

Title: Impact Assessment on proposed changes to the Vetting & Barring Scheme and Criminal Records Regime Lead department or agency: Home Office Other departments or agencies: <ul style="list-style-type: none"> • Criminal Records Bureau (CRB) • Independent Safeguarding Authority (ISA) • Department for Education • Department of Health • Ministry of Justice 	Impact Assessment (IA)
	IA No: HO0034
	Date: 25 May 2011
	Stage: Final
	Source intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: N/A	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary? The vetting and barring scheme (VBS) and criminal records disclosures have been criticised as being disproportionate, overly bureaucratic and working in contradiction to the UK's legal and democratic tradition of upholding civil liberties. As part of the Coalition Agreement, the Government expressed its commitment to reviewing the vetting and barring and criminal records regime and scaling it back to common sense levels to ensure the right balance between preserving individuals' civil liberties and maintaining effective public protection arrangements. Government action is required to take forward the review outcomes, published on 11 February 2011.	
What are the policy objectives and the intended effects? Key objectives and effects include 1) to restore public faith in the VBS by making it a more proportionate and less burdensome process, whilst contributing to effective public protection arrangements; and 2) to make the Criminal Records Bureau (CRB) process more proportionate and effective in order to deliver the Government's published aim of scaling the criminal records regime back to common sense levels.	
What policy options have been considered? Please justify preferred option (further details in Evidence Base) Vetting and barring scheme: Option 1 – Do nothing, proceeding to full VBS implementation; Option 2 – Make legislative changes to the Safeguarding Vulnerable Groups Act 2006 (SVGA) in order to amend the VBS framework and create the new single organisation (preferred Option). Criminal records regime: Option A – Do nothing; Option B – Make targeted amendments to Part V of the Police Act 1997 to address deficiencies in the current system (preferred option).	
When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed after 5 years
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Operational data on barring and disclosures will be available

SELECT SIGNATORY Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Date: 13/09/11



Summary: Analysis and Evidence

Policy Option 2 and B

Description: Make legislative changes to the SVGA 2006 in order to amend the VBS framework and create the new single organisation and make targeted amendments to Part V of the Police Act 1997 to address deficiencies in the current system.

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: unknown	High: unknown	Best Estimate: 171.9m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best	13.7m	22.9m	218.6m

Description and scale of key monetised costs by 'main affected groups'

Total monetised costs for VBS and CRR changes will be £243.0m (£218.6m PV) over ten years. On CRR, this totals £57.0m (£49.9m PV) and includes transitional cost on capital expenditure of £5.9m (£5.6m PV) required during years 2011-12 and 2012-13 as well as benefit enabler costs of £7.8m (£7.3m PV). Ongoing CRR costs include £5.8m (£5.5m PV) for programme resources and £37.5m (£31.5m PV) for web based maintenance costs. On VBS, this also includes an estimated cost to the CRB of £186m (£168.7m PV) as a result of the 9.3m individuals who would have paid a £64 registration fee under VBS but who will no longer have to and are likely instead to pay a £44 fee for an enhanced disclosure.

Other key non-monetised costs by 'main affected groups'

There are no other identified non-monetised costs for the VBS as the proposals are expected to reduce the regulatory impact on individuals and employers, although a new funding model will be needed upon expiry of the existing interim model in 2013, which will continue to meet the operational costs of the new organisation from 2013. A separate fee will be payable by all those who choose to subscribe to this CRSC premium service, not yet set. There will be minimal costs to creating the new DBS which will be met within existing resources. In other areas there are unquantifiable reduced/increased operational costs to either the CRB or ISA to be met within existing budgets.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best	N/A	46.3m	390.5m

Description and scale of key monetised benefits by 'main affected groups'

The total monetised benefits for VBS/CRR changes equate to £463.3m (£390.5m PV) over ten years. On VBS, This includes an estimated saving to customers of £186m (£168.7m PV) for 9.3m individuals facing the new fee structure of £44 for an enhanced disclosure (rather than £64). On CRR, total benefits are estimated to be £277.3m (£221.9m PV) which includes the benefits of implementing the CRSC will lower service/CRB operating costs of £97.3m (£78.2m PV), reduced employer costs of £28.2m (£22.6m PV), reduced administration costs for Registered Bodies £102.1m (£80.6m PV) and reduced 3rd party supplier costs of £49.7m (£40.5m PV).

Other key non-monetised benefits by 'main affected groups'

Individuals would no longer have to register and be monitored simply because they apply to work with vulnerable groups. A smaller number of people will fall within the new definition of regulated activity and fewer employers and individuals will therefore need to be subject to the duty to check barred status and to barring itself. Individuals not engaged in, or likely to engage in, regulated activity will no longer be subject to the barring arrangements. Employers would have greater control and responsibility over management of risks associated with their roles. Changes to the criminal records regime and CRSC will provide for a more proportionate system which will be fairer on the individual in terms of the processes involved in disclosing criminal records. The CRSC will mean that certificates are portable and continuously updated, allowing the individual/employer to check online for updates.

Key assumptions/sensitivities/risks

3.5%

Some employers/organisations may not welcome reduced coverage of the scheme. There is an assumption that individuals and employers will take up criminal records updating arrangements (under proposed changes to Part V of the Police Act 1997) which will impact on requirements for barring checks. Support and buy-in from the police and from customers of the CRB service.

Direct impact on business (Equivalent Annual) £m):	In scope of OIOO	Measure qualifies as
Costs: 0	YES	OUT
Benefits: 9.1M		
Net: 9.1M		

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England & Wales (& N. Ireland ¹)		
From what date will the policy be implemented?			2012		
Which organisation(s) will enforce the policy?			CRB, ISA (DBS, upon creation)		
What is the annual change in enforcement cost (£m)?			N/A		
Does enforcement comply with Hampton principles?			N/A		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: All		Benefits: All
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	n/a	n/a	n/a	n/a	n/a

¹ Northern Ireland has its own disclosure arrangements which fall outside of the scope of the proposed amendments to Part V of the Police Act 1997 but individuals in Northern Ireland are referred to the ISA for barring consideration.

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties² Statutory Equality Duties Impact Test guidance	Yes	32
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	N/A
Small firms Small Firms Impact Test guidance	No	N/A
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	N/A
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	N/A
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	27
Justice Justice Impact Test guidance	Yes	28
Rural proofing Rural Proofing Impact Test guidance	No	N/A
Sustainability Sustainable Development Impact Test guidance	No	N/A

Evidence Base (for summary sheets) – Notes

References

No.	Legislation or publication
1	Safeguarding Vulnerable Groups Act 2006
2	The Bichard Inquiry Report, 2004
3	Vetting & Barring Scheme Remodelling Review – Report & Recommendations.
4	CRB Annual Report 2009/10 http://www.crb.homeoffice.gov.uk/pdf/CRB%20Annual%20Report%202009%2010.pdf
5	ISA Annual report 2009/10 http://www.isa.gov.org.uk/PDF/ISA_annual_report_2010.pdf
6	'Drawing the Line' - A report on the Government's Vetting and Barring Scheme http://www.education.gov.uk/publications/standard/publicationdetail/page1/DCSF-01122-2009
7	SVG Act final Regulatory Impact Assessment 2006 http://webarchive.nationalarchives.gov.uk/tna+/http://www.dcsf.gov.uk/ria/index.cfm?action=assessments.view&assessmentID=73
8	“A Balanced Approach” – Independent Review by Sunita Mason (“safeguarding the public through the fair and proportionate use of accurate criminal record information”) HO Publication - March 2010
9	The Police Act 1997
10	Ipsos Mori CRB Research 2010 www.homeoffice.gov.uk/publications/agencies-public-bodies/CRB/crb-corporate-publications/2010-rb-research

² Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉	TOTAL
Transition costs	0	3.2	10.5	0	0	0	0	0	0	0	13.7
Annual recurring cost	0	7.3	77.6	73.1	49.4	4.3	4.4	4.4	4.4	4.4	229.3
Total annual costs	0	10.5	88.1	73.1	49.4	4.3	4.4	4.4	4.4	4.4	243.0
Transition benefits	0	0	0	0	0	0	0	0	0	0	0
Annual recurring	0	0	80.2	81.0	64.5	38.8	49.7	49.7	49.7	49.7	463.3
Total annual benefits	0	0	80.2	81.0	64.5	38.8	49.7	49.7	49.7	49.7	463.3

* For non-monetised benefits please see summary pages and main evidence base section

The annual recurring costs and benefits have been derived through detailed financial modelling up until Year 6. Beyond Year 6 the annual recurring costs have been estimated as remaining at £4.4m. It has been assumed that the annual recurring benefits will plateau in Year 6 based on our volumes projections in that only a finite total number of subscriptions to the CRSC service can be expected. The figures in this table include all costs and benefits associated with CRSC and the re-let of the contract.

With the exception of CRSC, supplier contract re-let costs and benefits and those concerning the cessation of registration requirements the costs and benefits described in Section E and summarised in Section H are not included in the tables on pages 2 and 5 because the VBS and criminal records regime are self funding and the fees charged will be re-calibrated according to impacts on the CRB's costs over time. The funding model has been developed to ensure that, based upon projected volumes, income and costs break-even each financial year which has dictated what the fees should be over the period.

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

In the Coalition Agreement, the Government committed to review the Vetting and Barring Scheme and the criminal records regime to scale them both back to common sense levels and ensure a more proportionate system. Outcomes of both these reviews, including the independent review produced by Sunita Mason (the Independent Advisor for Criminality Information Management) were published on 11 February 2011.

The VBS review recommended a new scaled back employment vetting scheme, in particular, through the abolition of the registration and monitoring requirements and the redefinition of the range of posts to which barring arrangements apply. The independent review of the criminal records regime proposed changes to ensure a more efficient and proportionate criminal records system, in particular, through the introduction of Criminal Records Status Checks (CRSC) - a service that would allow for criminal records disclosures to be continuously updated and where the status of existing disclosures in relation to any new relevant information could be checked by employers.

The VBS review also recommended that the services of the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) be merged and a single, new Non Departmental Public Body (NDPB) created which will provide barring and criminal records disclosure services; this will be called the Disclosure and Barring Service (DBS).

The legislative changes introduced in the Protection of Freedoms Bill reflect these recommendations and seek to amend Part V of the Police Act 1997 and the Safeguarding Vulnerable Groups Act, the existing frameworks for criminal records and VBS processes, respectively.

A.2 Groups Affected

Vetting and safeguarding services are provided to both the public and private sector, fee paying customers account for 79% of all applications³. The proposed changes will affect:

- Those who wish to work with children or vulnerable adults and who would have previously been required to register with the VBS - the redefinition of the range of posts to which barring arrangements apply will mean less individuals will be required to have an enhanced disclosure in relation to their specific employment.
- All those applying for the CRB process by making it a more proportionate, effective and efficient system.
- Businesses and employers who will benefit from a more defined and efficient way of checking criminal records, including reduced overall costs.
- Individuals and volunteers will benefit from the reduced time it takes potential employers to assess whether they are suitable for a post given that, in approximately 95% of cases, there will be no need to apply for a new criminal records certificate as no changes to that certificate will be reported.
- Anyone who chooses to apply for the CRSC service will benefit from an online, continuously updated and portable disclosure checking service – there will be a small fee for opting into this arrangement for any individuals who wish to benefit from this system.
- The ISA and the CRB as the providers of vetting and barring services will be responsible for implementing the changes and are affected by the proposal to merge their services into a new NDPB.
- Police forces across England and Wales who provide the relevant information for an enhanced disclosure.

³ This figure excludes volunteers where no fee is paid and is based on extensive sector analysis as part of the VBS planning work

A.3 Consultation

When the Home Secretary announced the suspension and review of the vetting and barring scheme (VBS) a set of consultations which also covered a review of the broader criminal records regime (CRR) was launched by the Home Office. The VBS Review and Phase 1 of the criminal records review were completed by February 2011. There were also a large number of contributions concerning the scope and operation of the CRB and VBS made via the Government's 'Your Freedoms' website which were fed into the consultation work. A number of stakeholder organisations also wrote directly to Ministers setting out their views.

Following the announcement of the Terms of Reference of the VBS Remodelling Review and CRR Review on 22 October 2010, a cross-departmental Working Group (Home Office/Department for Education/Department of Health) was convened to consider the response to the Terms of Reference which were agreed by the Secretaries of State across those three departments, as well as the devolved authorities, the ISA and the CRB. The CRR Review (Phases 1 & 2) is an independent review which is being led by the Government's Advisor for Criminality Information Management (Mrs Sunita Mason).

A significant number of stakeholders were consulted from a wide range of organisations from the public, private and third sectors. Communications officials supporting both reviews received in excess of 200 representations, gained from both face to face consultations and written submissions

The sectors that were engaged can be summarised under the following headings:

- Education, including all schools types, nursery schools, Sure Start centres. Further / Higher Education establishments and formal childcare provision, including school governors.
- Health – including NHS, private hospitals & healthcare, including regulated professions.
- Adult & Children Social Care including sheltered housing, private care homes, social workers; and members of Child & Adult Safeguarding Boards.
- Local Authority run services such as those relating to education, adult and children social care services, leisure facilities.
- Sport & Leisure – national governing bodies of sport and managers of leisure facilities.
- Justice – including prisons and probation.
- Faith – across all denominations.
- Voluntary and Community Sector.
- Other - Specific groups were be engaged with such as:
 - recruitment Agencies – working across all sectors;
 - British Retail Consortium.

