Frequently Asked Questions

Will the Independent Safeguarding Authority’s decision-making process be regulated in a code of practice?

The Secretary of State has a power to specify in more detail the procedures to be followed by the Independent Safeguarding Authority. The Independent Safeguarding Authority itself will wish to finalise the fine details of its procedures. There is no statutory provision for a code of practice, but the Independent Safeguarding Authority will want to show that it is independent and fair by telling stakeholders how it will apply criteria and use evidence.

Is there a risk that cases may fall into the gap between the CRB and the Independent Safeguarding Authority?

The process for vetting and barring will be designed and implemented as an end-to-end solution. Responsibility and accountability for each stage of the process will be clearly assigned and managed by service level agreements between the CRB and the Independent Safeguarding Authority. The CRB and the Independent Safeguarding Authority will work closely together throughout the design and implementation of the scheme. The clear split of responsibilities between them will help to minimise the chances of cases being mismanaged.

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

Yes, the Care Standards Tribunal will hear these appeals which can only be based on either points of law or findings of facts which the Independent Safeguarding Authority has made and on which it has based its decision to bar.

Shouldn’t automatic barring apply to the majority of cases?

Automatic barring is a serious measure, which we intend to use only in the most serious of cases and where we have strong evidence in the form of a conviction or caution for a serious offence. Where this is not the case, but there is some evidence that requires further consideration, a discretionary process will be followed.

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

All individuals (18 and over) who have committed sexual offences against children and otherspecified sexualand violent offences will be placed onthe relevant barred list automatically.

Is there a risk that you may bar an individual based on a malicious referral?

Referral information, such as allegations, will never lead to automatic inclusion in the list. The individual will be given the information on which the barring decision is to be made; and will have the opportunity to make representations as to why they should not be barred before a barring decision is made.

In case of a malicious referral, the referring body may be subject to defamation and damages claims in circumstances where they deliberately created defamatory material which they know to be untrue. There are also a number of criminal sanctions that might apply. These could includeoffences related towasting police time, perverting or attempting to pervert the course of justice, conspiracy, and perjury.

Would the new scheme bar someone like Ian Huntley?

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

When do you want organisations to start referring information to the new scheme?

Implementation will be phased - as was recommended in Sir Michael Bichard’s report - to ensure that the new requirements are established effectively.

Guidance will be issued.

How will the scheme deal with malicious allegations?

Referral information (except where it is a prescribed serious offence) will never lead to an automatic inclusion in the barred list. Referral information will always be considered by the Independent Safeguarding Authority who will have the necessary expertise to make judgements about the risk the individual presents to children and/or vulnerable adults.

If the Independent Safeguarding Authority is minded to bar, the individual will be given the information on which the barring decision is to be made. The individual would have the opportunity to make representations as to why they should not be barred, including why the information was incorrect. If a malicious allegation was made then there are also a number of criminal sanctions that might apply. These could includeoffences related towasting police time, perverting or attempting to pervert the course of justice, conspiracy, and perjury.

What happens if someone leaves a job before they are sacked?

If the employer would have sacked the employee on grounds that could lead to barring, then the employer must refer the employee to the scheme, even if the employee has stopped working for that employer.

Won’t the duties on professional bodies, supervisory authorities and employers to refer information result in duplication?

One of the failings identified in the Bichard report was that pieces of information about an individual could be held by a number of different organisations, and never shared. Professional bodies, supervisory authorities and employers hold significant information about the people they register, regulate, inspect and employ. The new scheme will gather information from a range of sources and will be able to make a barring decision with a full picture.

Should local authorities refer bad parents to the scheme?

It would not be appropriate for local authorities to refer information about someone who does not work with children or vulnerable adults. If a parent (for example a mother with post-natal depression) has harmed their own child but does not pose a wider risk to children or vulnerable adults then we do not believe that the matter should be referred to the Independent Safeguarding Authority.

Is there a penalty for failing to refer relevant information?

Yes, there will be a new offence punishable by a fine of up to £5,000 for employers who fail to provide relevant information to the scheme, where they are under a duty to do so, without reasonable excuse.