

My View

Sian Williams, employment solicitor at Flint Bishop Solicitors

How will the upcoming changes in the law surrounding ISA registering impact on employers?

Following the Government's decision to create a new public body responsible for overseeing employees working with vulnerable people, many employees will now be forced to undergo additional registration and administration processes, even if their CV, references and CRB check are clear – but what effect will this have on the employer, asks Sian Williams, employment solicitor at leading Midlands law firm Flint Bishop.

"From 12th October 2009, the law surrounding people who work with children or vulnerable adults is changing, and new measures will be introduced to prevent unsuitable people working with these groups, under the new Vetting and Barring Scheme (VBS).

A new public body has also been established to implement the scheme, which will be known as the Independent Safeguarding Body, or ISA. This body holds powers to bar unsuitable people from such positions.

This change in legislation and the establishment of the VBS is as a direct result of the Bichard Inquiry, commissioned following the murders of Holly Wells and Jessica Chapman, by school caretaker Ian Huntley in 2002. The inquiry recommended that a single system be established to vet all individuals working closely with children or vulnerable people, and ensure that unsuitable adults like Ian Huntley (who had previously been the subject of allegations regarding sex offences) cannot work closely with these groups.

From July 2010, all new employees, those moving jobs or those wishing to volunteer with groups working with children and vulnerable adults can register with the ISA, and from November 2010, registration is compulsory.

From this date onwards, it will be illegal to employ a new person who is not ISA registered, and it is the employee's responsibility to register themselves. Registration status of potential employees can be checked online for free, to aid employers.

Failure to comply with this law could result in both employers and employees having legal action taken against them – possibly resulting in a fine or custodial sentence for both parties.

Existing employees are not yet affected by the registration, but it is thought that the need for all employees to register will come into force by 2015. However, employers should note that the VBS does not replace the Criminal Record Bureau (CRB), under which checks will still need to be carried out before the candidate can be employed.

The ISA registration is simply a mandatory condition that a person must fulfil before a new employer can consider taking them on. The ISA is an independent body with decision-making powers to bar people from working with vulnerable adults or children. It differs to the CRB, as the CRB does not have decision making powers, it can only say whether a person has a criminal record.

ISA registration is straightforward, costs £64 per person (which is a one-off payment) and lasts for life; however, for volunteers, this registration is free. It is thought that by 2015, some 11.3 million people in the UK working with the 'at risk' groups will be ISA registered

For employers, the ISA represents a safeguard against unsuitable employees. Combined with a standard CRB check, it can inform an employer whether a person is considered unsuitable to work with children or vulnerable adults. As the cost of this service is met by the potential employee, it is likely that the impact on employers will be minimal, with ISA registrations usually taking no more than seven working days. Some employers are also required to inform the ISA if they dismiss an employee because the employee posed a risk to a child or vulnerable adult.

The information held on an employee is constantly updated by the ISA and employers can register to be notified if for any reason the employee loses their ISA registered status and is therefore unable to work with vulnerable groups.

This single system promises to be more effective in that information from different police forces and other relevant intelligence-based record keeping services will be grouped together.

This means that information on a person should be easily accessible, and will hopefully reduce the chance that information is not properly shared between agencies – the situation that resulted in Ian Huntley being appointed as a school caretaker.

Although these changes are undoubtedly an important step towards protecting vulnerable member of society, employers must still ensure that they perform rigorous checks of the employment history and references of potential employees. It is also vital that employers and business protect themselves by keeping up-to-date with this legislation and its changes, otherwise a costly fine or custodial sentence could ensue."

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