

# ‘Drawing the Line’

A report on the Government’s  
Vetting and Barring Scheme

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December 2009

From the office of  
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Dear Secretary of State,

On 14 September 2009 you wrote to the Chair of the House of Commons Children, Schools and Families Select Committee, Barry Sheerman MP, about the new Vetting and Barring Scheme. Parliament had legislated for this scheme in the Safeguarding Vulnerable Groups Act 2006 which received overwhelming support in both Houses. That support continued as the scheme was prepared for implementation through a process of extensive consultation. However, you also drew attention to more recent concerns which had been expressed about a particular aspect of the scheme, namely the degree of contact with children which should trigger the requirement to register with the Independent Safeguarding Authority (ISA). These concerns were accompanied by inaccurate and misleading reports about the wider operation of the scheme.

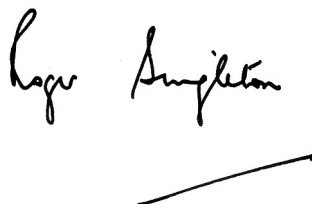
You informed Mr Sheerman that, together with Baroness Morgan, you had asked me as the Chief Adviser on the Safety of Children and the Chair of the ISA to check that the Government had drawn the line in the right place in relation to the requirement to register. You asked me to consider whether any adjustments needed to be made and you sought recommendations by early December.

I enclose my report.

In preparing the report I have been mindful of Parliament's intention to do everything it reasonably could to ensure that children and vulnerable adults are protected from those who seek to harm them. I have had regard to the issues raised by critics of the scheme and by the established stakeholders. I have drawn on current knowledge about the way a small minority of professionals and volunteer workers abuse children. And I have utilised my own experience of advising Ministers and senior civil servants on barring decisions over the past four years.

I hope my recommendations will address many of the issues which have been raised and that you will find them appropriate, balanced and proportionate.

Yours sincerely,

A handwritten signature in black ink that reads "Roger Singleton". The signature is written in a cursive style. Below the signature is a long, thin horizontal line that tapers at both ends, serving as a decorative underline.

Sir Roger Singleton

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# Foreword

I want to thank the many individuals and organisations who contributed their views and experience. Opinion was wide-ranging with some respondents discouraging me from recommending changes to the existing provisions and others urging upon me a more radical approach to reducing vetting requirements. But my thinking has been enriched by the overwhelming majority of contributions which, notwithstanding the range of perspectives from which they have come, were constructive and helpful.

I am particularly grateful for the extensive help I have received from Marcus Starling and John Sheridan at the Department for Children, Schools and Families. Their diligence, attention to detail and sheer hard work has enabled me to meet the demanding timescale set by the Secretary of State.

Finally, I thank my grandchildren – Jude, Thomas, Eva and Grace – for their unwitting contribution to this report. Their welfare has been my ultimate yardstick.

# Executive summary

If my recommendations are accepted, then:

1. Mutually agreed and responsible arrangements made between parents and friends for the care of their children will not be affected by the Vetting and Barring Scheme (VBS).
2. Where organisations such as schools, clubs or groups make the decisions as to which adults should work with their children then the requirement to register will apply, subject to the frequent and intensive contact provisions.
3. The frequent contact test will be met if the work with children takes place once a week or more. The intensive contact test will be met if the work takes place on 4 days in one month or more or overnight.
4. Individuals who go into different schools or similar settings to work with different groups of children will not be required to register unless their contact with the same children is frequent or intensive.
5. The minimum age of registration for young people who engage in regulated activity as part of their continuing education will be reviewed.
6. Overseas visitors bringing their own groups of children to the UK e.g. to international camps or the Olympics, will have a three months exemption from the requirement to register.
7. Exchange visits lasting less than 28 days, where overseas parents accept the responsibility for the selection of the host family, will be regarded as private arrangements and will not require registration.

8. The Government will consider the position of some self-employed health care practitioners and whether a duty should be placed on them to register with the scheme.
9. The Government will review the continuing need for ‘controlled activity’.
10. The Government will review both the statutory requirements and its advice in relation to the continuing need for CRB Disclosures for safeguarding purposes once the VBS is in place.

### Concluding comment

There is an urgent need for the Government to renew its efforts to communicate the details and safeguarding benefits of the scheme.

