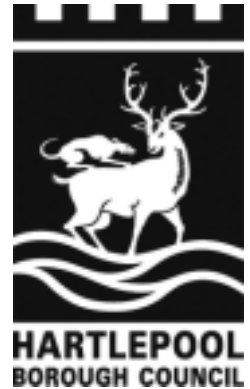


GENERAL PURPOSES COMMITTEE AGENDA



Thursday 5 November 2009

at 10.00 am

in Committee Room C, Civic Centre, Hartlepool

MEMBERS: GENERAL PURPOSES COMMITTEE:

Councillors C Akers-Belcher, S Akers-Belcher, Atkinson, Flintoff, Griffin, Laffey, G Lilley, Shaw and R Cook

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 21 August 2009
4. **ITEMS REQUIRING DECISION**
 - 4.1 Criminal Records Bureau Process and Independent Safeguarding Authority (ISA) – *Chief Personnel Officer*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

GENERAL PURPOSES COMMITTEE

MINUTES AND DECISION RECORD

21 August 2009

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor: Laffey (In the Chair)

Councillors: Atkinson, C Akers-Belcher, R Cook, G Lilley

In accordance with Council Procedure Rule 4.2 (ii), Councillor Preece attended as a substitute for Councillor Flintoff, Councillor Fleet attended as a substitute for Councillor Griffin and Councillor Simmons as a substitute for Councillor Shaw

Officers: Christine Armstrong, Centre Services Manager
Alison Swann, HR Advisor
Sarah Bird, Democratic Services Officer

5. Apologies for Absence

Apologies were received from Councillors S Akers Belcher, Flintoff, Griffin and Shaw.

The Chair wished Councillor Flintoff a speedy recovery.

6. Declarations of interest by members

All members declared an interest in item number 8 – Criminal Records Bureau Process.

7. Confirmation of the minutes of the meeting held on 10 July 2009

These were accepted as an accurate record.

8. Criminal Records Bureau Process – *Central Services Manager*

Following a request from a previous meeting, the Central Services Manager and HR Advisor attended to outline the procedure followed by Hartlepool Borough Council regarding the process which was

followed when applying for a Criminal Records Bureau (CRB) disclosure. By having an appointment with a trained officer, this would ensure that forms were completed correctly and identity could be verified at the same time, thus preventing any unnecessary delays with the process.

A member queried why a further CRB check was required when a Member applied to become a school governor and was informed that the position of school governor required an enhanced CRB disclosure, whereas a Member did not. The HR Officer had worked with the Governor Support Officer to draw up a procedure for Member CRB checks to avoid unnecessary repetition.

In July 2010 there was to be a new initiative, the Independent Safeguard Authority (ISA). This Authority would hold all data relating to CRB disclosures and could be accessed by all relevant bodies, thereby ensuring that there would be national access to information. The current system supported two levels of CRB disclosure dependent on the role of the person for whom disclosure was necessary. The system to be implemented in July 2010 would require all to be registered with the ISA although some roles would be Regulated and others Controlled. The HR Officer agreed to provide briefing sessions relating to ISA for Members when it had been agreed by Central Government whether Members fell into the Regulated or Controlled categories. Members asked whether it would be possible for Hartlepool Borough Council (HBC) to contribute to any consultation with Central Government regarding this. The HR Officer agreed to discuss this with the Chief Solicitor to see whether this would be possible and inform Members.

A Member asked whether newly elected Members could refuse to undergo a CRB disclosure and was informed that although it was not part of election law, HBC policy was that all Members were required to undertake a standard CRB disclosure. Clarification would be sought from the Chief Solicitor as to whether this would be a matter for the Standards Committee if a Member were to refuse a CRB disclosure. The Central Services Manager informed Members that currently the nomination pack for candidates included the notice that there was a requirement for a CRB disclosure if elected.

