



Protecting you and the people you care for

The Independent Safeguarding Authority Scheme

Background

From October 2009, all individuals working or volunteering with vulnerable adults or children will be required to register with the Independent Safeguarding Authority (ISA), a new non-departmental public body which has been created to help prevent unsuitable people from working with vulnerable people.

This will affect over 11 million people in England, Wales and Northern Ireland.

In Scotland an aligned scheme is being set up under the Protection of Vulnerable Groups (PVG) (Scotland) Act 2007. Proposals on the implementation of the PVG Legislation will be consulted on in late 2008 and it is expected to be very similar to the ISA scheme.

The introduction of the ISA scheme and the aligned scheme in Scotland follow a recommendation of the Bichard Inquiry Report which was undertaken after the tragic Soham murders in 2002. This recommendation called for a registration system for all those who work with children and vulnerable adults.

The Independent Safeguarding Authority scheme will replace existing lists such as the Protection of Vulnerable Adults (POVA) list, the Protection of Children Act (PoCA) list and List 99 (a list of people considered unsuitable for work with children, held by the Department for Children, Schools and Families) and its remit will be expanded to include a vast array of previously unregulated employment categories.

Individuals will be required to be registered on the ISA scheme if they come into regular contact with vulnerable people, including children, older people, sick people and prisoners. Many UNISON members will need to be ISA-registered, including those working in schools, hospitals, retirement homes, children's homes, nurseries, doctor's surgeries and prisons.

The scheme will apply to a vast array of staff in the public, private and voluntary sectors, including nurses, healthcare assistants, social workers, ambulance crews, teachers, teaching assistants, youth and community workers, occupational therapists, senior carers, prison warders, caretakers, cleaners and office staff. It will also affect volunteers and self-employed people who work with vulnerable groups, such as child-minders, carers and swimming instructors.

The ISA registration process

The ISA will gather relevant information on every person who wants to work or volunteer with vulnerable people and will assess whether each person presents a risk of harm. Employers and voluntary organisations who work with vulnerable groups will only be able to employ people who are ISA-registered. Migrant workers will also be required to register on the ISA scheme.

ISA registrants will be assessed using data gathered by the Criminal Records Bureau (CRB) in England and Wales or Access NI

(ANI) in Northern Ireland. The data gathered will include relevant criminal convictions, cautions, police intelligence and information referred to the ISA from other sources such as employers and professional bodies.

Once you are registered with the ISA you will be given an ISA registration number and will remain on the ISA database even if you change employers.

If the ISA receives information that an individual may pose a risk to vulnerable people, they will be put on an ISA barred list.

The ISA will maintain two systems in parallel:

- a list of all approved ISA registered individuals
- barred lists identifying those who are not suitable to be on the register and so barred from employment.

When does it start?

The ISA scheme is expected to be introduced on 12 October 2009. No date has yet been set for the implementation of the aligned scheme in Scotland.

New entrants to the workforce and those moving jobs will be the first to go through the scheme.

Members of the existing workforce will be phased into the scheme over a five year period.

UNISON will be providing members with advice and guidance on how to register.

How much will it cost?

The ISA has stated that individuals in paid employment in England and Wales will be required to pay £64 and in Northern Ireland, £58. Proposals on the Scotland scheme, including the cost of registration will be consulted on in late 2008.

The fee will be a one-off payment and is intended to cover the applicant for the duration of their career. Those involved only in unpaid voluntary activity will pay no application fee. Paid employees and volunteers will only need to register once.

UNISON strongly believes that the cost of the scheme should **NOT** be borne by individuals and this union is campaigning for the fee to be paid for by employers.

How is it different from current barred lists?

Unlike current schemes such as PoVA, PoCA and list 99 the new ISA scheme will be a positive list in that everyone working in the relevant areas of work will have to be on the list.

Current criminal records checks will remain. The ISA scheme does not check for malpractice or all criminal convictions, and therefore registration with the ISA does not guarantee that a person has no criminal history. Relevant individuals will still be required to apply for a criminal record check, particularly if this is a legal requirement of their employment.

Devolved issues

The ISA scheme will extend to England, Wales and Northern Ireland, although arrangements for application and appeals may differ slightly in Northern Ireland.

A separate but aligned scheme is being set up in Scotland under the Protection of Vulnerable Groups (PVG)(Scotland) Act 2007. An individual who is included on a barred list in one administration will also be barred from working with children and vulnerable adults across the UK.