B. Rationale

The rationale behind the Government's commitment to review the vetting and barring scheme and the criminal records regime (CRR) were clearly set out the in the Coalition Agreement and subsequently reinforced in the findings of the VBS remodelling review and Sunita Mason's independent report into the criminal records regime. Key rationale and drivers include:

- The importance of scaling back vetting and safeguarding services to common sense levels and ensuring a more proportionate system.
- The need for vetting and safeguarding services to appropriately balance the need to protect and respect individuals' freedoms and privacy.
- To ensure a more sensible and efficient operation of the disclosure service provided by the Criminal Records Bureau (CRB).
- Recognition that the VBS, despite being well intentioned, was perceived by many to have become a complex and cumbersome central bureaucracy, bringing far too many people within its scope.

- Acknowledgement that the VBS was confusing, expensive and encouraged risk averse, rather than responsible, behaviour by employers by giving the impression that the scheme could manage all risk out of the system used for pre-employment checking.
- Recognition of the importance of balancing people's freedoms and scaling back of a scheme which was based on the assumption that people who wished to work, or undertake volunteering, with children and vulnerable adults posed a risk unless the VBS processes found otherwise, in contrast to the UK's legal and democratic tradition of being innocent until proven guilty.
- The importance of ensuring the criminal records regime, as it affects the CRB process, is more proportionate and less unduly burdensome.
- The importance, as set out in Mrs Mason's independent review, of updating the policy on retaining and disclosing records held on the Police National Computer (PNC).⁴
- Contributing to the Government's overarching intention to restore civil liberties and roll back state intrusion which is at the heart of the Protection of Freedoms Bill.
- Response to CRB research has found that the number of repeat disclosure applications has varied between 33-55% from the same individual over a three year timeframe and following sample analysis, 35%⁵ were found to be "in-year" repeat applications.
- There has been a long-term and sustained call for Government to improve the CRB disclosure service by making certificates portable, allowing individuals to use them repeatedly, and avoiding the need to apply for repeat certificates.

In 2010⁶ Ipsos Mori reported on their research of CRB customers, reporting on customers' views including the possibility of providing a service of continuous updating. Feedback from customers confirmed that:

- 17% of the applicants questioned wanted to see the application process made quicker and 6% specifically suggested the introduction of portability. The data also showed that 8% of those questioned had applied for three or more CRB disclosures in the last 12 months.
- Over 80% of customers stated, when asked, that this would be a significant improvement to the current service.
- Since the introduction of the disclosure service in 2002, 55% of all disclosure applications are repeat and recheck disclosure applications; further sample analysis has found that 35% were repeat applications over a three year period
- Approximately 96%⁷ of disclosure applications produce a nil return, i.e. there is no recorded criminality for the applicant. Therefore 96% of applicants completed the disclosure process knowing that they will have paid and waited to receive a blank disclosure certificate.
- Of the Registered Bodies who were questioned as part of this same research, 48% said the application process was too time consuming and 71% said that a process that allowed continuous updates would be useful.

C. Objectives

Key objectives and effects include:

- 1) To restore public faith in the VBS by making it a more proportionate and less burdensome process, whilst contributing to effective public protection arrangements; and
- 2) To make the CRB process more proportionate and effective in order to deliver the Government's published aim of scaling the criminal records regime back to common sense levels

The proposed amendments will provide for a scaled back and more proportionate vetting and barring and criminal records regime and more effective protection arrangements for vulnerable groups. By

⁴ <http://webarchive.nationalarchives.gov.uk/20100418065544/http://police.homeoffice.gov.uk/publications/about-us/ind-review-crim/a-balanced-approach-12835.pdf?view=Binary>

⁵ This figure is based on sample analysis covering the entire month of Feb 2010 and several individual dates across a three year timeframes. A repeat applications includes employer rechecks on existing staff and instances where an individual changes job and so is required to complete a new (repeat) application

⁶ Data sourced from research published on www.homeoffice.gov.uk/publications/agencies-public-bodies/CRB/crb-corporate-publications/2010-rb-research

⁷ CRB Annual Report 2009/10

pursuing this course of action it is anticipated that the changes will strike the right balance between civil liberties and public protection.

The provisions also mean that the services of the CRB and Independent Safeguarding Authority (ISA) will be merged and a single, new NDPB created which will provide a barring and criminal records disclosure service called the Disclosure and Barring Service (DBS).

D. Options

Vetting and Barring Scheme

Option 1: The first is to maintain the status quo and do nothing. The VBS scheme has been partially implemented and would be fully implemented as originally planned. To do so would run counter to the outcomes of the VBS reviews and the need to make the system more cost effective and proportionate. This is not our preferred option. More details on the planned elements of VBS are at Annex 3.

Option 2: The second option is to make targeted amendments to the Safeguarding Vulnerable Groups Act 2006 (SVGA) to amend the way in which the scheme operates. A full list of amendments is included at Annex 5 and includes:

- The creation of a new single organisation by bringing together the services of the CRB and ISA. The new body would provide the barring and criminal records disclosure services and be called the Disclosure and Barring Service (DBS).
- The redefinition of the VBS to be run by the new DBS which includes:
 - The abolition of the registration and monitoring requirements;
 - The redefinition of the range of posts to which barring arrangements apply;
 - The reduction in the scope of referrals and barring;
 - Moving representations to before the point of decision in the case of automatic bars with representations;
 - Abolition of controlled activity;
 - Removal of registration and monitoring requirements;
 - Introducing a duty to check barred status; and
 - Changes to information sharing provisions.

Criminal Records Review

Option A: The first is to maintain the status quo and do nothing. This option would continue to be regarded as disproportionate and unduly burdensome by its critics and opportunities to streamline the process, through centralisation and enabling a more consistent approach, would be lost. This is not our preferred option.

Option B: The second is to make targeted amendments to existing legislation, as outlined below, through the Protection of Freedoms Bill to meet the Government's aim of making the CRB process more proportionate and efficient. This would provide for specific amendments to make to the Act that governs the disclosure process and strengthen the drive towards consistency and efficiency. A full list of amendments is attached at Annex 5, and includes:

- The introduction of Criminal Records Status Checks (CRSC) - a service that would allow for criminal records disclosures to be continuously updated and portable.
- The scaling back of the criminal records regime which includes:
 - Enabling decisions about the relevancy of information to be taken by any chief officer;
 - Changing the relevancy test the police apply to intelligence and other information which they hold from "might be relevant" to "reasonably believes to be relevant";
 - Introducing the scope for the Secretary of State to issue guidance which the police must have regard to in making decisions about the relevancy of information;

- Removing the provision which allows for the disclosure of information to a potential employer even where the police judge that same information should not be disclosed to the person applying for the role;
- Issuing certificates to the applicant only;
- Improving systems for resolving disputes and representations; and
- Defining age limits.

E: Appraisal (Costs and Benefits)

NB: All costs referred to from this point onwards are “actual” costs.

Vetting and Barring Scheme

Option 1 – do nothing - implement the SVGA and VBS as it stands, proceeding to full implementation with registration and monitoring.

Summary: The first is to maintain the status quo and do nothing. The VBS scheme has been partially implemented and would be fully implemented as originally planned. To do so would run counter to the outcomes of the VBS reviews and the need to make the system more cost effective and proportionate.

Costs: No additional/new costs.

Benefits: No additional/new benefits.

Option 2 – make targeted amendments to the way in which the scheme operates in line with the amendments currently proposed to the SVGA in the Protection of Freedoms Bill.

(i) Proposal to bring together the current functions of the Criminal Records Bureau and the Independent Safeguarding Authority in a single new Non-Departmental Public Body (NDPB), to be known as the Disclosure and Barring Service

Summary: This would bring the current functions of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) together in a single new body, to be known as the Disclosure and Barring Service (DBS). This new body would be responsible for the barring regime and for the disclosure of criminal records. This is in line with the Government’s review of the VBS, which recommended that a single body should be formed to undertake these duties. The DBS would be established as a new body corporate and the ISA dissolved. They further provide for the transfer to the DBS of the functions of the Independent Safeguarding Authority and Criminal Records Bureau.

Costs: Although this involves the merger of two organisations, there will be minimal costs (which can be met within existing resources) involved in creating DBS and merging the functions of the ISA and CRB, as there will be no change to sites or operational infrastructures as a result of transition to DBS. The plan is for staff terms and conditions to remain unaffected on transition to DBS; staff will transfer on the terms and conditions in place immediately prior to the transfer. In addition, below executive level the position on roles and requirements are clear for the new organisation; these are expected to be unaffected on transition to the DBS and therefore staff currently employed by the CRB and ISA in these positions will find that their roles do not change on transfer. The structure of the DBS Executive Management team is yet to be determined; the detail of this will be worked through over the forthcoming months. The combined impact of the above is that there are not expected to be any notable costs arising from the transfer of staff to the DBS. Therefore, the costs of transition will be minimal. Setup costs will be limited and will include, for example, the recruitment of the DBS chair and board and the resourcing of a small implementation team. The precise details of the merger process are yet to be determined, so it is not possible at this stage to be more specific in terms of costs.

Benefits:

- The new DBS brings together into one body important linked functions relating to criminal records and public protection – providing comprehensive employment vetting services with a single delivery focus.

- The new DBS will result in a more efficient and effective service to employees and employers and to volunteers and voluntary bodies leading to a streamlining of processes and a reduction in bureaucracy and duplication.
- By establishing a new NDPB, rather than a new Home Office agency, decisions about barring individuals from working in regulated activity will continue to be taken independently of Ministers. This is to safeguard the independence of decision making relation to barring – a quasi-judicial function which has major implications for civil liberties of individuals. We do not consider that such decisions should be made by Ministers, but independently by an accountable, expert-led body. As a result an NDPB was the best option.
- Establishing the new body will provide the opportunity to transfer the current barring functions of the ISA, together with the responsibilities of the CRB to issue criminal records certificates, to a single organisation, with associated streamlining of processes and reduced bureaucracy and duplication.
- The creation of this single organisation will be formed from two existing organisations and will not be adding to the number of public bodies.
- The legislative provisions ensure that the DBS's core function on independent decision making cannot be delegated to other parties or influenced by Ministers. Operational functions can however be delegated, helping to ensure the most effective use of resources.

(ii) Proposals for redefining a new scheme to be run by the new Disclosure and Barring Service

Summary: the new scheme will retain barring, which is the process by which an agency of the state can prevent unsuitable people from working with particular groups, such as children or vulnerable adults. This will continue to be based on an assessment of risk, in those cases where individuals have been engaged in serious criminal behaviour or misconduct which demonstrates a risk of harm to these groups. It is proposed that barring decisions should continue to be made with key changes proposed in these areas set out at (a) – (g) below.

Costs: Improvements to both the vetting and barring scheme and the criminal record regime will be met from the overall disclosure fee. A new interim funding model for the CRB fees was agreed in March 2011. This two year funding model (to remain in place until March 2013) replaces that which would have been put in place under full implementation of the VBS. This means, rather than paying an intended registration fee of £64 (£36 for an enhanced certificate and £28 for monitoring), an enhanced certificate increased on 6 April from £36 to £44 (which was agreed with the Treasury). This fee increase will directly fund the administration costs of the retained elements of the scheme and is significantly lower (£20) than the intended registration (for monitoring) fee. The costs, while borne by the users of the service, will be payable by a significantly smaller number than planned under previous provisions for the VBS. A new funding model will be needed upon expiry of the existing interim model in 2013, which will continue to meet the operational costs of the organisations from 2013. 9.3m people will no longer be required to pay a registration fee of £64. **The assumption in the business case for CRSC is that all 9.3m individuals would continue to purchase an Enhanced Disclosure. This proposal will therefore cost the CRB £186m (£168.7m PV).**

Benefits

- The key benefit from the proposals would be rebalancing public protection requirements with individuals' civil liberties. The current regime can be interpreted as assuming that every individual who applies to work with vulnerable groups presents a risk to that group.
- Abolishing controlled activities and redefining regulated activities would result in a reduced number of posts falling within the scope of the new arrangements, making it a more proportionate response to public protection concerns. The ISA reported in its 2009/10 annual report that, as of March 2010, their barred lists included 19,111 and 21,419 people on the Vulnerable Adults List and the Children List respectively (note some people will be on both lists). That is a barred group of between 21,500 and 41,000 people presenting a direct risk that was to be managed by requiring every employee in regular contact with vulnerable groups to register and be subject to monitoring.
- **9.3m⁸ individuals (or businesses that would have paid the VBS registration fee on behalf of individuals) who would have had to pay a registration fee of £64 will no longer have to, resulting in a cost benefit of £186m (£168.7m PV).** Although employers recruiting the smaller

^{8 8} This figure is based upon research commissioned by the Home Office and carried out by KPMG for the purpose of modelling volumes for the original VBS.

group of people engaged in regulated activities would be likely to continue to use a CRB enhanced disclosure to manage the risks associated with those posts, the business case for CRSC assumes that all 9.3m individuals will continue to use an enhanced disclosure for which a fee of £44 is charged.