It was clarified that Members were required to undergo a CRB disclosure on election and then every four years after that. Officers who required a CRB disclosure were also checked on a three yearly rolling programme. HR would inform the relevant manager 12 weeks prior to the disclosure being necessary. It was agreed that CRB checks for new Members elected in May 2010 would be undertaken after the ISA system was introduced and Members already in office would be added via a rolling programme.

Members outlined their experiences of undergoing CRB checks and

the Central Services Manager agreed to take these comments on board and address any staff training issues.

Decision

The CRB processes adopted by Hartlepool Borough Council, together with the benefits were noted.

The meeting concluded at 10.45 am.

P LAFHEY
CHAIR

GENERAL PURPOSES COMMITTEE

5 November 2009



Report of: CHIEF PERSONNEL OFFICER

Subject: Criminal Records Bureau Process & Independent Safeguarding Authority (ISA)

1. PURPOSE OF REPORT

- 1.1 To respond to members queries regarding internal processes for CRB applications and registration with the Independent Safeguarding Authority.

2. BACKGROUND

- 2.1 Following a request at a previous meeting, the Central Services Manager and HR Advisor attended GP Committee on 21st August 2009, to outline the procedure followed by Hartlepool Borough Council regarding the process for a Criminal Records Bureau (CRB) disclosure application. An appointment with a trained officer ensures that forms are completed correctly and individual identity can be verified at the same time, thus preventing any unnecessary delays with the process. Members outlined their experiences of undergoing CRB checks and **the Central Services Manager agreed to take these comments on board and address any staff training issues.**
- 2.2 In July 2010, there is to be a new regulatory body, the Independent Safeguard Authority (ISA). The ISA will hold all data relating to CRB disclosures and be accessed by all relevant bodies, thereby ensuring that there would be national access to information. The current system supports two levels of CRB disclosure dependent on the role of the person for whom disclosure is necessary. The system to be implemented in July 2010 will require all to be registered with the ISA in a "Regulated" or "Controlled" role. The HR Adviser agreed to provide briefing sessions relating to ISA for Members when it had been agreed by Central Government whether Members fell into the Regulated or Controlled categories. Members asked whether it would be possible

for Hartlepool Borough Council (HBC) to contribute to any consultation with Central Government regarding this. **The HR Adviser agreed to discuss this with the Chief Solicitor to see whether this would be possible and inform Members.**

- 2.3 A Member asked whether newly elected Members could refuse to undergo a CRB disclosure and was informed that although it was not part of election law, the Council's policy was that all Members were required to undertake a standard CRB disclosure. **Clarification would be sought from the Chief Solicitor as to whether this would be a matter for the Standards Committee if a Member were to refuse a CRB disclosure.** The Central Services Manager informed Members that currently the nomination pack for candidates included the notice that there was a requirement for a CRB disclosure if elected.

3. Criminal Record Bureau Checks – Internal Processing.

- 3.1 The interview process that is undertaken by Hartlepool Connect has been reviewed.
- 3.2 The guidance issued to those members of staff who undertake CRB interviews has been enhanced and, where necessary, further training has been given.

4. Independent Safeguarding Authority (ISA)

- 4.1 Alyson Camen, Legal Services Manager has spoken to the ISA and confirms that currently there is no ongoing consultation. However, the initial consultation from January 2009 and responses can be found at Appendix A. Should further consultation arise it would be possible for us as an Authority to prepare a response and forward it on.
- 4.2 The view of the ISA official that Alyson Camen spoke to is that Councillors would fall within the "Controlled activity" category i.e. eg individuals within specified organisations (e.g. a local authority) who have frequent access to sensitive records about children and vulnerable adults.
- 4.3 In terms of whether or not it could be a matter for Standards Committee should a Councillor refuse to undertake a CRB check, this would depend on whether the Councillor would have access to sensitive records as described above, for example sitting on Fostering/Adoption Panels and failure to have a CRB check could feasibly result in a charge of bringing the Council into disrepute - a matter for Standards Committee.
- 4.4 Therefore, until clarification is given by the ISA regarding registration, Members are required to undergo the current Council agreed policy of a CRB disclosure on election and then every four years after that.

