who have been convicted or cautioned for serious offences against children will be barred automatically – the law requires this. In relation to other people whose behaviour towards children has given rise to legitimate concern the ISA will assemble information from all key sources.

The scheme will use a documented and publicly available process to evaluate the information including representations from the people who have been referred in order to arrive at carefully considered decisions. Details of this process can be found at www.isa-gov.org.uk

The scheme has a single list of all those who are barred from working with children and another related list of those barred from working with vulnerable adults. These Barred Lists replace the existing Protection of Children Act (PoCA) List, List 99 and the Protection of Vulnerable Adults (PoVA) List, as well as the system of Disqualification Orders which were operated by the courts.

The ISA will have the facility, when new information about an ISA-registered individual who is in the workforce, to reconsider the risk posed.

The scheme was officially launched in October 2009 when the duty to refer to the ISA people who had been convicted or cautioned for serious crimes against children or who had been dismissed because of concerns about their behaviour towards children became effective. The ability for new staff and new volunteers to register with the scheme will be provided from July 2010. The scheme will be phased in for the existing workforce over 5 years to 2015.

Principles underpinning the development of the scheme

Sir Roger Singleton proceeded with the development of this scheme on the basis of two general principles:

The first that in circumstances where parents exercise their own judgement about who should care for their children by making sensible and responsible arrangements between themselves, that is entirely a private matter in which the state should not interfere. Where they give that choice to an organisation, such as a school, club or group and cease to be able to make a personal decision about which adult provides the care, teaching, driving etc, then registration is required subject to the frequency of contact between the adults and children.

The second principle is that the statutory requirements made by the state should be the minimum necessary to protect children whilst recognising that some organisations, irrespective of whether or not the frequency test is met, will choose to require registration for those they take on having regard to the type of activity in which people will be engaged. An example of this might be if the person will be expected to provide intimate personal care for a disabled child or young person. This allows for a degree of local flexibility and recognises everyone's responsibility for safeguarding.

Recommendations

Sir Roger Singleton's Report in full offers comprehensive comment following each recommendation and this is an edited version of the full report. It is, therefore, advisable to read the report 'Drawing the Line' in full to appreciate the consideration behind each recommendation.

1. Private arrangements

Mutually agreed and responsible arrangements made between parents and friends for the care of their children should not be affected by the Vetting and Barring Scheme.

2. Formal arrangements

Where organisations such as schools, clubs or groups make the decisions as to which adults should work with their children then the requirement to register will apply, subject to the frequent and intensive contact provisions.

The VBS was never intended to interfere with the practical day-to-day arrangements which parents make with family, friends and other parents. Nor will parents be required to check that persons they employ privately to teach, train, tutor, coach or care for their children are registered with the ISA

The situation changes where a parent's choice to determine which adults should work with their children is assumed by an organisation such as a school, club or group. In effect they place their trust in the organisation involved to assess the suitability of staff both paid and voluntary. It is in these circumstances that the Safeguarding Vulnerable Groups Act requires that the adults who are to work with children should be registered.

3. Frequent and intensive contact

The frequent contact test should be met if the work with children takes place once a week or more. The intensive contact test should be met if the work takes place on 4 days in one month or more or overnight.

The type of work with children which is governed by the VBS is known as 'regulated activity' and this includes work of a specific nature, e.g. teaching, training, care, supervision, advice, medical treatment or in certain circumstances transport.

How frequent or intensive should that contact be? The Government's current intention is to define frequency as once a month or more. The Act defines 'intensive' as regulated activity which takes place on three or more days in a 30 day period or overnight.

'Frequent contact' – in the legislation the term 'frequent' takes its dictionary meaning. Ministers may issue statutory guidance. It is not easy to produce a single, 'one size fits all' test which will cover all forms of regulated activity ranging as it will from weekly reading to a class of infant children, to full-time teaching, to the care of very young children which might entail feeding, bathing and personal care.

'Intensive contact' – the recommendation is that the intensive contact test is changed to apply when work takes place on four or more days a month – consecutively or otherwise – or overnight. Sir Roger Singleton acknowledges he has two principal reasons in mind when defining intensive contact and says,

'First I think it would bring the frequent and intensive contact tests broadly in line if they can be simply summarised as 'once a week or four times in one month.' Secondly, and more substantively, I would like to allow for those who have not yet formed a firm intention to volunteer in a specific regulated activity to have the opportunity to undertake a trial period before making a commitment to continue their involvement, at which point they would be required to apply to register with the scheme. In particular those individuals who are thinking of volunteering to help out with Scouts, Guides or other community or sporting activities should benefit from such an opportunity.

4. Visits to different settings

Individuals who go into different schools or similar settings to work with different groups of children, should not be required to register unless their contact with the same children is frequent or intensive.

