



Independent Safeguarding Authority Scheme Parliamentary Briefing July 2008

Introduction

In the post Shipman and Bichard era public protection is being prioritised by government and UNISON fully supports many of the directions to improve public protection and confidence. However it is important that careful consideration is given to the introduction of any new measure to ensure that it is fit for purpose.

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 these vulnerable groups.

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

This briefing aims to highlight some of UNISON's concerns surrounding the introduction of the new Independent Safeguarding Authority scheme including:

- (a) The cost to the individual
- (b) 'Doubling-up' of regulation
- (c) The right to a fair hearing

The Independent Safeguarding Authority scheme

Those that come into regular contact with vulnerable people including children, elderly people, sick people, prisoners and anyone receiving treatment from a GP or hospital will be required to be registered on the ISA scheme.

Most UNISON members will need to be ISA-registered, including those working in or regularly visiting schools, hospitals, retirement homes, children's homes, nurseries, doctor's surgeries and prisons. The scheme will apply to a vast array of staff including nurses, healthcare assistants, social workers, teachers, teaching assistants, youth and community workers, occupational therapists, nursery nurses and prison warders, as well as caretakers, cleaners and office staff. And it will also affect volunteers and self-employed people, such as child-minders, swimming instructors and carers.

All potential employees and volunteers will need to apply to register with the ISA. Employers and voluntary organisations who work with vulnerable groups will only be able to recruit people who are ISA-registered.

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.

Current schemes such as POVA, POCA and List 99 do not require individuals to pay to register and only list those individuals who are barred from employment.

Unlike these current schemes 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 ISA register.

Applicants who are found to be unsuitable will be placed on an ISA barred list.

The ISA will maintain two systems in parallel:

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

Applicants will be assessed and subject to ongoing monitoring using data gathered by the Criminal Records Bureau (CRB), including relevant criminal convictions, cautions, police intelligence and information referred to the ISA from other sources such as employers and professional bodies. 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 such convictions.

The ISA scheme begins on **12 October 2009**. New entrants to the workforce & 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.

Areas of Concern

As the largest public sector union the new scheme will have a major impact on UNISON members. As a trade union we are fully committed to public protection, however we have several concerns surrounding the proposals and their application.

(a) The cost to the individual

Individuals in paid employment will be required to pay **£64.00** when applying for registration with the ISA Scheme.

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 included in the employer's recruitment costs. However, the ISA proposals will alter this and move this cost on to the individual prospective employee.

UNISON strongly believes that the cost of the scheme should not be borne by individuals but should be incorporated into recruitment costs by employers.

The majority of individuals who come under the ISA scheme are women and a large number are low paid workers. We believe the £64.00 fee will have a disproportionate and detrimental effect on these individuals.

Examples of those who will be required to pay this fee include home care workers who earn around £12,000 per annum and health care assistants with a starting salary of £12,922.

It is also important to remember that a significant number of those affected work part-time, for example a school cleaner working 20 hours a week during term time would be required to pay the £64 fee from their salary of around £5280. Low-paid workers will suffer disproportionately under a system where the Director of Children's Services would pay the same fee as a caretaker working 10 hours a week on the national minimum wage.

If an individual is required to pay fees to be on a professional register, such as the Nursing & Midwifery Council (NMC) or Health Professions Council (HPC), the cost to them will be even higher.

The ISA fee is likely to impact on the recruitment and retention of staff. It could also influence whether or not an individual chooses to work in public services, if working in schools and hospitals costs more than working in other organisations. This could negatively impact on the support and services provided to vulnerable groups.

UNISON will be calling for the implementation of equality impact assessments to monitor the potential effect of the ISA on staff (including low paid workers) as well as examining the effect on recruitment and retention.

(b) '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 **3 million public sector workers** including nurses, social workers, teachers, paramedics and doctors who are already on a professional register and pay an annual fee.

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 do acknowledge however, that there should be a link between all bodies whose duty it is to protect the public to ensure that they can work effectively together to meet their legislative requirements. We are concerned that it is not yet clear what arrangements will be put place for co-operation between the existing regulators and the ISA scheme or what the interface will be with the Council for Health Regulation Excellence (CHRE) who currently have overarching responsibility for all health regulators.

(c) 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 practise in regard to a fair hearing and comply with all legislation, including the Human Rights Act.

We are also interested to see how the ISA scheme may be affected by a judicial review which was upheld last year 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.

Conclusions

In the lead up to the introduction of the ISA Scheme in October 2009, UNISON will be seeking Parliamentarians' support in addressing a number of concerns on behalf of our members, including:

(a) The cost to the individual

The £64.00 registration fee will be detrimental to individuals, particularly low-paid workers, and may impact on recruitment and retention in public services. The fee should not be borne by individuals but should be incorporated into recruitment costs by employers.

(b) 'Doubling-up' of regulation

The new ISA scheme is set to duplicate the existing regulation of almost 3 million public sector workers. UNISON believes that the ISA scheme should not apply to those who are already on a professional register.

Clear arrangements must be put place for co-operation between the existing regulators, the ISA scheme and the Council for Health Regulation Excellence (CHRE).

(c) The right to a fair hearing

UNISON is seeking assurances that the ISA process will be transparent and consistent and that individuals will be able to defend themselves against allegations via a fair hearing.

UNISON is passionate about public protection and we hope that you will support us in ensuring this untested scheme does not have an unforeseen detrimental impact on staff or on public safety.

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