

Consultation

Launch Date 5 April 2005

Respond by 5 July 2005

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Making Safeguarding Everybody's Business: *A Post-Bichard Vetting Scheme*

Consultation on proposals to create a new centralised vetting and barring scheme for people working with children or vulnerable adults (paid or unpaid) in the light of vetting failures identified by the Bichard Inquiry.

A Consultation

To Those who work with children and vulnerable adults
(in particular those who employ people to do this work).

Issued 5 April 2005

If your enquiry is related to the policy content of the consultation you can contact The DfES Bichard Implementation Project team on:

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Please see above for contact details for the Bichard Implementation Project team.

Ministerial Foreword



The tragic deaths of Holly Wells and Jessica Chapman in Soham in 2003 highlighted the fact that not enough was being done to prevent unsuitable people from gaining access, through their work, to children and vulnerable adults. Sir Michael Bichard's Inquiry painted a vivid picture of the failures in our vetting and barring processes that were highlighted by the dreadful events in Soham. His report paved a way forward to help prevent such events happening again in the future.

When Sir Michael's report was published in June 2004, the Government accepted all of his 31 recommendations. One of the key recommendations was that Government should set up a registration scheme for everyone who works with children and vulnerable adults. In this document we set out our proposals for such a scheme. We very much welcome your views.

Children and vulnerable adults have a right to be able to trust those who work with them, and we must do what we can to help ensure that the tiny minority of people who might cause harm in these circumstances, are unable to do so. The new scheme will therefore play an important part in Government's wider strategy to safeguard children and vulnerable adults.

Our Every Child Matters: Change for Children programme is delivering a raft of far reaching and systemic reforms to ensure better outcomes for children and young people - including the important outcome of 'being safe'. We want to 'make safeguarding everybody's business', and we are also consulting separately on draft guidance for those local agencies who will have a new duty under Section 11 of the Children Act 2004 to safeguard and promote the welfare of children. Later this year we will consult on our detailed proposals for Local Safeguarding Children's Boards.

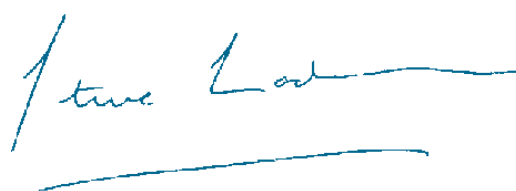
Our Green Paper 'Independence, Well-being and Choice' sets out our commitment to improving the quality of life of all older and disabled people. Giving people more choice, letting them decide where and how they want to live and improving the quality of services will help reduce abuse. We have also taken great strides to ensure that dangerous people are not involved in caring roles. The General Social Care Council is registering nearly 60,000 social workers and over 1400 referrals have so far been made to the existing Protection of Vulnerable Adults scheme.

Our proposal in this consultation is to design a more comprehensive and consistent system to help protect children and vulnerable adults. However, by itself the scheme cannot fully guarantee the safety of vulnerable groups from unsuitable adults who have not previously come to the attention of the authorities. It will be vital for employers at all levels to maintain sound recruitment and child and vulnerable adult protection policies and practice. We believe though that the scheme will provide a valuable instrument in ensuring that unsuitable people do not gain access to the vulnerable through their work, and that they are removed from such positions if they do.

We look forward to hearing your views.



Margaret Hodge,
Minister for Children, Young People and Families



Dr Stephen Ladyman
Parliamentary Under-Secretary of State for Community

1 Executive Summary

- 1.1 The Government proposes to create a new vetting and barring scheme for people seeking work, whether paid or unpaid, with children or vulnerable adults. This is in response to recommendations made by Sir Michael Bichard following his inquiry into the systemic failures that were highlighted by the tragic deaths of Holly Wells and Jessica Chapman in 2003.
- 1.2 The proposed scheme will build on the existing barring lists and Criminal Records Bureau services in order to provide a comprehensive, centralised, integrated and updated system to prevent unsuitable people from gaining access to vulnerable groups through their work and to ensure that those who become unsuitable do not continue in the workforce. A check of an applicant's barred status would be readily accessible to employers and to those employing carers under private arrangements, including parents.
- 1.3 It is intended that the scheme could begin operating by 2007 with interim improvements to current vetting and barring arrangements before that.
- 1.4 This consultation seeks your views on aspects of the proposals which will be crucial to the successful development and practical operation of the scheme and to the realisation of improved safeguards for children and vulnerable adults.