# Background

1. The Vetting and Barring Scheme (VBS) is one of the Government's responses to the Bichard Inquiry which followed the murders of Holly Wells and Jessica Chapman by Ian Huntley. Its aim is to prevent harm to children or vulnerable adults by those who seek to work with them either as paid staff or volunteers. During the passage of the legislation through Parliament strong support was expressed on all sides for the scheme and there was broad interest in ensuring the measures covered a wide range of possible circumstances where harm might occur.
2. The VBS aims to ensure that people whose behaviour towards children has given grounds for legitimate concern are not free simply to move down the road or across the country and engage in similar behaviour.
3. From November 2010 people wishing to work with children in specified settings or in specified ways (known as 'regulated activity') will be required to register with the Independent Safeguarding Authority (ISA). This will provide assurance that there are no grounds for believing that they present a risk of harm to children and that they have not been statutorily barred from working with them. This does not replace employers' responsibilities when recruiting staff.
4. People who have been convicted or cautioned for serious offences against children will be barred automatically – the law requires this. In relation to other people whose behaviour towards children has given rise to legitimate concern and in most cases led to their dismissal from employment or volunteering, the ISA will assemble information from the police, employers, voluntary organisations, local authority children's services, professional bodies such as the General Teaching Councils and social care councils and inspectorates such as Ofsted and the Care Quality Commission.
5. The scheme will use a documented and publicly available process to evaluate the information including representations from the people who have been referred in order to arrive at carefully considered decisions. Details of this process can be found at [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

6. The scheme has a single list of all those who are barred from working with children and another related list of those barred from working with vulnerable adults. These Barred Lists replace the existing Protection of Children Act (PoCA) List, List 99 and the Protection of Vulnerable Adults (PoVA) List, as well as the system of Disqualification Orders which were operated by the courts.
7. When new information about an ISA-registered individual who is in the workforce becomes known, the ISA will reconsider the risk posed by the person. If the employer has registered to be notified and the individual loses their ISA-registered status the scheme will immediately advise the employer accordingly. Once an individual is ISA-registered subsequent employers can, with the person's consent, securely check their status online free of charge. If they wish to see the information on a CRB Disclosure they will be able to apply for this as well.
8. The scheme was officially launched in October 2009 when the duty to refer to the ISA people who had been convicted or cautioned for serious crimes against children or who had been dismissed because of concerns about their behaviour towards children became effective. The ability for new staff and new volunteers to register with the scheme will be provided from July 2010 and it becomes a requirement for new entrants from November 2010. The scheme will be phased in for the existing workforce over 5 years to 2015.
9. In the summer of 2009, several children's authors raised concerns that the new scheme would require them to register because they regularly go to schools to give talks. They argued that they did not pose a risk of harm largely on the grounds that they did not have the opportunity to develop relationships with children because they worked in different schools on one-off visits. The interest among media commentators and a range of organisations and individuals was considerable, generating articles and opinion pieces over the following weeks.
10. The focus of debate broadened out to include criticism of the need for any scheme at all; the possibility that volunteers would be discouraged; and nervousness about the effectiveness of the processes in the Criminal Records Bureau and the new ISA. The criticism also prompted a number of strong defences of the scheme among commentators and children's charities. There were a few contributors who asked whether the scheme could go further to tackle one-off and informal activities or abuse in the home.
11. In the light of this, I was asked to conduct a check on whether the Government had drawn the line in the right place particularly with regard to the frequency of contact



with children which should trigger the obligation to register with the ISA. I was aware that the changing climate of opinion had created a very different context than had prevailed at the time of the Bichard enquiry and when legislation passed through Parliament. It would be important to take account of this changing climate but also to try to ensure that the outcome of my consideration would be a position which would appear reasonable when viewed over a longer timescale with inevitable future changes in public opinion.

- 12.** I have proceeded with my check on the basis of two general principles which I hope will be endorsed particularly by parents as well as those working in the sector. The first is that in circumstances where parents exercise their own judgement about who should care for their children by making sensible and responsible arrangements between themselves, that is entirely a private matter in which the state should not interfere. Where they give that choice to an organisation, such as a school, club or group and cease to be able to make a personal decision about which adult provides the care, teaching, driving etc, then registration is required subject to the frequency of contact between the adults and children.
- 13.** The second principle is that the statutory requirements made by the state should be the minimum necessary to protect children whilst recognising that some organisations, irrespective of whether or not the frequency test is met, will choose to require registration for those they take on having regard to the type of activity in which people will be engaged. An example of this might be if the person will be expected to provide intimate personal care for a disabled child or young person. This allows for a degree of local flexibility and recognises everyone's responsibility for safeguarding.

