

Agenda Item: 4

Meeting: Schools Forum

Date: 28th June 2010

Subject: Vetting & Barring Scheme (Safeguarding Vulnerable Groups Act 2006)

Report of: Deputy Chief Executive and Director of Children's Services

Summary: The report advises Schools Forum on the statutory requirements and responsibilities of the Vetting & Barring Scheme, and highlights the recommendations of the Corporate Management team in respect of meeting the costs of employees and volunteers registration under the scheme.

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Public/Exempt: Public

Wards Affected: All

Function of: Council

RECOMMENDATIONS:

- 1. That the Forum note the statutory responsibilities and requirements that the Vetting and Barring Scheme will place on schools from 1st November 2010.**
- 2. That Schools fund the costs of Registration under the Vetting and Barring Scheme for both new and existing employees**

Background

1. The Vetting & Barring Scheme (VBS) was created through the Safeguarding Vulnerable Groups Act 2006 following the Bichard inquiry into the circumstances behind the Soham murders. Under the VBS there is a statutory requirement on the vast majority of School employees, many volunteers and all school governors to be registered with the Independent Safeguarding Authority (ISA) before they are able to work. (see briefing document at Appendix A – VBS Summary). The Statutory requirement affects new starters and those changing jobs in from 1st November 2010, and will be extended to cover the rest of the workforce by July 2015 (see phasing in Appendix A – VBS Summary). After July 2015 it will be a criminal offence for schools to employ anyone who is not registered.

The Coalition government's programme includes a commitment to *'review the criminal records and vetting and barring regime and scale it back to common sense levels.'*, and so the current arrangements may change.

2. The requirement to be registered lies with the individual rather than the organisation, however the organisation will only be able to employ people who are registered. Registration is a once only, fully portable requirement and will enable individuals to gain work with other employers in the future. ISA Registration checks will form part of the Single Central Record.
3. Registration will be managed by the Criminal Records Bureau who will charge a flat fee of £64 for employees but Registration is free for volunteers. This fee includes a 'free' CRB disclosure. A CRB Disclosure by itself costs £36. Umbrella and Registered Bodies (such as the Central Bedfordshire Council Resourcing Team) will administer the application process and will charge an administration fee. The Central Bedfordshire Registered Body fee will be £18 for each application as specified in the 'buy back' agreement.
4. Schools will still be required to conduct CRB checks on staff and Volunteers as described in *'Safeguarding Children and Safer Recruitment in Education'*, although the DfE is currently consulting on the need for change.
5. Her Majesty's Revenue & Customs have not yet ruled on whether or not the payment of the ISA registration fee by an employer will be exempt from tax and national insurance. DfE have lobbied for an exemption and there is hope that such might be granted however in the worst scenario the costs to school described in this report could be 11% higher as a result of Employers National Insurance payments.

Issues arising

6. The trend amongst other Authorities is to cover the cost of registration for current staff, but to encourage School Governing Bodies to do likewise (see Appendix B – Regional Survey Data). Some authorities are considering asking new recruits to pay some or all of the cost of Registration whilst others are meeting the costs for new recruits in full.

7. The Central Bedfordshire Corporate Management team will be meeting the costs for centrally employed staff and are recommending that Governing Bodies do likewise for staff and volunteers in their schools. This approach avoids the adverse effects of the significant financial impact on lower paid staff as well as giving the organisation greater control over the process of registration.
8. Paying the costs of ISA Registration would create budget pressures for schools during the 5 year phasing period. (see Financial Implications).

Options

9. **Option1** Schools pay for existing and new recruits from existing budgets
10. **Option 2** Schools pay for existing and new recruits but Schools Forum votes some interim funding

Recommendation

11. **Because schools already pay for CRB's, because the financial impact is minimal, and because the government programme includes a commitment to review it is recommended that schools fund the Registration with ISA for both new and existing employees.**

CORPORATE IMPLICATIONS

Council Priorities:

The report highlights the need for schools to ensure that they meet their statutory obligation to ensure that their workforce is registered.

