



Home Office

# The Vetting and Barring Scheme

## Frequently Asked Questions



Independent Safeguarding Authority

# Vetting and Barring Scheme (VBS) 2010 Roadshow

## Contents

<i>Introduction</i> .....	4
<i>Background and basics</i> .....	5
Q1. What is the Vetting and Barring Scheme and why was it set up?.....	5
Q2. Which government departments are involved with the Scheme?.....	5
Q3. What legal framework supports the VBS? .....	5
Q4. What has changed on 12 October 2009? .....	5
Q5. What will change in July 2010? .....	6
Q6. What is the ISA?.....	6
Q7. What does the ISA do? .....	6
Q8. What improvements will the VBS and the ISA deliver? .....	7
<i>Coverage</i> .....	8
Q9. What is 'Regulated Activity'? .....	8
Q10. What is the definition of 'frequent' and 'intensive'? .....	9
Q11. What are 'Specified Activities'? .....	10
Q12. What is a 'Specified Place'? .....	12
Q13. Who is considered to be a vulnerable adult? .....	13
Q14. Who is considered to be a child? .....	13
Q15. Are there any exceptions to regulated activity? .....	13
Q16. General exemptions from the requirements of registration.....	16
Q17. Exemptions to registration until 2013.....	17
Q18. Where the 2013 exemption <i>does not</i> apply.....	18
Q19. What are the changes made after Sir Roger Singleton's check into the boundaries of the Scheme? .....	19
Q20. Do I need to register in order to take my friend's children to school? .....	20
<i>Relationship of ISA registration to CRB disclosures</i> .....	21
Q21. What is the difference/relationship between the Criminal Records Bureau (CRB) with a CRB check and the ISA for ISA registration? .....	21
Q22. What is the difference between the service offered by the ISA and the CRB?.....	22
Q23. What is the CRB's involvement with the VBS? .....	22
Q24. Does an ISA check replace a CRB check?.....	22
Q25. Is a person's ISA-registration portable (i.e. to another employer)?.....	22
Q26. What about foreign workers applying for UK jobs? .....	23
Q27. Does everyone with access to sensitive child/patient records have to be ISA-registered?.....	23
Q28. Which staff in schools will need to be ISA-registered? Teaching assistants, cleaners, caretakers etc? Can we get a full list of staff? .....	23
Q29. Do all taxi drivers, bus drivers, etc. need to be ISA-registered?.....	23
Q30. Why are prisoners regarded as vulnerable? .....	23
<i>The Application Process</i> .....	25
Q31. How does an individual become ISA-registered? .....	25
Q32. How long will it take to become ISA-registered?.....	25
Q33. How will the Scheme work? .....	25
Q34. Can I get a Standard CRB check on those working with children and/or vulnerable adults? .....	25
Q35. Will you be changing the eligibility criteria for Enhanced CRB checks? .....	25
Q36. How does an Employer register an interest in an employee?.....	26
Q37. Will anyone be able to go online and check a person's ISA-registration status or barred status? For example, could I make a check on my neighbour? .....	26
<i>ISA decision making, barring, referrals and appeals</i> .....	27

Q38.	How long will a barring decision take? .....	27
Q39.	Where will the ISA get information to make decisions to bar or register? .....	27
Q40.	Will the ISA receive all information on all cautions and convictions of people registered with the Scheme? .....	27
Q41.	How can people appeal against being barred by the ISA? .....	27
Q42.	How will the ISA deal with false or malicious allegations? .....	27
Q43.	Who will the ISA share information with? .....	28
Q44.	Can anyone make referrals? .....	28
Q45.	What happens if someone who is ISA-registered commits a serious offence and as a result becomes barred?.....	28
<i>Requirements for employers .....</i>		<b>29</b>
Q46.	What will happen if employers do not check if staff are ISA-registered?.....	29
Q47.	How would an employer go about registering with the ISA?.....	29
Q48.	Will it be illegal to employ someone who is not registered with the ISA? When do people have to register? .....	29
Q49.	How can employers check if someone is ISA-registered?.....	29
Q50.	How will an organisation express an interest in an individual's ISA registration status? .....	30
<i>Changes to membership status .....</i>		<b>30</b>
Q51.	Who will be notified when an individual's ISA-registration status changes?.....	30
Q52.	Will the ISA notify both the current employer and the Registered Body or Licensing Authority if someone who is ISA-registered loses this status as a result of being barred? .....	30
<i>Time-scales and phasing .....</i>		<b>31</b>
Q53.	When will the VBS go live? .....	31
Q54.	What should I be doing now if I think this Scheme applies to me? .....	31
Q55.	Why will applications to the VBS need to be phased in/how will the CRB and ISA cope with processing 9.5m applicants? .....	31
Q56.	How will schools cope with a late July launch?.....	31

## ***Introduction***

There can be nothing more important than ensuring that the most vulnerable members of society are properly safeguarded. That's why the Government is committed to strengthening safeguards for children and vulnerable adults, and has tried to ensure that lessons are learned from past tragic events.

The murders of Holly Wells and Jessica Chapman focused public attention on how people who work or volunteer with children are vetted. The subsequent Bichard Inquiry made recommendations about how vetting should be improved and how it should be supported by better information sharing, which were accepted by the Government.

The new Vetting and Barring Scheme aims to protect children and vulnerable adults by ensuring that people who are judged to present a risk of harm are not allowed to work with them. It does this by improving the way barring decisions are made. In the past, barring decisions were taken by Ministers and civil servants. They are now made by an independent body of experts, the Independent Safeguarding Authority (ISA) and follow a clear and structured judgement process, which is about assessing the risk of future harm based on the information that is known about the individual.

But simply improving the barring process, important as it is, is not enough. A key point of the Bichard Inquiry recommendations was the importance of improving information sharing. New information indicating that someone poses a risk of harm comes to the attention of the police all the time. But there is no standard mechanism for automatically ensuring that such information was considered for barring and that employers were alerted.

The new Scheme addresses all of these issues. It establishes a register of those whose records should be kept up to date because they work with children and vulnerable adults.

Any individuals included on the register have been confirmed suitable for these purposes. But the register also confirms that relevant information – including any new relevant information that comes to light – will be considered by the ISA. Because the Scheme is continuously updated in this way, it provides a new facility for employers to be notified if an employee's registration status changes. Importantly, the ISA will only consider a case where there is such relevant information. Most people have no criminal record – so for the vast majority of people registered with the Scheme, there will be no information for the ISA to consider.

An individual's ISA registration will be fully portable and any prospective or subsequent employer will be able to check their registration status online, free of charge.

Employers can also choose to be notified, free of charge, if their employees' registration status changes. Even though registration is mandatory for most employees and volunteers working with children and young people, there are some circumstances where the Scheme does not apply.

## ***Background and basics***

### **Q1. What is the Vetting and Barring Scheme and why was it set up?**

The VBS was established as a result of the Bichard Inquiry, which followed the Soham Murders, that recommended that all those who work with vulnerable groups should be registered.

The VBS is a partnership involving the ISA and CRB and overseen by the Home Office. The CRB are responsible for the application and monitoring features and the ISA are responsible for the decision making and maintenance of two barred lists – one for those barred from working with children and one for those barred from working with vulnerable adults.

The VBS is designed to ensure that anyone who presents a known risk to vulnerable groups is quite simply prevented from working with them. However, what it cannot do is guarantee that anyone who isn't barred is 'suitable' or 'safe' to work with the vulnerable groups.