# Approach

14. In order to take account of the range of views expressed about the scheme a summary of the evidence and opinions expressed in the media and correspondence was compiled. From this I drew out the full range of concerns and grouped them under themed headings. The most common theme was that of ‘coverage’ – the issue of who would be covered by the requirement to register under the new scheme. Other common themes were that the scheme was the ‘wrong approach’ altogether and that it would ‘discourage volunteers’. There were a significant number of comments and issues which could not easily be categorised and many reflected a desire for clarity on how the scheme would affect particular individuals in particular circumstances.
15. On the basis of this initial work, I invited views from a range of key individuals and organisations on the issues under consideration, receiving their submissions and meeting with some face to face. At the same time I undertook further work to understand better the evidence available for the impact of current vetting processes on the paid workforce and on volunteers.
16. I was particularly grateful to David Butler, Chief Executive of the National Confederation of Parent Teacher Associations, who offered to canvass the views of parents. Some 1,800 parents responded to a questionnaire and this produced two significant findings. The first was that an overwhelming majority, 92%, thought that there should be no requirement to register where arrangements are private and made directly between parents and carers. The second was that where parents are unable to select personally those caring directly for their children, 76% felt that registration should be required.
17. I was also grateful to the Children’s Rights Director, Dr. Roger Morgan, who sought the opinions of young people – including those who had experienced being in care – about the extent to which adults working with them should be registered.
18. All in all I consulted with the relevant Government departments and the Devolved Administrations in Wales and Northern Ireland, the Independent Safeguarding

Authority and the Criminal Records Bureau; I read more than 60 print and online media reports on the scheme; I consulted with over 90 key individuals and organisations, including workforce unions, inspectorates, voluntary sector organisations, faith groups and local charities and clubs; and I read information on a range of related issues such as data on workforce population estimates.

- 19.** In formulating my recommendations I have recognised that when the Safeguarding Vulnerable Groups Bill was being debated the public mood indicated that a cautious approach should be adopted. Three years later that mood has shifted to seeking a more proportionate approach which carries with it the possibility of reduced safeguarding. But I have sought to propose adjustments and amendments which address the criticisms which have been made while minimising any additional risk to children.

# Recommendations

## **Recommendation 1: Private arrangements**

Mutually agreed and responsible arrangements made between parents and friends for the care of their children should not be affected by the Vetting and Barring Scheme (VBS).

## **Recommendation 2: Formal arrangements**

Where organisations such as schools, clubs or groups make the decisions as to which adults should work with their children then the requirement to register will apply, subject to the frequent and intensive contact provisions.

20. The VBS was never intended to interfere with the practical day-to-day arrangements which parents make with family, friends and other parents to care informally for each other's children, share the school run, arrange sleepovers, baby-sit and engage in similar neighbourly means of mutual help. Public misunderstanding has led to some unwarranted concerns that the scheme will intrude into such aspects of family life. It will not.
21. Nor will parents be required to check that persons they employ privately to teach, train, tutor, coach or care for their children are registered with the Independent Safeguarding Authority (ISA). So, for example, a private piano teacher would not be required to register because the parent is making a personal choice about who should provide the tuition. However, the scheme does allow the private piano teacher to register if he or she so wishes and parents are able to exercise a choice as to whether or not they engage a registered person.
22. The situation changes where a parent's choice to determine which adults should work with their children is assumed by an organisation such as a school, club or group. In these circumstances whilst parents can establish their general degree of comfort with the organisation which will be responsible for their children, they cannot make individual decisions about which adults will be directly involved. In effect they place their trust in the organisation involved to assess the suitability of staff both paid and voluntary. It is in these circumstances that the Safeguarding

Vulnerable Groups Act requires that the adults who are to work with children should be registered.

23. This distinction between private and organised arrangements received strong endorsement in the survey carried out by the National Confederation of Parent Teacher Associations and referred to in para 16.
24. Questions have also been raised about the boundary between private and organised arrangements, e.g. in the case of parents operating a rota to transport children to and from a club. It could well be that an arrangement initially organised by the club could become, over time, a private arrangement organised and carried out by parents. The scheme should not be used to impede such flexibility. At the point where the parents assume the responsibility for making the arrangements the requirement for the persons providing the transport to be registered ceases.

### **Recommendation 3: Frequent and intensive contact**

The frequent contact test should be met if the work with children takes place once a week or more. The intensive contact test should be met if the work takes place on 4 days in one month or more or overnight.

25. The type of work with children which is governed by the VBS is known as 'regulated activity'. Regulated activity includes work of a specified nature, e.g. teaching, training, care, supervision, advice, medical treatment or in certain circumstances transport. It also includes work in a specified place e.g. schools and care homes. But a certain amount of work with children may occur before the requirement to register is triggered. How frequent or intensive should that contact be?
26. The Government's current intention is to define frequency as once a month or more. The Act defines 'intensive' (which it refers to as the period condition) as regulated activity which takes place on three or more days in a 30 day period or overnight. The Secretary of State specifically asked me to examine whether these requirements were still appropriate.
27. Getting the balance right is not a precise science but the boundary of the scheme must be expressed clearly. In framing these recommendations I have had regard to the need for the application of the scheme to be proportionate to risk, to be clearly understandable, to be affordable, and not to discourage those thinking of volunteering to work with children. I have also noted that some of the concerns about the coverage of the scheme were misplaced: for example, the mere opportunity of work with children is not regulated activity; family arrangements are not regulated activity;

providing some activities as a member of a peer group rather than as an adult leader is not regulated activity; and private arrangements do not require registration.

