VETTING AND BARRING SCHEME – PHASING IN ARRANGEMENTS

Since January this year, the new Independent Safeguarding Authority (ISA) has been taking all barring decisions on new cases referred to it under the current barring provisions of POVA and POCA. (In Wales, List 99 referrals continue to be sent to the Welsh Assembly Government). This has replaced barring decisions by Ministers with independent decision making in relation to those persons considered unsuitable to work with children or vulnerable adults.

From 12 October this year, the barring provisions under the Safeguarding Vulnerable Groups Act 2006 will come into force, significantly extending the range of activities and workplaces from which individuals may be barred to include all regulated activities, as defined by the Act. These old lists will be replaced by the new lists from 12 October.

In particular, a wider range of posts and workplaces which provide for vulnerable adults will now be covered by the barring arrangements. The ISA will make independent barring decisions on cases referred to it, and bars will apply to paid employment and voluntary work in regulated activities. From this date, those barred under current arrangements who have been transferred to the new barred lists by the ISA will also be barred from the wider scope of regulated activities.

It will be an offence for any barred person to work in regulated activities, and for any employer to employ someone he knows to be barred, in either a paid or voluntary capacity. Requirements will also come into force for employers to refer relevant cases to the ISA in instances of harm to the vulnerable groups.

With effect from July 2010, the final element of the new scheme will be phased in. Those wishing to work with children or vulnerable adults will be able to apply for registration with the new scheme; the ISA will consider all cases referred to it and will be able to bar those considered unsuitable for such work; and continuous monitoring of those registered with the scheme will commence. New entrants to the workforce and those changing posts will apply to the scheme first under plans to phase in the workforce gradually. In order not to disrupt normal recruitment processes over the summer period, relevant criminal offences will not be brought into force until November 2010. At this point registration with the new scheme and the requirement for employers to check registered status will become mandatory for the phased-in groups.

The safeguarding of children and vulnerable adults is a top priority for the Welsh Assembly Government and it welcomes the introduction of the new Vetting and Barring Scheme which will strengthen arrangements for those who wish to work with children or vulnerable adults.

More information is at:
http://new.wales.gov.uk/topics/health/socialcare/vulnerableadults/vettingbarring/?lang=en

To: Local Authorities in Wales: Directors of Education; HR Directors; Head Teachers and Governing bodies of maintained schools, voluntary aided and foundation schools, Church Diocesan Authorities, Proprietors of Independent Schools, Pupil Referral Units, Principals of Further Education Institutions, Vice Chancellors of Higher Education Institutions, Education Trade Unions Governors Wales Careers Wales Estyn Supply Agencies General Teaching Council for Wales Fforwm HEFCW WLGA Work Based Learning Providers

Dyddiad/ Date: December 2008

Dear Colleague

NOTIFICATION OF CHANGES TO THE CURRENT BARRING SCHEMES UNDER LIST 99, PROTECTION OF CHILDREN ACT (POCA) 1999 AND PROTECTION OF VULNERABLE ADULTS (POVA) LIST FROM EARLY 2009

Purpose

The purpose of this correspondence is to notify schools, FE colleges and HE Institutions of the changes to the current barring schemes under List 99, POCA and POVA lists which will shortly be introduced as part of the transition to the new Vetting and Barring Scheme.

Planned Changes

The safeguarding of vulnerable adults and children is a top priority for Government. The Department for Children, Schools and Families (DCSF) and the Welsh Assembly Government are committed to ensuring that the toughest ever vetting and barring system for all those working with, or seeking to work with, children and vulnerable adults is in place.

From 20 January 2009, there will be changes to the List 99, POCA and POVA lists as part of the transition to the new Vetting and Barring scheme. **Subject to parliamentary approval,** from 20 January 2009 employers in Wales must send all new cases under POCA and POVA directly to the Independent Safeguarding Authority (ISA) which will take barring decisions. In terms of List 99 referrals, while the situation in England will change from 20 January 2009, employers in Wales must continue to make misconduct referrals to the Welsh Assembly Government in accordance with guidance 33/2005. Where the ISA asks for information on a case, employers and the regulators must provide it. Employers must continue to check prospective employees’ previous employments history carefully before a person starts work.