2 Background and Context

2.1 The Bichard Inquiry

- 2.1.1 An inquiry led by Sir Michael Bichard was commissioned by the Home Office in December 2003 following the conviction of Ian Huntley for the murder of Soham schoolgirls Holly Wells and Jessica Chapman. The Inquiry investigated failings in child protection measures, record keeping, vetting and information sharing. The Report setting out Sir Michael's findings and recommendations was published on 22 June 2004 and can be found at www.bichardinquiry.org.uk
- 2.1.2 The Government welcomed the publication of Sir Michael Bichard's report and accepted all of its 31 recommendations on 22 June 2004. A comprehensive implementation programme was put in place, ranging across the public services and involving a number of government departments and many other bodies.
- 2.1.3 A cross-Government report covering progress against the recommendations, together with plans and timetables for future work was sent to Sir Michael Bichard on 22 December 2004. This was made public on 11 January 2005. The progress report can be seen on the Home Office website at: <http://www.homeoffice.gov.uk/crimpol/police/bichard/index.html>.

2.2 Recommendation 19: "A registration scheme"

- 2.2.1 Recommendation 19 proposed the development of a registration scheme covering all those who work with children and vulnerable adults. The scheme, administered by a central body and with appropriate appeals mechanisms, would confirm that there is no known reason why an individual should not work with children or vulnerable adults. The register would be continuously updated with relevant information from the police and other bodies and available to prospective employers and parents for checking online.
- 2.2.2 Following discussions with key partners and a detailed feasibility study, the Government proposes a central scheme through which unsuitable people would be barred from working with children and/or vulnerable adults.
- 2.2.3 Sir Michael looked closely at this proposal when he reconvened his Inquiry in January 2005 following the submission of the Government's Progress Report. He states that it meets all the material requirements of his recommendation and that he is therefore happy to endorse it.

2.3 The Current System

- 2.3.1 The current vetting system operates through employers obtaining a CRB disclosure at either Standard or Enhanced level for new job applicants wishing to work with children or vulnerable adults. This enables employers to screen out the tiny minority from the workforce who are deemed unsuitable to work with these vulnerable groups. The difference between Enhanced and Standard Disclosures is that the former are for positions which involve greater (often unsupervised) contact with either children or vulnerable adults and therefore require an extra level of checking with local police force records.
- 2.3.2 Decisions on who is or is not unsuitable are taken locally, often by small employers who have relatively little experience of handling raw information about offences and allegations. Not all staff in child or vulnerable adult-related settings are eligible for an Enhanced Disclosure because workers need to have regular unsupervised contact with children or vulnerable adults to require one. The quality and relevance of soft information obtained from local police forces is variable and the disclosure certificate is only valid on the day of issue – it is not subject to updating.
- 2.3.3 The current vetting system is backed up by three separate barring lists operating under different legislation with different criteria and procedures: List 99 (the list of directions made under Section 142 of the Education Act 2002), Protection of Children Act List (POCA) and the Protection of Vulnerable Adults List (POVA). The barred lists are reactive (individuals are only considered for barring after harming, or placing at risk of harm, a child or vulnerable adult, or in the case of List 99 for professional misconduct issues as well) and only certain types of employers have a duty, or even a right, to refer employees whom they dismiss for harming a child or vulnerable adult to the barring lists.
- 2.3.4 In addition, work is being taken forward within Government to increase the scope of Enhanced Disclosures. This is in order to (a) ensure that all those who work with children or vulnerable adults are eligible for a disclosure at the enhanced rather than the standard level, and (b) extend the provisions of the Rehabilitation of Offenders (Exceptions) Order to include those who have indirect contact with children or vulnerable adults via the phone (for example, Childline counsellors or NHS Direct staff) or internet (for example, children's chat room moderators) and those who have substantial access to personal and sensitive information about children or vulnerable adults (such as those who operate databases of Social Services information).