5. Recommendation

- 5.1 The ISA position in relation to Councillors is noted along with the improvements that have been made to the Hartlepool Borough Council system of processing CRB applications through the Contact Centre.

Contact Officer

Alison J Swann
HR Adviser.

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Appendix A

Vetting and Barring Scheme Initial Consultation dated December 2008

Provisions in relation to Office Holders within Local Government and Local Authorities in England

1. Purpose of this paper

- 1.1 The new Vetting and Barring Scheme (VBS) which is scheduled to go live in October 2009, is designed both to improve and to extend the current employment vetting practices. The VBS scheme will be established under the Safeguarding Vulnerable Groups (SVG) Act 2006. Preparations are now underway for the full implementation of the Scheme, including the use of secondary legislation to provide the necessary detail on how it will work in practice. The lead government departments providing policy support for the Scheme are the Department for Children, Schools and Families (DCSF) and the Department for Health (DH), with the implementation led by the Home Office (HO).
- 1.2 The SVG Act places requirements on a range of people and organisations and some of these will apply in specific ways with regard to positions within Local Government and Local Authorities. The Independent Safeguarding Authority (ISA), which is the decision making element of the VBS, has a website (www.isa.gov.org) that provides further details about the general application of the Scheme, including how to apply and how to make checks under the Scheme.
- 1.3 This paper seeks views on the main issues that will affect positions within Local Government and Local Authorities and invites comments on how these issues can best be addressed. If you have any queries about this paper, please feel free to contact Nicholas Smith (nicholas.smith@dcsf.gsi.gov.uk) from DCSF, who is the UK government lead on this strand of work for England. Wales and Northern Ireland will be making separate arrangements. We are seeking responses to this paper, on the form attached at Annex B, by **31 January 2009**.

2. Legislative background

- 2.1 The VBS will reform the current vetting and barring practices, creating a single list of those barred from working with children and a single list of those barred from working with vulnerable adults. As a consequence, the current barring regimes (such as the information held under the Protection of Children Act, the Protection Of Vulnerable Adults scheme, information held under Section 142 of the Education Act 2002 (commonly referred to as List 99) and Disqualification Orders) will cease to exist. The SVG Act also makes provision to expand upon existing safeguarding measures to include a wider range of roles and

responsibilities (from which individuals may be barred) known within the Scheme as ‘regulated activity’.

2.2 ‘Regulated activity’ is defined in the SVG Act and covers specific types of work and work settings where, by the nature of the work or setting, a person will be able to build relationships of trust with children or vulnerable adults. The types of work covered in this definition include teaching, training, care, supervision, advice, medical treatment, and fostering, and the settings include schools and care homes. No distinction is made between paid and voluntary work. In addition, the SVG Act lists persons occupying certain posts (referred to in the Act as office holders) who will be engaging in regulated activity by virtue of undertaking that post. An example of this is the Director of Children’s Services of a local authority in England.

2.3 Within this list of office holders are a range of positions within Local Government and Local authorities, namely:

- a member of a relevant local government body;
- a director of children’s services of a local authority in England;
- a director of adult social services of a local authority in England; and
- a member of a Local Safeguarding Children Board

2.4 From Autumn 2009, any person wishing to engage in regulated activity, where there is a regulated activity provider¹, will be required to make an application under section 24 of the SVG Act to be subject to monitoring (which we refer to as being registered with the ISA). If their application is successful, membership of the Vetting and Barring Scheme provides potential employers with assurance that, once the initial application process is complete, the ISA has established that there are no known reasons to believe the individual presents a risk of harm to children or vulnerable adults. Initial registration with the VBS will be routed via an application to the Criminal Records Bureau (CRB).

