<table>
<thead>
<tr>
<th>Name of Committee:</th>
<th>Workforce &amp; Organisational Development Committee</th>
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<tbody>
<tr>
<td>Subject:</td>
<td>Summary of changes to Disclosure and Barring service</td>
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<tr>
<td>Summary or Issues of Significance</td>
<td>As part of the Government’s review of the Vetting and Barring Scheme, a new scaled back employment scheme is being introduced from 10 September 2012, along with a reform of the criminal record checking regime. The changes are summarised in the attached paper, and will result in some changes to roles which require a CRB check. Further changes will be made to the scheme in 2013.</td>
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<tr>
<td>Strategic Theme / Priority addressed by this paper</td>
<td>Making it safe, better, sound, work and happen</td>
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<tr>
<td>Healthcare Standard addressed</td>
<td>21</td>
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<tr>
<td>Equality Impact Assessment (EqIA)</td>
<td>Has EqIA screening been undertaken? N/A</td>
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<td>Recommendations:</td>
<td>The Workforce &amp; Organisational Development Committee is asked to note this report.</td>
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<tr>
<td>Author(s)</td>
<td>Lesley Hall, Assistant Director Employment Strategies and Practices</td>
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<tr>
<td>Presented by</td>
<td>Martin Jones, Director of Workforce &amp; OD</td>
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<tr>
<td>Date of report</td>
<td>31 August 2012</td>
</tr>
<tr>
<td>Date of meeting</td>
<td>13 September 2012</td>
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Summary of changes to Disclosure and Barring service

Changes in September 2012
1. New definition of regulated activity
2. Repeal of controlled activity
3. Repeal of registration and continuous monitoring
4. Repeal of additional information
5. Minimum age (16) at which someone can apply for a CRB check
6. More rigorous ‘relevancy’ test for when the police release information held locally on an enhanced CRB check

Not changing
- You must make appropriate referrals to the ISA
- You must not engage in regulated activity someone whom you know has been barred by the ISA
- Everybody within the pre-September definition of regulated activity will remain eligible for enhanced CRB checks, whether or not they fall within the post-September definition of regulated activity

How the changes will impact on current Recruitment processes
- CRB applications will not be processed for under 16 year olds
- The scope of regulated activity will be reduced which will mean that some posts currently falling within the definition of RA will no longer be covered.
  However, it will still be possible to obtain an Enhanced check for these roles. For example working in a supervised capacity with children, still requires an enhanced CRB check but without a barred list check.
- There is a two tier system for enhanced checks i.e. without/without barred list check, counter signatories need to be aware of definition of regulated activity to ensure that they check barred lists for roles where it is appropriate.
- Subsequent changes expected in 2013 will have more impact on recruitment processes, particularly the introduction of an ‘update service’

Being clear about the definition of regulated activity matters because:
- An organisation which knowingly allows a barred person to work in regulated activity will be breaking the law;
- If someone is dismissed or removed from regulated activity (or would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, the organisation is legally required to forward information about that person to the ISA. It is a criminal offence not to do so.
1. New definition of regulated activity

Regulated activity in relation to children is defined as follows:

i. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing or drive a vehicle only for children’

ii. Work for a limited range of establishments (‘specified places’) with opportunity for contact: for example, schools, children’s homes, childcare premises. Not work by supervised volunteers.

Work under (i) or (ii) is regulated activity only if done regularly. There will be further guidance available about supervision activity which would be regulated activity if unsupervised:

iii. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;

iv. Registered childminding and foster carers

There are six categories of people who fall within the new definition of ‘regulated activity’ relating to adults:

i. Providing health care
   Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional.

ii. Providing person care
   Anyone who;
   - Provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, air or nails because of an adults age, illness or disability.
   - Prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care of their mouth, skin, hair or nails without that prompting or supervision or:
   - Trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.

iii. Providing social work
   The provision by a social care worker of social work which is required in connection with any heath care or social services to an adult who is a client or potential client

iv. Assistance with cash, bills and/or shopping
   The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person’s cash, paying their bills or shopping on their behalf.
v. Assistance in the conduct of a person’s own affairs
Anyone who provides various forms of assistance in the conduct of an adult’s own affairs, for example by virtue of an enduring power of attorney.

vi. Conveying
A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

2. Repeal of controlled activity
The controlled activity category will no longer exist. This category covered people who might have less contact with vulnerable groups including children than in regulated activity.

3. Repeal of registration and continuous monitoring
The original VBS proposals were that anyone who wished to work with vulnerable groups including children, would need to register with the scheme and to be continuously monitored for any new criminal record information. This never came into force and the Protection of Freedoms Act repeals it.

4. Repeal of additional information
Under the Police Act 1997, police forces can provide certain sensitive ‘additional information’ about applicants to organisations. This is issued separately to an enhanced CRB check. Whilst this provision will no longer exist in the Police Act, the police may choose to use common law powers to provide information directly to employers in cases where this is necessary, for example to prevent crime or harm to others.

5. Minimum age for CRB checks
Someone who is aged under 16 will no longer be able to apply for a CRB check.

6. Police information held locally – more rigorous relevancy test and new right to review
Currently the police provide information held locally on enhanced CRB certificates when they consider it to be relevant to the purpose for which the certificate was requested. This will continue, but the police will now apply a more rigorous test before deciding whether to disclose
information. At the moment they include information if it ‘might be relevant’ and ought to be disclosed. From September they will include it if they ‘reasonably believe it to be relevant’ and consider that it ought to be disclosed.

If any information is included on the enhanced CRB certificate and the applicant does not think that it should be, they will be now be able to ask the independent monitor to review it.

The below diagram illustrates the various types of check available

<table>
<thead>
<tr>
<th>Rehabilitation of offenders Act (Exceptions order) 1974</th>
<th>Police Act 1997</th>
<th>New definition of Regulated Activity</th>
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<tbody>
<tr>
<td>Standard Police National Computer (PNC) check</td>
<td>Enhanced PNC check</td>
<td>Enhanced + Barred list check</td>
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<tr>
<td></td>
<td>Enhanced PNC check +ISA (child)</td>
<td>Enhanced + Barred list check +ISA (Child) +ISA (Adult)</td>
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</table>

More changes to follow..........

- December 2012 – the CRB and ISA will be merged into a single new non-departmental public body. This will be called the Disclosure and Barring Service.
- Early 2013 – currently working to develop a new ‘update service’ it will allow individuals (if they choose to subscribe to it and pay a small fee) to apply for a criminal record check once and then, if they need a similar sort of check again, to reuse their existing certificate, with their organisation checking online to see it is still up to date.

Further information
Home office: [www.homeoffice.gov.uk/disclosure-and-barring](http://www.homeoffice.gov.uk/disclosure-and-barring)
CRB: [www.homeoffice.gov.uk/crb](http://www.homeoffice.gov.uk/crb)
ISA: [www.isa.homeoffice.gov.uk](http://www.isa.homeoffice.gov.uk)
Business Link: [www.businesslink.gov.uk](http://www.businesslink.gov.uk)
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