

# The Independent Safeguarding Authority's Barred Lists

This factsheet explains everything you need to know about the Barred Lists that are part of the Vetting and Barring Scheme.

## What are Barred Lists?

The Safeguarding Vulnerable Groups Act 2006 contained the legislation to create two new Barred Lists. These are:

- a list of people barred from working with children (replacing List 99, the POCA list and disqualification orders); and
- a list of people barred from working with vulnerable adults (replacing the POVA list).

## What will these lists do?

These lists will be separate but aligned. They will allow the Independent Safeguarding Authority (ISA) to keep a record of:

- individuals who will not be permitted to work in regulated activity with children and/or vulnerable adults; and
- individuals who can only work with children and/or vulnerable adults in controlled activities with safeguards.

Certain extremely serious offences result in automatic barring. These offences fall into two distinct categories:

- **Automatic barring with no right to make representations**

This list covers the most serious offences against children and vulnerable adults, which indicate that an individual poses a risk of harm to children or vulnerable adults in every conceivable case.

There is no opportunity for the individual to make representation to the ISA as to why they should not be barred because there can be no mitigating circumstances that might explain why these offences were committed.

- **Automatic barring with the right to make representations**

This list covers other serious offences that indicate a very probable risk of harm to children or vulnerable adults but not necessarily in every conceivable case. Therefore it is necessary to give individuals the opportunity to make representations. However, the ISA will not remove a bar unless it is satisfied that the individual does not pose a risk of harm to children or vulnerable adults.



## The Independent Safeguarding Authority's Barred Lists (page 2)

### How will the ISA make its decisions?

The ISA will consider a range of information from the police and referrals from employers, regulatory bodies and other agencies as part of its decision-making process.

The ISA will consider:

- offences – convictions or cautions;
- evidence of inappropriate behaviour; and
- evidence of behaviour that is likely to harm a child or vulnerable adult.

### What does this mean for employers and service providers?

It is vital that employers and service providers realise that checking an individual's ISA status will not be enough on its own to implement safe recruitment practices. Checking an individual's status will inform an employer that an individual is not on the Barred Lists and has not been judged to pose a risk of harm to children or vulnerable adults. However, obtaining appropriate references and speaking to previous employers are just two steps that can also help determine whether an applicant is suitable to work with children or vulnerable adults.

### Will there be a right of appeal for someone who has been barred?

Yes. The Upper Tribunal will hear the appeal. This can be based only on either points of law or findings of facts that the ISA has made and on which it has based its decision to bar. No appeal can be made against the decision-making process.

### Shouldn't automatic barring apply to the majority of cases?

Automatic barring is a serious measure, which the ISA will use only in the most grave cases. It is a measure that is used where there is strong evidence in the form of a conviction or caution for a serious offence. If there is only a degree of evidence that requires further consideration, a discretionary process will be followed.

### Will every person on the sex offenders register be barred by the new Scheme?

All individuals (aged 18 and over) who have committed sexual offences against children and other specified sexual and violent offences are placed on the relevant Barred List automatically.

### Is there a risk that an individual could be barred based on information provided falsely or maliciously?

Referral information, such as allegations, will never lead to automatic inclusion on the ISA Barred Lists. Before a barring decision is made, the individual is given the information on which the decision is based and the opportunity to explain their case.



## The Independent Safeguarding Authority's Barred Lists (page 3)

It is a serious offence to make a malicious referral with the intention to mislead. A person found guilty of this may be subject to defamation and damages claims. Criminal sanctions, which include offences related to wasting police time, perverting or attempting to pervert the course of justice, conspiracy and perjury, could also apply.

### **Would the new vetting service bar someone like Ian Huntley?**

One of the key features of the Huntley case was that, although his behaviour had caused concern to a number of agencies, and on a number of different occasions, no single organisation had access to a full picture or had put together those aspects of the picture that they had. A key strength of the new Scheme is that it has access to non-conviction information from different sources when building a view of an individual's unsuitability to work with children or vulnerable adults.

In this factsheet the term 'employers' refers to both employers and managers of volunteers. The term 'employees' refers to both paid and unpaid (volunteer) work/activities.

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