### *Frequent contact*

28. In the legislation the term ‘frequent’ takes its dictionary meaning. Ministers may issue statutory guidance explaining how they think the concept should apply. It is not easy to produce a single, simple ‘one size fits all’ test which will cover all forms of regulated activity ranging as it will from weekly reading to a class of infant children, to full-time teaching, to the care of very young children which might entail feeding, bathing and helping them go to the toilet, to caring for a severely disabled young person which may involve highly intimate forms of care.
29. My approach has been to propose a definition of frequent contact which is appropriate for the broad range of customary work with children. Separate regulatory frameworks already exist for children with special needs or living in particular circumstances. If the regulatory authorities (typically a Government department or inspectorate) consider that the requirements of the VBS are insufficient to provide the necessary degree of safeguarding for such children, they do have the option to ensure regulated activity providers require their staff and volunteers to register even though the usual frequent or intensive contact criteria are not met.
30. Having regard to these considerations my view is that a frequency test that requires people to register if they carry out the activity in question more than once a month on an ongoing basis is too rigorous and that a frequency test of once a week or more would be appropriate. I also hope that the general familiarity we all have with the phrase ‘once a week’ will help it to be readily understood and remembered.
31. In making this recommendation I have been mindful of what we know about the way some adults behave when seeking to develop a relationship of trust with children or young people which may turn abusive. Often it is a steady build-up over a period of time during which they may also seek to gain the confidence of parents. Such abusive relationships develop far less frequently as a result of one-off or spasmodic contact.
32. Nonetheless I recognise the possibility that by relaxing the registration requirement to circumstances where adults work at least once a week, the opportunity for a person seeking to avoid registration but gaining access to children sufficiently frequently to build up a relationship of trust does exist. I recommend therefore that guidance draws the attention of regulated activity providers to this possibility.

### *Intensive contact*

33. I am recommending that the intensive contact test is changed to apply when work takes place on four or more days a month – consecutively or otherwise – or overnight. I have had two principal reasons in mind.
34. First I think it would bring the frequent and intensive contact tests broadly in line if they can be simply summarised as 'once a week or four times in one month'. Secondly, and more substantively, I would like to allow for those who have not yet formed a firm intention to volunteer in a specific regulated activity to have the opportunity to undertake a trial period before making a commitment to continue their involvement, at which point they would be required to apply to register with the scheme. In particular those adults who are thinking of volunteering to help out with for example the Scouts, Guides or other community or sporting activities should benefit from such an opportunity. I do not believe this requires major change to the frequent and intensive contact tests. A potential volunteer may merely observe in the first instance, without carrying out any supervision and without triggering the frequent and intensive contact tests. The potential volunteer might then actively participate in the regulated activity for 3 days before the requirement to register is triggered.

### **Recommendation 4: Visits to different settings**

Individuals who go into different schools or similar settings to work with different groups of children, should not be required to register unless their contact with the same children is frequent or intensive.

35. The legislation defines regulated activity in terms of specified activities or activities in specified places, relating to children. This implies that the frequent or intensive contact tests should be applied to the activity in question being carried out with any children, rather than with the same children on each occasion. There are some arguments for applying the tests to an activity with any children: a potential abuser who works with a large number of children has more opportunity to target a particularly vulnerable child; and a person could acquire an unearned reputation of being trustworthy simply because he is known to work with a large number of children in different settings.
36. However some adults such as police officers, sports celebrities, authors and musicians visit different schools and work with different groups of children. They will see any one child only once or very occasionally and perhaps will only be with children in groups. Clearly this will not normally be sufficient to create opportunities for

developing and abusing trust. It is true that a fleeting contact could be followed by a chance encounter outside the school setting during which a child might show trusting behaviour, but my view is that this possibility does not create a risk to which ISA registration would be a proportionate response.

37. I recommend therefore that the Government should look at how the frequent and intensive contact tests can be applied to an activity carried out in schools and similar settings only with the same children. This recommendation is restricted to specified places outlined in the Act where the scope for engaging with the same children on frequent visits to different institutions is virtually non-existent. These settings are: schools; nurseries; children's hospitals; young offenders institutions; children's homes; relevant childcare premises; and Sure Start children's centres. However this would not apply to a range of children's facilities within a locality or community where repeat encounters are more probable.

**Recommendation 5: Registration by those in continuing education.**

The minimum age of registration for young people who engage in regulated activity as part of their continuing education should be reviewed.