### **Q2. Which government departments are involved with the Scheme?**

Home Office is the sponsoring body and leads on Scheme implementation. The Department for Children, Schools and Families and the Department of Health are funding the development of the Scheme as well as leading on policy areas and legislation. In Northern Ireland the Department of Health, Social Services and Public Safety (DHSSPS) is leading on policy areas and legislation.

### **Q3. What legal framework supports the VBS?**

The VBS is supported by the legal framework of the Safeguarding Vulnerable Groups Act 2006 and in Northern Ireland by the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

### **Q4. What has changed on 12 October 2009?**

The previous barring lists (POCA, POVA and List 99) have been replaced by the creation of two new barred lists administered by the ISA rather than several government departments. Checks of these new lists can be made as part of an Enhanced CRB check.

Employers, social services and professional regulators have a duty to refer to the ISA any information about individuals who may pose a risk ensuring potential threats to vulnerable groups can be identified and dealt with.

There will be criminal penalties for barred individuals who seek or undertake work with vulnerable groups and for employers who knowingly take them on.

The eligibility criteria for Enhanced CRB checks will be extended to include anyone working in a regulated position.

**Q5. What will change in July 2010?**

From 26 July 2010 all new entrants to roles working regularly with vulnerable groups and those switching jobs to a new provider within these sectors in England, Wales and Northern Ireland, will be able to register with the ISA.

Individuals will be able to apply for ISA-registration and a CRB check (if they have an employer eligible to receive it) on one new application form.

When a person becomes ISA-registered they will be continuously monitored and their status reassessed against any new information which may come to light.

Employers can subscribe or register an interest in an individual's ISA-registration status to be continuously informed of changes in an employee's registration status.

So as not to disrupt normal recruitment over the traditionally busy summer period, the legal requirement for employees to register with the ISA, and employers to check their status, will come into force in November 2010.

**Q6. What is the ISA?**

A non-departmental public body (NDPB), sponsored by the Home Office. Acts as the decision making element of the VBS and manage the two lists of individuals barred from working with children and individuals barred from working with vulnerable adults.

**Q7. What does the ISA do?**

Assesses the risk of harm that an individual would pose if they were to work with vulnerable groups, based on information held about that individual.

They will use information from a number of sources including the Police, Local Authorities and employers.

The ISA is staffed by trained case workers, who will decide on a case-by-case basis whether a person poses a potential on-going risk.

The case workers will be supported by a continuous training and support programme and by a board of public appointees with many years experience in the field of safeguarding.

## **Q8. What improvements will the VBS and the ISA deliver?**

The Vetting and Barring Scheme, which will replace current vetting and barring Schemes, has the following improvements over the current Schemes:

- It is the most inclusive system of its kind in the world.
- Barring decisions will be taken by independent experts.
- For the purpose of this Scheme both paid employees and volunteers are subject to the same implications, restrictions and obligations – except in terms of the application fee (free for volunteers to register).
- Once the Scheme is fully implemented, it will mean that anyone who wants to work or volunteer with children or vulnerable adults in ‘regulated activity’ will legally be required to be registered with the ISA.
- A barred person will be committing an offence should they seek employment or a volunteering opportunity in regulated activity.
- It will be an offence for any person to begin regulated activity without first being registered with the ISA.
- It will be an offence for an employer to hire a person in regulated activity without first confirming their ISA registration.
- Anyone (not just employers) who knowingly allows a barred person to engage in regulated activity will be committing an offence.
- Employers, other statutory, business and public organisations have a legal duty to refer appropriate information to the ISA.
- Employers will be able to check a person’s registration status online.
- Employers who have registered an interest in an employee will be informed if that employee becomes de-registered from the Scheme.
- Eventually, it is anticipated that some 11.3 million people will be covered by the Vetting and Barring Scheme.
- Parents will now be able to check that the individuals they employ in a private capacity as tutors, nannies, carers or in other regulated activity are registered with the ISA, using the same online check as an employer. (However, there is no onus on parents to do this; they will not face legal penalties for failing to check.) **NB: an individual who is barred is still not permitted to undertake this kind of regulated activity.**

## Coverage

### Q9. What is 'Regulated Activity'?

Regulated activity is the statutory term used to describe working or volunteering with children or vulnerable adults. It covers any such work, whether paid or unpaid, which is carried out on a frequent, intensive or overnight basis but does not include family or personal arrangements.

- It includes activity (referred to as specified activities) such as teaching, training or the provision of care, supervision or guidance.
- Fostering and childcare services
- Certain positions and office holders, such as school governors or director of children's or adult social services
- Activity undertaken within specified settings where there is the opportunity for contact with children or vulnerable adults.
- Roles that involve managing, on a regular basis, the day-to-day work of those carrying out specified activities or working in specified settings.

## Definition of 'Regulated Activity'

**Involves contact with children or vulnerable adults and is:**

<p><b>of a specified nature</b> e.g. teaching, training, care, supervision, advice, treatment, or transport</p> <p style="text-align: center;"><b>or</b></p> <p><b>in a specified place</b> e.g. schools, children's homes &amp; hospitals, juvenile detention facilities, adult care homes</p>	<p><b>"frequently, intensively and/or overnight"</b></p> <ul style="list-style-type: none"><li>➤ once a week for most services, <i>but once a month or more for health and social care services involving personal care</i></li><li>➤ takes place on 4 days in one month or more</li><li>➤ Overnight: between 2 - 6am</li></ul>
---	---

- **Is a specified role includes Fostering & 'Defined Office Holders'**  
**Eg Directors of Children's Services, Trustees of children's Charities, School Governors..**
- **No distinction made between paid and voluntary work**

Figure 1

**Q10. What is the definition of ‘frequent’ and ‘intensive’?**

Work in any of the specified activities is regulated activity if it is done frequently (once a week or more), intensively (on four days or more in a single month) or overnight (between the hours of 2am and 6am).

In health and personal care services, frequent is once a month or more.

Work in any of the specified settings is regulated activity if it is done frequently or intensively. However, maintenance contractors who visit different care homes or children’s hospitals will not meet the frequent or intensive tests if they visit several different care homes but do not work frequently in the same one.

These limits were set following the December 2009 report by Sir Roger Singleton, Chairman of the ISA and the Government’s Chief Adviser on the Safety of Children, into the boundaries of the Scheme. Sir Roger’s report, *Drawing the Line*, is available at <http://publications.everychildmatters.gov.uk>.

***Examples: the frequency test and the intensiveness test***

A parent has agreed to help out on a one-off basis at a Scout group session, without committing to being a regular helper. This is not regulated activity. A person who is barred from working with children is asked if he can help out with coaching a children’s football team on a one-off basis. If he did so, he would be committing a serious criminal offence. The one-off activity is not regulated activity for the purposes of ISA registration and checking, but the barring offence applies nonetheless. Note that this offence came into effect on 12 October 2009.

***Example: Health and personal care services***

A self-employed podiatrist visits a care home fortnightly by arrangement with the care home to cut the nails of all residents. She is providing healthcare more than once a month. She is required to register with the ISA and the care home must check that she is registered.

A voluntary organisation provides a shopping service for older and disabled people, collecting people from their homes, assisting them in the supermarket and taking them home again. A volunteer works for one morning every fortnight. The volunteer is providing assistance to vulnerable adults, but is not providing health or personal care – and so is not required to register with the ISA.

A consultant geriatrician works for two days every month in a hospital outpatient clinic. She is providing healthcare more than once a month and so is required to register with the ISA.