Attached is an information bulletin which sets out in more detail the background to the new Vetting and Barring Scheme and key messages for Head teachers and others involved in
staff recruitment. **Queries about these changes, or about the new Vetting and Barring Scheme, should be directed to the following contacts.**

More background on the Safeguarding Vulnerable Groups Act, the ISA and the new Vetting and Barring Scheme is at: [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

Queries on the ISA and the new Vetting and Barring Scheme can be raised with: [scheme.info@homeoffice.gsi.gov.uk](mailto:scheme.info@homeoffice.gsi.gov.uk) tel 0300 123 111

Queries on cases before the change to ISA decision making, which were dealt with by the Secretary of Sate, can be raised with:

(i) Kat Newbrook (tel. 029 20 823039, Katherine.Newbrook@wales.gsi.gov.uk) in relation to List 99 and Reporting Cases of Misconduct and incompetence in the Education sector under NAW Circular 33/2005

(ii) [tsm.casework@dfes.gsi.gov.uk](mailto:tsm.casework@dfes.gsi.gov.uk) for POCA cases

(iii) [pova.mail@dcsf.gsi.gov.uk](mailto:pova.mail@dcsf.gsi.gov.uk) for POVA cases

**Action**

You are asked to note the above and to cascade this information to those within your organisation that need to be aware of the changes.

Yours sincerely

**Margaret Davies**

**Head of Child Protection Branch**
To: Key stakeholders in education sectors

IMPORTANT INFORMATION ON CHANGES TO THE CURRENT SYSTEM OF VETTING AND BARRING PEOPLE WHO WANT TO WORK (OR VOLUNTEER) WITH CHILDREN AND VULNERABLE ADULTS

SAFEGUARDING VULNERABLE GROUPS ACT 2006

Purpose of this information bulletin

The Welsh Assembly Government recognises how much staff and governors in all education establishments contribute to the safeguarding and protection of children. The purpose of this communication is to prepare schools, FE colleges and HE institutions for the new Vetting and Barring Scheme to be introduced from 12 October 2009 and the transitional arrangements planned for early 2009.

This bulletin is set out in two sections:

i) background to the new Vetting and Barring Scheme; and

ii) key messages

More detailed guidance on the scheme, including a check-list for employers about Independent Safeguarding Authority (ISA) decision-making and arrangements for registering those already working in or volunteering in the education sector will be issued in due course.

The Welsh Assembly Government wants key stakeholders to be clear about how the new Vetting and Barring scheme will work in order to help maintain public protection and recommends that you start cascading the messages in this communication so that your staff and governors are prepared and aware that they must continue to be vigilant in fulfilling pre-employment responsibilities, e.g. taking up references and conducting pre employment checks as set out in National Assembly for Wales Circular No: 34/2002. All messages cascaded within the sector on this proposal should say that the change is subject to Parliamentary approval.

Further, more detailed, information on the new Vetting and Barring Scheme can be found at www.isa-gov.org.uk where you can also sign up for email updates on the new scheme.

*Note: Volunteer managers and volunteers: where this message says “employer/ employee” it also means volunteer manager/ volunteer.

Background

Following the murders of Jessica Chapman and Holly Wells by Ian Huntley (a school caretaker) in 2002, the Bichard Inquiry was commissioned. One of the issues the Inquiry looked at was the way employers recruit people to work with children and vulnerable adults.

It asked whether the way employers check the background of job applicants is reliable enough. It also asked whether employers should be responsible for deciding whether a job applicant can be safely employed.

The Inquiry’s recommendations led to the Safeguarding Vulnerable Groups (SVG) Act 2006 which recognised the need for a single agency to vet all individuals who want to work or volunteer with vulnerable people.

