

VULNERABLE PERSONS PROTECTION

A report of a presentation to the ERA by JONATHAN GULLIFORD of Co-operative Legal Services

This comes in next year and is likely to have a major impact on companies running visiting schemes involving either employees or volunteers.

The legislation is being brought in to replace the current system of Criminal Records Bureau (CRB) checks to protect vulnerable people.

It comes in the wake of Soham and other high profile cases where information about the risk which certain persons might present was available but could not be accessed.

The Act will reform current vetting and barring practices through a new Government organisation called the Independent Safeguarding Authority (ISA). It will centralise vetting and barring so that once a person has been cleared by the ISA their details can be checked nationwide.

The current CRB accreditations are currently not transferable, so someone who referees children's football matches, coaches swimming, helps in schools etc, may need three different certificates from the same authority.

Among the 'vulnerable people' covered by the Act will be those:

In residential accommodation

Sheltered housing

Domiciliary care

Health care

Receiving a prescribed welfare service

Receiving a service or participating in an activity targeted at people with disabilities, age-related needs or prescribed physical or mental conditions

Receiving direct payment from a local authority

Unable to manage their own affairs

The Act covers 'regulated' and 'controlled' activity.

Regulated:

Frequent once a month

Intensive takes place in three or more days during a 30-day period

Employers refers to both employers and managers of volunteers

Employees refers to both paid and unpaid (volunteer) work activities

Under the Act it will be a duty of employers to make referrals to the ISA in certain specific circumstances either:

When the employer removes a person from regulated or controlled activity

Or when it would have removed that person but they left voluntarily

Providing that the reason for removing the person is because they are deemed to have

harmed or posed a risk of harm to children or vulnerable adults.

The duty is upon employers to provide as much of the following information as possible:

Identifying information

Evidence/details of employment history

Evidence of misconduct

Details of action taken and any further action to be taken

Details of all other agencies involved in investigating or pursuing any relevant incidents

Referrers information

Finding of employment tribunals

Employers details

The legislation will be phased in from October 12, 2009 over five years.

Phase 1 - new workforce and job movers

Phase 2 - existing workers who have never had a disclosure (this covers people with no previous CRB checks,. There is no timetable yet)

Phase 3 - workers with a disclosure over three years old

Controlled activity will be phased in last

The cost will be £64 for employees and free for volunteers.

You can keep up to date with the latest information regarding the new act at the ISA website:

www.isa-gov.org.uk