2.5 Whenever a registered person moves from one regulated activity role to another, there is a requirement under the SVG Act that their membership of the VBS be checked. This is usually carried out by a ‘regulated activity provider’ within the Act, who is typically an employer. The Home Office is developing systems which will provide a free of charge registration check that can (with the consent of the person being checked) be carried out by anyone with internet access. The regulated activity provider will also be able to register for notification of any change in the person’s ISA status (i.e. if they become barred and so lose their registration, or withdraw themselves from the Scheme). Should this happen, the regulated activity provider will be told that the

¹ As defined in section 6 of the SVG Act and typically referring to an employer

person is no longer ISA-registered and must be removed from any regulated activity they are carrying out.

- 2.6 The VBS will be introduced over a five-year period. In the initial six months after the launch, registration will be open only to new entrants to the workforce and those moving positions within the relevant sectors. Those currently engaging in regulated activity will be asked to join the scheme between April 2010 and October 2014. From 2014 it will be an offence to work within the sector without ISA-registration.
- 2.7 Office holders, such as the posts listed above in paragraph 2.2, do not in general have a regulated activity provider and, as such, the legislation that covers them is different from the majority of those engaging in regulated activity. The only requirement that the Act stipulates is that a 'barred' person must not hold any of the office holder positions. But the Act also allows regulations to specify which of the office holders must register with the Scheme and who should carry out the check of their membership.
- 2.8 We are aware that the duties of the post holders vary enormously and a bespoke approach will be required in the implementation of the scheme for each of the 'office holders'. This paper will outline the proposed methodology for the application of the scheme and seeks views on the proposed policy for each of the roles in paragraph 2.3.

3. **A member of a relevant local government body i.e. local authority elected members**

Who must be checked?

- 3.1 The Act states, under the sections relating to both children and vulnerable adults, that those who are a member of a "relevant local government body" will be engaging in regulated activity. The Act defines "relevant local government body" in paragraphs 4(2) and 8(2) of Schedule 4. For ease of reference paragraph 4(2) states:

4(2) For the purposes of sub-paragraph (1) (b), a person is a member of a relevant local government body if—

(a) he is a member of a local authority and discharges any education functions, or social services functions, of a local authority;

(b) he is a member of an executive of a local authority which discharges any such functions;

(c) he is a member of a committee of an executive of a local authority which discharges any such functions;

(d) he is a member of an area committee, or any other committee, of a local authority which discharges any such functions.

- 3.2 Paragraph 8(2) largely mirrors the above for the purposes of providing the same cover for vulnerable adults. Paragraph 8(2)(a) echoes the spirit of 4(2)(a) and states:

8(2) (a) he is a member of a local authority and discharge any social services functions of a local authority which relate wholly or mainly to vulnerable adults;

The wording in paragraph 8(2) (b-d) is then exactly the same as in 4(2) (b-d).

- 3.3 From informal discussions we have had with existing members of local governing bodies and with members of the Local Government Association, it is generally accepted that those elected members covered by (a), (c) and (d) above should be required to be members of the scheme, and that their membership should be checked. Consequently we propose that all those councillors who directly discharge any education function or social services function with regards to children or vulnerable adults must register with the Vetting and Barring Scheme and be subject to a check of their registration (see below).
- 3.4 In addition, the Government is attracted to the principle of requiring the councillors that are members of the LA's executive, but do not themselves exercise education or social services functions, to be registered and have their registration checked, because of the increase in safeguarding this will bring. However, the Government accepts that the arguments are different to the arguments in relation to councillors that are directly exercising education and social services functions, and would like to invite views on this proposition from local government.

Question 1: Do you agree with the proposals for Scheme membership detailed in paragraphs 3.1 – 3.4? If not, please explain why? What is your view on the proposition in paragraph 3.4?