The SVG Act provides the legal framework for the new Vetting and Barring Scheme which will be managed by the Independent Safeguarding Authority (ISA) The Government announced in April 2008 that the new Vetting and Barring Scheme, which will replace current
barring schemes under List 99, the Protection of Children Act (POCA) 1999 and the Protection of Vulnerable Adults (POVA) list, will go live from 12 October 2009.

The purpose of the new Vetting and Barring Scheme is to minimise the risk of harm posed to children or vulnerable adults by gaining access to them via their work or through voluntary activities. From 12 October 2009, there will be two new barred lists for workforces working with children and vulnerable adults: one for those who are barred from engaging in regulated activity with children (the “children’s barred list”); and another for those who are barred from engaging in regulated activity with vulnerable adults (the “adults” barred list). These will replace:

- List 99;
- the Protection of Children Act list (POCA);
- the Protection of Vulnerable Adults (POVA) list; and
- disqualification orders imposed by the courts.

The new Vetting and Barring Scheme will extend the range of activities (to be known as ‘regulated activities’) under which a person will be subject to vetting if s/he wishes to work with children and vulnerable adults. If a person wishes to engage in a regulated activity (such as teaching) they will be required to register with the Independent Safeguarding Authority (ISA) initial vetting which will take into account checks undertaken by the CRB, which will continue to exist.

The SVG Act also refers to ‘controlled’ activities that are generally those activities that do not fall within the definition of regulated activities but still afford the opportunity for an individual to have some form of contact with children or vulnerable adults or to have access to education, health or social services records. Further information on controlled activities will be issued in due course.

The scheme will be phased in from 12 October 2009, and the phasing period will last five years in order to phase the requirements across the existing workforce. Applications to become ISA-registered will be handled by the CRB. The current CRB application form will be revised so that it will be possible to apply for registration at the same time, and using the same application form as an Enhanced Disclosure application. The application fee for those in paid employment will be £64: this is a one-off payment, which will be made up of two elements. Of this £64, £28 will contribute to the running of ISA, continuous updating and an online registration checking system. The remaining £36 covers the CRB’s administration costs (equivalent to the cost of a CRB Enhanced Disclosure). If an individual is already ISA-registered and moves jobs, they will be able to take their registration with them. A subsequent employer will be able to check that they are registered free online.

The Independent Safeguarding Authority (ISA)

The ISA is a Non-Departmental Public Body (NDPB) which will have certain statutory responsibilities and their performance, efficiency and effectiveness will be scrutinised closely by both government and stakeholders. The ISA has a publicly appointed board of specialists in adult and child protection matters and are building a staff of highly trained case-workers to help with the discretionary decisions which will be based on clear criteria and evidence. Administrative support, including the processing and referral of criminal records information to the ISA, will be provided by the CRB which will continue to provide disclosure of criminal records, as at present.

The ISA is expected, subject to Parliamentary approval to start making barring decisions from 20 January 2009 on new referrals under the current scheme, as part of the transitional development towards the ‘going-live’ of the new VBS. The scheme is expected to ‘go live’ on
12 October 2009 and, on that date, existing lists (List 99, POCA and POVA) will be replaced by the ISA’s new barred lists.

From “go-live” in October 2009 the ISA will monitor whether a person registered with the scheme does anything that poses a risk of harm to children or vulnerable adults. If a person does anything that suggests or demonstrates that they are a risk, s/he may be removed from the ISA Vetting and Barring Scheme and placed on the children’s or vulnerable adults barred list. That person would commit a criminal offence if s/he undertook a regulated activity by working with children in either a paid or voluntary capacity. The ISA would receive automatic notification of any new relevant convictions/cautions, which would result in the ISA reviewing a person’s eligibility to remain in the scheme. If the ISA then decided to bar a person from the scheme, the ISA will notify the employer or service provider concerned, wherever they have registered an interest.