The legislation defines regulated activity in terms of specified activities or activities in specified places, relating to children. This implies that the frequent or intensive contact tests should be applied to the activity in question being carried out with any children, rather than with the same children on each occasion. There are some arguments for applying the tests to an activity with any children: a potential abuser who works with a large number of children has more opportunity to target a particularly vulnerable child; and a person could acquire an unearned reputation of being trustworthy simply because he is known to work with a large number of children in different settings.

However, some adults such as police officers, sports celebrities, authors and musicians visit different schools and work with different groups of children. They will see any one child only once or very occasionally and perhaps will only be with children in groups. Clearly this will not normally be sufficient to create opportunities for developing and abusing trust.

5. Registration by those in continuing education

The minimum age of registration for young people who engage in regulated activity as part of their continuing education should be reviewed.

At present, the minimum age for ISA registration is 16. This was based on the fact that when the legislation underpinning the scheme was passed, 16 year olds were regarded as suitable to work in their own right and if engaged in regulated activity ought to be checked. A number of respondents queried whether this requirement is appropriate for young people engaged in work experience schemes, community placements and other programmes which are part of their continuing education. (see full report for comprehensive explanation.)

6. Overseas visitors exemption

Overseas visitors bringing their own groups of children to the UK e.g. to international camps or the Olympics should have a three months exemption from the requirement to register.

Ministers have already decided that workers from outside the geographical coverage of the scheme, who bring their own groups into the scheme's jurisdiction, should be exempt from the scheme, subject to a time limit on the exemption.

7. Host families

Exchange visits lasting less than 28 days, where overseas parents accept the responsibility for the selection of the host family, should be regarded as private arrangements and would not require registration.

The parents who provide the 'host' accommodation in effect act as private foster carers. If the placement lasts for longer than 27 days the school and the carers have a statutory duty to notify the local authority. Under the current provisions of the Safeguarding Vulnerable Groups Act this is regulated activity for which ISA registration of parents in host families is required irrespective of the length of the placement.

There has been strong representation concerning the potentially adverse impact of this requirement and some contrary views also expressed.

Sir Roger Singleton makes reference to the two principles set out earlier in this report. It is understood that parents do have the final say in the choice of host families, but recognises that the information on which parents make this decision is likely to be limited.

It is clearly a difficult recommendation to make and the possibility of abuse was weighed against the evidence of its probability. Sir Roger therefore decided to recommend that overseas exchange visits should be regarded as private arrangements where overseas parents accept the responsibility for the selection of the host family and would not require registration. The period should be less than 28 days so that placements will continue to fall within the provisions of the private foster care arrangements in the Children Act 1989.

8. Self employed health care practitioners

The Government should consider the position of some self-employed health care practitioners and whether a duty should be placed on them to register with the scheme.

This matter falls outside of the remit of Sir Roger Singleton and it is drawn to his attention that some self-employed practitioners including chiropractors and homeopaths will not be required by their regulatory bodies to register with the ISA. Sir Roger Singleton states, 'I think it is a reasonable expectation that where these professionals engage in regulated activity it is in the public interest that they are ISA registered. I am recommending therefore that the Government explores with the Care Quality Commission and the relevant regulator bodies an appropriate means whereby ISA registration can be required.'

9. Controlled activity

The Government should review the continuing need for 'controlled activity.'

It is recommended to the Government that they now take stock and decide whether controlled activity is a necessary part of the scheme. (see comments in full.)

10. Continuing CRB checks

The Government should review both the statutory requirements and its advice in relation to the continuing need for CRB Disclosures for safeguarding purposes once the VBS is in place.

Once ISA registration starts in 2010 for new entrants and job movers, when an application for ISA registration is made the employer will have the option of requesting an up to date CRB check at no extra cost. Once a person is ISA- registered, at present there is no capacity nor legislative authority for the CRB to notify the employer of any new information which would be disclosed if a further CRB check were applied for. But the ISA will receive and consider any new information which bears on people's risk of harm to children, review the registration status of the individual. Even so, it would be helpful if the Government set out a clear policy on whether employers should continue to seek updated CRB checks on people already ISA-registered.

Additional issues

Volunteers:

Volunteers have been one issue of great concern. A few have said that the scheme will not discourage volunteers, while many others have agreed that it would.

Sir Roger Singleton found that, in order of importance, the list of concerns to prospective volunteers highlighted in that research is:

- not enough time;
- paid job demands;
- no skills/experience;
- prefer to just play sport rather than coach;
- too much paperwork;
- starting a family;
- efforts not appreciated;
- club disorganised;
- family/partner would complain;
- children no longer involved;
- do not fit in;
- disclosure check;
- money reasons;
- too old.

As can be seen, vetting is well down the list.

For more information go to the Independent Safeguarding Authority website
www.isa.gov.org.uk/

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