Financial:

Typical costs to schools in meeting the costs of ISA registration for current and new staff and governors, and new volunteers (the numbers of existing volunteers requiring registration is unknown) are shown below based on the assumption that the workforce will be registered before April 2015 (4 months ahead of the final deadline)

ESTIMATED ANNUAL COST OF CRB'S AND ISA REGISTRATIONS BY SCHOOL SIZE £
*Based on the premise of registering 1/4 of the workforce in each of years 2,3,4 &5
 plus those without CRB's in Year 2*

Workforce Numbers*	Current baseline	Year 1 2010/11	Year 2 2011/12	Year 3 2012/13	Year 4 2013/14	Year 5 2014/15	New baseline
50	1,750	2,250	3,000	2,750	2,750	2,750	2,000
75	2,750	3,500	4,250	4,250	4,000	4,000	2,750
100	3,500	4,500	5,750	5,500	5,500	5,500	3,750
150	5,250	6,750	8,500	8,250	8,000	8,000	5,500

**Includes estimates for current staff & governors, new staff & governors & volunteers but EXCLUDES COSTS OF ISA REGISTRATIONS FOR CURRENT VOLUNTEERS*

Legal:

Under the VBS a range of criminal offences are created which schools could commit by omission or commission.

Risk Management:

Schools which do not ensure that all staff and eligible volunteers are Registered will fail the Safeguarding element of OfStEd inspections.

Staffing (including Trades Unions):

Professional associations and trades unions have been informally briefed and expressed concern about the cost of registration to staff – particularly those on low pay for whom £82 could represent several hours pay.

Equalities/Human Rights:

There are no equalities issues arising from this report

Community Safety:

The VBS is aimed at safeguarding children & vulnerable adults however there are no specific Community Safety issues arising from this report

Sustainability:

There are no Sustainability issues arising from this report

Appendices:

Appendix A – VBS Summary

Appendix B – Regional Survey Data

APPENDIX A VETTING & BARRING SCHEME SUMMARY

BACKGROUND

The Safeguarding Vulnerable Groups Act 2006 contains legislation to create the **Independent Safeguarding Authority (ISA)** who will enact the **Vetting & Barring Scheme (VBS)**.

Under the VBS, staff and volunteers engaged in positions defined as '**Regulated**' or '**Controlled**' will be required to register with the ISA who will vet them using information from criminal records, List 99, PoCA and PoVA and referrals from employers and public agencies and will decide whether to bar them from work with vulnerable people. The person or organisation responsible for the management of Regulated or Controlled activity is known as the **Regulated Activity Provider (RAP)** (e.g. the school or the Council or a charity etc. Once registered the individual remains **registered for life** (unless the ISA subsequently decide to bar them or the individual voluntarily decides to remove themselves from the Register), and there is **no need to re-register** when going to a new organisation (fully portable).

WHO IS COVERED AND THE CONSEQUENCES

Category	Defining Criteria			Offences	
Regulated Activity (employment or voluntary)	Specific Activity	Teaching, training, supervision, transport, care, advice in single or multiple settings/groups	Opportunity for contact must occur FREQUENTLY (more once a week (once a month for personal care)) or INTENSIVELY (more than 4 days in a month) or OVERNIGHT (employer decision but must record & revisit decision-making if deemed not Regulated Activity)	Criminal offence for the RAP to hire someone who is not registered, and for the individual to engage in the activity if barred.	Statutory duty on the RAP to refer if withdrawn permission for someone to undertake regulated or controlled activity on the grounds that they have caused harm or posed risk of harm, (or if they resigned under investigation)
	Or in Specific Settings	Schools, children's homes, adult care homes, children's centres			
	Specific Roles	School Governors, Directors of Children's Services/Adult Social Care, Elected Members including exec, portfolio holders, committees in social care or education and Foster Carers, childminders, ContactPoint users			
Controlled Activity* (employment or voluntary)	Opportunity for contact but not regulated positions, or access to individual social care or education records, or contact through making direct payments.		FREQUENTLY (once a week or more) or INTENSIVELY (more than 4 days in a month)	If barred can only be engaged 'with safeguards'.	