## **Q11. What are ‘Specified Activities’?**

Specified activity is considered to be

### **Teaching, training or instruction, care or supervision of children or vulnerable adults.**

This includes, but is not limited to, people such as children’s sports coaches, Guide and Scout leaders, children’s football referees, private tutors, teachers, probation officers, prison officers, care workers, speech therapists, youth workers and Sunday school teachers. It is important to note that activities which are open to the general public (such as hobby societies, etc) will not be regulated activity. For example, a bowling club open to the general public is not carrying out regulated activity – even when older or disabled people attend. But a bowling club set up specifically for people with learning difficulties is carrying out regulated activity.

#### ***Example: sharing knowledge compared with teaching, training and instruction***

A local history society runs a series of open-access evening talks and walks. Members attend these events for their own interest and amusement, and share their skills and knowledge with each other on an ad hoc basis. They are not teaching, training or instructing and are therefore not undertaking regulated activity

### **Advice or guidance for children, and advice, guidance or assistance for vulnerable adults.**

This means people whose role involves providing advice or guidance wholly or mainly to children on a frequent or intensive basis that relates to their physical, emotional or educational wellbeing. Roles within this category include children’s mentors, counsellors, children’s careers advisers and, for example, people advising children who ring ChildLine.

In relation to vulnerable adults, this category covers any form of assistance, advice or guidance provided wholly or mainly to vulnerable adults on a frequent or intensive basis. This will include healthcare advice given to patients. It would also include assistance targeted at vulnerable adults – for example, voluntary or other independent organisations that provide advice or support to older people or disabled people.

An individual who is employed or is a volunteer for an organisation and visits vulnerable adults in their own homes to offer advice or guidance will be engaged in regulated activity if the assistance is frequent.

Services that are not specifically for vulnerable adults but which are aimed at the general public are not regulated activity.

***Example: volunteers working with adults in their homes***

A volunteer with a stroke club provides assistance to people in their own homes. The volunteer helps the stroke sufferer to acquire new skills and reacquire lost skills so that the person can live independently in their own home. The person is a vulnerable adult because a service is being provided to help with particular needs they have because of their disability.

The volunteer is providing care and assistance, as well as guidance and instruction, and is thus engaging in regulated activity. Registration will be required if this is done frequently or intensively.

**Any form of healthcare treatment or therapy provided to a child or vulnerable adult.**

This includes people such as healthcare professionals, therapists, healthcare assistants in both hospitals and community settings, and St John Ambulance staff. It does not include first aid treatment where giving first aid is an ancillary role to a person's main occupation.

**Driving a vehicle solely for the purpose of conveying children or vulnerable adults and their carers.**

This includes taxi drivers used by schools and care homes to transport children or vulnerable adults, and minibus/bus drivers taking children to or from Scout or Guide camp, or taking vulnerable adults on day trips from care homes. It also includes those employed to teach under-18s how to drive, ambulance drivers and those who drive vulnerable groups on a voluntary basis. It does not cover transport arrangements made between families and friends on a personal basis.

It does not include bus drivers who drive public vehicles, which may or may not pick up children or vulnerable adults on the road, or taxis hailed/hired independently by children or vulnerable adults.

**Moderating an online chatroom that is likely to be used wholly or mainly by children or vulnerable adults.**

Chatroom moderators have a significant opportunity to abuse children or vulnerable adults either directly or indirectly, by knowingly permitting others to abuse them. The Scheme covers moderators who, for the purposes of protecting children or vulnerable adults:

- monitor the content of a service

- control access to or use of the service, where they have access to content and contact with service users, and/or
- have the power to remove content or stop it being added.

The Scheme will not cover IT staff where they do not contact chatroom users or see the content of messages. However, the Scheme does cover individuals who, under the management of a responsible person, moderate chatrooms, bulletin boards or other similar services for the purposes of protecting children or vulnerable adults.

### **Host families/foreign exchange visits.**

Regulated activity also includes host families and foreign exchange visits arranged by an agency, voluntary body or other third party, where the organiser has the power to terminate the placement.

### **Q12. What is a ‘Specified Place’?**

Regulated activity includes any form of work (paid or voluntary) carried out for a setting or establishment specified in the ‘Safeguarding Vulnerable Groups Act which is on a frequent or intensive basis and which provides an opportunity for contact with children or vulnerable adults. This may include catering, cleaning, administrative and maintenance staff if they work once a week or more or four days in a single month or overnight.

- Specified settings are limited to:
  - schools (educational institutions exclusively or mainly for the provision of full-time education to under-18s)
  - pupil referral units
  - childcare premises (including nurseries)
  - residential homes for children in care
  - children’s hospitals (hospitals exclusively or mainly for the reception and treatment of children)
  - children’s detention centres (institutions exclusively or mainly for the detention of children)
  - children’s centres in England and Wales, and
  - adult care homes (residential care or nursing homes in Northern Ireland).

However, registration is only required if the frequent and intensive contact is in a single specified setting.

Those who only go into different specified settings are not required to register. So, for example, maintenance contractors who visit different care homes, schools or children’s hospitals will not meet the frequent or intensive tests if they visit several different such settings but do not work frequently in the same one

### **Q13. Who is considered to be a vulnerable adult?**

A vulnerable adult is defined by the SVGA and the SVGO as a person who is aged 18 years or over and who:

- is living in residential accommodation, such as a care home or a residential special school
- is living in sheltered housing
- is receiving domiciliary care in their own home
- is receiving any form of healthcare
- is detained in lawful custody (in a prison, remand centre, young offender institution, secure training centre or attendance centre, or under the powers of the Immigration and Asylum Act 1999)
- is under the supervision of the probation services
- is receiving a welfare service defined as the provision of support, assistance or advice by
- any person, the purpose of which is to develop an individual's capacity to live independently in accommodation or support their capacity to do so
- is receiving a service or participating in an activity for people who have particular needs because of their age or who have any form of disability
- is an expectant or nursing mother living in residential care
- is receiving direct payments from a local authority
- or health and social care trust in lieu of social
- care services, or
- requires assistance in the conduct of their own affairs.

Whilst an adult may be considered vulnerable due to conditions or circumstances other than those listed here, the scope of the Scheme is restricted by legislation to those persons who fall into the categories above.

### **Q14. Who is considered to be a child?**

Under the terms of the Scheme, a child is anyone who is below the age of eighteen.

### **Q15. Are there any exceptions to regulated activity?**

Some activity is outside the scope of regulated activity, so none of the Scheme's requirements apply.

### **Children and young people in the workplace**

Teaching and training, care and supervision, advice and guidance and medical treatment (except first aid – see below) provided as part of a 16- or 17-year-old's employment (which may be part of their learning or in a work experience situation) is not regulated activity. However, although this is not regulated activity, a specific entitlement exists for the employer to check ISA registration status if the activity is either provided by the Armed Forces

or funded by the Learning and Skills Council (to be replaced by the Skills Funding Agency).

Teaching and training, care and supervision, advice and guidance and medical treatment (except first aid – see below) provided as part of the employment of a child under the age of 16 (which may be part of their learning or in a work experience situation) is not regulated activity if carried out by a person for whom arrangements do not exist principally for that purpose. However, the employer's duty of care and risk assessment of work experience placements for safeguarding purposes apply

### **Ancillary first aid**

First aid provided by an employee as an ancillary part of their job is not regulated activity.