Further background on:
- the Safeguarding Vulnerable Groups Act,
- the Independent Safeguarding Authority and
- the new Vetting and Barring Scheme
is at: www.isa-gov.org.uk

Further information on reporting cases of misconduct and incompetence in the education sector under National Assembly for Wales Circular 33/2005 may be obtained by contacting Kat Newbrook on 029 20 823039

Welsh Assembly Government, December 2008
Key Messages for Head teachers and others involved in Staff Recruitment in Schools, Colleges and Higher Education institutions in Wales

Under the new Independent Safeguarding Authority (ISA) arrangements you will need to know that:

From 20 January 2009:

- The Independent Safeguarding Authority (ISA) will take barring decisions on “new” referrals under legislation relating to current lists.

- From this date, Protection of Children Act (POCA) and Protection of Vulnerable Adults (POVA) provisional listing on new cases will end. ISA will not provisionally bar a person while considering a referral. Those involved in recruitment will need to fulfil existing responsibilities as set out in Circular No: 34/2002, e.g. taking up references from job applicants and asking for information about previous employment and obtain satisfactory explanations for any gaps in employment.

- The ISA will automatically bar a person without a referral, when they receive information directly from the police that the person received a new conviction or caution (after 20 January 2009), for a relevant serious offence (as DCSF Ministers do now with List 99).

- The ISA will be accountable for all work on and subsequent decisions on these cases – both automatic and discretionary barring. ISA will contest appeals on new cases, if it so decides; and handle any reviews on new cases. The ISA can take into account information from any previous referrals to current barring lists, when it considers a case.

- A barring decision by the ISA between January 2009 and the autumn 2009 go-live will have exactly the same effect as a Secretary of State bar now on POCA, POVA or on List 99 for unsuitability.

- Where an employer in your sector makes a check against List 99 or POCA, that will also automatically check people barred by ISA from 20 January onwards, as well as those barred by the Secretary of State.

What will change for Employers in Wales from 20 January 2009

- Employers in Wales must refer all new cases under POCA and POVA directly to the ISA, who will complete the casework and take the barring decision without referral to the Secretary of State in DCSF. (We will provide details of how and where nearer the time.)

- Employers, regulatory bodies, supervisory authorities including Estyn, Professional Bodies including the General Teaching Council for Wales (GTCW) and local authorities will have a duty to respond to requests from the ISA for information they hold already (it does not mean having to find information from other sources).

What does not change from 20 January 2009

- The employer’s duty under List 99, POCA and POVA legislation to make referrals.

- The employer’s duty under the List 99 schemes to make misconduct referrals to the
Employers must check prospective employees’ previous employment history carefully, including whether previous employers referred any relevant misconduct, under the List 99/POCA/POVA schemes, to the ISA.

The Secretary of State in DCSF remains accountable for the existing barring decisions, the existing barred lists and for decisions on existing referrals being worked on at the date when ISA takes over new cases.

The areas of work from which a newly barred person is barred: a barring decision by the ISA between 20 January 2009 and 12 October 2009 will have exactly the same effect as a Secretary of State bar now on POVA, POCA or on List 99 for unsuitability.

What a newly barred person is barred from: this remains exactly as if they had been barred on POCA or on List 99 for unsuitability.

From 20 January 2009, Ministers and civil servants will continue to make decisions on the referrals already at the stage where representations have been invited from the individual; and cases where the person is already auto-barred or provisionally listed.

DCSF will be notified by ISA about bars, and will continue to provide a List 99 checks service to employers and the teachers’ pension scheme.

The process of applying for CRB check for List 99/POCA/POVA purposes and the POVA First service.

What will change from 12 October 2009 ‘Go Live’

Existing lists (List 99, POCA and POVA) will be replaced by ISA’s two new barred lists: the “children’s barred list”; and the “adults” barred list.

All ISA-registered individuals will be subject to continuous monitoring. This means that the ISA will decide if a person does anything that suggests or demonstrates that they are a risk, whether s/he should be removed from the Vetting and Barring Scheme, and be placed on the children’s or vulnerable adults barred list.

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1 Misconduct of teachers in independent schools in Wales should continue to be referred by the employer to the Welsh Ministers pending the amendments to the Education Act 2002, (inserted by the Education and Inspections Act 2006), being commenced and secondary legislation being made under those provisions once commenced.