- The duties and regulations being introduced through these proposals are offset by the duties and regulations being removed as part of the remodelling process for the VBS.

Specific costs and benefits of the main elements of the remodelling of the VBS scheme include:

(a) Net reduction in the scope of regulated activity for children and vulnerable adults

Summary: Regulated activities are the range of activities or posts to which barring applies. This proposal involves reducing significantly the range of activities and job roles included in this category for both children and vulnerable adults. Regulated activities will no longer include all posts in schools; work with children will be redefined as mainly unsupervised activities; and the definition of health care activities will be redrawn to rule out a large number of posts caught under the previous proposals. Bars will continue to apply both to paid employment and to voluntary work.

Costs: No additional costs. Any stakeholder engagement will be met through existing communications strategies and budgets.

Benefits: Reducing the overall scope of the scheme in line with the Government's intentions to make the scheme more proportionate and less bureaucratic. This removes significant numbers from the barring regime in conjunction with the change in scope for referrals, below. It provides an opportunity to ensure that the definition covers those areas of work and access to children or vulnerable adults which are considered to provide the highest element of risk to those groups.

(b) Reductions in the scope of referrals and barrings

Summary: This proposal involves limiting the scope of referrals to the ISA, and the scope of barring decisions, to those people who have been, are or might in the future be involved in regulated activity. Reductions in the scope of regulated activity will mean that fewer posts will be subject to the barring regime. It follows that fewer people will be barred. Similarly limiting bars to only those who are in regulated activity, or who have been or are expected to be, will reduce the numbers subject to barring compared to the current position in which anyone can be subject to a bar regardless of their current work.

Costs: This is likely to lead to a reduction in the number of cases to be considered by the ISA, but it is not possible to state a precise figure. This will therefore reduce operational costs on the ISA. In most cases, it would be clear from the fact of the referral that someone had been involved in regulated activity. Either the person would be known to have applied to undertake regulated activity and would therefore be referred to the ISA by the CRB; or they would be referred to the ISA by a regulated activity provider because their involvement in the regulated activity had ceased as a result of their conviction or caution for an offence subject to automatic barring, or other behaviour which has led to a dismissal or resignation from regulated activity. There would therefore be no need for the ISA to spend additional resources investigating whether there was an involvement in regulated activity. It is possible that the police may notify the ISA of a person who has committed an automatic barring offence when they are aware that the person has been working with children or vulnerable adults. In such cases ISA would need to investigate whether that employment fell within the scope of regulated activity, which would generate some additional work. However, the ISA anticipates that there would be few such cases and that the additional cost entailed would be outweighed by the smaller number of people whose cases it would need to consider as a result of this change.

Benefits: Limiting bars to those seeking a criminal records disclosure for work in areas with children or vulnerable adults ("regulated activities"), rather than, as at present, to all persons committing such offences, is more proportionate and fair. Referrals to the ISA arising from criminal records checks will only be triggered by serious offences or police intelligence in relation to serious criminal behaviour, not minor ones.

(c) Moving representations to before the point of decision in the case of automatic bars with representations

Summary: Currently, in cases where individuals can make representations about automatic barrings (Autobars), they can do so only *after* being placed on a barred list for a serious offence. This proposal amends the provisions in this area to enable them to make representations *prior* to any barring decision.

Costs: There will be operational costs to the ISA, although this will be subject to the number of representations they receive. ISA figures show over 16,000 automatic bars have been applied by the ISA between January 2009, when it took over responsibility for decision making, and December 2010. As a result of limiting bars to applicants for checks, we would expect a significant drop in this figure. because reductions in the scope of regulated activity will mean that fewer posts will be subject to the barring regime. It follows that fewer people will be barred. Similarly limiting bars to only those who are in regulated activity, or who have been or are expected to be, will reduce the numbers subject to barring compared to the current position in which anyone can be subject to a bar regardless of their current work. (See also the summary at (b) above).

Benefits: This shift follows the ruling in the judicial review of the barring regime brought by the Royal College of Nursing (RCN). As a result the system is more fair and proportionate, allowing individuals the opportunity to give representations earlier. Autobar referrals to the ISA will be triggered only by serious offences or police intelligence in relation to serious criminal behaviour, not minor ones.

(d) Abolition of controlled activity

Summary: This proposal removes the secondary type of activity (which could be either paid employment or volunteering), called controlled activity, where individuals working in ancillary posts or who had access to sensitive information relating to children or vulnerable adults would also have had to be checked.

Costs: Minimal supplier costs may arise from ending the use of current IT systems.

Benefits: This supports the Government's intention to make the new scheme more proportionate and excludes those who would have been covered by controlled activity such as receptionists in outpatient clinics, catering staff and caretakers in further education colleges and hospital records clerks. The abolition of controlled activities begins to address the imbalance in requiring 9.3m people to register with a scheme and consent to being monitored.

(e) Removal of registration and monitoring requirements

Summary: It is intended that there should be no registration or ongoing monitoring under the new scheme - in effect, no scheme membership. The costs and benefits from this proposals are already shown under (ii) which is an explanation of the overall scheme costs and benefits and the new funding model – the removal of registration and monitoring are the only costs/benefits for the VBS changes and these are therefore explained in more detail below.

Costs: Minimal – communication of the changes to employers and others may entail some service costs. This recommendation removes the costs of registration and monitoring that would have been placed upon individuals and businesses under the previous scheme. Fewer individuals will be captured in the regulated activities under which a criminal records check by an employer would be required.

Specifically, (as detailed in (ii) above) under the current arrangements people would pay £36 for an enhanced criminal records disclosure and £28 to register with the scheme, resulting in a total of £64. As a result of the new proposals, people will need to pay only the £44 cost of a disclosure (raised from £36 in April 2011 in order to continue to fund the barring elements of the scheme), not the £28 cost of registration. There is therefore a potential saving of £20 per person.

By applying the proposed new definition of regulated activity to the figure of 9.3 million people who would have been covered by the scheme we estimate that 5.1 million people will still be in regulated activity. The £20 saving would apply both to those 5.1 million people who remain within the scope of regulated activity and the 4.2 million people who will now fall outside it. Both groups will no longer need to pay the £28 monitoring fee because of the abolition of registration and monitoring. So the overall saving to the public, shared with those employers or other organisations which choose to pay the fees on behalf of their employees, is £186 million - that is, 9.3 million people at £20 per application. It is likely that most of

the 5.1 million people estimated to fall within regulated activity will continue to pay the £44 fee for an enhanced disclosure, as this will also provide a barred list check and meet the duty to check which is placed on employers. Those outside regulated activity will still be eligible for enhanced disclosures and it is assumed that they are likely to obtain an enhanced disclosure despite there being no duty on their employers for the individual to have one. This is because the £64 cost of registration also included an enhanced disclosure. There was however no requirement for all of those people to have one and that has not changed.

The introduction of portability of criminal records disclosures (see later) will reduce the need for repeat disclosures, in practice increasing the saving.

The £20/application saving to customers and cost to the CRB will be realised only once per application based on the total disclosure population of 9.3m. This cost and benefit will begin to be realised against each disclosure application at the point that CRSC is introduced, currently October 2012 up until the point the first 9.3m applications have been received. After that point no cost or benefit of £20 will be realised against disclosures as it was only ever envisaged that VBS would charge such a fee on one occasion.

Benefits: Compared to the 9.3 million people who were likely to be required to join the VBS under previous proposals, there will now be no requirement at all to register with the new scheme. A significantly smaller group of people will remain eligible for criminal records disclosures under the new definition of regulated activities, and the new scheme itself will only require an initial criminal records check or barred list check on these individuals. This proposal will inform the employer if the individual is barred from these areas of work, at the time of application, in addition to providing criminal records information.

(f) Duty to check barred status

Summary: This will provide regulated activity providers and personnel suppliers with a duty to check whether someone is barred before engaging them in or supplying them for regulated activity, placing the responsibility for checks on employers. This will not be subject to any criminal sanction. It will continue to be an offence knowingly to employ a barred individual in regulated activities.

Costs: None. Employers will need either to apply for an enhanced disclosure; or check an updated certificate and check to see whether there is new information under the new portability procedures; or apply to the Secretary of State to find out or be informed whether someone is barred (see below). This duty is no more onerous than what employers are currently required to do; the effect of the change is to change the legal basis of an employer's responsibility.

Benefits: With no element of monitoring under the new scheme, it is important that employers remain able both to check on the barred status of individuals wishing to work in regulated activities, and to obtain criminal records information. A single application for a CRB disclosure will show whether the individual is barred from regulated activities, in addition to any criminal records information. For those working outside the new scope of regulated activities, but still involved in other posts with children or vulnerable adults (in effect, those posts and activities falling within the current definition of regulated activities but excluded from the new definition), we propose that current eligibility for criminal records checks (but not for barred list checks) should be maintained for employers. With the consent of the individual, employers will also be able to check any updated criminal records information, including barred status, by means of continuous updating of disclosures, which is currently being developed and is provided for under the proposed changes to Part V of the Police Act 1997.

The relevant provisions require employers and personnel suppliers to find out whether somebody is barred, which is information that they will need to know for the purposes of their regulated activity. It is made necessary by the removal of the monitoring requirements, which would have led to employers learning this information. It has the advantage of moving the responsibility away from the state and towards the employer. It also removes a criminal sanction from employers if they do not do this check, although it remains an offence knowingly to employ a barred person in regulated activity or to supply them for it.

(g) Introduction of statutory guidance:

Summary: This change requires the Secretary of State to publish guidance for regulated activity providers and personnel suppliers about appropriate supervision of activities which would otherwise amount to regulated activity relating to children. This is because the Bill specifies a number of activities relating to children which are regulated activity unless subject to the regular, day to day supervision of somebody engaged in regulated activity. Providers and personnel suppliers will be required to have regard to that guidance.

Costs: There should not be additional costs. Regulated activity providers and personnel suppliers must currently go through decision making processes on this issue as part of their ordinary work. In removing areas of uncertainty, that process should be swifter and less burdensome as a result of this guidance. There is likely to be a small initial burden on organisations in disseminating this guidance to their staff and embedding it within their processes, but that should be at least balanced by the savings of time. Many providers were in favour of such guidance.

Benefits: In making clear to providers and personnel suppliers what counts as regulated activity and ensuring that the legislation is applied correctly, this will help to facilitate some of the other policy aims and benefits described in this document.

(h) Summary of changes to information sharing provisions:

- Changes are made concerning the basis on which the police must provide ISA with information on convictions and cautions relating to people to whom barring provisions apply. Currently, they must provide information about those people to whom barring provisions 'apply'; now it will be those to whom they 'apply or appear to apply'. Because of the restriction on referrals and barrings to those who have been, are or might in the future be involved in regulated activity, it might not be apparent to the ISA at the time of receiving the information whether the barring provisions apply. Currently, information is provided if it *might* be relevant; now it will be provided when the police *reasonably believe* it to be relevant. This is intended to align the threshold with the new criteria for the disclosure of 'police information' on criminal records certificates. These measures do not entail additional or reduced costs.
- Currently, in the Safeguarding Vulnerable Groups Act 2006 (SVGA), employers and other registered persons are informed if someone becomes subject to monitoring. As a result of the proposed abolition of monitoring this will no longer be possible; instead, the Bill introduces provisions which allow those parties to apply to the Secretary of State to be told whether someone is barred or to register an interest concerning them such that they are told if they become barred (if the person in question consents). The benefit of this is that it provides a way for employers and others to find out whether someone whom they propose to engage in regulated activity is barred. This premium service is entirely voluntary and will require registration, which will be subject to a fee; the level of the fee has not yet been set, but would be based on cost recovery. As employers can discharge their duty to check by other, existing means, such as applying for an enhanced criminal records certificate, this does not represent a further burden on them. There would be some administration costs for the CRB and ISA, but these would be likely to be outweighed by the other changes in the Bill.
- Changes are made to the parts of the SVGA concerning keepers of registers (professional bodies – for example, the General Medical Council). The duty on keepers of registers to provide information to the ISA becomes a power. ISA will have to inform keepers of registers if someone on their register is on a barred list, and provide them with information relevant to that decision which it is appropriate to disclose, unless satisfied that they already have it. Keepers of registers will be able to apply to ISA to find out reactively whether someone is barred, and to the Secretary of State to be notified proactively if such a person ever becomes barred. The ISA will also become able to provide to keepers of registers any relevant information that it considers appropriate, not just that concerning a barred person, as now.

These provisions are intended to establish a more proportionate and effective information sharing relationship between the various parties, and in particular to return a greater degree of discretion to the professional bodies. This is likely to lead to a small reduction in the burden on the professional bodies – they will no longer be required to supply information to the ISA, and although they will be able to make additional applications for information to the ISA and to the Secretary of State, this is

voluntary. There may be a small extra burden on the ISA as a result of the provisions, but this will be outweighed by the other provisions of the Bill.