38. At present, the minimum age for ISA registration is 16. I understand that this was based on the fact that when the legislation underpinning the scheme was passed, 16 year olds were regarded as suitable to work in their own right and if engaged in regulated activity ought to be checked. A number of respondents have questioned whether this requirement is appropriate for young people engaged in work experience schemes, community placements and other programmes which are part of their continuing education. In addition the prospective raising of the mandatory training participation age to 18 and the introduction of diplomas has prompted me to look again at the minimum age for ISA registration.
39. Diplomas will entail some work experience and community volunteering by 16-17 year old students, possibly with children and other vulnerable groups, during which they will normally be supervised although a degree of unsupervised access to members of the vulnerable groups might occur during the course of day-to-day activity. In these cases it seems unnecessary and disproportionate to require young people to register for a short placement even though it meets the frequent or intensive contact tests.
40. However, I recognise that different considerations may apply to 16-17 year olds who intend to pursue a career working with children and have enrolled, for example, on BTEC early years courses. I also consider that 16-17 year olds who are engaged as



employees or as volunteers and not in any supervised training capacity should continue to be required to register.

41. I am not, therefore, recommending that the minimum age for mandatory registration with the ISA should be raised to 18. I am recommending that the Government should review this aspect with a view to removing young people who engage in regulated activity with children and vulnerable adults as part of their continuing education from the requirement to register.

### **Recommendation 6: Overseas visitors exemption**

Overseas visitors bringing their own groups of children to the UK e.g. to international camps or the Olympics should have a three months exemption from the requirement to register.

42. Ministers have already decided that workers from outside the geographical coverage of the scheme, who bring their own groups into the scheme's jurisdiction, should be exempt from the scheme, subject to a time limit on the exemption. I have been asked to recommend the time period during which this exemption should apply.
43. The exemption will not cover activities such as foreign language schools in England and Wales, where foreign students arrive and are taught by people who did not accompany them into this country. Nor does it extend to exchange visits where British 'host' families provide accommodation for foreign students – this is addressed in paragraphs 46-54.
44. The exemption would apply, for example, in the case of foreign young choirs who tour England and Wales with their own carers and choirmasters; young sports players who arrive in England and Wales for a tournament or a tour with their own trainers and carers; scouts and guides who come to a jamboree in this country with their own adult leaders; pupils at schools in Scotland who are accompanied by their teachers and carers on a camping holiday or field trip involving overnight stays; young competitors in the 2012 Olympics who arrive with their coaches and carers; and competitors in the 2012 Paralympics which will include vulnerable adults.
45. I know that the application of the overseas exemption in Northern Ireland is still under consideration and I wish to make clear that my recommendation applies to England and Wales only.

### Recommendation 7: Host families

Exchange visits lasting less than 28 days, where overseas parents accept the responsibility for the selection of the host family, should be regarded as private arrangements and would not require registration.

46. I was asked to consider the situation of school exchange visits where typically a group of pupils travel to this country with their teachers and are accommodated in the homes of pupils from a paired school in the UK. The parents who provide the 'host' accommodation in effect act as private foster carers. If the placement lasts for longer than 27 days the school and the carers have a statutory duty to notify the local authority. But under the current provisions of the Safeguarding Vulnerable Groups Act this is regulated activity for which ISA registration of parents in host families is required irrespective of the length of the placement.
47. I received strong representations concerning the potentially adverse impact of this requirement. Concerns were expressed that parents would be deterred from offering to be host families and that would endanger the future of exchange visits.
48. I was also told of the measures which schools adopt:
  - Pupils are paired months in advance following e-mail and telephone contact
  - Parents are encouraged to make contact to assure themselves of the hosting arrangements
  - During the exchange accompanying teachers and their pupils have each other's contact details
  - Pupils meet their teachers daily (except weekends) when they attend the host pupils' school or go on organised visits or trips
  - In reciprocal visits, 'Child A' stays in the home of 'Child B' and vice-versa on the return visit
  - Parents have the final say about the choice of host family
  - The alternative of pupils staying in hostel accommodation was said to carry greater risk
  - There are no known instances of a child being abused in a host family on a school exchange
49. Contrary views have also been expressed. Children living abroad and staying overnight with families unknown to them are particularly vulnerable and registration

will provide some assurance that there is no known reason why the children will be at risk of harm from the parents in the host families.