* DfE consultation open until July on the need for this separate category

REFERRALS

It is a legal requirement for RAP's to **refer individuals to the ISA** if they:

1. withdraw permission for an individual to engage in regulated or controlled activity, or would have done so had that individual not resigned, retired, been made redundant or been transferred to a position which is not regulated or controlled activity; AND because
2. they think that the individual has:
 - engaged in relevant conduct;
 - satisfied the Harm Test (specific abusive exploitative or negligent actions taken against children or vulnerable adults); or
 - received a caution or conviction for a relevant offence.

This would obviously include acts of gross misconduct against vulnerable people, and the guidance suggests that this could also include acts of misconduct where the employee was suspended but where it was subsequently determined that a formal warning was more appropriate than dismissal.

REGISTRATION

Individuals must obtain their registration through an 'Umbrella Body' in the same way as they would for a CRB check. It is not possible for an individual to register direct with the ISA. The ISA charge £64 for employees and registration is free for volunteers. This fee also includes an Enhanced CRB check. The Umbrella Body conducting the registration will charge a fee for administering the check and the CBC School Buyback Agreement quotes a fee of £18 for each registration.

CHECKING SOMEONE'S REGISTRATION

Authorised staff in RAP's will be able to check whether or not someone is registered online and can at the same time formally '**Subscribe**' to that person. Once the RAP has subscribed to that person, they will automatically be contacted if the ISA is considering barring the individual. It is possible for more than one RAP to subscribe to an individual simultaneously.

CRB CHECKS

RAP's will still conduct **CRB checks** on new staff and volunteers and conduct renewals as the decision to employ someone in a particular position could be based upon different criteria than that used by the ISA to decide on registration. Furthermore the requirement to conduct a CRB on Recruitment is embedded in many regulatory requirements. DfE are consulting on the need for CRB checks and renewals in the light of the VBS.

IMPLEMENTATION IN CENTRAL BEDFORDSHIRE

This will be a phased approach in line with the key dates set out by the ISA:

From 12th October 2009

- RAP's have a **duty to refer** individuals to the ISA if the criteria are met
- The 3 current barred lists List 99, POCA and POVA lists will be replaced by 2 new barred lists administered by the ISA
- New **criminal offences** created: for a barred individual to seek or undertake work with vulnerable groups; and for RAPs to knowingly take them on (the barred lists are routinely checked as part of an enhanced CRB Disclosure).

Phasing of VBS registration:

- **Year 1** (After 1st November 2010) new entrants to the workforce in Regulated Activity and those moving jobs **MUST** be registered
- **Years 2, 3 & 4** (July 2011 to June 2014)
- those in Regulated Activity starting with any who have never had a CRB check before
- **Year 5** (July 2014 -15) remainder of those working in Regulated Activity and those who work in Controlled Positions
- **From July 2015** the VBS will be fully operational – it will be a criminal offence to work or allow someone to work in Regulated or Controlled activity unless they are registered.

Further Information

See www.isa.gov.org.uk or [Central Bedfordshire: Vetting and Barring and ISA](#), or contact Philip Howard HR Project Manager: Vetting & Barring. Tel 01234 228765; 07920 536697 or philip.howard@centralbedfordshire.gov.uk.

APPENDIX B REGIONAL SURVEY DATA

Council	Staff	Schools Staff
Southend	Council pays in full	Anticipate that schools will pay No extra council funding
Hertfordshire	Council pays in full	Schools will pay but Council will provide some extra funding
Suffolk	Council pays in full	Schools governing bodies will make their own decision on this but expect most will also pay for staff. Some of the colleges have decided to pay for the CRB element leaving staff to fund the ISA costs. No extra council funding
Norfolk	Will pay for existing staff not new recruits	Schools can choose No extra council funding
Cambridgeshire	Employee pays but reimbursed via payroll. Also new recruits	advice to heads and governors, indicating that they may wish to consider meeting the costs for their staff. It will therefore be a local decision but the general expectation is that schools will choose to cover the costs. No extra council funding
Essex	Tbc	The schools will be paying for the checks and it is down to the individual schools if they wish to pass on the charge to the person.