### **Activity with children which is merely incidental to activity with adults**

Where teaching, training or instruction or care or supervision of children is merely incidental to the function of a role because the children are part of a mixed-age group and their involvement is incidental to the purposes of the activity, this is not regulated activity. To be considered 'incidental', the presence of a child or children must either be unforeseen or be dependent on the presence of the adult for whom the relevant activity is actually being provided. In other words, the activity should be designed and provided for adults, rather than children.

#### ***Examples: 'incidental' presence of children***

A leisure centre sets up an aerobics class for young mothers. There is no childcare facility. Information provided about the class makes it clear that children can come along and, if they are able, join in. While the presence of children is not unforeseen, any teaching of them that may occur is subordinate to, and dependent on, the activity being provided to adults. If it were not for the mothers, the children would not be there, so this is not regulated activity.

An operatic society pitches its materials at adults and expects adults to be subscribers. If an adult attendee brings along a child, then the child's attendance is merely incidental to any teaching or instruction of the adults. However, if the children start to attend on a regular basis independently – in their own right – and come to take an active role in the society, then their attendance is not incidental to that of adults.

## **Activity with vulnerable adults which is wholly or mainly for them**

The 'merely incidental' rule does not apply to vulnerable adults. Here, the rule is simply that, for it to be regulated activity, an activity has to be provided wholly or mainly for vulnerable adults.

### ***Example: vulnerable adults***

Jodie is 22 and has learning difficulties. She lives in a home with two other adults with learning difficulties. All three are supported by local social and housing services. She regularly attends a dance class, which is open to anyone. The dance instructor is not engaged in regulated activity, because the dance class is open to all and the instruction is not being targeted wholly or mainly at people who are vulnerable adults.

## **Peer exemption**

Service users and family members are a valuable resource for service planning, commissioning and provider services. They act as personal experts and peer supporters by sharing knowledge and experiences, and they engage in teaching, coaching and mentoring people who are experiencing the same situation or condition. A member of a group assisting the group leader in providing regulated activity to that group is not engaged in regulated activity.

### ***Examples of peer exemptions***

William lives in a care home and likes to help when the tea trolley arrives in the afternoon. He fills teacups from the pot and hands them out to residents. He sits and helps one resident who cannot hold the cup by herself. Because he is acting under the direction of the care worker, he is not engaged in regulated activity.

Frasier goes to a drop-in centre for people with mental health problems. His care package is aimed at helping him regain his independence and return to paid employment. While receiving care himself, he regularly helps other service users with their craft activities. Because this is done under the direction of a trainer, he is not engaged in regulated activity.

Fatima is a mental health service user. She has been invited to become a member of the mental health patient council in her mental health trust. She is not engaged in regulated activity.

June is a service user and attends a club which is run by other service users, but the mental health trust supports it and a community mental health worker monitors the Scheme. June is responsible for keeping the record of attendance and letting the mental health worker know if someone is not feeling well. She is not engaged in regulated activity.

## **Q16. General exemptions from the requirements of registration**

Some specific examples exist where, although the activity is regulated activity and some barring offences apply, there is no requirement for the individual to have ISA registration. These include:

### **Infrequent activity**

Activity which would be regulated activity but is not frequent, or does not meet the intensive or overnight conditions<sup>2</sup>.

### **Private arrangements**

Private arrangements, for example organised by parents employing a worker in regulated activity in a private capacity.

### **Sole traders**

Other circumstances where there is regulated activity but no regulated activity provider, for example a sole trader providing regulated activity.

### **Under-16s undertaking regulated activity**

Regulated activity undertaken by an under-16-year-old.

### **Activity provided to under-16s in the workplace**

Teaching, training and instruction, care and supervision, advice and guidance and medical treatment and therapy provided to an under-16 as part of their employment is only regulated activity where it is carried out by an employee for whom arrangements exist principally for that purpose: for example, an employee whose specific job purpose includes looking after under-16 work experience students. There is no requirement for such employees to be registered or for the employer to check registration status. The employer has discretion to decide which of its employees to check and will have agreed a risk assessment process with the work experience placement provider.

An exception to the relaxation of the Scheme's requirements in respect of under-16s is the case of chaperones who accompany children who work in entertainment. Chaperones will be required to register with the ISA, and those who approve chaperones will be required to check their ISA registration.

---

<sup>2</sup> The activity is regulated activity when a barred person considers doing it – even as a one-off – but is not regulated activity when any other person considers doing, or does, the activity.

### ***Examples: children in the workplace***

A 15-year-old girl has a Saturday job in a hairdressing salon. One member of staff is responsible for supervising and instructing her. That person is engaged in a regulated activity but does not have to be ISA registered. However, if that person was barred from working with children, he or she would be committing an offence. Where other employees give the girl advice on an ad hoc basis, and this is not part of their job description, they will not be engaged in regulated activity.

A 15-year-old boy has a paper round. If the owner of the newsagent or anyone employed by him is barred, they may not be responsible for instruction or supervision, as this would count as an offence.

### **Under-18s in higher education**

Teaching, training and instruction or care and supervision of under-18s in higher education. The exemption in relation to under-16s will only come into effect when the higher education institution has undertaken a risk assessment and put in place suitable arrangements in the light of the result of the risk assessment.

### **16–17-year-olds in mixed-age sport and leisure**

Teaching, training and instruction or care and supervision of 16–17-year-olds in mixed-age sport and leisure in a setting not specifically geared to that age group alone. This exemption applies unless the group becomes wholly or mainly composed of 16–17-year-olds.

### **Charity trustees**

Although it is an offence for a barred individual to act as a charity trustee for a children's or vulnerable adults' charity, there will be no requirement for trustees to register with the Scheme simply because they are a charity trustee. Only those trustees who are engaged in regulated activity (by carrying out a specified activity or working in a specified setting on a frequent or intensive basis) must be ISA registered. Each charity will have the discretion to determine whether it is appropriate for trustees to be asked to join the Scheme.

### **Q17. Exemptions to registration until 2013**

Certain regulated activity positions are exempt from the requirement to register with the ISA until 2013. This is because many of these services are new to the requirement for employment checks or registration Schemes, particularly those run by voluntary organisations. In providing the exemption, the legislation is recognising that some organisations need more time than others to prepare for ISA registration.

These are posts carried out for the purposes of, or in connection with, the following:

- prison establishments, with the exception of prison officers' posts – the time limit to 2013 does not apply in this case
- a recreational, social, sporting or educational activity provided wholly or mainly for vulnerable adults
- a course of education or instruction which is provided wholly or mainly for vulnerable adults
- any person who is responsible for the maintenance or repair of housing for vulnerable adults, whether the service is provided by a housing manager or
- another person on the manager's behalf
- any person who provides support, assistance or advice, the purpose of which is to develop an individual's capacity to live independently in accommodation, or sustain their capacity to do so (these will include Supporting People and other similar services)
- any person who deals with payments because they have been appointed as, or applied for, a lasting or enduring power of attorney
- a person who has been appointed, or is to be appointed, by the Court of Protection or by the High Court in Northern Ireland under the Mental Health (Northern Ireland) Order 1986 to make decisions on behalf of another person
- a person who is appointed as an independent mental capacity advocate or an independent mental health advocate
- a representative who is, or is to be, appointed to receive social security benefits on behalf of another person.

## **IMPORTANT**

The 2013 exemptions only apply to the duty to be ISA registered and to check ISA registration status.