- Changes are also made to the parts of the SVGA concerning supervisory authorities (for example, Her Majesty's Chief Inspector of Schools in England). Supervisory authorities will now have merely a discretion (currently it is an obligation) to supply to ISA information that may be relevant to a barring decision. The Secretary of State's duty to provide them with barred list information will now not apply if the Secretary of State is satisfied that they already have it. The ISA's obligation to supply supervisory authorities with information becomes merely a power and the ability of supervisory authorities to request information from ISA will be restricted to when it is required in connection with one of their functions; there is no such current restriction. These provisions are likely to lead to reduced burdens on both supervisory authorities, the ISA and the CRB.
- Local authorities now have merely a power, not a duty, to provide to the ISA information which may be relevant to a barring decision. Again, this is about restoring discretion to the body which is most familiar with the case in question. It will lead to a small reduction in the burden on local authorities.
- The ISA's power to provide information to the police is extended to the ground of recruitment and to other grounds that may be prescribed. It is also given a duty to provide to the police, for those and the existing reasons relating to its existing power, information about somebody's barred status. For operational reasons, the police need to ensure that barred list information is available when needed, for example when investigating a potential offence (such as working whilst barred); hence, the provisions are being strengthened. In addition, the ISA will be obliged to tell the Prison Service and Probation Service information that they request as to whether someone is barred, if it is for the purpose of protecting children or vulnerable adults. The ISA will have discretion to provide to those organisations other information which it reasonably believes to be relevant to them. These services require information on barred status and the reasons underlying barring for risk assessments, particularly when prisoners or those under probation supervision are being considered for work placements in the community which may provide access to children or vulnerable adults. These changes have been requested by the police and the Ministry of Justice, respectively. There would be a small extra administrative burden on the ISA.

Costs: These will involve small increases and decreases in the burdens on the different parties, which it is not possible to quantify, but the net effect is likely to be small and, in particular, the burden on bodies which interact with CRB and the ISA, such as professional bodies, is likely to reduce.

Benefits: The main benefits of the information sharing provisions are to add additional ease to the process of information flows and to restore greater discretion to those bodies which provide information to the ISA or to the Secretary of State.

(i) Other elements of the changes:

- The term 'vulnerable adult' is being redefined to make it clear that a vulnerable adult is someone aged eighteen or over in relation to whom regulated activity is provided. This means that 'vulnerability' is no longer defined in relation to a setting or to a particular person. This provides additional clarity for all parties and makes it clearer to regulated activity providers which of their staff are and are not involved in regulated activity. It is likely to lead to less risk-averse behaviour by such providers and will save them the cost of unnecessary criminal records applications.
- It is proposed to introduce a new power for the ISA to review cases of its own volition (for example, where new information comes to light) and, in certain circumstances, to remove people from the lists. The ISA may choose to do this in a very small number of cases and no significant cost implications would be expected, although additional costs may arise should the ISA need to respond to external requests for reviews outside the normal statutory timeframes.
- Changes to the SVGA are proposed such that ISA cannot include someone on a barred list if they are known to be on the Scottish or Northern Ireland equivalent. The ISA would be able to remove someone for the same reason. This should enable the different administrations of the United Kingdom to create a coordinated and complementary set of barred lists, which will then act as a reliable source for providing information to those who need to check whether an individual is barred

anywhere in the UK. This is likely to lead to a small cost reduction for the public sector by virtue of avoiding duplication.

- It is proposed to repeal an uncommenced provision of the SVGA which would have required the ISA to notify employers if it intended to bar someone, before any representations were received from them or a barring decision made. This will prevent anticipatory disclosure prior to decisions being made and representations from individuals having been considered.
- It is proposed to repeal the provision of the SVGA enabling the Ministry of Defence to carry out barred list checks on training supervisors working for the armed forces, whether in England and Wales or in another country. The Ministry of Defence believes that this is no longer necessary as they will be able to make criminal records checks where needed. It is likely to lead to small reduction in the burden on that department.

Criminal Records Regime

Option A – do nothing

Summary: The first is to maintain the status quo and do nothing. This option would continue to be regarded as disproportionate and unduly burdensome by its critics and opportunities to streamline the process, through centralisation and enabling a more consistent approach, would be lost. This is not our preferred option.

Costs: None

Benefits: None, as no additional benefits for the CRB process or those using it would be introduced.

Option B – make targeted amendments to existing legislation to make the CRB process more proportionate and efficient.

Of the proposals detailed under option B, the first will have significant financial impact.

(i) Introduce a power for the Secretary of State to monitor criminal records (CRSC)

Summary: This proposal seeks to remove the need to apply for a repeat disclosure by allowing criminal records to be monitored for changes to the information on a disclosure certificate. Currently, as disclosure certificates issued are a snap-shot of information held on police systems at the point of issue, when a new criminal records check is required, the individual needs to make a new application for another certificate. The proposed change will allow notification that information on a disclosure certificate remains valid where no changes are registered or that a new application is necessary because a change has occurred. As a result, applications for a new disclosure certificate will only be necessary when there will be new information on that certificate.

Costs: An interim funding model was agreed with the Treasury in March 2011 to pay for the improvements to the Vetting and Barring Scheme and, as a result, the cost of an enhanced CRB certificate rose from £36 to £44 on 6 April 2011. Work is now required to develop a new funding model to ensure that the new CRSC service is delivered on a self-funding basis, with the full cost of delivering the service recovered through fees paid by customers. The new funding model will ensure that the full cost of delivering the disclosure and barring services is met, in-year, by the fees recovered from customers. Two types of fee will be charged:

- customers in paid employment will continue to pay an application fee when applying for disclosure certificates – applications in relation to voluntary positions will continue to be free of charge; and
- customers purchasing the CRSC service will pay an additional subscription fee. Those undertaking only voluntary activity may pay the subscription fee.

We would expect savings to result from both an overall reduced cost of service and reductions in costs associated with recruitment in general as a result of not having to wait for a new disclosure certificate. Importantly, a single fee payable by all customers will simplify the administration of the service. Further

research will be undertaken with customers to explore how they will interact with the new service including likely behaviour by volunteers as part of the final business case.

Transitional capital expenditure is broken down as follows (by £m):

	CRSC development	Technical refresh	Optimism bias	VAT	Total forecast by Year
2011/12	1.4	-	100%	20%	3.2
2012/13	1.1	-	100%	20%	2.7
				Total	5.9

The capital spends (transition costs) and annual recurring costs together are estimated as £57.0m (£49.9m PV) with an annual average estimate of £4.3m:

- Transitional £5.9m (£5.6m PV) (over two years 2011-12 and 2012-13) cost to develop and implement CRSC.
- Transitional £7.8m (£7.3m PV) cost for contract negotiation and procurement reorganisation to benefit from lower supplier costs.
- Ongoing Programme resource cost to cover salaries, professional fees, travel and legal fees totals £5.8m (£5.5m PV). Average costs spread over 10 years = £0.6m/yr.
- Ongoing Web based maintenance cost to cover the annual costs associated with the maintenance of IT systems totals £37.5m (£31.5m PV). Average costs spread over 10 years = £3.8m/yr.

The projected costs are based upon similar development work that was undertaken for the VBS monitoring system and includes software development, changes required to the existing CRB application form, development of a payment process, development of new processes and changes to disclosure certificate printing.

This is an area of high risk as it involves ICT development across a number of systems, interfaces each operated by different suppliers, this means that all design, development and testing work will be challenging. Whilst engagement with the customers has occurred, there will be lower level design needs still to be captured - this adds uncertainty to the works, however the design of CRSC will be similar to the monitoring service that was due to be provided by the VBS - so this is not a greenfield development - a lot of knowledge is held and documented. The costs calculated have been based on similar work completed with the incumbent suppliers and several reviews of the ICT development work have been conducted with the business, project team and OCIO. Therefore a detailed understanding of CRSC exists, but there is still uncertainty given the need to develop across a number of systems.

Benefits

The delivery of a new premium disclosure service (CRSC) - was a key recommendation in both Reviews and responds directly to public concerns about the disclosure service highlighted by the Cabinet Office 'Your Freedom' website. The Criminal Records Status Check (CRSC) means that applications for a new disclosure certificate will only be necessary when there will be new information on that certificate. This new service will transform the disclosure service by introducing portability, ensuring individuals do not need to apply for repeat disclosure certificates, as well as shortening processing times. The design of the CRSC process results in portability of the disclosure products within different sectors and employment security levels and so reduces the requirement to apply repeatedly for a disclosure (by customers and employers alike). CRB research has found that, since introduction of the disclosure service in 2002, 55% of all disclosure applications are repeat and recheck disclosure applications; further sample analysis has found that 35% were repeat applications over a three year period. As a result of forecasted CRSC uptake, disclosure applications are expected to reduce from 3.75m in 2011/12 to 1.67m in 2016/17 providing direct financial savings to customers of between £26 and £44 per application (£26 for a standard disclosure, £44 for an enhanced disclosure).

The benefits are (see table at end of section) £277.3m (£221.9m PV) with an annual average of £27.7m. This includes:

- BEN01 - Reduced disclosure volumes leading to lower service costs. This includes lower 3rd party service costs £40.0m (£31.6m PV) and reduced CRB operating costs £57.3m (£46.6m PV). This totals 97.3m (£78.2m PV) but requires an enabler cost of £5m in Year 2 (included in cost section above).** Disclosure volume projections indicate a reduction of over 50% in five years, from 3.7m – 1.7m. Service and operating costs are volumes driven and therefore benefits will be realised due to a reduction in these costs. An enabler cost of £5m exists before benefits can be realised. The disclosure volumes are projected to fall by over 50% based upon uptake of CRSC. Currently, many employers will seek a fresh disclosure every three years, however the introduction of CRSC is expected to reduce the number of these applications because employers will only deem that they are required should new information be available in relation to an employee. The enabler costs equate to the cost to develop the new product in terms of capital expenditure
- BEN02 - Reduced employer costs for safeguarding service, which includes the avoidance of repeat Umbrella Body⁹ costs. This totals £28.2m (£22.6m PV).** The projected reduction in volumes will also mean that employers will not need to make as many disclosure applications, saving them on average £10 per application that they would have had to pay to an Umbrella Body (£10 average fee reduction derived from customer research – the fee is variable and an average has been used for modelling purposes). This equates to £10 per application made to an Umbrella Body projected as being:

2012/13 (half year)	2013/14	2014/15	2015/16	2016/217
33,000	69,600	334,800	480,000	480,000

- BEN03 - Reduced administrative cost for Registered Bodies¹⁰ which equates to £10 per application. This totals £102.1m (£80.6m PV).** The projected reduction in volumes will reduce the cost to Registered Bodies at an approximate rate of £10 per application in relation to their administrative costs. The volumes used here equate to the difference in volumes by year assuming that every application for disclosure has to go through a Registered Body

20/12/13 (half year)	2013/14	2014/15	2015/16	2016/17
153,333	306,667	306,667	1,189,800	2,077,867

- BEN04 - Reduced 3rd party supplier costs through re-competition. This totals £49.7m (£40.5m PV) but requires a transitional cost of £2.8m in Year 2 (included in the cost section above)** Savings on the supplier contract costs will be realised once new contracts have been agreed. An enabler cost of £2.8m exists before the benefit can be realised. This is a projected saving based on discussions with the incumbent suppliers. The enabler covers legal and professional fees
- Increased speed for employers filling vacancies.
- Reduced costs of these services to customers – although the cost of providing these services is met by customers, rather than directly by Government, it is important to note that 79% of disclosures that attract a fee are publicly funded and so will result in ongoing savings to the Government which will total at least £226.5m (£181.6m in PV terms) from CRR – see table below.
- Significant improvement to the customer experience, by reducing the time and effort for individuals and employers involved in completing the disclosure application process.

⁹ Organisations is a CRB registered body that allows smaller non-registered bodies to use CRB checks.

<http://www.businesslink.gov.uk/bdotg/action/detail?itemId=1084141776&type=PIP>

¹⁰ Organisations who have registered with the CRB to use the checking service are known as registered bodies.

<http://www.homeoffice.gov.uk/agencies-public-bodies/crb/partners-reg-bodies/>

- Remove the disruption and cost for individuals and employers when they are recruiting and waiting for the disclosure certificate by reducing the average elapsed time for an enhanced disclosure by 46 days¹¹.

(ii) Scaling back of the criminal records regime

(a) Enable decisions about the relevancy of information to be taken by any chief officer, rather than restricting such decisions to the chief officer of the force where the information is held.

Summary: Part V of the Police Act 1997 currently requires decisions about the relevancy of information for disclosure purposes to be made locally by chief officers in each police force where the information is held. Work is now well advanced to provide centralised access to police intelligence via the Police National Database (PND) and all forces should be using the first phase of that system by the middle of 2011. Before any move in the direction of centralisation could take place, Part V would need to be amended to enable any chief officer to take the relevancy decision and not just a chief officer from the force where the information is held

Costs: The CRB currently pays in excess of £28m (in total) per annum to all 59 police forces involved to collate police information and assess whether it is relevant for disclosure. Removing the requirement for each final decision about relevancy to be made by the chief officer of the force which holds the information creates significant flexibilities which could be delivered at minimal cost. Longer term, moving towards a more centralised process could lead to reduced operating costs for both the CRB and the police, enabling resources to be shared and efficiencies to be realised.