Who should carry out the check? - the 'prescribed person'

- 3.5 As mentioned above in paragraph 2.5, all those who engage in regulated activity, where there is a regulated activity provider, are required to register with the scheme and the regulated activity provider is required to check the registration status. However, with regards to those designated 'office holders' this mandatory check is carried out by a 'prescribed person', to be defined in secondary legislation.
- 3.6 We propose that for those for whom a check is required as proposed in paragraphs 3.3 and 3.4 above, the person liable for ensuring the check

is carried out should be the Leader of the Local Authority, or the Elected Mayor, as appropriate. For the Leader/Elected Mayor himself or herself, we propose that the check is carried out by the Chief Executive Officer of the LA. We recognise that in reality the Leader/Elected Mayor may wish to delegate the task of checking to another in the Local Authority, and we shall arrange for this to be possible, but the Leader/Elected Mayor will retain the responsibility for ensuring compliance.

Question 2: Do you agree with the proposed ‘prescribed persons’ detailed in paragraphs 3.5 – 3.6? If not, please explain why?

4. A director of children’s or adults’ services of a local authority in England

- 4.1 The Act states that directors of children’s services (DCS) and the directors of adults’ social services (DASS) of a local authority in England are engaged in regulated activity². We think that there is a clear case that these individuals should be registered with the Scheme.
- 4.2 In addition, the Government believes that the LA’s chief executive should also be required to register, and should have his or her registration checked.

Who should carry out the check?

- 4.3 A prescribed person must therefore be created to check the registration status of DCSs/DASSs, and the Chief Executive. We propose that, due to their close working relationship, the Chief Executive be made responsible for carrying out the check of the DCS/DASS, and that the Chief Executive be checked by the Council Leader/Elected Mayor. Again we recognise that the making of the check may be delegated to other suitable people within the Local Authority, but again the responsibility for ensuring compliance remains with the Chief Executive or Council Leader/Elected Mayor respectively.

Question 3: Do you agree with the proposal that the DCS, the DASS and the Chief Executive should be registered with the scheme and for the proposed ‘prescribed persons’ detailed in paragraph 4.3? If not, please explain why?

5. Members of a Local Safeguarding Children Board

- 5.1 Similar arrangements must be made for members of Local Safeguarding Children Boards (LSCB). As with DCS/DASS, the issue

² The Act states that both the DCS and the DASS are engaging in regulated activity with regards to children (paragraph 4(1) (c) and (d) of schedule 4). The DASS, but not the DCS, is also engaging in regulated activity in relation to vulnerable adults (paragraph 8(1) (b) of schedule 4).

of whether they should be required to be checked is relatively straightforward. We think there is a clear case that they should be required to both register and undergo the Scheme membership check.

Who should carry out the check?

- 5.2 We propose that the DCS for the relevant local authority be the prescribed person with responsibility for ensuring that all LSCB members are registered with the ISA.

Question 4: Do you agree with the proposed ‘prescribed persons’ detailed in paragraph 5.2? If not, please explain why?

6. When should the check take place?

- 6.1 The Act allows, in section 14, for regulations to prescribe the length of time between an office holder engaging in regulated activity and the check of their registration being carried out. The issue to be addressed is to define the time span that could be viewed as reasonable whilst maintaining adequate safeguarding standards. The policy intention is that the check of the office holder’s registration with the ISA³ should be made as soon as possible after the office holder has been appointed.
- 6.2 When the office holder is appointed the prescribed period starts, during which time the prescribed person must carry out the check to ensure that the member is ISA registered. We propose that the prescribed period be set at 4 weeks. This will provide sufficient time for the online check to be made although we would expect the check to have been completed well within this period.

Question 5: Do you agree with the proposed ‘prescribed period’ described in paragraphs 6.1 – 6.2? If not, please explain why?

7. Next steps

- 7.1 The attached table (Annex A) summarises, for ease of reference, our proposals as to who should be checked and also lists who we believe should do the checking.
- 7.2 This paper has asked 5 questions and we would ask that all responses, on the attached form (Annex B), are returned by **31 January 2009**. If you have any questions or there are elements which you would like further clarity on, please contact either myself or Nicholas Smith via the email addresses given in paragraph 1.3.

