

GUIDANCE NOTE FOR VAGA MEMBERS WORKING WITH CHILDREN AND VULNERABLE ADULTS: THE NEW VETTING AND BARRING SCHEME (VBS)

The VBS was created under the Safeguarding Vulnerable Groups Act 2006 and introduced in October 2009 following the Bichard Report on the Soham murders of Holly Wells and Jessica Chapman.

The VBS will be operated by the CRB and a new body created by the legislation - the Independent Safeguarding Authority (ISA). Paid employees and freelancers, and volunteers who work with children and vulnerable adults will be required to register with the ISA, if they are involved in a Regulated Activity (see below). Current estimates suggest that over 11 million people will be registered by 2015.

The scheme will monitor any relevant information from the police, employers or others, and the ISA will bar those who are unsuitable to work with the vulnerable groups.

Many VAGA members may find that the VBS scheme will cover their educational and 'outreach' activities involving artists and others, such as residencies and workshops in schools and care-homes, and will need to update their internal policies in light of these new provisions.

This Note summarises the new regulations but is not intended as a substitute for professional advice in a particular situation. Please contact us if such advice is needed.

The main impact of the VBS

The VBS requires:

- all individuals working '**frequently or intensively**' with children or vulnerable adults of a '**specified nature**' or in a '**specified place**' to register with the Independent Safeguarding Authority (ISA); and
- all employers to check such a person's status on the ISA register before employing them.

Regulated Activity involves contact with children or 'vulnerable adults' and is:

Of a specified nature eg teaching, training, care, supervision, advice, treatment or transport

Or

In a specified place e.g. schools, children's homes & hospitals, juvenile detention facilities, adult care homes

and happens

Frequently (once a week or more) or **Intensively** (four times or more in a single month) with the same group

or **Overnight** (between 2-6am)

Points to note:

- 'Vulnerable adults' are defined as anyone over 18 who receives care or support by reason of a physical or mental disability or illness, or an addiction to alcohol or drugs.
- 'Employees' includes freelancers and volunteers.
- Staff who supervise any individuals who engage in Regulated Activity must also be registered with ISA.

- There is no requirement to register with the ISA unless the individual who has contact with vulnerable groups visits (say) **the same school** frequently or intensively, as opposed to carrying out the Regulated Activity frequently in different settings. This is important for arts organisations carrying out educational work
- Trustees of **childrens' charities** will also be engaging in Regulated Activities even if they personally have no contact with children, and thus must register.
 - A charity is a **children's charity** if the individuals who are workers for the charity normally include individuals engaging in Regulated Activities with children. However this excludes any arrangements made by the charity for purposes which are merely incidental to the purposes for which the charity is established. So the trustees of an arts charity for whom working with children is only an incidental aspect of the charity's main objects will not be required to register.

Referrals to the ISA

From October 2009 employers, social services and professional regulators are under a legal duty to notify the ISA of relevant information so that individuals who pose a threat to vulnerable groups can be identified and barred from working with these groups.

Essentially employers must make a referral if the employer removes an individual from working with vulnerable groups due to 'relevant conduct' or risk of harm, or after receiving a caution for a relevant offence, or the person has resigned or left his/her post in circumstances where he/she may have been removed.

The ISA website contains detailed guidance on this and a Referral Form which must be used in all cases.

CRB checks

The new VBS scheme does not replace the CRB (Criminal Records Bureau) scheme requirements. A CRB check will reveal whether an individual has any criminal record, an ISA check does not.

Timetable for the new changes:

From October 2009

- Employers must refer to ISA any information about individuals working with children or vulnerable adults where they consider them to have caused harm or pose a risk of harm (see above)
- It is a criminal offence for employers to knowingly employ an individual engaged in a Regulated Activity who has been barred under the VBS.
- It is a criminal offence for a barred individual to engage in a Regulated Activity
- The eligibility criteria for an Enhanced CRB check (which includes any relevant and proportionate information held by the local police forces) is extended to anyone carrying out a Regulated Activity.

From July 2010

- Individuals who are new to the workforce or who are new to Regulated Activities (whether as a result of a new job or a change in a job description) **may** register with ISA. Those who currently work with vulnerable groups but are staying in their current role will need to register later during the 5-year phasing-in period.

From November 2010

- Individuals who are new to the workforce or who are new to Regulated Activities (whether as a result of a new job or a change in a job description) **must** register with ISA

- All employers must check a new staff member's VBS status if they are going to be carrying out Regulated Activities for the first time.

From 2011 (5 year phasing-in)

- Existing employees and volunteers with no CRB check must apply for ISA registration
- Existing employees and volunteers with CRB checks will also need to apply for ISA registration, starting with staff whose CRB checks are the oldest.

Recommended action to be taken by VAGA members:

Organisations whose staff or volunteers work with children or vulnerable adults should:

- Refer any perceived risks to children to the ISA (see under Referrals above): (**immediate**)
- Not take on any new staff for 'Regulated Activities' without checking the VBS Register to ensure they are not barred (**immediate**)
- Ensure that new staff taken on for 'Regulated Activities', or current staff who have started to work in this way, register with the ISA (**optional from July 2010, compulsory by November 2010**).
- **From 2011:** ensure that all staff whose activities involve 'Regulated Activities' are ISA-registered in accordance with the phasing-in schedule to be announced by the ISA.
- Introduce internal policies and procedures to ensure that all staff working with vulnerable groups are aware of the new requirements.

Information on how to register with ISA, and the detailed requirements of the new law, are published on the ISA website (www.isa.gov.org.uk).

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