

1. INTRODUCTION

The Vetting and Barring Scheme (VBS) was introduced under the *Safeguarding Vulnerable Groups Act 2006* (SVGA) in line with the recommendations made following the public inquiry led by Sir Michael (now Lord) Bichard into the Soham child murders, which reported in 2004. It was designed to build on, and replace, the previous barring processes and was intended to establish a more consistent process for vetting individuals who wished to work or volunteer with children and vulnerable adults. One of its consequences was the requirement that around 11 million people would need to register with the newly-established Independent Safeguarding Authority (ISA)¹. Following a review by Sir Roger Singleton in 2009, this was reduced to about 9.3 million, but even this was widely felt to be disproportionate to the risk posed by a small minority of people, and in June 2010 Ministers announced that the implementation of the VBS was to be halted, pending a thorough review.

That review, conducted jointly by the Department for Education, the Department of Health and the Home Office, was published in February 2011 as the *Vetting and Barring Scheme Remodelling Review – Report and Recommendations*. Its key recommendations have been incorporated into the *Protection of Freedoms Bill 2010-2011*, which was introduced to Parliament on 11 February 2011.

2. VBS REMODELLING REVIEW: SUMMARY OF RECOMMENDATIONS

- a) A state body should continue to provide a barring function to help employers protect those at risk from people who seek to do them harm via work or volunteering roles.
- b) The Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) should be merged and a single Non-Departmental Public Body or Agency created to provide a barring and criminal records disclosure service.
- c) The new barring regime should cover only those who may have regular or close contact with vulnerable groups.
- d) Barring should continue to apply to both paid and unpaid roles.
- e) Automatic barring should apply for those serious offences which provide a clear and direct indication of risk.
- f) Registration should be scrapped – there should be no requirement for people to register with the scheme and there will be no ongoing monitoring.
- g) The information used by the state barring body (currently the ISA) to make a barring decision should be serious in nature.
- h) Criminal records disclosures should continue to be available to employers and voluntary bodies but should be revised to become portable through the introduction of a system which allows for continuous updating.
- i) The new regime should retain current arrangements for referrals to the state barring body (currently the ISA) by employers and certain regulatory bodies, in circumstances where individuals have demonstrated a risk of harm to children or vulnerable adults.
- j) The current appeals arrangements should be retained.
- k) The state barring body should be given a power to vary review periods in appropriate circumstances.
- l) Services relating to criminal records disclosure and barring provisions should be self-financing. The Government should consult on raising the cost of the criminal records disclosure fee to cover the costs incurred.
- m) The new system will retain two offences; it will continue to be an offence for a barred person to work with vulnerable groups in regulated activity roles. It will also be an offence for an employer or voluntary organisation knowingly to employ a barred person in a regulated activity role.
- n) Finally, the Government should raise awareness of safeguarding issues and should widely promote the part everyone has to play in ensuring proper safeguarding amongst employers, volunteer organisations, families and the wider community.

¹ See, in particular, Document Summary Service summary DSS 09/10 12.

3. THE CURRENT POSITION

Although further development of the VBS was halted in June 2010, it did not remove the framework of the Scheme and **the new duties introduced in October 2009 remain in place**, in order to ensure that there has been no diminution of safeguarding while the review was carried out. The provisions remaining 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; and
- employers are under a legal duty to refer individuals they believe to pose a risk of harm to the ISA.

Other elements of the SVGA which have already been put in place include:

- the establishment of the ISA and the introduction of independent decision making (previously Ministers had been accountable for all barring decisions);
- completion of decision making on inherited barred lists, where individuals barred under previous regimes had their cases reassessed and, where appropriate, were barred by the ISA.

Since October 2009 employers have been required to make referrals to the ISA about individuals they believe to pose a risk of harm to vulnerable groups. 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.

4. THE NEW SCHEME

The new scheme, legislation for which is included in the *Protection of Freedoms Bill 2010-2011*, will:

- cover a smaller number of people – only those who may have regular or close contact with children or vulnerable adults, in ‘regulated’ activities;
- repeal the category of ‘controlled’ activities, and re-define regulated activities as those which provide the highest levels of risk arising from the nature of the post and access to vulnerable people;
- allow employers access to criminal records checks about those they wish to employ and who will work with vulnerable groups;
- scrap registration and monitoring;
- introduce continuous updating of criminal record checks, so that disclosures are ‘portable’;
- introduce a new fee for the cost of a CRB enhanced disclosure until the new service is fully established;
- merge the CRB and the ISA into a single body.

The timetable for the new scheme is expected to be as follows:

Feb 2011	Introduction of the Protection of Freedoms Bill
Nov 2011	Royal Assent for the Bill, subject to the will of Parliament
2012	Commencement of the relevant provisions in the Bill
2012	Creation of new barring regime
2012	Introduction of continuous criminal records updating
2013	New disclosure and vetting service begins work

The Vetting and Barring Scheme Remodelling Review can be viewed/downloaded at:
<http://education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00022-2011>

The Protection of Freedoms Bill and Explanatory Notes to it can be viewed/downloaded at:
<http://services.parliament.uk/bills/2010-11/protectionoffreedoms.html>

The associated review of the criminal records regime in England and Wales by Sunita Mason, ('A Common Sense Approach') can be viewed/downloaded at:
<http://www.education.gov.uk/childrenandyoungpeople/safeguarding/safeguardingchildren/a0075385/vetting-and-barring-scheme>