Krishna Dattani
Department for Children, Schools and Families 18 December 2008

³ “registered with the ISA” or “ISA-registered” is referred to as “Subject to Monitoring within the SVG Act 2006

Annex A**Proposed VBS arrangements in relation to Office Holders within Local Government and Local Authorities in England**

Office Holder	Should they be required to register?	Who should check registration?
Local authority elected members		
Those who discharge any education functions, or social services functions, of a local authority, are a member of an executive of a local authority which discharges any of those functions, or a member of a committee or an area committee that exercises those functions	Y	Council Leader/Elected Mayor
The Council Leader/Elected Mayor	Y	Chief Executive
Director of Children's Services / Director of Adult's Social Services	Y	Chief Executive
Chief Executive	Y	Council Leader/Elected Mayor
Local Safeguarding Children Board Member	Y	Director of Children's Services

Responses to Consultation dated January 2009

Safeguarding Vulnerable Groups Act 2006: Provisions relating to Local Authority positions

Introduction and background

1. The Safeguarding Vulnerable Groups Act was passed in 2006 as a result of the Bichard inquiry, set up in the wake of the Soham murders. The Safeguarding Vulnerable Groups Act provides the legal basis for the new Vetting and Barring Scheme, which is designed to extend and improve current safeguarding practices. From November 2010 it will be mandatory to register with the Scheme before engaging in any work with children and/or vulnerable adults.
2. In January 2009, a discussion paper was sent to all affected parties inviting comment on the proposed changes to current vetting arrangements. The aim of the paper was to gather and consider the views of Local Authority 'office holders'. This paper is to provide a summary of the responses we received and the implications this will have.
3. The questionnaire was sent out by email in January 2009. Of the 326 questionnaires sent, forty-two responses were received. It could be argued that the response rate was lower than expected because people did not have particularly strong views on the scheme that they wanted to be considered; or perhaps they did not feel informed enough about the scheme to comment. This will be addressed over the next few months by a series of awareness-raising events including a programme of public seminars, direct marketing campaigns and full guidance.

Question 1: Do you agree with the proposals for Scheme membership of local authority elected members?

4. The replies were equally divided between those who felt *all* elected members should be registered and those who thought only those

members who discharged functions directly relating to children or vulnerable adults should be registered.

- Some responses argued that *all* elected members should be registered with the scheme because although they may not be directly involved with social services or education, they are involved in e.g., hearings on looked after children, visits to constituents' homes and have contact with children and vulnerable adults as well as access to personal information about them;
- several replies said *all* councillors should be registered due to the position of trust and power they hold- it was felt they should set an example to gain public confidence;
- Several responses argued that although they agreed LA elected members should be registered if they discharged any functions relating to children or vulnerable adults, they felt it would be excessive for *all* elected members to be registered-

Implications

5. We considered extending registration to *all* elected members but on further consideration we have concluded that this would be excessive. In particular, we took into account of the view of the LGA who argued: 'a balance is right and necessary and it would appear to us to serve no purpose to extend the Scheme either in a blanket manner to include all elected members or even to those elected of an executive if they do not, in their executive position, directly discharge education or children/adult services.'
6. However, it should be noted that individual councillors who, for example, serve on adoption or fostering panels or take part in hearings on looked after children, will be exercising the education or social services function of

the LA and so are covered by the SVG act as it currently stands. Ministers do not intend to widen the definition any further, to include all councillors, but do intend to require that all those councillors that are covered by the scheme should be registered.

7. From November 2010, for councillors newly taking up positions where they exercise the LA's education or social services functions will need to register. Councillors who are already exercising their duties before this date would only be required to register at the beginning of their next term of office, i.e. following relevant elections having taken place.

Question 2: Do you agree with the proposed 'prescribed persons' for local authority elected members?

8. Out of the forty-two responses thirty-eight agreed with the proposed 'prescribed person' while three were against and one was not sure.

9. Of those who agreed, comments to be aware of were:

- the majority agreed that the Mayor would want to delegate this task to, for example, the corporate CRB manager, Deputy Council leader, and HR directors;
- one reply agreed the responsibility would need to be delegated but each organisation would need to be clear whose responsibility it was, and ensure their staff was aware.

