

# Disclosure and Barring Roadshows

What you need to know:

Changes commencing September 2012

# Aims for the Day

- To outline the work of government since the completion of the reviews of the Vetting & Barring Scheme (VBS) and Criminal Records Regime (CRR) published in February 2011
- To explain the first phase of measures arising from the Protection of Freedoms Act that impact on you in September 2012

# Looking Back



- Coalition Government stated its intention in May 2010 to scale back regimes to more proportionate and “common sense” levels
- Government halted the delivery of the VBS, commissioned an internal review into the scheme and also an independent review of the Criminal Records Regime. Why? Because....
  - VBS would have meant 9m people needed to register, as their work would fall within the definition of regulated activity
- Sunita Mason, Independent Advisor for Criminology Information Management, published Phase 1 of her review in February 2011. The VBS Review was published at the same time.
- Phase 2 of the Mason review was published in December 2011

# VBS Review: Key Recommendations

## In summary....

- That registration should be scrapped – there should be no requirement for people to register with the scheme and there will be no ongoing monitoring
- The barring regime should be scaled back to cover only those who may have regular or close contact with vulnerable groups
- That the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) should be merged and a single Non-Departmental Public Body or Agency created in their place (the Disclosure and Barring Service (DBS)) to provide a new combined barring and criminal records disclosure service and
- The ISA should be given a power to review bars in appropriate circumstances

# CRR Reviews : Key Recommendations

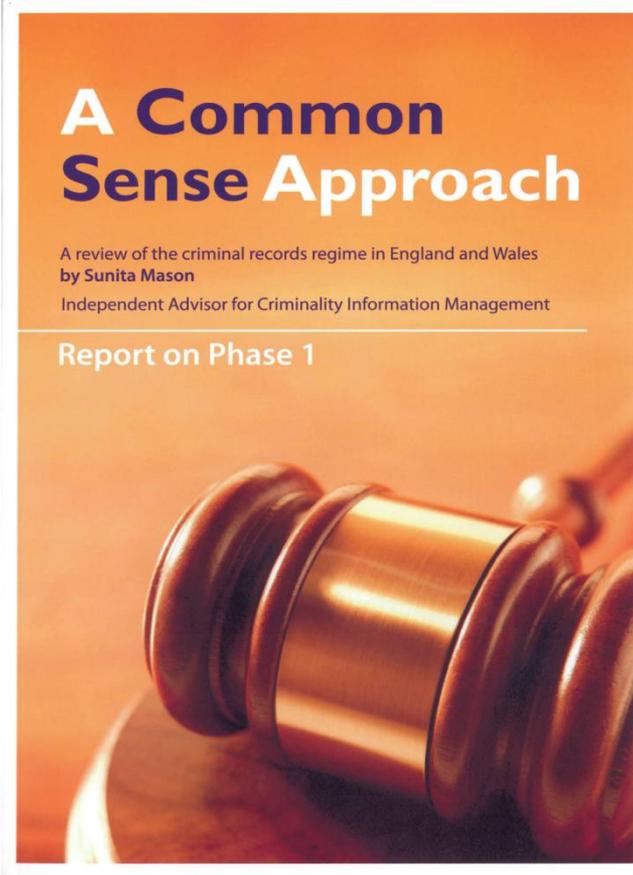
- In summary

**Sunita Mason –  
Independent Advisor  
for Criminality  
Information  
Management**

- That criminal records checks should be portable
- An Online system should be established to allow employers to check if updated information is held on an applicant
- That children under 16 should not be eligible for criminal record checks
- That the disclosure of police information be overseen by an Independent Monitor

# CRR Reviews : Key Recommendations

## - In summary



- A package of measures to improve the disclosure of police information held locally to employers (amending Part V of the Police Act 1997) should be introduced, including:
  - Amending the police relevancy test from “might be relevant” to “reasonably believes to be relevant”
  - Statutory guidance for police to use when deciding what information should be disclosed
  - Development and use of a common template to ensure a consistent level of information is disclosed to the individual with clearly set out reasons for that decision
  - Abolishing “additional information “ provisions

# Disclosure & Barring Services: The New Vision



This includes:

- Key principles:
  - A proportionate balance between civil liberties and safeguarding vulnerable groups including children
  - Rebalancing the role of the employer and the state; reinforcing disclosure and barring as one part of the wider recruitment and employment process
  - Reducing bureaucracy (e.g., through the introduction of portable certificates , making it efficient, quicker and less costly)
  - Trusting employers to make rounded decisions about who they employ, such as checking references and ongoing management
- Establishing a new Disclosure and Barring Service (DBS) by merging the functions of the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA)
- The Protection of Freedoms Act 2012

# New Disclosure & Barring Services 1

- The Changes from September include:
  - a new definition of regulated activity
  - repeal of registration & monitoring; controlled activity; and additional information
  - Introduction of a minimum age (16) at which someone can apply for a CRB check
  - More rigorous relevancy test for locally held and released police information on an enhanced CRB check , and a new right of review available for applicants

**We are covering these in detail today.**

# New Disclosure & Barring Services

## 2

- Provision of statutory guidance on supervision of children. DfE are consulting at present, available at: [www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring](http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring) with a six week consultation period, ending on 18 July 2012.
- Most people will be barred only if they have engaged, are engaging or might in the future engage in Regulated Activity (Autobars without representations will continue to be barred irrespective of whether the person has a link to RA)
- Greater powers for the ISA to review a person's inclusion on a barred list

**We are covering these in detail today.**

# What is not changing?

- Continue to make appropriate referrals to the ISA / DBS
- You must not employ in regulated activity someone whom you know has been barred by the ISA / DBS
- Individuals who fall under the new definition of regulated activity will continue to be eligible for an enhanced disclosure with a barred list check
- Individuals who fell within the old definition of regulated activity, but do not now, will remain eligible for Enhanced Checks but without a barred list check

# New: Definition of Regulated Activity - Adults

Who is in Regulated Activity from the 10<sup>th</sup> of September?