Benefits

- This measure provides a good opportunity to improve technology and business processes around the handling of police information/intelligence to enhance disclosure arrangements and save resources.
- The scope to allocate disclosure decision making work flexibly between chief officers in different forces would help to address bottlenecks and use spare capacity effectively. This would speed up the whole disclosure process, with benefits for both applicants and employers.
- Increasing the allocation of disclosure work to chief officers/forces with strong expertise and performance records in this area would contribute to the quality and consistency of the disclosure process.
- Using resources more effectively and efficiently by moving towards centralisation of the decision making process could create considerable financial savings.
- In particular, the CRB would save the costs of communicating with multiple police forces in relation to a single disclosure application. More substantially, the total number of police staff deployed on work linked to CRB disclosures across all forces could potentially be substantially reduced.
- However, no substantial work has yet been undertaken on the business process options for centralisation/regionalisation, so potential benefits cannot be quantified at this stage.

(b) Change the relevancy test the police apply to intelligence and other information which they hold from “might be relevant” to “reasonably believes to be relevant”.

Summary: This proposal strengthens the test which a chief officer must apply in deciding whether information should be included in an enhanced criminal record certificate.

Costs: This proposal reshapes existing activity. There are no additional financial costs.

Benefits: The current position requires chief officers to provide any information which they think might be relevant to whether the applicant is suitable for the role concerned. Such broad disclosure is not proportionate and fair to the applicant, particularly if the inclusion of a single piece of irrelevant information could be the factor which prevents them getting a job when they are in competition with someone with a “clean” disclosure. By strengthening the “might be relevant” test to a test of what the chief officer of police reasonably believes to be relevant, means what is disclosed will be more

¹¹ Sourced from CRB March 2011 and comprises an average of 21 days for an application to reach the CRB following signature by the applicant and an average time to process the application by the CRB of 25 days.

proportionate and fair to the applicants. Police officers are well used to reasonable belief tests, for example in relation to powers of arrest and stop and search under the Police and Criminal Evidence Act 1984 (PACE).

(c) Introduce the scope for the Secretary of State to issue guidance which the police must have regard to in making decisions about the relevancy of information.

Summary: This proposal enables the Secretary State to issue guidance to chief officers on deciding what information should be included in an enhanced criminal record certificate.

Costs: This proposal reshapes existing activity. There are no additional financial costs.

Benefits: The CRB have evidence that inconsistency exists, across the country, in terms of the decisions chief officers make about whether a particular piece of information may be relevant for disclosure. Officials have previously tried to address this problem through training and guidance (in the form of both Home Office circulars to the police and the development of a Quality Assurance Framework by the CRB). Linked to redefining the relevancy test, this power would allow the Secretary of State to issue guidance which the police would be obliged to have regard to when making relevancy decisions in order to achieve a much more consistent approach. It is important that these decisions are made on a consistent basis and statutory guidance would assist that.

(d) Remove the provision which allows for the disclosure of information to a potential employer even where the police judge that same information should not be disclosed to the person applying for the role.

Summary: Current legislation enables sensitive information to be provided to the registered body/potential employer without it being copied to the applicant. This proposal removes the statutory requirement for this disclosure. As a result, it will remain for the police, using their common law powers to prevent crime and protect the public, to pass such information to a potential employer only where they considered that to do so was justified and proportionate.

Costs: This proposal affects a very small proportion of cases, less than 0.01% of all applications for a certificate¹². There may be some small financial savings by eliminating the current procedure but they would be matched closely by the additional costs of disclosure using common law powers.

Benefits:

- The removal of the statutory obligation creates a more proportionate and fair system.
- It will help to emphasise the exceptional nature of the circumstances and the need for the police to justify the approach in each individual case.
- The disclosure test under the Police Act 1997 (1997 Act) would be higher than it currently is and this is considered appropriate for such an unusual type of disclosure.
- Civil liberties organisations cite this statutory procedure as an example of over-zealous disclosure.
- The number of such cases is small (between 200 and 300 per year) and the procedure is not used by all police forces in England & Wales. Scotland does not use such a procedure and the Independent Safeguarding Authority (ISA) will not, under current arrangements, use any information that cannot be disclosed to the applicant.
- More broadly, where there is clear justification to disclose information about an individual to their employer, the police should be doing that in a timely manner, regardless of whether there is a disclosure application live or not.

(e) Issuing certificates to the applicant only.

Summary: An application made under Part V of the 1997 Act is made by the individual and issued to the individual. However, the 1997 Act also makes specific provision for a copy of the certificate to be sent to the “registered person” who “countersigned” the application. This proposal seeks to remove the

¹² Based on an estimated of between 3.5 – 4 million total applications and 200 – 300 cases per year being subject to the old provision.

requirement for the certificate to go to the registered person, leaving certificates to be issued direct to the applicant only.

Costs: There will be minimal reduced costs per application as only one rather than two certificates will need to be produced and posted. The supporting processes will remain the same. The cost of each certificate printed is currently £0.346 and the cost of postage for each certificate is currently £0.20. There is also an electronic process called E Bulk which allows the electronic transfer of multiple applications to the CRB. Certain Registered Bodies are able to submit multiple applications to receive 'clean' disclosure results of the CRB checks via a secure government network or via an internet connection to the CRB, so a number of applications would be unaffected by this provision. The total saving is dependent upon total applications and the actual costs and savings will contribute to the recalibration of CRB's (fee) funding model. It is therefore considered to form part of "business as usual" costs and benefits and has not been quantified and included in the costs and benefits tables on pages 2, 5 and 24.

Benefits:

- The proposal would limit the issue of the certificate to the applicant only, who can then present the certificate to a prospective employer, therefore making the system fairer and more proportionate.
- It would allow the applicant to submit any representations against information to be released – overcoming a key criticism of the current process (seen in the Supreme Court judgement of R(L) v Commissioner of Police for the Metropolis), which does not allow for review and challenge before information is released to an employer
- It allows for the applicant to be in control of the process, giving them the opportunity to approach a prospective employer and provide background about why a particular record exists and, if appropriate, provide further explanation or context which is not apparent directly from the certificate.
- It prevents employment decisions being taken about the individual before representations are made or the additional context explained above. This is important, as anecdotal evidence suggests that a culture of suspicion has already been created against an applicant i.e. "no smoke without fire", even where successful representations are made.
- Under CRSC, the majority of applicants who would still have no criminal records information recorded against them could be easily verified by the on-line check.

(f) Improving systems for resolving disputes and representations.

Summary: Section 117 of the 1997 Act states that "Where an applicant for a certificate under sections 112 to 116 believes that information contained in the certificate is inaccurate he may make an application in writing to the Secretary of State for a new certificate". The proposal is for there to be an independent review of the dispute. It is proposed that the reviewer would be someone independent of the police with sufficient expertise to make relevancy decisions. They would review the information, seek any further representations which had not already been made and take the final decision on whether information should be disclosed

Costs: The proposal to involve the CRB's Independent Monitor in disputes about the relevance of information the police decide should be included on disclosures will have cost implications. Current statistics suggest there may be around 2,000 such cases per year. Many, but not all, will be straightforward. The Independent Monitor may require some additional administrative support. We have not yet modelled these costs in detail but they are unlikely to be substantial.

Benefits: Currently, whilst a dispute relating to information from the PNC matching decision can be handled by the CRB a dispute about the release of information by a police force is handled by the chief officer who made the decision to release. In most cases where a dispute of this nature is made the police will dismiss the dispute or where the dispute is not dismissed there are often only subtle changes to the text made rather than the information being removed. The proposal is to introduce an independent element into the disputes process. This would be by extending the role of the CRB's established Independent Monitor who would review the information, seek a view from the police, and take the final decision on whether information should be disclosed.

(g) Age limits.

Summary: Sections 113A(1) and 113B(1) of the 1997 Act state that the Secretary of State "must issue a criminal record certificate to *any* individual who makes an application in the prescribed manner and

form and pays in the prescribed manner and form”. The 1997 Act provides no limitations in terms of the age of the applicant and places a duty on the Secretary of State to issue a certificate where a valid application and fee have been submitted. The proposal is to make amendments to the 1997 Act to limit applicants to those aged 16 and above.

Costs: Financial impacts will be very small for applicants and for the CRB. In 2010 there were 7801 applications from those aged 15 and under (albeit the majority to those aged 15) which represents less than 0.2% of all applications made in that year. The maximum impact on businesses not having to pay for certificates for people aged 15 and under and the impact on the CRB who would not receive that revenue would therefore be £343,244¹³ per annum. However, it is likely that the majority of applications for those aged 15 and under would have been for volunteers posts and therefore would not attract a fee so the actual costs and benefits are likely to be significantly lower. These costs are therefore not included in overall cost/benefits analysis table and totals.

Benefits: This proposal responds to much criticism of providing certificates for those aged 15 and under, notably by organisations such as the Manifesto Club, and ensures a more proportionate approach for this age group. There are obvious civil liberties considerations in carrying out checks on minors. Introducing an age limit sends a clear message that children should not be placed in positions susceptible to such checks.

One-In-One-Out Costs

Combining the proposed changes to VBS and CRR together and considering that approximately 61% of all disclosures are paid for by the public sector and so only 61% of the total benefits in relation to Registered and Umbrella body admin costs can be realised by HMG, and of the disclosures which attract a fee (e.g. excluding disclosures to the voluntary sector), 21% are paid for by the private sector and 79% are publicly funded, we can determine the potential impact on business.

			Present Value (£m)	Annual Equivalent (£m)
Private Sector	Costs	VBS	0	0
		CRR	0	0
		Total	0	0
	Benefits	VBS	35.4	4.3
		CRR	40.2	4.8
	Net		75.7	9.1

Therefore the Net Equivalent annual benefit to business is £9,1m and this is the amount the policy will contribute to the one-in-one-out balance of the Home Office.

* Zero private sector cost because the CRR regime is funded by the public sector.

**May not sum due to rounding

¹³ This figure assumes that all applications would be for an enhanced disclosure costing £44 and that the volume of applications from those aged 15 or under would be the same as 2010 in future years.

BENEFIT TABLES (£m)

The profile of benefits is based on volume projections in the Outline Business Case.

				YR0	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8	YR9	Total	PV	Annual Average
CRR	BEN01	Reduced Application volumes leading to lower service costs	Reduced 3rd party supplier costs to handle lower volume	£0.0	£0.0	£2.0	£-2.9	£2.6	£6.7	£7.9	£7.9	£7.9	£7.9	£40.0	£31.6	£4.0
			Reduced CRB Operating Cost (Disputes, etc)	£0.0	£0.0	£5.3	£4.1	£3.2	£8.3	£9.1	£9.1	£9.1	£9.1	£57.3	£46.6	£5.7
	BEN02	Reduced Employer Costs for Safeguarding Service	Repeat Applications UB Costs (£10 Average) Avoided	£0.0	£0.0	£0.2	£0.7	£3.3	£4.8	£4.8	£4.8	£4.8	£4.8	£28.2	£22.6	£2.8
	BEN03	Reduced Admin Costs for Registered Bodies	Internal (£10) Admin Fees Avoided	£0.0	£0.0	£0.8	£3.1	£3.1	£11.9	£20.8	£20.8	£20.8	£20.8	£102.1	£80.6	£10.2
	BEN04	Reduced 3rd Party Supplier Costs through	OJEU Procurement Exercise	£0.0	£0.0	£0.0	£7.1	£7.1	£7.1	£7.1	£7.1	£7.1	£7.1	£49.7	£40.5	£5.0
	Sub Total				£0.0	£0.0	£8.3	£12.1	£19.3	£38.8	£49.7	£49.7	£49.7	£49.7	£277.3	£221.9
VBS	BEN05	Reduced Application Costs Compared with VBS Model	£20 saving per application for 9.2m disclosure population	£0.0	£0.0	£71.9	£68.9	£45.2	£0.0	£0.0	£0.0	£0.0	£0.0	£186.0	£168.7	£18.6
Total				£0.0	£0.0	£80.2	£81.0	£64.5	£38.8	£49.7	£49.7	£49.7	£49.7	£463.3	£390.5	£46.3

Total				Public Sector				Private Sector			
				Proportion	Total	PV	Annual Average	Proportion	Total	PV	Annual Average
CRR	BEN01	Reduced Application volumes leading to lower service costs	Reduced 3rd party supplier costs to handle lower volume	100%	£40.0	£31.6	£4.0	0%	£0.0	£0.0	£0.0
			Reduced CRB Operating Cost (Disputes, etc)	100%	£57.3	£46.6	£5.7	0%	£0.0	£0.0	£0.0
	BEN02	Reduced Employer Costs for Safeguarding Service	Repeat Applications UB Costs (£10 Average) Avoided	61%	£17.2	£13.8	£1.7	39%	£11.0	£8.8	£1.1
	BEN03	Reduced Admin Costs for Registered Bodies	Internal (£10) Admin Fees Avoided	61%	£62.3	£49.2	£6.2	39%	£39.8	£31.4	£4.0
	BEN04	Reduced 3rd Party Supplier Costs through	OJEU Procurement Exercise	100%	£49.7	£40.5	£5.0	0%	£0.0	£0.0	£0.0
	Sub Total					£226.5	£181.6	£22.6		£50.8	£40.2
VBS	BEN05	Reduced Application Costs Compared with VBS Model	£20 saving per application for 9.2m disclosure population	79%	£146.9	£133.2	£14.7	21%	£39.1	£35.4	£3.9
Total					£373.4	£314.9	£37.3		£89.9	£75.7	£9.0

*See section on 'Impact on Business' for explanation of the splits between public private sector benefits.