10. For those who disagreed, points to note were:

- three replies felt it would be more appropriate for the Monitoring Officer to be the 'prescribed person' as it was not consistent with responsibilities usually delegated to councillors and they felt the Monitoring Officer would be more 'objective.'

Implications

11. As the overwhelming majority of responses were in favour of the elected Mayor or Local Authority leader being the 'prescribed person', this, again, will be the policy position. Ministers intend to make regulations under the Safeguarding Vulnerable Groups Act to give effect to this. The prescribed person will be able to delegate the task of checking all elected members but they will have ultimate responsibility for compliance. Should the 'prescribed person' choose to delegate this role, they will need to ensure that there are robust procedures and record-keeping to ensure compliance, as a failure to check registration may result in criminal sanctions.

Question 3: Do you agree with the proposal that the DCS, the DASS and the Chief Executive should be registered with the scheme and for the proposed 'prescribed persons' detailed in paragraph 4.3?

12. Everyone agreed that it was imperative that DCSs and DASSs be registered with the ISA as work with children and vulnerable adults underpin their role. There was also general agreement that the Chief Executive should register. Registration is especially important if they are overseeing the checks of others. Those elected to these posts hold a position of great trust and responsibility and registration would gain public confidence. Of the forty-two replies, thirty-nine agreed with the proposed 'prescribed person' while three disagreed, suggesting it would be more appropriate for the Head of HR to oversee the check.

13. Several responses reiterated that the ultimate responsibility for carrying out the check should be the Mayor's/Chief Executive's, but that the task should be delegated.

Implications

14. As there was unanimous agreement that DCSs, DASSs and Chief

Executives be registered with the ISA, registration will be mandatory for all new appointments from November 2010. For those already in post by that date, they will be expected to register in-line with the proposed phased roll-out of the Scheme; this is to say all DCSs , DASSs and Chief Executives must be registered by November 2015 or be committing an offence. The responsibility for checking registration will be the ultimate responsibility of the proposed 'prescribed person' but they will be able to delegate this responsibility.

Question 4: Do you agree with the proposed 'prescribed persons' (i.e., the DCS) for Members of a Local Safeguarding Children Board (LSCB)?

15. There was universal agreement that members of LSCBs be ISA registered. Out of forty-two replies thirty-seven agreed with the proposed 'prescribed person' but, acknowledged that they would, in reality, delegate the responsibility. There were five replies that disagreed or were unsure about the proposed 'prescribed person.'

16. One reply thought responsibility for the check should go to an independent chair of the LSCB Board while another argued: 'the prescribed person should be the Chief Executive Officer of each member agency; or if that person represents their agency on the LSCB, the chair of the council/ governing body.'

Implications

17. All members of LSCBs will be required to register as, like DCSs and DASSs, they are in a position of great trust and authority. The DCS will be the 'prescribed person' but will be able to delegate this responsibility. Again, they would take ultimate responsibility for ensuring compliance.

Question 5: Do you agree with the proposed 'prescribed period'?

18. Of forty-two replies, thirty agreed, eight disagreed and four were unsure. The majority of responses agreed that four weeks was a reasonable and

practicable timescale in which to carry out the ISA check.

19. The respondents who disagreed argued that the ISA check should happen *before* the appointee assumed their post, not up to 4 weeks afterwards.

20. Some respondents felt it was especially important that prominent appointees such as DCSs be ISA checked *before* they took up their post.

Implications

21. The majority agreed that the four week period was sensible so this will now be established. Successful applicants will be able to assume their post immediately, although they will have already registered and provided the 'prescribed person' with their registration details, as commencing their duties without registering would be a criminal offence. In addition we will assume that the 'prescribed person' will, in the absence of other factors, carry out the check immediately. Four weeks would be the maximum time needed and it is expected that most checks would be completed a significant time before this.