Those who provide:

- Healthcare: if they are a regulated health care professional or are acting under the direction or supervision of one, for example doctors, nurses, health care assistants and physiotherapists
- Personal care: assistance with washing and dressing, eating, drinking and toileting or teaching someone to do one of these tasks
- Social work: provision by a social care worker of social work which is required in connection with any health services or social services

# New: Definition of Regulated Activity - Adults

Who is in Regulated Activity from the 10<sup>th</sup> of September?

Those who provide:

- Assistance with a person's cash, bills or shopping because of their age, illness or disability
- Assistance with the conduct of an adult's own affairs, for example, lasting or enduring powers of attorney, or deputies appointed under the Mental Health Act
- Conveying: conveying adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work. This would not include friends or family or taxi drivers

**There is no longer a requirement to do activities a certain number of times before a person is engaging in regulated activity**

# Scope of Regulated Activity - Children

1. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice / guidance on well-being, or drive a vehicle only for children.
2. Work for a limited range of establishments ('specified places'), with opportunity for contact, for example schools, children's homes, childcare premises (but not work by supervised volunteers).

Work under (1) or (2) is Regulated Activity only if done regularly. Regular means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight).

We are providing statutory guidance about supervision of activity – currently out for consultation

3. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
4. Registered childminding; and foster-carers.

## New: Definition of Regulated Activity – Children (cont'd)



Regulated activity still excludes:

- family arrangements;
- personal, non-commercial arrangements.

We have published a factual note on the scope of regulated activity in relation to children. It is in your delegate pack, and on the DfE website

Also on the DfE website under “safeguarding” is the draft consultation guidance on supervision of activity. Any comments can be sent to DfE by mid-July: details are on the website.

# No longer in regulated activity - children(1)

## Activities

- Activity supervised at reasonable level
- Health care not by (or directed or supervised by) a health care professional.
- Legal advice
- “treatment/ therapy” (instead “health care”)

# No longer in regulated activity - children (2)

## Establishments:

- Occasional or temporary services, e.g. maintenance (not teaching etc.)
- Volunteers supervised at reasonable level.

## Office holders (England):

- All “positions” removed, e.g. governors;
- Inspectorates removed.

# New: Repeal of processes

- Registration and Monitoring aspects of the VBS, (never commenced), to be repealed
- Additional information (or “brown envelope material”) will no longer be passed by the police through the disclosure process. The police will retain their common law powers to forward information to employers in cases where this is necessary.

## NEW: Minimum Age



A recommendation from Sunita Mason's review - introduction of a minimum age requirement for criminal records checks.

Countersigning officers will no longer be able to sign an application for someone under 16.

# NEW: Relevancy

- Statutory guidance will be issued to all Chief Police Officers that must be referred to in making relevancy decisions; to promote a consistent approach across forces
- Introduction of a more rigorous test for relevancy from 'might be relevant' to 'reasonably believes it to be relevant'
- Right of review to an Independent Monitor who can review decisions to include material on certificates

Types of check available from  
September are....

Rehabilitation of Offenders Act (Exceptions Order)

Police Act 1997

New Definition of Regulated Activity

Standard

PNC

Enhanced

PNC

Police Information

Enhanced + Barred List check

PNC

Police Information

+ ISA (Child)

Enhanced + Barred List check

PNC

Police Information

+ ISA (Adult)

Enhanced+ Barred List check

PNC

Police Information

+ ISA (Child)

+ ISA (Adult)

# The Future

After September 2012 there will be further changes covering other measures within the Protection of Freedoms Act

We will give you more information nearer the time but in summary they are.....

# The Future



- The functions of the ISA & CRB will be merged to form a single new body in December 2012
- The new body will be called the Disclosure & Barring Service (DBS)
- Single Certificate
- A new Update Service providing portability will be introduced early in 2013

# Q & A Session

Your chance to question the panel on the changes in September.....

# Summary of Today

- The Reviews into the VBS and Criminal Records Regime recommended changes
- Government committed to scaling back , to be more proportionate whilst safeguarding vulnerable groups including children
- The Protection of Freedoms Act 2012 is enabling delivery of recommendations from these reviews.
- That the changes taking effect from September 2012, include:
  - a new definition of regulated activity
  - repeal of registration & monitoring, and of controlled activity;
  - Introduction of a minimum age (16) at which someone can apply for a CRB check
  - More rigorous relevancy test for when the police release information held locally on an enhanced CRB check, and repeal of additional information
- Not everything is changing (referrals, etc)
- New organisation, the Disclosure & Barring Service (DBS), will involve merging the functions of the ISA and CRB in December 2012
- Further developments being rolled out early in 2013, including the Update Service and single certificate.

# Further information

- E-mail to [HOSPPUEnquiries@homeoffice.gsi.gov.uk](mailto:HOSPPUEnquiries@homeoffice.gsi.gov.uk)
- Home Office website at <http://www.homeoffice.gov.uk/disclosure-and-barring>
- CRB website at <http://www.homeoffice.gov.uk/crb>
- ISA website at <http://www.isa.homeoffice.gov.uk>
- Business Link: [www.businesslink.gov.uk](http://www.businesslink.gov.uk)
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