COST TABLES (£m)

The profile of costs is based on volume projections from the Outline Business Case.

		YR0	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8	YR9	Total	PV	Average	
CRR	CRSC Dev	£0.0	£3.2	£2.7	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£5.9	£5.6		
	BEN01 Enabler	£0.0	£0.0	£5.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£5.0	£4.7		
	BEN04 Enabler	£0.0	£0.0	£2.8	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£2.8	£2.6		
	Prog Resouce	£0.0	£3.8	£2.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£0.0	£5.8	£5.5	£0.6	
	Web Maintenance	£0.0	£3.5	£3.7	£4.2	£4.2	£4.3	£4.4	£4.4	£4.4	£4.4	£4.4	£37.5	£31.5	£3.8
	Sub Total	£0.0	£10.5	£16.2	£4.2	£4.2	£4.3	£4.4	£4.4	£4.4	£4.4	£4.4	£57.0	£49.9	
VBS	VBS	£0.0	£0.0	£71.9	£68.9	£45.2	£0.0	£0.0	£0.0	£0.0	£0.0	£186.0	£168.7	£18.6	
	Total	£0.0	£10.5	£88.1	£73.1	£49.4	£4.3	£4.4	£4.4	£4.4	£4.4	£243.0	£218.6	£22.9	

F: Risks

VBS

Option 1: By adopting this approach, the scheme will continue to attract accusations of disproportionality and cumbersome bureaucracy. Public faith in the process will continue to diminish.

Option 2: This will address concerns that stakeholders have raised through consultation, such as retention of a central barring function whilst removing the requirement for those affected by the VBS to register and be monitored. There are two key risks:

- There may be an increased risk arising from removing monitoring, as the absence of monitoring means that any new offences by persons working in regulated activities will not be picked up immediately; but will only come to light if any new check is made by an employer - including an updated criminal records status check (see below). This is mitigated by arrangements enabling employers to verify barred status and obtain criminal records checks in respect of regulated activities.
- Safeguarding risks may arise here: for example, if posts are no longer to be included in the definition of “regulated activities”, there is a risk that a barred person can undertake this work. The key will be to ensure that the definition covers those areas of work and access to children or vulnerable adults which are considered to provide the highest element of risk to those groups.

CRR

Option 1 would leave the CRB process open to continued accusations of being disproportionate and unduly burdensome on those who need to engage with it.

Option 2 will put legislative amendments in place to enable further work to be carried out. The effective implementation of some of these changes is, to some extent, subject to support and buy-in from the police and from customers of the CRB service. The affordability of this financial case for CRSC is predicated upon (1) the availability of the necessary Capital Departmental Expenditure Limit (CDEL) and Resource Departmental Expenditure Limit (RDEL) to support change activities and delivering business as usual, and, (2) ensuring the fees and charging for the products is acceptable to the customer and compliant with the directions within Chapter 6, Managing Public Money.

G. Enforcement

For the VBS, in addition to the duty to check on barred status, criminal sanctions are maintained in respect of working in regulated activities whilst barred, and knowingly employing a barred person in regulated activities. The duty to check is expected to be subject to supervision by the various regulatory bodies working in the relevant sectors. Criminal offences will be subject to police investigation in the normal way. It is proposed to repeal several criminal offences surrounding monitoring.

The only CRR proposal that touches upon enforcement is the one relating to the introduction of statutory guidance which the police must have regard to in making decisions on relevancy of information. This is deemed necessary and appropriate to ensure a consistent approach across the police.

H. Summary and Recommendations

The tables below outlines the costs and benefits of the proposed changes.

VBS Costs and Benefits

Table H.1 Costs and Benefits (monetised costs/benefits contributing to totals in bold)		
Option	Costs	Benefits
	NON-MONETISED COSTS	NON-MONETISED BENEFITS
2	Minimal financial costs to bring together two organisations to be known as the Disclosure and Barring Service. Costs to be paid using existing resources	More efficient and comprehensive service. Benefits to individuals who will benefit from the rebalancing of public protection with individuals' civil liberties.
	MONETISED COSTS	MONETISED BENEFITS
	Costs to CRB as their revenue will be reduced by £20 per application. The £64 registration fee will no longer be required to be paid by 9.3m people but there will still be an Enhanced Disclosure fee of £44. Present Value = £168.7m	Benefits to individuals as their costs will be reduced by £20 per application. The £64 registration fee will no longer be required to be paid by 9.3m people but there will still be an Enhanced Disclosure fee of £44. Present Value = £168.7m
Total	Present Value = £168.7m	Present Value = £168.7m

Source: Section E

Our preferred option is option 2, and our recommendation is to proceed with that option. This is informed by a consideration of the appraisal of the options set out in Section E, and of the risks set out in Section F. Option 2 is judged to provide more benefits than option 1. The risks in option 1 are considered to be greater than those in option 2; Section F sets out how it is proposed to mitigate the latter.

CRR Costs and Benefits

Table H.2 Costs and Benefits (monetised costs/benefits contributing to totals in bold)		
Option	Costs	Benefits
B	NON-MONETISED COST	NON-MONETISED BENEFITS
	Costs to customers purchasing CRSC service who will pay a subscription fee. (Costs not quantified)	Rebalancing public protection requirements with individuals' civil liberties by making the criminal records regime more proportionate.
	MONETISED COSTS	MONETISED BENEFITS
	Cost to develop CRSC = £5.6m PV Ongoing Resource cost = £5.5m PV Web Maintenance = £31.5m PV Benefit Enablers = £4.7m + £2.6m = £7.3m PV	BEN01 - Reduced service costs = £78.2m PV BEN02 – Reduced employer costs = £22.6m PV BEN03 – Reduced admin costs = £80.6m PV BEN04 – Reduced supplier costs = £40.5m PV
CRR TOTALS	Present Value = £49.9m	Present Value = £221.9m
VBS/CRR TOTALS	Present Value = £218.6m	Present Value = £390.5m

Source: Section E.

Our preferred option is option B, and our recommendation is to proceed with that option. This is informed by a consideration of the appraisal of the options set out in Section E, and of the risks set out in Section F. Option B is judged to drive a more proportionate and efficient CRB processes, and respond to customer expectation for an improved online checking service.

I. Implementation

These amendments will form part of the Protection of Freedoms Bill which is likely to receive Royal Assent in late 2011 or early 2012. The measures will come into effect in line with the implementation plan and subject to the timetable for passage of the Bill.

J. Monitoring & Evaluation

See Annex 1 which provides details of the post implementation review (PIR).

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their actual costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>To review existing policy.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>To ensure that the policy objective has been fully met and to consult with Ministers and stakeholders in terms of effectiveness.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review will comprise of a scan of stakeholder views and data monitoring to establish that the intended benefits of the scheme have been realised and to consider modifications as required, subject to Ministerial steer.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The recommendations and supporting stakeholder evidence contained within the VBS and CRR Reviews will provide the baseline scan of stakeholder views against which the impact of the changes introduced will be measured.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>That all policy objectives have been achieved as supported by stakeholder views.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>Statistical information on barring and disclosures; stakeholder and customer research, consultative forums and stakeholder management forums</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p> <p>N/A</p>

Annex 2. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

Please see Annex 4.

Neither the CRR or VBS reviews has an adverse effect on any equality strands. However, before the review there were major concerns from equality groups on three issues:

- concerns from transgender groups that enhanced disclosures reveal previous identities if crimes were committed under these identities. Effectively this “outs” transgender people.
- concerns from LGB groups that people who were convicted in the past under anti-homosexuality laws, which have since been decriminalised, have to declare the convictions, and similarly the enhanced disclosure lists their convictions for such ‘offences’.
- concerns from age and disability groups that the application forms and guidance documents put blind people and people with poorer sight at a disadvantage.

Recommendations have been made to address these issues (see Annex 4 Section 2.3). The CRR and VBS reviews have not affected these issues and the recommendations remain in place.

Economic Impacts

Small Firms Impact Test

The changes referred to above seek to retain a barring system whilst encouraging employers to take a more proactive role. It is arguable that the balance of responsibility in the VBS became too heavily skewed towards the state, whereas the employer and / or voluntary organisation are much more aware of the risks inherent in any particular situation. The VBS has been accused of encouraging a risk-averse culture, rather than one which promotes responsible risk management. These amendments seek to redress the balance so that employers at all levels are empowered to take greater responsibility for public protection. The amendments would apply to companies of all sizes that employ people in positions of trust classified as “regulated activities” and hence there would be no disproportionate impact on small firms.

Employers (and potential employers) will also benefit from the proposals. Strengthening the relevancy test will result in employers receiving a smaller, more focused and relevant set of information in cases where intelligence and other police information is disclosed. This will make their decision making processes easier and more straightforward. Improving the efficiency of disclosure arrangements by consolidating decision making will also benefit employers by improving the speed and quality of the whole process.

Social Impacts

Human Rights

Please also see the ECHR Memorandum of the Protection of Freedoms Bill, published on the Home Office website at <http://www.homeoffice.gov.uk/publications/about-us/legislation/protection-freedoms-bill/>.

The proposals to redefine the scope of “regulated activities,” abolish the concept of “controlled activities” and remove the registration and monitoring requirements of the VBS will all reduce state intervention and promote the “Right to Respect for Private and Family Life” under Article 8 of the Human Rights Act 1998. The result of implementing these proposals will mean that fewer individuals fall under the scope of the remodelled scheme and those that do will no longer be required to register and undergo monitoring as part of the process.

The proposal to remove provision which allowed disclosure of information to an employer even if it had not been disclosed to the individual applying for the post would have a positive impact on the individual

under Article 8 of the Human Rights Act 1998 (“Right to Respect for Private and Family Life”). In terms of protecting the public from possible harm though; it will still be possible for the police to forward information they believe to be relevant under common law powers. That material would not be disclosed to the applicant.

Justice

As these proposals are not creating new criminal offences or civil sanctions which have to be agreed by the Justice Secretary, there is no justice impact. The provisions relating to safeguarding in fact repeal a number of criminal offences, relating to monitoring.

Annex 3 – Background to the Vetting & Barring Scheme (VBS)

Vetting and Barring Scheme

The current vetting and barring regime was introduced under the Safeguarding Vulnerable Groups Act 2006 (SVGA). It followed the Soham tragedy, and the subsequent public inquiry led by Sir Michael (now Lord) Bichard, which reported in 2004.

The vetting and barring scheme (VBS) was based on Bichard's key recommendation to establish a scheme for the registration of people working with children or vulnerable adults.

Those registered would have no relevant information held on them which suggested they should be stopped from working with vulnerable groups. In development, the focus of the scheme moved primarily to a barring regime, intended to prevent those who presented a risk of harm from working with vulnerable groups.

The Scheme built on and replaced the previous barring processes, which were:

➤ **Protection of Children Act list (POCA)**

Under the Protection of Children Act 1999, regulated child care organisations in England and Wales - those providing accommodation, social and health care - had to refer people to the DCSF (now Department for Education) when they had dismissed or disciplined them for misconduct involving harm or the risk of harm to a child. They also had to check all new employees working in regulated positions.

➤ **List 99 (formally Information held under Section 142 of the Education Act)**

This list, introduced in 1926, barred people from working in schools, further education settings and council-run educational settings in England and Wales on the grounds of misconduct, unsuitability to work with children, inclusion on the POCA list or on medical grounds. New employees had to be checked against the list. Referrals were made to List 99 from a range of sources including schools, the police and councils.

➤ **Protection of Vulnerable Adults list (POVA)**

The Protection of Vulnerable Adults (POVA) scheme, as set out in the Care Standards Act 2000, was a system that banned people from working in care positions with vulnerable adults if they had harmed a vulnerable adult, or placed a vulnerable adult at risk of harm.

Care home, domiciliary care and adult placement employers had to check care staff against the POVA list. They also had to refer people to the Department of Health who had harmed a vulnerable adult or put them at risk of harm.

Under these schemes, barring decisions were taken by or on behalf of Ministers, on the advice of officials.

➤ **Court Disqualification Orders**

Part 2 of the Criminal Justice and Court Services Act 2000 introduced a requirement for Courts to impose an Order disqualifying a person from working with children (in a regulated position) when specific criteria were met. The definition of regulated position, which covered a wider range of posts across the children's workforce, was contained in the Act. For an Order to be imposed, the person had to be over 18, have committed a specified offence against/relating to a child and receive a qualifying sentence. In such cases the judge was required to issue the Order unless they were satisfied that the person would not commit a further offence against a child. Where the person was under 18, a Disqualification Order would only be imposed where the judge was satisfied that the person was likely to commit a further offence against a child. In addition, the judge has discretionary powers to impose an Order where the qualifying criteria were not met.

The legislation also introduced a minimum period before which the Disqualification Order could be reviewed – 10 years for those aged 18 or over and 5 years for those under 18.

Any person knowingly working, seeking or applying for work with children in a regulated position whilst disqualified committed a criminal offence and any employer, knowingly employing them in a regulated position, also committed an offence.

The requirement for a Court to impose a Disqualification Order (with a few exceptions) was repealed in Commencement Order Number 6 of the SVGA and replaced by inclusion on the ISA children's list.

The Vetting & Barring Scheme (the current scheme)

Barring under the current scheme

The key aim of barring, under both the VBS and previous schemes, is to prevent people who present a risk of harm to children or vulnerable adults from gaining access to them through employment.