They do not apply to the duty to make referrals to the ISA if a worker who is engaged in regulated activity is removed because they have harmed or there is a risk of harm to a child or vulnerable adult. Nor do they allow a barred person to undertake regulated activity. They will be committing an offence by doing so.

### **Q18. Where the 2013 exemption *does not* apply**

The exemption from the requirement to register does not apply to the following. This means that registration with the ISA can begin in July 2010 and will be a statutory requirement from November 2010 for the following:

- prison or prison custody officers: all prison officers, prison custody officers and staff in young offender institutions will be subject to the Scheme

- community care services provided by, or on behalf of, a local authority or health and social care trust, including recreational, sporting, social or educational activities provided as part of a community care package
- activities carried out by, or in, care homes registered under the Care Standards Act 2000 or Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003
- activities carried out by an agency required to register under the Care Standards Act 2000 or
- Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland)
- Order 2003 (these include domiciliary care agencies and nursing agencies)
- activities carried out by local authorities or health and social care trusts in the exercise of their social services or social care functions
- activities carried out by other persons on behalf of a local authority or health and social care trust in the exercise of their social services or social care functions
- activities carried out by an NHS body or by a person who provides healthcare for such a body
- activities carried out by persons who provide services that are similar to services which can, or
- must, be provided by strategic health authorities, NHS trusts, health and social care trusts, local
- health boards and primary care trusts.

**Q19. What are the changes made after Sir Roger Singleton's check into the boundaries of the Scheme?**

Following the publication of Sir Roger Singleton's report, *Drawing the Line* (December 2009), the Government agreed these further exceptions:

**Work carried out in a number of specified settings**

Regulated activity where a worker or volunteer works in a number of 'specified settings' (such as schools), but works infrequently in each. Even if the totality of such work is frequent or intensive, there is no requirement for registration.

**Regulated activity by 16–18-year-olds as part of their studies**

Regulated activity undertaken by 16–18-year-olds as part of programmes arranged by an educational institution, up to the end of the academic year in which the individual has their 18th birthday.

## **Regulated activity carried out by visitors in relation to visiting vulnerable groups**

Regulated activity undertaken by visitors from outside England, Wales or Northern Ireland for up to three months with children or vulnerable adults also from outside England, Wales or Northern Ireland.

## **Host families for school exchanges**

Care and accommodation provided by adults (e.g. host parents) for under-18s on school-organised visits. The requirement for registration is lifted where the placement is for less than 28 days; the adults are volunteers; and the child's parents have agreed the selection of the adults who will provide accommodation and care for the child. For all of the above, although there is no requirement for registration, the employer or organiser of the activity is entitled to check the ISA registration status of the worker or volunteer. Also, although there is no requirement for ISA registration, it is an offence for a barred individual to undertake the activity.

## **Q20. Do I need to register in order to take my friend's children to school?**

Sir Roger Singleton reiterated in his report that the Scheme is not intended to regulate private or family life. Arrangements made as parents and those between friends continue to remain outside the scope of the Scheme.

The purpose of the Scheme is simply to allow parents and those delegating the care of vulnerable adults and, indeed, adults who find themselves in vulnerable circumstances to be sure that those who seek to work with them are not known to pose a risk of harm.

## ***Relationship of ISA registration to CRB disclosures***

### **Q21. What is the difference/relationship between the Criminal Records Bureau (CRB) with a CRB check and the ISA for ISA registration?**

A CRB check (sometimes referred to as a “Disclosure”) provides a full picture of an individual’s criminal history which for a small group of sensitive roles is provided to employers.

CRB checks cannot be applied for by individuals. The Exceptions Order to the Rehabilitation of Offenders Act 1974 sets out the professions, offices, employment, work and occupations which can be CRB checked.

ISA registration only covers those working vulnerable groups whereas CRB checks extend to many other roles; such as security guards licensed by the Security Industry Authority and taxi drivers.

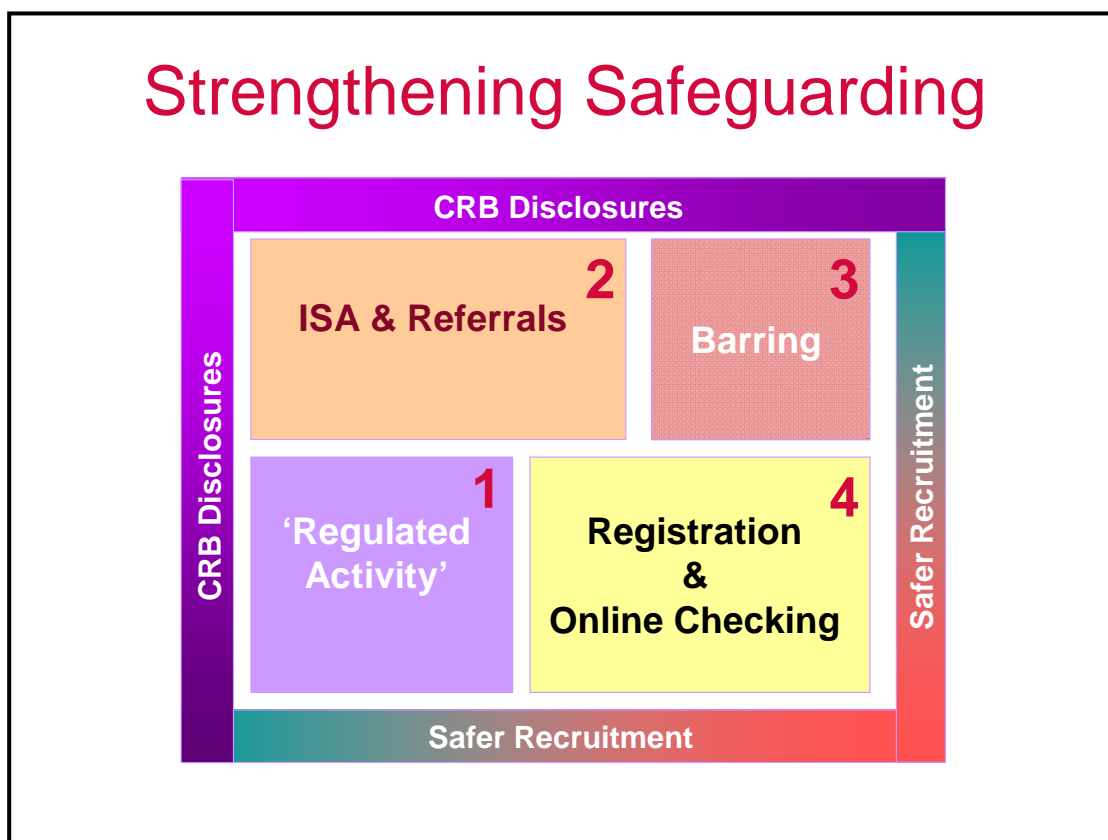


Figure 2

### **ISA-registration is not intended to replace CRB checks.**

Where CRB checks are mandatory they will continue to remain so, regardless of the new requirements of the Vetting and Barring Scheme. However, the Government has committed to reviewing the requirements for CRB disclosures as the Scheme rolls out.

There are two types of CRB check currently available – Standard and Enhanced. From the launch of the new VBS anyone employed (i.e. not the self employed) with vulnerable groups in “regulated activity” will be entitled to an Enhanced CRB check

When used in conjunction with an Enhanced CRB check, the ISA-registration status check will provide employers with the most comprehensive workforce vetting service on offer anywhere in the world.