Wales

Individuals in England and Cymru/ Wales will apply to the CRB for registration with the ISA, and the fee will be set at £64. While implementation of the Act will be led by the Home Office, the Welsh Assembly Government will be responsible for making regulations in respect of some workforce issues in Wales. For further information go to: www.isa-gov.org.uk and www.wales.gov.uk

Northern Ireland

The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SVG Order) provides for the introduction of the ISA scheme in Northern Ireland although arrangements for application and appeals may differ slightly from those in England and Wales. In Northern Ireland individuals will apply to become ISA registered via Access NI (ANI) rather than the CRB. As a result the ISA fee in Northern Ireland will be set slightly lower at £58.

For further information go to www.dhsspsni.gov.uk/index/hss/svg.htm

Scotland

The ISA scheme does not apply in Scotland, however the Scottish Government is implementing it's own aligned scheme following the provisions outlined in the Protection of Vulnerable Groups (PVG) (Scotland) Act 2007

Information on the PVG legislation and it's implementation can be found here: www.scotland.gov.uk/pvglegislation

The ISA vetting and barring process explained

Continuous monitoring

All ISA-registered individuals will be subject to continuous monitoring. This means that the ISA decision not to bar them could be reviewed in the light of new police or referral information. The CRB (or the ANI for those in Northern Ireland) will draw together and monitor information which will be gathered from employers and voluntary organisations, local authority social

services, professional bodies such as the Health Professions Council and General Social Care Council, inspectorates such as Ofsted and the Healthcare Commission, as well as the police. Unlike current barred lists information to be checked will not only include warnings, cautions, prison and other forms of sentences but also police involvement short of actual convictions.

If the ISA receives information that an individual may pose a risk to vulnerable people, they will be put on an ISA barred list and their current employer will be informed immediately. The ISA will also inform professional and regulatory bodies when it bars someone so that their professional registration can be reviewed.

Barred lists

If you have a record of unsuitability for working or volunteering with vulnerable groups or if you have committed certain offences, the ISA may not be able to register you. Instead you will be put on an ISA barred list and may not be able to work with vulnerable people.

There will be two barred lists - one for those who are barred from engaging in regulated activity with children and one for those who are barred from engaging in regulated activity with vulnerable adults (see 'Regulated Activity' and 'Controlled Activity' overleaf).

Individuals who have received a caution or conviction for specified offences will be automatically included on the barred lists. Others may be included on one or both of the barred lists following specified behaviour which harms a child or a vulnerable adult or where evidence suggests that they may present a risk of harm.

Individuals placed on the ISA barred lists will have the right to make a representation against this decision and also to the Care Standards Tribunal, except where they have committed a serious offence. Currently, the ISA has stated that these representations will be purely through written correspondence.

If you apply for a job with children or vulnerable adults when you know you have been barred you could be fined or face imprisonment. Employers could also be charged with an offence if they employ an individual who is barred.

‘Regulated activity’ and ‘controlled activity’

The Safeguarding Vulnerable Groups Act 2006 defines the scope of the ISA scheme. It provides that certain activities in relation to children and vulnerable adults are known as ‘regulated activity’ and ‘controlled activity’.

Regulated activity will cover a range of specified activities that provide an opportunity for close

contact with children or vulnerable adults, as well as key positions of responsibility such as the Children’s Commissioner and the Director of Adult Social Services.

Controlled activity covers support work with vulnerable adults and children as well as those with access to sensitive education, health and social care records. *There is no current intention to prevent a barred individual from engaging in controlled activity.*

A more detailed definition of ‘regulated activity’ and ‘controlled activity’ taken from the ISA Regulated and controlled activities factsheet (October 2007, www.isa.gov.org.uk) is included below:

UNISON’s views – areas of concern for members

As the largest public services union the new scheme will have a major impact on UNISON members. As a trade union we are fully committed to public protection, however in the lead up to the introduction of the ISA Scheme in October 2009, UNISON will be lobbying government and the ISA and campaigning to address a number of concerns on behalf of members, including:

The cost to the individual

Under existing arrangements it is the responsibility of the employer to undertake criminal record checks and ensure an individual is professionally registered, where appropriate. This is usually included in the employer’s recruitment costs. However, the ISA proposals will alter this and move this cost on to the individual prospective employee.

The majority of individuals who come under the ISA scheme are women, many work part time and a large number are low paid workers. We believe the fee will have a disproportionate and detrimental effect on these individuals.

Low-paid workers in particular will suffer under a system where the director of children’s services would pay the same fee as a school cleaner working 10 hours a week on the national minimum wage.

If an individual is required to pay fees to be included on a professional register, the cost to them will be even higher.

The ISA fee may also have an impact on recruitment and retention in public services. Some individuals may choose not to work in organisations that require ISA registration. For example cleaners or plumbers may choose not to take jobs in hospitals or schools if this is going to cost them more than working elsewhere. This could negatively impact on the support and services provided to vulnerable groups.

Regulated activity

Regulated activity is any activity which involves contact with children or vulnerable adults. This could be paid or voluntary work.

