

Safer recruitment legislation

An NSPCC factsheet

May 2013

This factsheet outlines key legislation relating to safe recruitment in England, Wales, Northern Ireland and Scotland.

Following the murders of Jessica Chapman and Holly Wells by Ian Huntley in 2002, the Bichard inquiry made a number of recommendations to strengthen the systems that prevent unsuitable adults from working with children.

In order to create a UK-wide system for safeguarding children, the Safeguarding Vulnerable Groups Act 2006 was passed, covering England and Wales, alongside the Protection of Vulnerable Groups (Scotland) Act 2007 and the Safeguarding Vulnerable Groups (NI) Order 2007.

The Protection of Freedoms Act 2012, which became law on 1 May 2012, made a number of changes to the system in England, Wales and Northern Ireland.

England and Wales

The Safeguarding Vulnerable Groups Act 2006 established the Independent Safeguarding Authority (ISA) to make decisions about individuals who should be barred from working with children and to maintain a list of these individuals. The Protection of Freedoms Act 2012 merged the ISA with the Criminal Records Bureau (CRB) to form a single, new, non-departmental public body called the Disclosure and Barring Service (DBS).

Under the Safeguarding Vulnerable Groups Act 2006 it is an offence for an employer to knowingly employ someone in a regulated position if they are barred from doing so. It is also an offence for the individual who has been barred to apply for a regulated position (one which involves spending regular time working with children).

The Protection of Freedoms Act 2012 reduced the scope of "regulated activity" by focusing on whether the work is unsupervised (in which case it counts as "regulated activity") or supervised (in which case, organisations can request an enhanced criminal records check, but this will not include a check of the barred list). The new definition of regulated activity came into force on 10 September 2012 and was issued in conjunction with guidance on the level of supervision required to take work out of the scope of regulated activity.

The Safeguarding Vulnerable Groups Act 2006 also imposed the legal requirement on employers to refer to the ISA (now DBS) information about employees or volunteers who (may) have harmed children while working for them.

Northern Ireland

The Safeguarding Vulnerable Groups (NI) Order 2007 introduced safeguarding arrangements for workplace situations in line with those of England, Wales and Scotland. AccessNI was established in 2007 as Northern Ireland's criminal history disclosure service following the then Northern Ireland Office's decision to enable Part V of the Police Act 1997.

As in England and Wales, changes will be made to the system following the Protection of Freedoms Act 2012, although the NI Executive have still to legislate for some of the measures relating to use of criminal record information and the mechanism for enhanced disclosures. The new definition of "regulated activity" came into force on 10 September 2012, and in December 2012 the new Disclosure and Barring Service (DBS) began to carry out the ISA's current barring functions in Northern Ireland. AccessNI will continue to provide a disclosure service for Northern Ireland.

Scotland

The Protection of Vulnerable Groups (Scotland) Act 2007 established Disclosure Scotland as the agency to undertake vetting checks, issue disclosures and make decisions on adding individuals to the barred list.

It introduced the offences of employing a barred person in regulated activity and a barred person seeking work in regulated activity.

It imposed a legal duty on organisations to refer information to Disclosure Scotland if they believe an employee or volunteer has harmed, or may have harmed, a child.

It also sets out the framework for the Protecting Vulnerable Groups (PVG) Scheme, which was introduced in February 2011. It aims to phase the whole of Scotland's vulnerable groups workforce onto scheme membership over a period of four years, eliminating the need for PVG Scheme members to complete a detailed application form for every new job in which a disclosure check is required. Although it is not a legal requirement that a person doing regulated work is a member of the PVG scheme, the only way for a person to prove that they are not barred is to become a member.

References

England and Wales

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Page 4 of 4

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