ISA-registration demonstrates there is no known reason why an individual can not work with vulnerable groups; however it does not give full details of criminal records. Where an organisation requires this level of detail, the option to ask for a disclosure remains.

**Q22. What is the difference between the service offered by the ISA and the CRB?**

The ISA will prevent the most unsuitable people from working with children and vulnerable adults by making it a legal requirement for everyone who is working with children or the vulnerable to be registered with the ISA. The CRB will continue to support employers by providing them with access to an individual's full criminal record and other information so that they can assess the individual's suitability for the particular post or position.

**Q23. What is the CRB's involvement with the VBS?**

CRB will process applications for ISA-registration. It will also monitor information about people registered with the ISA which comes through to the Police National Computer, referring all relevant information back to the ISA. Additionally, the CRB will continue to offer employers the option of criminal records checks to enable them to make accurate risk-assessments of employment candidates.

**Q24. Does an ISA check replace a CRB check?**

No. An ISA check will reveal if the person is registered and able to work with children and/or vulnerable adults. A CRB check will reveal if the person has a criminal record or if any relevant non-conviction information. A person could be registered with the ISA but still have a criminal record that if known by the employer would make the person unsuitable to do a particular job.

**Q25. Is a person's ISA-registration portable (i.e. to another employer)?**

Yes. ISA-registration involves a one-off application fee and will apply to any future setting where the person is working with children, or vulnerable adults, as appropriate.

When the CRB becomes aware of new relevant information about an ISA-registered individual, it will inform the ISA.

The ISA will then consider whether the person should be barred, and if they are barred they lose their ISA-registration.

Assuming their employer has expressed an interest in that person's ISA-registration status, the ISA will advise them that this person is no longer ISA-registered.

**Q26. What about foreign workers applying for UK jobs?**

Anyone undertaking regulated activity in England, Wales or Northern Ireland will have to be ISA-registered, irrespective of their country of origin. Even if applicants have just moved to the UK, they will still have to go through the process before they start work. In the case of those where we cannot obtain records from their country of origin, they will still be subject to continuous monitoring in the UK and be barred should their conduct at any point give reason for this step to be taken.

**Q27. Does everyone with access to sensitive child/patient records have to be ISA-registered?**

No, only individuals working in controlled activity, with access to sensitive records, will have to have their ISA-registration status checked.

**Q28. Which staff in schools will need to be ISA-registered? Teaching assistants, cleaners, caretakers etc? Can we get a full list of staff?**

Anyone working in a school on either a frequent or intensive basis, for the purposes of the school, and thereby having the opportunity to come into contact with the children will need to be ISA-registered. This includes not only teachers, classroom assistants and the like but also office and catering staff, contractors and caretakers; also any volunteers such as parents helping children with their reading.

**Q29. Do all taxi drivers, bus drivers, etc. need to be ISA-registered?**

No. Transport, including in taxis, will be regulated activity only when it is transportation solely for children or vulnerable adults and people who are caring for children or vulnerable adults, to and from regulated activity and it is organised by an organisation on behalf of the providers of the regulated activity.

General trade or hire is not considered to be regulated activity.

**Q30. Why are prisoners regarded as vulnerable?**

As with other similar groups, such as immigration detainees, prisoners are

vulnerable by virtue of their detention in that they do not have control over everyday aspects of their lives.

Application process and online checks

Can employees still employ people while they're waiting for confirmation of their registration if they are being supervised?

No. Once registration is mandatory, an individual must be registered before undertaking regulated activity. They may not do this 'pending registration'.

Employees can be employed but not engaged in a regulated activity (i.e. to begin training) but it will be illegal to use staff in regulated activity until they are ISA registered.

If the person they want to employ will be engaged in regulated activity then that person must be ISA-registered before they start work.

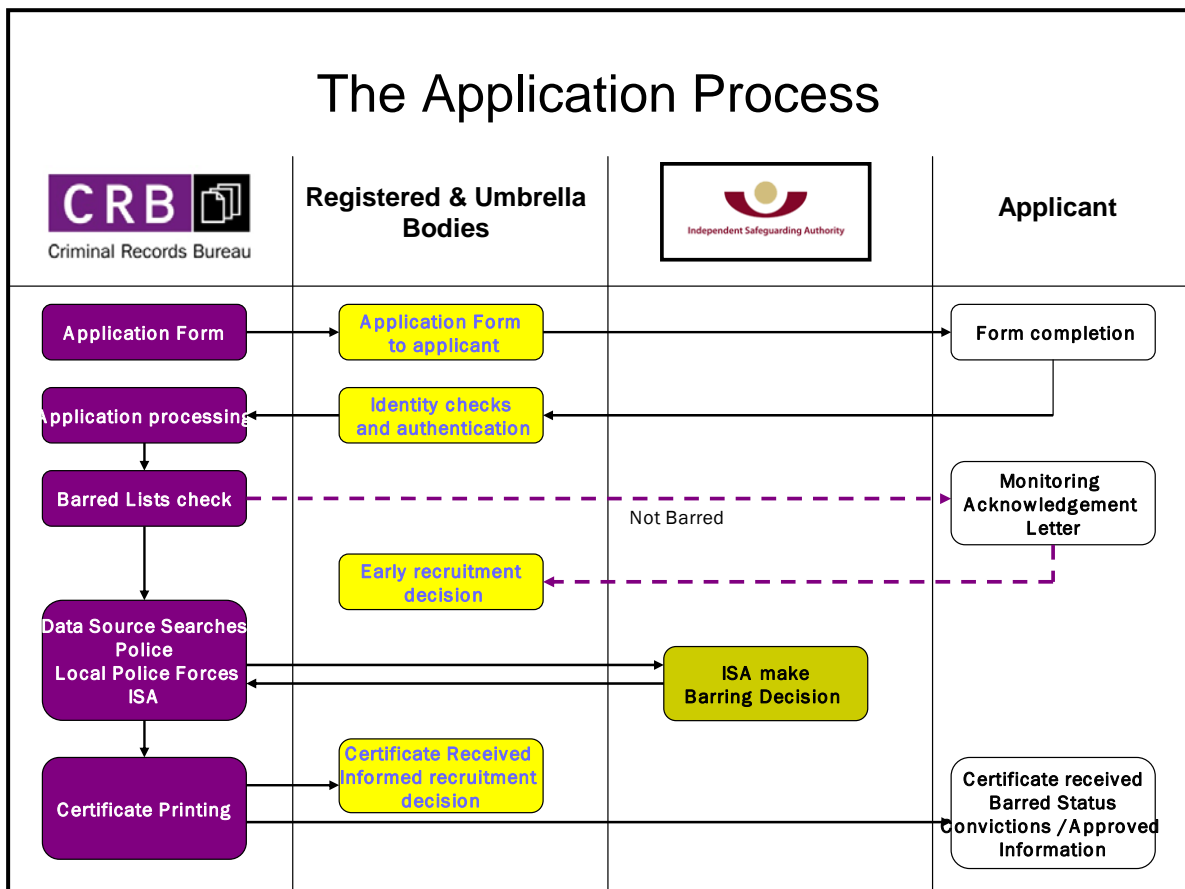


Figure 3

## ***The Application Process***

### **Q31. How does an individual become ISA-registered?**

An individual can apply for ISA-registration through one of the organisations registered with the CRB – these are called Registered or Umbrella Bodies.