- 50.** Further points are that if registration is not required the safeguarding measures are less rigorous than for a party of UK children who are accompanied by parental volunteers on a week's expedition in this country. And once host parents are registered they will not be required to repeat the process for any future engagement in regulated activity.
- 51.** In the light of these conflicting views I referred to the two principles I set out in paragraphs 12 and 13. The first principle is that where parents exercise their own judgement about who should care for their child that is a private matter; and where an organisation such as a school assumes that responsibility then registration is required. In the circumstances of exchange visits this is more of a joint arrangement which blurs the distinction. I am informed that parents do have the final say in the choice of host families, but the information on which parents make this decision is likely to be limited and rarely based on personal knowledge and language may impose some constraints.
- 52.** The second principle is that the statutory requirement should be the minimum necessary to protect children and, as noted, those who submitted views to me were not aware of any instance of a child being abused whilst staying with a host family on a school-organised exchange. That concurs with my own experience of reviewing a large number of cases of alleged abuse by professionals, volunteers and carers.
- 53.** I have found this a difficult recommendation to make. The possibility of abuse has to be weighed against the evidence of its probability. In coming to a conclusion I have been influenced by the views of organisations with extensive experience of arranging exchange visits and their judgement that the risk to children is low. The reciprocity of arrangements between families provides some further protection. Moreover it appears that a requirement to register may have a serious impact on the number of parents willing to be host families leading to the diminution of a valuable opportunity for many children.
- 54.** I have therefore decided to recommend that overseas exchange visits should be regarded as private arrangements where overseas parents accept the responsibility for the selection of the host family and would not require registration. The period should be less than 28 days so that such placements will continue to fall within the provisions of the private foster care arrangements in the Children Act 1989. Furthermore the ISA should be asked to monitor the arrangements so that the Secretary of State can

be satisfied that children are not put at risk by the decision to regard this as a private arrangement. My recommendation would not prevent an individual school from asking host parents to register if it wished to offer that additional measure of protection, but it would not be a statutory requirement.

### **Recommendation 8: Self-employed health care practitioners**

The Government should consider the position of some self-employed health care practitioners and whether a duty should be placed on them to register with the scheme.

55. Whilst this matter falls outside my specific remit it has been drawn to my attention that some self-employed health practitioners including chiropractors and homeopaths will not be required by their regulatory bodies to register with the ISA. These practitioners are members of professions and/or licensed to work directly with individuals. I think it is a reasonable expectation that where these professionals engage in regulated activity it is in the public interest that they are ISA registered. I am recommending therefore that the Government explores with the Care Quality Commission and the relevant regulatory bodies an appropriate means whereby ISA registration can be required.

### **Recommendation 9: Controlled activity**

The Government should review the continuing need for ‘controlled activity’.

56. A number of respondents suggested that the scheme could be simplified by removing the concept of controlled activity. Controlled activity comprises certain tightly defined ancillary and support activities where there is an opportunity of contact with children and vulnerable adults or access to their sensitive records, but which falls short of regulated activity. It is estimated that there are 500,000 controlled activity posts.
57. Barred individuals may be employed in controlled activity, subject to the employer putting in place appropriate supervision or other safeguarding arrangements. I understand controlled activity was created because Ministers felt when the legislation was being prepared in 2005-06 that the scope of the bar would be very wide; that there would be a sharp boundary between activity that was in scope and activity that was out of scope; and that there must be some jobs on the fringes of regulated activity that barred people could undertake. Government policy was influenced by concerns that the human rights of individuals working in the ancillary

and support roles that are defined as controlled activity could be infringed if the bar applied to them.

58. Since the passage of the SVG Act, a number of developments have brought the concept of controlled activity into question:
- The Welsh Assembly Government proposes that in Wales the bar should apply in controlled activity if it is an automatic bar (imposed for the most serious criminal offences where the offender causes harm)
  - It has become clear that many employers in controlled activity settings find it hard to envisage any circumstances in which they would willingly employ a barred person in controlled activity and they are concerned that they might be obliged to consider a barred applicant
  - The existence of controlled activity places burdens and complexity on the scheme which are probably disproportionate to the numbers of workers in controlled activity and the numbers of barred people in controlled activity.
59. I recommend that the Government now takes stock and decides whether controlled activity is a necessary part of the scheme. I believe that many observers would welcome some simplification of the scheme generally and would not be sorry to see the end of controlled activity in particular.

### **Recommendation 10: Continuing CRB checks**

The Government should review both the statutory requirements and its advice in relation to the continuing need for CRB Disclosures for safeguarding purposes once the VBS is in place.