Such activities include:

- any activity of a **specified nature** (e.g. teaching, training, care, supervision, advice, treatment or transport) which involves contact with children or vulnerable adults frequently, intensively and/or overnight
- any activity allowing contact with children or vulnerable adults that is **in a specified place** (eg school, care home, etc) frequently or intensively
- **fostering and childcare**
- any activity that involves people in **certain defined positions** of responsibility.

It will be a criminal offence to take on someone for a regulated activity without checking their status under the vetting service and/or allow a barred individual to work in such an activity.

An individual taking part in a regulated activity must be registered with the ISA and it will be a criminal offence for a barred person to take part in a regulated activity for any length of time.

Controlled activity

Controlled activities include:

- frequent or intensive **support work in general health settings, the NHS and further education settings**
- people working for **specified organisations** with frequent access to sensitive records about children and vulnerable adults
- **Support work in adult social care settings**

It will be mandatory to check the status of someone before they work or volunteer in a controlled activity. However, provided safeguards are put in place, a barred person can be permitted to work or volunteer in a controlled activity. In part the regulations will be used so as to require employers (and others with responsibility for managing controlled activity) to put in place appropriate safeguards to manage the risks posed by barred individuals.

'Doubling-up' of regulation

Many individuals who would be subject to the new ISA scheme are already included on a professional register.

The new ISA scheme will duplicate the existing regulation of almost three million public service workers including nurses, social workers, teachers, paramedics and doctors who are already on a professional register and pay an annual fee. Another million social care workers are expected to become subject to a requirement to register with the social care professional bodies.

UNISON believes that the ISA scheme should not duplicate existing systems which are already in place to protect the public and therefore it should not apply to those individuals who are already on a professional register. We believe the professional regulators should be able to liaise with the ISA where questions of risk of harm arise.

The right to a fair hearing

Currently, there are no clear standards for how the ISA will make judgments on when an individual should be placed on the barred lists (those prevented from working with vulnerable individuals); how the ISA will make decisions in a transparent and consistent manner or what access referred individuals will have to defend themselves against allegations.

UNISON agrees that those individuals who may pose a risk to vulnerable groups should be prevented from working in these environments however it is vital that everyone has the right to a fair hearing. UNISON is seeking to ensure that any systems or processes which are introduced comply with existing best practice in regard to a fair hearing and comply with all legislation, including the Human Rights Act.

The union is also interested to see how the ISA scheme may be affected by a judicial review which was upheld in 2007 on the existing Protection of Children Act and Protection of Vulnerable

Adults (POCA/POVA) scheme surrounding the provisional listing of individuals. This is now lodged with the House of Lords and is pending.

What branches can do

- Many UNISON members will not be aware of their need to be registered with the ISA from October 2009. Those working in the voluntary sector, education and health and social care should be made aware that registration with the ISA scheme will be part of their future employment requirements. Please use your local communications mechanisms to bring this to members' attention. Branches are encouraged to map all the employers they deal with and establish which ones have workers who will have to register with the ISA and how many members are affected.
- Raise the issue locally with employers. In particular, seek to have discussions on:
 - the funding of the registration fee. In parallel to any claims being submitted within UNISON national negotiating structures, branches should seek local agreement for the payment of fees.
 - what your employer is doing to inform staff of the ISA scheme and how they are preparing for its implementation
 - how the ISA scheme is being incorporated into the employer's recruitment and retention process
 - the local process for referring information to the ISA.
 - the impact on equality issues, eg, women, migrant workers, low paid staff
- Remember that activists and stewards who do not work in a relevant workplace but who nevertheless visit members in schools, care homes, hospitals on a frequent basis will also be required to be registered with the ISA.

- The ISA will be reviewing information previously found in the PoVA and PoCA lists and List 99. It would be helpful branches could identify any members who may be subject to this review.
- Ensure the ISA scheme is on the agenda at regional meetings and try to identify any common concerns or problems that may be occurring across your region.
- Identify opportunities for recruitment. Many staff will not know about these proposals, and they may have concerns. It is important that branches make it clear that the only way to get the information, advice and support they may need is to join UNISON.
- UNISON will be providing members and branches more detailed information on the ISA scheme as it becomes available, including guidance on how to register and information UNISON representation for ISA cases will be dealt with. Look out for further information.
- UNISON's Professional Services Unit will be bringing together information on the ISA on behalf of all service groups. For updated information go to the Professional Services section of the UNISON website: www.unison.org.uk/professionalservices



For further information or to join UNISON, call 0845 355 0845. Textphone users call freephone 0800 0 967 968. Lines open from 6am to midnight, Monday-Friday and 9am to 4pm Saturday.

You can visit our website at www.unison.org.uk