The ISA-registration application process is very similar to that of applying for a CRB check. The CRB website ([www.crb.gov.uk/ubsearch](http://www.crb.gov.uk/ubsearch)) contains a list of organisations that can help complete the application

Once an individual is ISA-registered, subsequent employers can check a person's ISA registration status, online and free of charge, with the consent of the-individual.

### **Q32. How long will it take to become ISA-registered?**

The CRB is working to a standard whereby applicants for ISA-registration will become registered within seven working days. Where applicants have a relevant conviction, caution, warning or reprimand, the CRB will send the information to the ISA who will then take a closer look at the applicant and the appropriateness for them to work with vulnerable groups.

### **Q33. How will the Scheme work?**

Anyone wanting to work or volunteer with children or vulnerable adults will be required to register with the Independent Safeguarding Authority (ISA) by law. Employers will also be legally bound to check and confirm that the person they have engaged in 'regulated' activity is registered and has therefore been checked.

Employers will be able to check a person's ISA-registration status for free online.

Once a person is registered on the Scheme, they will be continuously monitored, so that any new, relevant information is passed to the ISA

The ISA will make its decisions based on information provided by the police and other statutory agencies, regulatory bodies and referrals.

### **Q34. Can I get a Standard CRB check on those working with children and/or vulnerable adults?**

No. From 12 October 2009, if you used to apply for a Standard CRB check on those working with children and/or vulnerable adults you will need to apply for an Enhanced CRB check.

The Standard CRB check will be for all other positions covered by the Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974 for example positions within the Security Industry and Financial Services.

### **Q35. Will you be changing the eligibility criteria for Enhanced CRB checks?**

Yes, if a person is working in a regulated position you are entitled to an Enhanced CRB check from 12 October 2009.

**Q36. How does an Employer register an interest in an employee?**

Any employer or organisation wishing to receive updates on the ISA-registration status of an individual or many individuals for employment purposes, and with the consent of that individual, can do so using the ISA Online service. When registering an interest in an individual, they will be 'Subscribing to' that individual. If an employer or organisation registers an interest in many employees, these will be referred to as the employers or organisations 'Subscriptions'

**Q37. Will anyone be able to go online and check a person's ISA-registration status or barred status? For example, could I make a check on my neighbour?**

No. All information held by the ISA about individual applications and cases will be secure.

Prospective employers are only able to check if the person is ISA-registered if they have the explicit consent of the individual, along with a unique reference number and other personal data.

The online check will not state if a person is barred nor the reason for barring – it will only show whether they are ISA-registered or not.

Non-registration does not imply someone is barred. The individual may have voluntarily left the Scheme, never applied, or simply provided an incorrect number (such as that given on a CRB disclosure). Or they may no longer be undertaking regulated activity and have left the Scheme

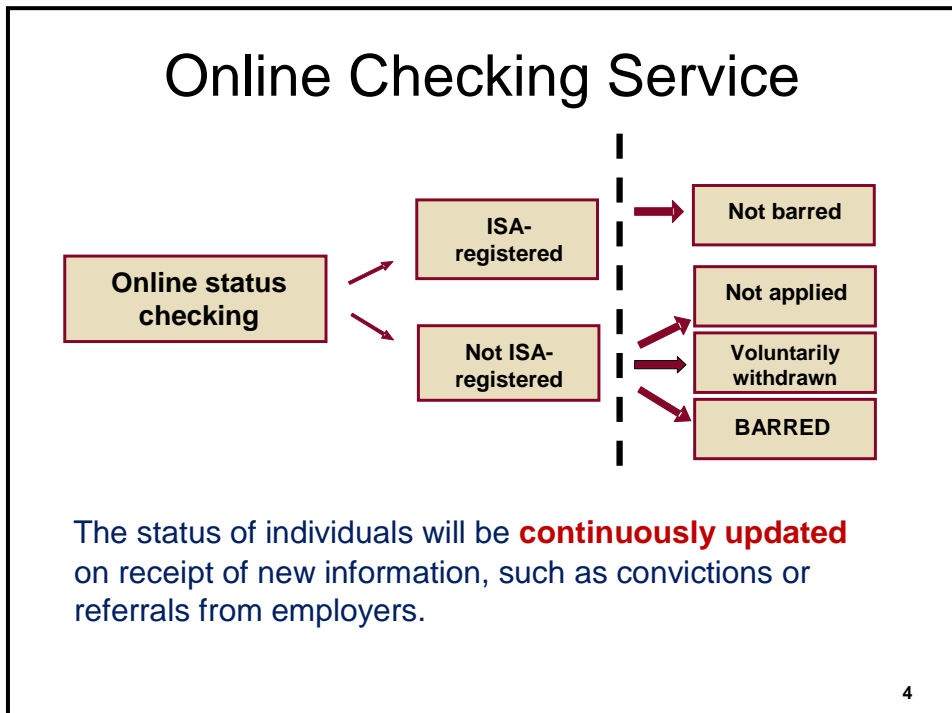


Figure 4

## ***ISA decision making, barring, referrals and appeals***

### **Q38. How long will a barring decision take?**

Where an individual has been referred to the ISA due to harming; causing harm; putting at risk of harm; attempting to harm; or inciting another to harm a child or vulnerable adult, the ISA will consider all available relevant information in deciding if it is appropriate to add that person to one or both the barred lists.

This process will include requesting relevant information from other organisations including for example, employers, police and local authorities. The individual referred will also be given the opportunity to present representations.

This process takes time; however it is important ALL relevant information is available before a decision can be made.

### **Q39. Where will the ISA get information to make decisions to bar or register?**

the ISA has the power to receive information from a wide range of sources - the police, employers and voluntary organisations, local authority social services, professional bodies such as the General Medical Council and General Social Care Council, and inspectorates such as Ofsted and the Healthcare Commission.

Use of these extensive sources will allow the ISA to make decisions based on all available evidence to ensure just and consistent decisions.

### **Q40. Will the ISA receive all information on all cautions and convictions of people registered with the Scheme?**

No – the CRB will only send the ISA information that is deemed relevant to the risk they may pose to children or vulnerable adults.

However, where the ISA feels it necessary to investigate a person it will be able to use its powers to obtain any other relevant information held about that person so it can make a fully informed decision about the person's potential risk.

### **Q41. How can people appeal against being barred by the ISA?**

Appeals against ISA decisions are heard by the Upper Tribunal. They will grant permission for an appeal to be heard where an individual considers the ISA has made a mistake in law or in fact

### **Q42. How will the ISA deal with false or malicious allegations?**

Staff and board members at the ISA have a wide range of expertise, including allegations management.

The ISA will scrutinise any information it receives and will only bar a person if its own criteria for barring are satisfied.

**Q43. Who will the ISA share information with?**

The ISA will have protocols and information sharing agreements in place with the police and professional regulatory bodies, enshrined by law. This will be a two-way information sharing regime.

If the ISA is presented with information that would not lead to a bar but relates to criminal behaviour or professional misconduct then it can share this information accordingly with the appropriate bodies.

The ISA will notify employers if a person's ISA registration status changes (where the employer has registered an interest in the person in question and still has an appropriate interest) but will not give the reason why – this will only be obtained through an Enhanced CRB Disclosure.

Whatever the reason: if a person is no longer ISA-registered they are unable to continue in regulated activity.

**Q44. Can anyone make referrals?**

Yes – the ISA is duty bound to consider all information it receives, regardless of the source. However, we would encourage members of the public, if they have concerns, to first contact the appropriate statutory agency, e.g. the police or Local Authority.