60. The need for CRB Disclosures and the requirement – both mandatory and advisory – to obtain them for safeguarding purposes has developed to meet varying needs and circumstances in recent years. An Enhanced CRB Disclosure provides a full statement of an individual's criminal history and any local police information which is relevant to the specific job which the person holds or has applied for. The availability of CRB checks extends to those working with children and vulnerable adults and to other roles such as security guards and roles regulated by the Financial Services Authority.
61. Once ISA registration starts in 2010 for new entrants and job movers, when an application for ISA registration is made the employer will have the option of requesting an up to date CRB check at no extra cost. Once a person is ISA-registered, at present there is no capacity nor legislative authority for the CRB to

notify the employer of any new information which would be disclosed if a further CRB check were applied for. But the ISA will receive and consider any new information which bears on people's risk of harm to children, review the registration status of the individual, and inform the employer if the ISA then is minded to bar, or bars the individual. Even so, it would be helpful if the Government set out a clear policy on whether employers should continue to seek updated CRB checks on people who are already ISA-registered.

62. Some employers may wish to have continuing access to Disclosure information. On the other hand Liberty has expressed concern about the continued availability of Enhanced Disclosures to employers in relation to people who have received ISA registration. It concluded that a challenge could be brought to the facility on human rights grounds.
63. Recent media coverage has also led to concerns about the circumstances in which CRB checks are required in schools. Respondents from the education sector were keen that inspectors in the future should be very clear in their expectations in relation to ISA registration. Given the significance of safeguarding in overall inspection assessment, clear central guidance and consistent application is essential.
64. There is, therefore, an increasing need for the relevant Government Departments to review:
  - the ongoing statutory requirements for CRB checks and recommendations for them in statutory guidance and minimum standards;
  - the recommendations to obtain CRB checks contained in non-statutory advice; and
  - the coherence of Government requirements in relation to CRB checks and to communicate them.

# Additional issues

65. In addition to these recommendations, there are areas which I would like to bring to the Secretary of State's attention, although I do not propose specific courses of action:

- **Volunteers** have been one issue of great concern. A few have said that the scheme will not discourage volunteers, while many others have argued that it would. The research brought to my attention suggests that there are other reasons more likely to discourage volunteering than vetting.

In order of importance, the list of concerns to prospective volunteers highlighted in that research is: not enough time; paid job demands; no skills/experience; prefer to just play sport rather than coach; too much paperwork; starting a family; efforts not appreciated; club disorganised; family/partner would complain; children no longer involved; do not fit in; disclosure check; money reasons; too old. As will be seen the need for vetting is well down the list.

But some organisations did say that individuals would be put off volunteering by the bureaucracy that they assumed would be involved in registering. I was puzzled by this. I can understand that the need to process a large number of registrations of new volunteers will create extra work for some organisations but the process for individuals is straightforward. A short form will have to be completed with a few questions principally concerned to confirm the person's identity and avoid confusion with another person of the same name. So the process is relatively simple. This point could usefully be addressed in future information about the scheme.

Link to research: [www.sportscotland.org.uk/ChannelNavigation/Resources/TopicNavigation/Publications/Child+protection+legislation+and+volunteering+in+Scottish+sport.htm](http://www.sportscotland.org.uk/ChannelNavigation/Resources/TopicNavigation/Publications/Child+protection+legislation+and+volunteering+in+Scottish+sport.htm)

- **Overseas offences** and information sharing was an issue which was raised by several interested parties in correspondence. I understand that Ministers have agreed that exchange of criminality information with other countries for employment vetting and barring purposes should be a priority. I am told that negotiations to achieve this are on-going with a number of countries but there are legislative and data protection constraints which represent significant barriers. The Government has also commissioned work to look at whether individuals who have lived or worked overseas can be required to provide police certificates from those countries when they seek to work with children and vulnerable adults. Within the EU the UK is pushing for greater exchange of criminality information to protect these groups, particularly in terms of employment checking, and for the mutual recognition of disqualifications from working with children.
- **Ex-offenders.** The issue of people with criminal histories (including serious offences) working in voluntary, charitable and other organisations was raised. There is evidence that such work is enormously valuable and has an impact on encouraging and coaching offenders to change their lifestyles and offending patterns. Those with histories of offending are often well placed to work with others in deterring them from criminal activity.

Whilst some of the work may not in fact be regulated activity, other work undoubtedly will. The process of ISA registration is viewed by many as a potential and significant disincentive to ex-offenders who may wish to engage in this work. The ISA is engaged in discussion with rehabilitative organisations.
- **Dispelling the myths.** I welcome the DCSF's myth-busting document, which is at: [www.dcsf.gov.uk/news/content.cfm?landing=vetting\\_and\\_barring\\_myth\\_buster&type=3](http://www.dcsf.gov.uk/news/content.cfm?landing=vetting_and_barring_myth_buster&type=3)



# Concluding comment

66. The many inaccuracies about the VBS contained in newspaper articles and opinion pieces during recent weeks coupled with the evidence of submissions I have received leave me in no doubt as to the major communications task which still faces the Government. In addition to providing accurate and accessible information about the nuts and bolts of the scheme there is a real need to communicate its intrinsic value in terms of safeguarding children and vulnerable adults and why it is insufficient to rely solely on intuition and common sense.

