

Vetting and Barring Scheme (VBS) Update
The electronic newsletter for stakeholders
February 2011

14 February 2011

Vetting & Barring Scheme and Criminal Records Regime Review - Recommendations Announced.

The Deputy Prime Minister, Nick Clegg, has unveiled a new scaled back employment vetting scheme and fundamental reform of criminal records checks.

Announcing the findings of the parallel reviews of the Vetting & Barring Scheme and the criminal records regime on Friday 11 February Mr Clegg revealed that millions of people will be removed from the need to carry out compulsory pre-employment checks.

Deputy Prime Minister Nick Clegg said:

"The Freedoms Bill will protect millions of people from state intrusion in their private lives and mark a return to common sense government. It delivers on our commitment to restore hard-won British liberties with sweeping reforms that will end the unnecessary scrutiny of law-abiding individuals.

"We inherited a messy criminal records regime that developed piecemeal and defied common sense. Our reviews concluded that the systems were not proportionate and needed to be less bureaucratic. They will now be scaled back to sensible levels whilst at the same time protecting vulnerable people."

Home Office Minister Lynne Featherstone said:

"I came into this department and was immediately struck by the need to look again at the vetting and barring scheme and criminal records regime.

"I feel the changes that are now being made strike the balance between our own personal liberties whilst ensuring vulnerable people are protected."

Children's Minister Tim Loughton said:

"Protecting children and keeping them safe remains our top priority, but it's also important that well meaning adults are not put off working or volunteering with children.

"The new system will be less bureaucratic and less intimidating. It will empower organisations to ask the right questions and make all the appropriate pre-employment checks, and encourage everyone to be vigilant.

"This is a common sense and proportionate approach which will ensure that children are properly protected without driving a wedge between them and adults."

Care Services Minister Paul Burstow said:

"Our plans will create a thorough system of checks that won't over-burden people with bureaucracy.

Vulnerable people and their families will be able to have confidence in the new safeguards, while the doctors, nurses, social care workers and many others who need to be checked will have a more user-friendly system.

"I look forward to working with other departments in putting the plans into action. Together we will create a better way of safeguarding some of society's most vulnerable people."

1/ Re-modelling the Vetting & Barring Scheme (VBS)

Introduction

In its "Programme for Government", the Coalition committed to reviewing the Vetting and Barring Scheme (VBS) to scale it back to common sense levels.

The VBS had been created to help safeguard children and vulnerable adults, following the Bichard Inquiry and was designed to check the records of those who wanted to work with vulnerable groups.

People who wished to work or volunteer with children or vulnerable adults would have had to undergo a process before starting work whereby they would have information held on them assessed. If they were assessed to pose a risk of harm to vulnerable groups then they would be barred from working or volunteering with these groups.

This concept of checking the suitability of those working with vulnerable people was not new, barring schemes having been in use since 1926. However, there was a perception that the VBS went too far. It would have required 9.3 million people to register with, and be monitored by, the Scheme and shifted the responsibility for ensuring safe recruitment too much away from the employer and towards the state.

Many thought the VBS, while well intentioned, was a disproportionate response to the risk posed by a small minority of people who wished to commit harm to vulnerable people and in June 2010 Ministers announced that the planned implementation of the VBS was to be halted, pending a thorough review.

The review report has now been published and its recommendations are set out below:

Summary of the VBS remodelling review 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. We recommend the Government consults 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.

The Terms of Reference along with the full VBS review report, can be downloaded using the following link:

<http://www.homeoffice.gov.uk/crime/vetting-barring-scheme/>

Further information about the Reviews

Please see the separate sections below for further information about each review, including links to the detailed terms of reference for each:

1. Re-modelling the vetting & barring scheme, including frequently asked questions
2. The review of the criminal records regime

Business as usual

It is business as usual at the CRB, AccessNI and the ISA. Their websites will be updated with any new information. These website addresses are as follows:

CRB/AccessNI

For information relating to the current Disclosure process visit: www.crb.homeoffice.gov.uk or www.accessni.gov.uk You can also contact the CRB Customer Services team on 0870 90 90 811

Independent Safeguarding Authority (ISA)

For information relating to referrals and barring decisions : www.isa-gov.org.uk

Please note that the VBS contact centre ceased operation on 31 December 2010.

Stay informed

Over 66,000 employers, charities and voluntary groups have registered an interest in being updated on the Vetting & Barring Scheme, and this newsletter is being circulated as an update to those individuals and organisations. This approach will be used to communicate further information.

Therefore if you know anyone else who would like to be kept updated, please forward this newsletter to them and ask that they complete their details [on the ISA website \(click here\)](#) to receive information directly in the future.

Questions and Answers about the remodelling of the VBS

1. What was wrong with the Vetting & Barring Scheme planned to be rolled out by the last administration?

The Government considers elements of the previous scheme to be disproportionate and unnecessarily bureaucratic. As part of the Coalition Agreement, the Government is committed to scaling the Vetting & Barring Scheme back to common sense levels.

2. Which Government departments are involved with the remodelling of the Vetting & Barring Scheme?

The Department of Health (DH), the Department for Education (DfE) and the Home Office are working together on the remodelling of the Vetting and Barring Scheme.

3. Who conducted the VBS Review?

The VBS review was jointly carried out by civil servants from DfE, DH and the Home Office on behalf of Government, consulting key partners. Its recommendations were considered carefully by Ministers.