**Q45. What happens if someone who is ISA-registered commits a serious offence and as a result becomes barred?**

The individual's ISA-registration will cease.

An online ISA check will reveal that the individual is not ISA-registered. An Enhanced CRB check will reveal that the person is barred and the reasons for that bar.

## ***Requirements for employers***

### **Q46. What will happen if employers do not check if staff are ISA-registered?**

There will be tough penalties for those employers who fail in their responsibility to carry out the necessary checks or recruit people who are not ISA-registered [or who are barred].

Employers who knowingly permit a barred individual to engage in regulated activity face a maximum penalty of up to six months in prison plus a fine.

It will be a criminal offence for a barred individual even to seek a job in regulated activity, again punishable with a sentence of up to five years' imprisonment plus a fine.

### **Q47. How would an employer go about registering with the ISA?**

The employer does not need to register with the ISA (unless they themselves engage in regulated or controlled activity). Employers just need to ensure that the workers they employ, or manage as volunteers, are registered.

### **Q48. Will it be illegal to employ someone who is not registered with the ISA? When do people have to register?**

All people who currently undertake regulated or controlled activity, either as a volunteer or in paid employment, will eventually need to be registered with the ISA.

Organisations will be given up to five years to ensure all current employees and volunteers have gone through the registration process, via the phasing process which starts in July 2010.

From go-live all new employees and those moving jobs will need to be registered before taking up post.

### **Q49. How can employers check if someone is ISA-registered?**

There are two ways to carry out an ISA check– both require the consent of the individual:

- Online [£0.00]: This will only confirm or not whether the person is ISA-registered
- As part of an application for an Enhanced CRB check [£36.00]: This will provide more information than the online check as it will reveal a person's full criminal records, any other relevant information and the ISA registration status. If the person is barred it will state this and also provide a summary of the reason(s) for that bar.

**Q50. How will an organisation express an interest in an individual's ISA registration status?**

At the stage of making the online check on the individual there will be the option for the organisation to subscribe to be notified if the status changes. The consent by the individual to the online check also serves as consent for the employer to subscribe to be notified.

***Changes to membership status***

**Q51. Who will be notified when an individual's ISA-registration status changes?**

Any employer or volunteer organiser who has expressed an interest in an individual's ISA-registration status will be notified of any change. If an employee's ISA status changes employers will be contacted and asked whether or not they still have a legitimate relationship with that individual (i.e. do they still employ them). To make a false declaration would be to commit a criminal offence.

Assuming that a legitimate relationship still exists, the employer will then be informed of the individual's change in status and told that they can no longer use them in regulated activity.

If an employer continues to use an individual in regulated activity after this point they will be committing a criminal offence.

**Q52. Will the ISA notify both the current employer and the Registered Body or Licensing Authority if someone who is ISA-registered loses this status as a result of being barred?**

The ISA will notify anyone who has expressed an interest in an individual's ISA-registration status.

Registered bodies and licensing authorities and/or supervisory authorities (e.g. a local authority licensing officer for taxi drivers, or a sports supervisory body who issue individuals with the right to conduct approved training course) would both fulfil this function and would consequently be contacted.

## ***Time-scales and phasing***

### **Q53. When will the VBS go live?**

The Vetting and Barring Scheme introduced new safeguarding measures on 12 October 2009. Individuals will be able to register from July 2010.

This 'go live' stage will see a widening of the sectors in which a person can be barred from working with children and/or vulnerable adults, including for example the NHS and Prison Service.

### **Q54. What should I be doing now if I think this Scheme applies to me?**

Organisations and individuals working with children or vulnerable adults are encouraged to factor ISA-registration into their forward planning. Where organisations have an HR or a finance department, then those staff should be made aware of the Scheme and the legal requirements around ISA-registration.

Organisations should be thinking about any staffing, planning, financial or other impacts; they should be liaising with their registered or professional bodies and working on plans to phase the workforce through the ISA-registration process over the five year period.

More information is available from DirectGov (<http://www.direct.gov.uk/vetting>) and if you have any questions or queries about the Scheme please call the contact centre on 0300 123 1111 [calls charged at local geographic rate, i.e. the same as a 01 or 02 number].

### **Q55. Why will applications to the VBS need to be phased in/how will the CRB and ISA cope with processing 9.5m applicants?**

This Scheme will eventually affect some 9.5 million workers - and be the largest Scheme of its kind in the world. To this end, we need to ensure that our key delivery partner, CRB, which will be administering applications to register with the ISA, as well as the ISA itself, are able to cope with the demand.

### **Q56. How will schools cope with a late July launch?**

This has been carefully considered, and also the similar situation for universities taking on students on courses that involve them working with children or vulnerable adults, such as teachers and medical students. We will ensure that those recruitment exercises that are already in train at the point that the new Scheme is introduced are not disrupted.

From July 2010 we will start the new arrangements that *allow* applications to be submitted for ISA registration, but the *requirements* for new workers to be registered with the ISA will be brought in a little later, during the Autumn term. This will allow a smooth switch over to the new arrangements and avoid any

difficulties with recruitment exercises having to be halted and re-started, which would of course cause difficulties at the beginning of the Autumn term.

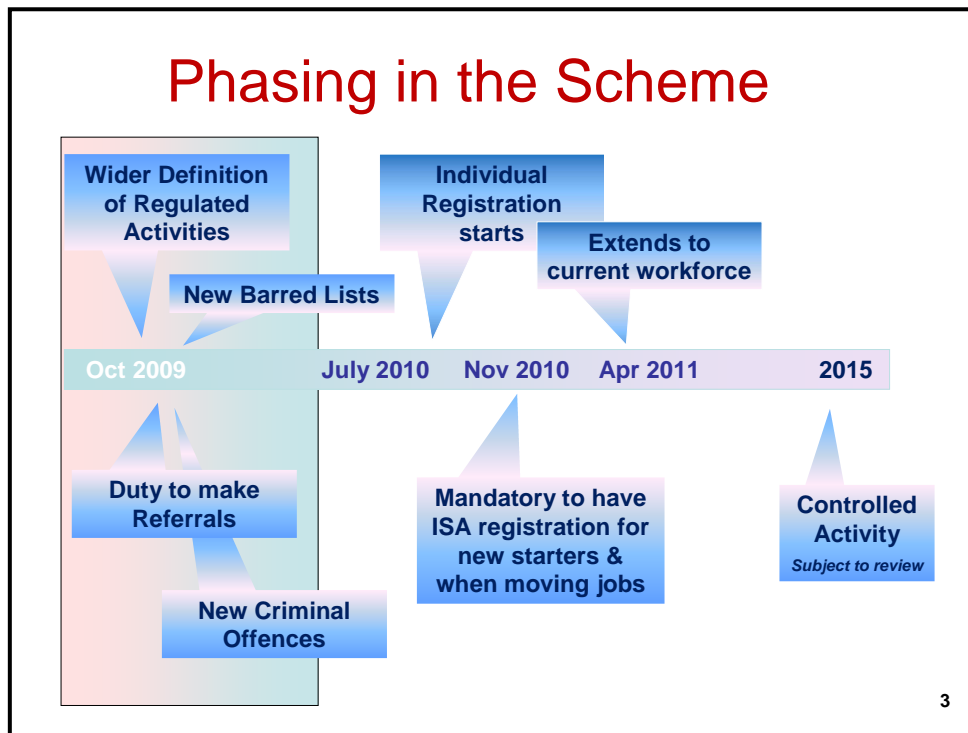


Figure 5