The VBS applies equally to volunteers and organisations using volunteers, as it does to paid employees and employers. Under this scheme, the Independent Safeguarding Authority (ISA) was established to take barring decisions independently of Ministers. This followed the 'List 99' crisis in January 2006.

The scheme provides for two barred lists, which are maintained by the ISA:

- one relating to working with children; and
- one to working with vulnerable adults.

A person may be placed on one or both of the barred lists in one of two ways:

- Automatic Barring - arising from criminal offences. This falls into two categories, either "with representations" or without - the latter for the most serious offences (convictions or cautions) which clearly demonstrate an ongoing risk of harm to children or vulnerable adults; or
- Discretionary barring - under which the ISA considers the full range of information available, including any representations on behalf of the individual, before reaching a considered barring decision.

The length of time before a Bar can be reviewed depends on the age of the individual when the Bar is applied. The three periods are:

- | | |
|--|------------|
| 1) If the individual is aged under 18: | One year |
| 2) If the individual is aged 18-25: | Five years |
| 3) If the individual is over 25: | Ten years |

VBS Registration and Monitoring

Schemes prior to the VBS did not involve any element of registration.

Under the VBS, people working with, or seeking to work with, vulnerable groups must register with the scheme. On application for registration, any criminal records information or relevant information from employers is referred to the Independent Safeguarding Authority (ISA) for consideration by the Criminal Records Bureau (CRB).

The ISA, as an independent decision making body, uses this information to make a legally binding decision as to whether the individual poses a risk to vulnerable groups and if so, should be barred from working with them. Projections suggest that more than 90% of those applying for registration would have no relevant information held on them. These individuals would not be assessed by the ISA.

If an individual is barred from working with children or vulnerable adults – defined as regulated activity under the SVGA – they cannot be registered with the scheme.

Registration with the scheme facilitates ongoing 'monitoring' of those working with children or vulnerable adults. 'Monitoring' involves the collation of any new material (such as convictions, police cautions or referrals from employers and professional regulators like the General Medical Council) in relation to people registered with the Scheme. Where any new relevant information arises, it is sent to the ISA to consider whether a bar is necessary. The person may be barred based on such information, but is normally entitled to make representations to the ISA concerning the barring decision (except in the case of "automatic bars without representations").

The advantage of monitoring is that it enables new information which may be relevant to an assessment of 'risk of harm' in the workplace to be considered rapidly by the ISA; and any barred individuals can be quickly removed. In addition there are a number of other 'advantages';

- Registration is a 'one off' process that does not need to be repeated
- Registration is portable, in that registration with the scheme may be checked by employers without individuals having to complete any extra paperwork; and
- Employers are updated if someone becomes barred

The 'disadvantage' of this process is that over nine million people are estimated to work in the areas defined under the current scheme and all would be registered - including the vast majority (90% +) who have no 'adverse' information recorded about them.

Under the scheme it is an offence to:

- work or seek to work in regulated activities whilst barred;
- work or seek to work in regulated activities without being registered (that is, subject to monitoring);
- for employers, to knowingly employ a barred person in regulated activities; and
- For employers to employ someone in regulated activities without checking that they are registered with the scheme.

Should a person become barred whilst working, it follows that they cannot continue to work with children or vulnerable adults.



**HOME OFFICE
FULL EQUALITY IMPACT
ASSESSMENT
TEMPLATE**

Directorate	Civil Liberties and Public Protection Directorate
Unit	Safeguarding & Public Protection Unit
Date	18 May 2011

Name of Policy/Guidance/Operational activity

Proposed changes to

- The vetting and barring scheme (through the Protection of Freedoms Bill); and
- Part V of the Police Act 1997 (through the Protection of Freedoms Bill).

What are the aims, objectives & projected outcomes?

To make the vetting and barring scheme (VBS) and Criminal Records Bureau (CRB) processes more proportionate and effective through:

- Retention of a central barring function (enabling a state authority to bar those considered unsuitable for work with children and vulnerable adults).
- Significantly scaling back the scope of the VBS by redefining regulated activities (the range of posts to which barring applies), abolition of controlled activities, removing the registration and monitoring elements of the VBS.
- Continuing to make criminal records disclosures available to employers for posts that may not be covered by redefined regulated activities.
- Improving the speed and consistency of information provided by the police by centralisation of the decision making process, providing statutory guidance to police forces, tightening of relevancy tests and removing provisions which allow for information to be disclosed to potential employers but not to the applicants themselves.
- Introducing age limits for those eligible for a disclosure certificate.
- Introducing a process for handling disputes and representations.
- Only providing disclosure certificates to the individual applicant.
- Introducing a continuously updated disclosure service through a new Criminal Record Status Check (CRSC)
- Merging the services of the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) into a single, new NDPB which will provide a barring and criminal records disclosure service called the Disclosure and Barring Service (DBS).

1 SCOPE OF THE EIA

1.1 Scope of the EIA work

The prime beneficiaries of these proposals will be those applying for the VBS process and CRB customers. The removal of the requirement for registration will save some employees money. Employers (and potential employers) will also benefit from these proposals as information provided to them will be more relevant. This will make their decision making processes easier and more straightforward. Improving the efficiency of disclosure arrangements by consolidating decision making will also benefit employers by improving the speed and quality of the whole process, as well as benefiting public spending by being more efficient.

1.2 Will there be a procurement exercise?

No

2 COLLECTING DATA

2.1 What relevant quantitative and qualitative data do you have?

This may include national research, surveys or reports, or research done by colleagues in similar areas of work. Please list any evidence in the boxes below (complaints, satisfaction surveys, focus groups, questionnaires, meetings, email, research interviews etc) of communities or groups having different needs, experiences or attitudes in relation to this policy/guidance/operational area.

Race	The aim is to make the VBS process fairer to those undergoing it, regardless of race, religion, disability, gender, gender identity, sexual orientation or age, and as such there are no anticipated adverse impacts on equalities groups. It may be argued that certain minority groups are more liable to have criminal records than others and so are more likely to be affected by these proposals, but a counter argument would be that they are unlikely to be <u>adversely</u> affected. However, there is no available data to support or negate this argument. Legitimate discrimination in employment decisions in respect of criminal behaviour is justified by public protection arrangements where proportionate; and in part governed by law under the Rehabilitation of Offenders Act 1974.
Religion/ belief & non belief	As above
Disability	As above. See also section 2.3
Gender	As above
Gender Identity	As above. See also section 2.3
Sexual Orientation	As above. See also section 2.3
Age	As above IN 2009/10 just over 5000 applications were issued to applicants aged 15 and under, albeit the majority were for those aged 15. The submission of applications by those aged 15 and under has been subject to much criticism, notably by organisations such as the Manifesto Club. There are civil liberties considerations in carrying out checks on minors. The proposal is to make amendments in legislation to limit applications to those from people aged 16 and above.
Welfare of Children [UKBA ONLY]	Not applicable
Socio- economic	As above Registration for the VBS has been accused of being a tax on low paid workers, and the view has been expressed that those who will not have support from employers

	<p>are likely to be those who are on the minimum wage and least able to pay the registration fee. The removal of the requirement to register for the scheme would therefore counter this argument.</p> <p>Volunteers may be concerned that previously all services were provided free of charge, whereas now they may have to pay for the Criminal Record Status Check (CRSC).</p>
Human Rights	<p>The proposals to redefine the scope of “regulated activities,” abolish the concept of “controlled activities” and remove the registration and monitoring requirements of the VBS will all reduce state intervention and promote the “Right to Respect for Private and Family Life” under Article 8 of the Human Rights Act 1998. The result of implementing these proposals will mean that fewer individuals fall under the scope of the remodelled scheme and those that do will no longer be required to register and undergo monitoring as part of the process.</p> <p>The proposal to remove provision which allowed disclosure of information to an employer even if it had not been disclosed to the individual applying for the post would have a positive impact on the individual under Article 8 of the Human Rights Act 1998 (“Right to Respect for Private and Family Life”). In terms of protecting the public from possible harm though; it will still be possible for the police to forward information they believe to be relevant under common law powers. That material would not be disclosed to the applicant.</p>

2.2 What are the overall trends/patterns in this data?

The VBS and CRR reviews were conducted with reference in particular to key stakeholders and sponsor departments. Their evidence supported the view that the VBS was disproportionate, should be scaled back in the manner now proposed and that change should be made regarding disclosures to improve processes and ensure information is relevant, provided in a timely manner and with adequate provisions for complaints to be investigated.

2.3 Please list the specific equality issues and data gaps that may need to be addressed through consultation and/or further research?

For example, you may need to ensure qualitative data groups include stakeholders with respect to this policy/guidance/activity.

NB. Include any recommendations in your action plan.

1) The review of the VBS does not adversely affect any equality strands. However before the review there were concerns from trans groups that Enhanced Disclosures reveal previous identities if crimes were committed under these identities. Effectively this “outs” transgender people. A recommendation has been made to address these issues. The review of the scheme has not affected these issues and the recommendation remains in place.

Recommendation

Ensure that when an applicant has made use of the transgender application process, the previous identity and gender history is not revealed on the enhanced disclosure.

CRB is exploring the possibility of issuing criminal record histories without names or gender identity. This will involve IT 'system' changes, meanwhile, CRB will consider the possibility of using the manual Disclosure process to issue Disclosures without previous names or gender details

2) The review of the VBS does not adversely affect any equality strands. However before the review there were concerns from LGB groups that people who were convicted in the past under anti-homosexuality laws, which have since been decriminalised, have to declare the convictions making them seem to have a criminal record, and also “outing” them. Similarly the enhanced disclosure lists these convictions. A recommendation has been made to address these issues. The review of the scheme has not affected these issues and the recommendation remains in place

Recommendation

The requirement to declare decriminalised convictions when applying for an enhanced disclosure should be removed, and if there are no further convictions the applicant may state they have no criminal record. Any decriminalised convictions held on the police database will not be revealed on an enhanced disclosure.

The Government has commitment to, in effect, deleting historical convictions for consensual gay sex with over-16s (under s.12 and 13 of the Sexual Offences Act 1956) from police records upon application, so they no longer show up on a criminal record certificate.

3) The review of the VBS does not adversely affect any equality strands. However before the review there were concerns from age groups that the application forms and guidance documents put blind people and people with dyslexia or poorer sight at a disadvantage. A recommendation has been made to address these issues. The review of the scheme has not affected these issues and the recommendations remains in place

Recommendation

The application form and guidance documents should be redesigned to take account of people with poorer sight. Consideration should be given to supporting blind applicants, for example with an online form.

3 INVOLVING AND CONSULTING STAKEHOLDERS

In this section, describe the data you have gathered through stakeholder involvement and engagement.

3.1 Internal consultation and Involvement: e.g. with Other Government Departments, Staff (including support groups), Agencies & NDPBs

This work stems from two separate but ultimately complementary reviews.

A thorough review of the VBS was conducted in consultation with two other Government Departments, namely the Department for Education and the Department of Health. Following the announcement of the Terms of Reference for this review in October 2010, information was gathered from the organisations, agencies and other bodies involved in the vetting process, engaging with representatives of the UK’s devolved administrations and seeking the views of a wide variety of external stakeholders, a working group and a senior steering board which shaped emerging themes into recommendations for the review.

The other review, “A Balanced Approach,” was conducted by the Independent Advisor on Criminality Information Management, Mrs Sunita Mason. This review concluded that the Government should further consider the issue of soft intelligence disclosure and the surrounding processes. The evidence for this review was based on the views of a wide range of stakeholders as well as being drawn from professionals and officials within this field and across government.

3.2 External consultation and involvement: strand specific organisations e.g. charities, local community groups, third sector

General consultation was held with a range of organisations as in A.3.

For the Equality Impact Assessment of the original scheme specific consultation was held with::

- **a:gender**, “a support network for government staff who have changed or need to change permanently their perceived gender, or who identify as intersex”.
- **CEMVO**, The Council of Ethnic Minority Voluntary Sector Organisations who “work with black and minority ethnic, faith, women, age and disability related organisations to strengthen communities and tackle inequalities”.
- **Gires** who “sponsor research and education on gender identity”.
- **The Hindu Connection** which “provides support to Home Office staff of Hindu religion, as well as raising awareness of Hinduism to everyone”.
- **The Islamic Network** whose mission statement is “to communicate a clear understanding of generic Islam, influence areas of interest and support Muslim staff in the Home Office”.

- **MINAB**, The Mosques and Imams National Advisory Board who are “an advisory and facilitatory body which is community-led and independent. It works with and represents all Muslim traditions and schools of thought.”
- **Network**, a “network of staff committed to promoting and furthering racial awareness and equality within the Home Office and its agencies”.
- **Press for Change** is “a political lobbying and educational organisation [campaigning] to achieve equality and human rights for all trans people in the United Kingdom through legislation and social change.”
- **RNIB**, the Royal National Institute of Blind People “supports blind and partially sighted people”.
- **Spectrum**, a “network for lesbian, gay, bisexual, trans members of Home Office staff”.
- **Stonewall** who “work for equality and justice for lesbians, gay men and bisexuals.”
- **TREC** the Trans Resource and Empowerment Centre who “provide a centralised service for all trans and gender-variant people... reflecting the diverse needs of our community”.