22. We are aware that for councillors there will be occasions where it will not be possible for registration to be completed before being appointed to a relevant position, most notably following elections or "reshuffles". It is proposed that a "grace period" be allowed during which time it would not be an offence for the member to exercise their duties nor for the prescribed person not to carry out a check of their registration.

23. However, the relevant members would be required to apply for registration immediately on taking office and would be required to provide their ISA-registration number to the prescribed person at the earliest opportunity. It is anticipated that registration with the ISA will take seven working days from receipt of the application form; therefore the potential safeguarding risk is deemed to be minimal. The maximum length of time allowed for this "grace period" would be four weeks. The 'prescribed period' within which

the registration check must be carried out would begin from the moment at which the member provides the relevant details to the prescribed person.

Next Steps

24. Relevant secondary legislation under the Safeguarding Vulnerable Groups Act 2006 will be drafted on the basis of the details given above. We are grateful to all those who responded to the original paper and will ensure that all those affected by the Scheme are kept up-to-date with all pertinent information.

Jane Andrew

Department for Children, Schools and Families

June 2009

Appendix B
Regulated & Controlled Activities

Regulated and controlled activities

The Safeguarding Vulnerable Groups Act 2006 contains the legislation to create the new Independent Safeguarding Authority (ISA) and enact the Vetting and Barring Scheme. This factsheet explains the terms 'regulated' and 'controlled' activities used in the Act that will be introduced when the new ISA is phased in.

What is a 'regulated activity'?

- Any activity of a specified nature that involves contact with children or vulnerable adults frequently, intensively and/or overnight. (Such activities include teaching, training, care, supervision, advice, treatment and transportation.)
- Any activity allowing contact with children or vulnerable adults that is in a specified place frequently or intensively. (Such places include schools and care homes.)
- Fostering and childcare.
- Any activity that involves people in certain defined positions of responsibility. (Such positions include school governor, director of social services and trustee of certain charities.)

'Regulated activity' is when the activity is frequent (once a month or more) or 'intensive' (takes place on three or more days in a 30-day period).

How does 'regulated activity' work?

- Anyone providing a regulated activity must be registered with the ISA.
- It will be a criminal offence, punishable by up to five years in prison, for a barred individual to take part in a regulated activity for any length of time.
- It will be a criminal offence for an employer to take on an individual in regulated activity if they fail to check that person's status.
- It will be a criminal offence for an employer to allow a barred individual, or an individual who is not yet registered with the ISA, to work for any length of time in any regulated activity.

What does this mean for domestic employees, e.g. private tutors and care workers?

- It will be an offence for a barred individual to take part in any regulated activity in domestic circumstances.
- Domestic employers do not have to check an individual they wish to employ – such as a home tutor, nanny or carer – but the new scheme will give them the opportunity to check



Regulated and controlled activities (page 2)

the status of an individual (with his/her consent) if they wish to do so.

(Such jobs include day centre cleaners and those with access to social care records.)

What is a ‘controlled activity’?

- Frequent or intensive support work in general health settings, the NHS and further education. (Such work includes cleaners, caretakers, shop workers, catering staff, car park attendants and receptionists.)
- Individuals working for specified organisations (e.g. a local authority) who have frequent access to sensitive records about children and vulnerable adults.
- Support work in adult social care settings.

‘Controlled activity’ is when this type of activity is ‘frequent’ (once a month or more) or ‘intensive’ (takes place on three or more days in a 30-day period).

How does ‘controlled activity’ work?

- It will be a criminal offence for an employer to take on an individual in a controlled activity if they fail to check that individual’s status.
- An employer can permit a barred individual to work in a controlled activity **only if sufficient safeguards are put in place.**

	Bar applies (Duty on individual)	Individual must be checked (Duty on employers)	Barred individual can be employed
Regulated activities Employment and volunteer settings	✓	✓	✗
Regulated activities Domestic employment settings	✓	✗	✗
Controlled activities Employers	✗	✓	✓ With safeguards

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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