



Home Office

Protection of Freedoms Bill: Disclosure & Barring / Criminal Records

**Bulletin No 1
June 2011**

Welcome to the first in a short series of Bulletins from the Home Office Bill team on the Protection of Freedoms Bill. This edition provides a brief update for those interested in the remodelling of the Vetting & Barring Scheme (VBS) and changes to the Criminal Records aspects of the Bill. It looks at how clauses impacting on the above were considered during the Commons Committee stage.

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Parliamentary Timetable

The Protection of Freedoms Bill was introduced into the House of Commons on 11 February 2011 and had its Second Reading on 1 March. It is now moving to Report Stage, the date on this to be confirmed shortly.

The Bill provisions, pertinent to Vetting and Barring Scheme (VBS) and criminal records include:

- revising the scope of the 'vetting and barring' scheme and making changes to the system of criminal records checks;
- scrapping registration and continuous monitoring;
- scrapping controlled activities and
- In England & Wales, enabling those with convictions for consensual sexual relations between men aged 16 or over (which have since been decriminalised) to apply to have them disregarded.

The Bill Committee took oral evidence on 22 and 24 March before scrutinising the Bill clause by clause which it completed on the 17 May. Witnesses included representatives from the Independent Safeguarding Authority (ISA), Association of Chief Police Officers (ACPO), the Law Society, Liberty, the Scout Association, National Society of the Prevention of Cruelty to Children (NSPCC) and Stonewall. Sunita Mason, the Government's Independent Adviser on Criminality Information Management also gave evidence.

- The changes to CRB and ISA safeguarding provisions will be broadly mirrored in Northern Ireland.

A full list of the written submissions and contents of oral evidence sessions is available at:

<http://services.parliament.uk/bills/2010-11/protectionoffreedoms/committees/houseofcommonspublicbillcommitteeontheProtectionofFreedomsBill201011.html>

Key Government Amendments

Following consultation and evidence gathered, the Government has agreed to a number of changes to the Bill including:

- That the ISA and the Criminal Records Bureau (CRB) will be merged into a new organisation to be called the Disclosure & Barring Service (DBS);
- bringing those working with 16 / 17 year olds back into the scope of regulated activity;
- That Information on barring will be provided to police and / or the Prison and Probation Service where relevant;
- In England & Wales, changes will now be made to disputes procedures in respect of non-conviction information contained on enhanced CRB checks;
- The proposal is to improve transparency by introducing an independent element into the disputes process. The role of the CRB's existing "Independent Monitor" will be extended, who would review the information, seek a view from the police, and take the final decision on whether such information should be disclosed.

Other Issues Discussed in Committee

Other issues discussed, included:

- The perceived lack of precision around the scope of regulated activity and terms such as “regular basis” and “day to day supervision”

There are a range of posts and activities which previously fell within the definition of regulated activity. For these, the Government proposes that the eligibility to apply for an enhanced level Criminal Records Disclosure will be retained. This is important so that Government can ensure employers and other hiring organisations are able to gain the right type of access to criminality information. The revised definition of regulated activity is set out in the Bill and work is underway to develop guidance in this area.

Another issue included:

- Barring information not being provided on certificates for persons not engaged in regulated activity

The Government does not consider that it is proportionate to require or allow barred list checks on activities that will be outside of the scope of the revised definition of regulated activity. Such activities include those which were previously within the scope of regulated activity, such as supervised volunteers in schools; or those which fell under the definition of controlled activity which generally entailed work that is ancillary to, or supports others who for example, cleaners or caterers in Further Education colleges.

A further issue raised related to:

- Checks on those under 16 years of age in England & Wales

This proposal responds to criticism of checking and providing certificates for those aged 15 and under. By no longer issuing certificates, there will be a more proportionate approach to this age group.

There are also civil liberties considerations in carrying out checks on minors. Introducing such an age limit sends a clear message to potential employers and other hiring organisations that children should not be placed in positions where such checks are required.

What happens now?

All the changes and issues covered in this Bulletin will not be finalised until the Bill receives Royal Assent. Once this has been granted, the Government will be in a clearer position on when the agreed changes will take effect.

A second edition will follow once the Bill has completed its remaining stages in the House of Commons, expected by July 2011.

The final edition will then summarise the House of Lords considerations and final details of the Bill in Spring 2012.

Want to Find Out More?

You can find a complete account of what happened at Committee, including detailed factsheets on each area of the Bill by visiting

<http://services.parliament.uk/bills/2010-11/protectionoffreedoms.html>

The team responsible for the passage of the Protection of Freedoms Bill can be contacted at: ProtectionOfFreedomsBill@homeoffice.gsi.gov.uk