# Annex

Terms of Reference, letter from the Secretary of State to  
Barry Sheerman MP



**Rt Hon Ed Balls MP**  
Secretary of State

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tel: 0870 0012345 dcsf.ministers@dcsf.gsi.gov.uk

Barry Sheerman MP  
Chair of the Children, Schools and Families Select Committee  
House of Commons  
London  
SW1A 0AA

14<sup>th</sup> September 2009

Dear *Barry*

I am writing to you about the new vetting and barring scheme that becomes operational for individuals from next July, and the Independent Safeguarding Authority (ISA). As you will recall, the Government has taken these forward in response to recommendations made in Sir Michael Richard's Inquiry into the tragic child murders in Soham in 2002.

Parliament legislated for the new scheme in the 2006 Safeguarding Vulnerable Groups Act, for which there was overwhelming support. We recognised then, as we do now, that it is essential to ensure that children and vulnerable adults are properly safeguarded and that we do everything we reasonably can to protect them from those who seek to do them harm.

Our aim throughout has been to develop an approach which is proportionate, balanced and effective, with the scheme operating in a way which is neither burdensome nor bureaucratic, or off-putting to potential volunteers in children's settings – while still meeting the concerns of parents.

Generally, we have found very strong support for the scheme as we have taken this work forward through a process of extensive consultation with those who run services and activities for children, including NSPCC and other organisations in the voluntary sector. Recently, however, some concerns have been expressed about the precise interpretation of a particular aspect of the scheme; that is, the degree of contact with children which should trigger the requirement to register. This has been accompanied by some inaccurate and misleading reports about the operation of the new arrangements.

To be clear, two important principles lie at the heart of the scheme. The first is that where people work with children (or vulnerable adults) on a frequent or intensive



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basis, or overnight, they should fall within its ambit and be required to register. Where organisations lay on activities of this nature for children, then the workers – paid or unpaid – should be vetted. Parents who entrust their children to these organisations' care would, I know, expect no less.

The second principle is that the scheme's requirements only apply to arrangements made through third parties such as a school or a club; the personal arrangements parents make, for example with friends, are obviously excluded from the scheme.

This means that the scheme will not come into play when parents agree to give their friends' children a lift to school or to Cubs. Nor will it cover instances where parents work with children at school or a youth club on an occasional or one-off basis, or when parents visit their child's school, for example to watch the Christmas play .

Asking those who work with children to join this new scheme is categorically not a presumption of guilt but is, I believe, a sensible and proportionate contribution to keeping children safe. When you go on a car journey there is no presumption that you will have an accident and, thankfully, most people never have a car accident at any time during their lives. But – rightly – we still say that you must wear a seat belt to guard against a risk that may be low odds but potentially devastating if it should occur. It is exactly the same here.

Joining the new scheme will be a simple and quick process. Once registered you remain registered for life, and your registration will be valid for any setting working with children. The organisation running the activity will be able to check your registration easily, on line, for free, so contrary to what some have asserted the new scheme will reduce bureaucracy, not increase it.

As we have developed the scheme we have been careful to consult on where to draw the line that separates those situations that should be covered from those that should be excluded. Striking the right balance has undoubtedly been a difficult judgement and indeed, this issue was extensively debated in Parliament during the passage of the Bill in 2006. In particular, a critical point is deciding how precisely the 'frequent or intensive' principle, explained above, should be applied to real life situations.

In recent weeks some concerns have been voiced again about this specific point. The responses we have received to our consultations suggest to me we have got the balance about right, but it is tremendously important that we are certain that this is so. Consequently Delyth Morgan and I have decided to ask Sir Roger Singleton, Chairman of the ISA, and the Government's Chief Adviser on the Safety of Children, to check the Government has drawn the line in the right place on this issue. I have asked Sir Roger to report to us by the beginning of December about whether any adjustments need to be made.

In their most recent public statement (issued on 13 September), NSPCC confirm their support for the introduction of new vetting and barring procedures. They also

## 'Drawing the Line'

A report on the Government's Vetting and Barring Scheme

call on the Government to provide more detailed information about the scheme and how it will work in practice. I agree that clear public information is vital, in part to dispel any misunderstandings about the scheme, and I confirm that we will take steps to produce it in the coming months, well in advance of when the scheme will impact on individuals who work or volunteer with children.

We will be opening the scheme up for applications for registration in July 2010 and registration will be mandatory for new workers joining the workforce from November 2010. So now is the right time to consider these issues as we look forward to the scheme coming in to effect.

I am copying this letter to the Shadow Opposition spokespersons and placing a copy in the Libraries of both Houses.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ed Balls'.

ED BALLS MP