Also invited to comment were:

- **Business in the Community** whose members “commit to improve the way in which they manage their resources, be that their people or the planet”.
- **Depend** are “a voluntary organisation whose aim is to provide support, advice and information for anyone who knows, or is related to, a transsexual person in the UK”.
- **The Fawcett Society** is “the UK’s leading campaign for equality between women and men. Where there’s an inequality gap between women and men we’re working to close it”.
- **The Institute for Race Relations** who “carry out research, publish and collect resources on race relations throughout the world”.
- **LGBT Consortium** whose focus is “around the development and support of LGBT groups, organisations and projects”.
- **MENTER**, a “Regional network for Black/ Minority Ethnic (BME) voluntary organisations and communities”.
- **OBAC**, the Organisation of Blind African Caribbeans, which “exists to ensure blind and partially sighted Africans and Caribbean people access relevant services, influence decision and policy makers, to enable them to overcome barriers that prevent them become active members of the community”.
- **PCS**, the Public and Commercial Services Union, is a trade union which campaigns “for fair pay and conditions, decent pensions for all and equality in the workplace and beyond”.
- **Rights of Women** “a women’s voluntary organisation committed to informing, educating and empowering women concerning their legal rights”.
- **ROTA Race on the Agenda** is a social policy think-tank “focusing on issues that affect Black, Asian and minority ethnic (BAME) communities”.
- **The Runnymede Trust**: whose mandate is “to promote a successful multi-ethnic Britain - a Britain where citizens and communities feel valued, enjoy equal opportunities to develop their talents, lead fulfilling lives and accept collective responsibility, all in the spirit of civic friendship, shared identity and a common sense of belonging”.
- **Unite** is “the union for the 21st century... created to meet the great challenges facing working people in the 21st century”.

On the review of the scheme further consultation was held with a:gender and the RNIB.

4 ASSESSING IMPACT

4.1 Assessment of the impact

These proposed amendments seek to eradicate inequality of opportunity for those seeking employment with a criminal record and to respond to the criticisms made of the VBS whilst maintaining an effective process for the protection of the public, in particular children and vulnerable adults.

The alternative option was to do nothing, which would not have fulfilled the aim of the Government, as stated in the Coalition Agreement, to review the VBS and criminal records regime and scale them back to “common sense levels”.

In this section please record your assessment and analysis of the evidence. This is a key element of the EIA process as it explains how you reached your conclusions, decided on priorities, identified actions and any necessary mitigation.

5 REPORT, ACTION PLANNING AND SIGN OFF

5.1 EIA Report

Equality Impact Assessment Report

Proposed changes to the Vetting & Barring Scheme (VBS) and Criminal Records Regime (through the Protection of Freedoms Bill)

BACKGROUND

The VBS was one of the previous Government’s key responses to the tragic murders of Holly Wells and Jessica Chapman by Ian Huntley in 2002. It was introduced under the Safeguarding Vulnerable Groups Act 2006 (SVGA) in line with recommendations made following the public inquiry led by Lord Bichard, which reported in 2004. The VBS was to apply to England, Wales and Northern Ireland. Scotland now operates its own distinct scheme but bars are recognised in each jurisdiction. The Channel Islands are aligned with England and Wales for disclosure services. The Protection of Freedoms Bill will provide them with an opportunity to opt in to remodelled VBS arrangements.

However, following criticism of the scheme, the Government committed itself to reviewing the VBS in its Programme for Government, in order to bring it back to common sense levels and to ensure that the right balance was struck between preserving individuals' civil liberties and maintaining effective public protection.

The Criminal Record Bureau (CRB) process is considered by some to be disproportionate and ineffective. The proposed amendments to Part V of the Police Act will make it more proportionate and effective through centralisation of the decision making process, provision of statutory guidance, tightening of relevancy tests and removal of provisions which allow information to be disclosed to potential employers but not to applicants themselves.

These proposals will make the CRB process more proportionate by removing the disclosure of potentially unhelpful information, much of which is unlikely to be relevant to employment decisions. By centralising processes, decisions will be more consistent and will save public funds, given that CRB currently fund approximately 1200 staff across 43 forces to collate and assess the necessary information

SCOPING THE EIA

The prime beneficiaries of these proposals will be those applying for the VBS process and CRB customers. The removal of the requirement for registration will save them money. Employers (and potential employers) will also benefit from these proposals as information provided to them will be more relevant. This will make their decision making processes easier and more straightforward. Improving the efficiency of disclosure arrangements by consolidating decision making will also benefit employers by improving the speed and quality of the whole process, as well as benefiting public spending by being more efficient.

INVOLVING AND CONSULTING STAKEHOLDERS

This work stems from two separate but ultimately complementary reviews.

A thorough review of the VBS was conducted in consultation with two other Government Departments - the Department for Education and the Department of Health. Following announcement of the Terms of Reference for this review in October 2010, information was gathered from the organisations, agencies and other bodies involved in the vetting process, engaging with representatives of the UK’s devolved administrations and seeking the views of a wide variety of external stakeholders, a working group and a senior steering board which shaped emerging themes into recommendations for the review.

The other review, “A Balanced Approach” was conducted by the Independent Advisor on Criminality Information Management, Mrs Sunita Mason. This review concluded that the Government should further consider the issue of soft intelligence disclosure and the surrounding processes. The evidence for this review was based on the views of a wide range of stakeholders as well as being drawn from professionals and officials within this field and across government.

ASSESSING IMPACT

These proposed amendments seek to eradicate inequality of opportunity for those seeking employment with a criminal record and to respond to the criticisms made of the VBS whilst maintaining an effective process for the protection of the public, in particular children and vulnerable adults.

The alternative option was to do nothing, which would not have fulfilled the aim of the Government, as stated in the Coalition Agreement, to review the VBS and criminal records regime and scale them back to “common sense levels”.

5.2 Sign-off

Date of completion of EIA	18 May 2011
Compiled by	Iain Fisher
SCS sign-off	John O’Brien
<i>I have read the Equality Impact Assessment and I am satisfied that all available evidence has been accurately assessed for its impact on equality strands. Mitigations, where appropriate, have been identified and actioned accordingly.</i>	
Date of publication of EIA Report	
Review date	

SUMMARY OF GOVERNMENT AMENDMENTS TO SAFEGUARDING AND VULNERABLE GROUPS ACT 2006 (SVGA)

The provisions of this part of the Protection of Freedoms Bill represent amendments to two prior pieces of legislation. Those amendments are listed below. The drafting assumes that the changes will ultimately be made, but this of course depends upon the will of Parliament. The substantive effects of the amendments are listed; technical changes to drafting are not shown.

At Introduction

- The scope of regulated activity, as it applies to children, is redefined. Some additions are made to the category, but the overall effect is to reduce its scope.
- The definition of ‘vulnerable adult’ in that Act is changed, such that it depends on the regulated activity being done, not the setting or the service provided.
- The scope of regulated activity, as it applies to vulnerable adults, is redefined. Some additions are made, but the overall effect is to reduce its scope. As a result of the amendments, any such activity will need to be done only once to count as regulated activity; currently, there is a period condition.
- A change is made such that referrals by CRB to ISA, for automatic barring (with or without representations) or for people referred on the grounds of behaviour or risk of harm, can be made only if the individual concerned has been, is, or might in the future be involved in regulated activity; currently there is no restriction. That restriction is also applied to whether somebody can be included on a barred list.
- When somebody is referred to ISA to be automatically barred (but such that representations can be made), ISA will now have to seek representations from the individual in question before making a barring decision.
- The parts of the Act dealing with controlled activity are repealed.
- The parts of the Act dealing with monitoring are repealed.
- Changes are made concerning the basis on which the police must provide ISA with information on convictions and cautions relating to people to whom barring provisions apply. Currently, they must provide information about those people to whom barring provisions ‘apply’; now it will be those to whom they ‘apply or appear to apply’. Currently, information is provided if it *might* be relevant; now it will be provided when the police *reasonably believe* it to be relevant.
- A change is made such that, when the CRB refers someone to ISA for automatic barring, they will have to send ISA certain prescribed information (about convictions, cautions etc.).
- A new section is added to the Act which will allow ISA to review someone’s inclusion in a barred list and, in certain circumstances, to remove them from it.
- The sections of the Act which allow employers and others to be informed if someone subject to monitoring becomes barred are repealed, because of the abolition of monitoring. They are replaced by provisions which allow those parties to apply to the Secretary of State to be told whether someone is barred or to register an interest concerning them such that they are told if they become barred. The person’s consent would be needed.
- New sections are inserted into the Act requiring regulated activity providers seeking to engage someone in regulated activity, and personnel suppliers seeking to supply them for that purpose, to check whether they are barred before permitting them to undertake that activity or supplying them for it. The sections explain how they can do that and allow the Secretary of State to exempt certain categories of people from the duty.

- Changes are made to the Act such that ISA cannot include someone on a barred list if they are known to be on the Scottish or Northern Ireland equivalent. The ISA would be able to remove someone for the same reason.
- Changes are made to the parts of the Act concerning keepers of registers (professional bodies – for example, the General Medical Council). The duty upon keepers of registers to supply information to the ISA becomes a power. The ISA will have to inform keepers of registers if someone on their register is on a barred list, and provide them with information relevant to that decision which it is appropriate to disclose, unless satisfied that they already have it. Keepers of registers will also be able to apply to ISA to find out reactively whether someone is barred, and to the Secretary of State to be notified proactively if such a person ever becomes barred.
- Changes are made to the parts of the Act concerning supervisory authorities (for example, Her Majesty's Chief Inspector of Schools in England). Supervisory authorities will now have merely a discretion (currently it is an obligation) to supply to ISA information that may be relevant to a barring decision. The Secretary of State's duty to provide them with barred list information will now not apply if the Secretary of State is satisfied that they already have it. ISA's obligation to supply supervisory authorities with information becomes merely a power and the ability of supervisory authorities to request information from ISA will be restricted to when it is required in connection with one of their functions; there is no such current restriction.
- An uncommenced provision of the Act is repealed, which would have required ISA to notify employers if it intended to bar someone, before any representations were received from them or a barring decision made.
- The duty on local authorities to provide information to ISA which may be relevant to a barring decision becomes merely a discretion to do so.
- ISA becomes able to provide information to the police for the purposes of their recruitment or for other purposes that may be prescribed; it can currently do so for various other reasons.

At House of Commons Committee Stage

- Various further changes are made to the scope of regulated activity for the purposes both of the children's and the vulnerable adults' barred list.
- Clarification is made that all references in legislation to 'vulnerable adults' should be taken as defined by the provisions set out in the Act.
- The provision of the Act enabling the Ministry of Defence to carry out barred list checks on training supervisors working for the armed forces in countries either England and Wales or another country is repealed.
- The ISA becomes able to provide to keepers of registers any relevant information that it considers appropriate, not just that concerning a barred person, as now.
- The ISA is given a duty to provide to the police, for any of the reasons specified for its existing power, information about whether someone is barred. In addition, for the purposes of protecting children or vulnerable adults, that duty is extended to providing it to the Prison and Probation Services. The ISA will have discretion to provide to the Prison and Probation Services other information which it reasonably believes to be relevant to them.
- Provision is made for the establishment of the Disclosure and Barring Service (DBS), with detailed provisions as to its members, staff, scope for delegation of functions, reporting, funding, status and other matters. The Secretary of State is given powers to dissolve the ISA and to transfer its functions and those of CRB to DBS, by making appropriate orders. Provision is made for transfer schemes in connection with those orders.

- Amendments are made to the safeguarding scheme in Northern Ireland to align the scheme with the changes being made to the safeguarding scheme in England and Wales (with some minor differences).

At House of Commons Report Stage (not yet debated at the time of publication)

- The Secretary of State will be required to publish guidance for regulated activity providers and personnel suppliers about appropriate supervision of activities which would otherwise amount to regulated activity relating to children. Providers and personnel suppliers will be required to have regard to that guidance.
- Technical changes in relation to the DBS.

SUMMARY OF GOVERNMENT AMENDMENTS TO PART V OF THE POLICE ACT 1997

At Introduction

- Criminal records certificates will now be issued only to applicants, not to registered bodies.
- The section of the Act permitting police to provide sensitive, non-conviction information to the registered body (only) is repealed.
- The duty on the Secretary of State to supply criminal records certificates is restricted to those aged sixteen or above.
- The Act is amended such that registered persons who countersign applications for criminal records certificates will have to be aged eighteen or over.
- Various changes are made to the provisions whereby non-conviction/caution information can be included on a criminal records certificate. Police chief officers will be able to include only information which they 'reasonably believe to be relevant', rather than that which 'might be relevant', as now. The CRB will now be able to approach any 'relevant chief officer' to get this information, rather than each one that holds relevant information, as now. The Secretary of State will be able to issue guidance to chief officers on this issue, to which they must have regard. And applicants will be able to request a review of that information.
- Criminal records certificates will be able to be updated continuously; the CRB will be able to advise the requestor whether there is any new information.

At House of Commons Committee stage

- Reviews of non-conviction/caution information will be carried out by the Independent Monitor; in the original drafting of the Bill, it would have been by another police chief officer.
- A change is made such that parties other than the applicant are able to challenge the accuracy of information in criminal records certificates.