4. Why are you looking to scale the VBS back, surely it's important that all of those who have access to children or vulnerable adults should be checked?

Under the previous arrangements proposed, some nine million individuals would have been required to register under the Vetting & Barring Scheme, as their work fell within the definitions of the prescribed work (i.e. regulated or controlled activities involving children or vulnerable adults).

The Government has conducted a review of these proposals and come to the view that they were not proportionate. We will seek amendment to the Safeguarding Vulnerable Groups Act 2006, which provides the framework for the VBS, and redefine the scope of the scheme (i.e. reduce the range of posts that fall within 'regulated activity' and scrape 'controlled activity' altogether) so that only essential posts (from a public protection perspective) will fall within its requirements.

5. How long will it take to create a new system?

We expect the primary legislation to be in place by early 2012 and will begin introducing changes as soon as practicable.

This could take many months to fully roll out and we will need transition arrangements in the meantime. Appropriate and timely guidance about the remodelled arrangements will be provided before any further changes commence.

Appropriate and timely guidance about the remodelled scheme will be provided before any further aspects commence.

We will continue to use Government websites to ensure that appropriate information is available relevant audiences.

6. What are the changes being made?

Under the pre-review system those who worked or volunteered with children or vulnerable adults in England, Wales or Northern Ireland, or employed people to do so, were to have been affected by the Vetting & Barring Scheme.

Anyone undertaking a special type of activity - called a 'regulated activity' or 'controlled activity'- on a regular basis would have had to become part of the Scheme by registering and having their records checked and becoming subject to continuous monitoring, thereafter.

The original scope of the scheme was designed to comprehensively cover *anyone* working closely with children or vulnerable adults, either paid or unpaid, on a frequent, or regular basis.

We are proposing to redefine the definition of regulated activity (and so scope to bar) and scrape the notion of controlled activity all together.

Further, those undertaking post which fall with the scope of the new arrangements will not be required to register with the scheme and there will be no continuous monitoring arrangements.

7. So what is happening to 'regulated activity'?

The definition of 'regulated activity' will be narrowed under these amendments, meaning the range of posts subject to barring decisions will be reduced. As we will also be scrapping the previous requirements for registration and continuous monitoring, the overall burden on those posts still within the scope of the scheme will be greatly reduced and, we believe, more proportionate.

A smaller (and more proportionate) group of roles will now be defined as regulated activities.

8. What is happening to 'controlled activity'?

The concept of 'controlled activity', where an individual had *some* contact with children and vulnerable adults, but not as intense, frequent or regular as that deemed a regulated activity, will be scrapped under these amendments.

Previously, controlled activity would have covered posts like receptionists in outpatient clinics, catering staff in further education colleges and hospital records clerks, for example. Employers would have had to check people applying for these posts but could have employed them if appropriate safeguards were put in place.

9. Do employers still have to make referrals to the ISA whilst the VBS remodelling process is underway?

Yes. Whilst the Scheme is being remodelled existing duties to make referrals to the ISA remain in force. The following changes came into effect from 12 October 2009:

- The previous barred lists were replaced by new barred lists administered by the ISA. Checks of these new lists can, as for the old lists before, be made with an Enhanced CRB/ Access NI check.
- A new legal duty was created for employers, local authorities, professional regulators and inspection bodies requiring them to refer information to the ISA where they considered an individual had caused harm or posed an ongoing risk to vulnerable groups.
- Existing criminal penalties for barred individuals who seek or undertake work with vulnerable groups and for employers who knowingly take them on now applied to a wider range of work.

2/ The review of the criminal records regime

Introduction

In parallel with the review of the VBS, a separate but aligned review of the broader criminal records regime was undertaken. Led by Mrs Sunita Mason, the Government's Independent Advisor on Criminality Information Management, the first phase of that review has focused on issues concerned with the extent and demands of pre-employment vetting systems and the role of the Criminal Records Bureau (CRB), in particular, what information it should be disclosing and to whom.

Phase one of this review has also been published and a summary of Mrs Mason's recommendations are set out below:

Summary of Sunita Mason's criminal records regime review recommendations:

I recommend that eligibility for criminal records checks is scaled back (recommendation 1).

I recommend that criminal records checks should be portable (transferable) between jobs and activities (recommendation 2).

I recommend that the Criminal Records Bureau (CRB) introduce an online system to allow employers to check if updated information is held on an applicant (recommendation 3).

I recommend that a new CRB procedure is developed so that the criminal records certificate is only issued directly to the individual applicant (recommendation 4).

I recommend that the Government introduces a filter to remove old and minor conviction information from criminal records checks (recommendation 5).

I recommend the introduction of a package of measures to improve the disclosure of police information to employers (recommendation 6).

I recommend that the CRB develop an open and transparent representations process and that the disclosure of police information is overseen by an independent expert (recommendation 7).

I recommend that where employers knowingly make unlawful criminal records check applications the penalties and sanctions are rigorously enforced (recommendation 8).

I recommend that basic level criminal record checks are introduced in England and Wales (recommendation 9).

I recommend that comprehensive and easily understood guidance is developed to fully explain the criminal records and employment checking regime (recommendation 10).

The Terms of Reference along with the full criminal records regime report can be downloaded using the following link:

<http://www.homeoffice.gov.uk/publications/crime/criminal-records-review-phase1/>