3 The Proposals

3.1 Principles

- 3.1.1 Article 19 of the UN Convention on the Rights of the Child upholds children's right to be protected from 'all forms of physical or mental violence'. This scheme is designed to uphold that right by improving their protection from unsuitable people seeking access to them through their work.
- 3.1.2 On 2 February 2005, the Committee of Ministers of the Council of Europe adopted Resolution Res AP(2005)1 on safeguarding adults and children with disabilities against abuse. The new scheme would also support implementation of this Resolution.
- 3.1.3 The scheme fits within the DfES' wider 'Every Child Matters: Change for Children' programme which is introducing systemic change across children's services at local level. "Staying safe" is one of the five outcomes that children and young people have told us are key to well-being in childhood and later life. Clearly, preventing unsuitable people from gaining access to children through their work is an important element in our wider strategy to improve the way we safeguard and promote the welfare of children.

3.2 The Outline

- 3.2.1 The Government is developing proposals for a scheme that will build on and extend the existing barred lists and the infrastructure provided by the CRB and its network of registered bodies, delivering a system that is comprehensive, integrated in approach and with centralised judgements. The new scheme is designed to help ensure that:-
- Those who are known to be unsuitable do not get access to children or vulnerable adults in the first place;
 - Those working with children or vulnerable adults who become unsuitable are detected at the earliest possible stage and prevented from continuing in this work.
- 3.2.2 As explained in Section 2.2 above, Sir Michael gave a blueprint for how a scheme like this should operate. Building on his recommendations, the new scheme should:
- introduce a central scheme with access to relevant information about a person's suitability to work with children and vulnerable adults;
 - create a single point of reference with a comprehensive list of people who are deemed unsuitable, and therefore barred from working with children, and a separate but related list of people barred from working with vulnerable adults;
 - simplify the process, making it clearer and quicker, without sacrificing the rigour of current barring procedures;

- streamline the transfer of information between the police, the criminal records bureau and the new body;
- give the person concerned advance warning of what may be disclosed and a means of appeal so that their career is not put at risk by inaccurate disclosure;
- enable expert judgements on unsuitability to be made on the basis of relevant conviction, caution and reprimand information and available soft information;
- ensure that the final decision regarding the relevance of information is made by those with appropriate expertise;
- provide a route of appeal to those considered for listing on the barred register
- leave the final decision on whether to offer employment with the local employer on the basis of their comprehensive recruitment and selection procedures (including references, interview, etc). The exception will remain when individuals are listed as barred - employing someone on the barred list will remain an offence;
- be comprehensive in scope. It will extend the scope of vetting to include those employed by parents/ personal employers (such as nannies and carers employed by recipients of direct payments). It will also address growing concerns about types of indirect contact (phone and internet) that provide opportunities for grooming and about those with substantial access to personal and sensitive information relating to children and vulnerable adults.

3.2.3 The ability of the scheme to provide accurate and timely information is dependent on improvements to the CRB and police systems. We are working closely with the Home Office, the CRB and police organisations to make sure that the improvements being taken forward elsewhere directly benefit this scheme.

3.3 How the proposed scheme will work

3.3.1 We propose the creation of a central scheme to maintain a single list of those barred from working with children in any type of setting and a separate list of those barred from working with vulnerable adults. There will, of course, be individuals who are barred under both sets of criteria and named on both lists. Volunteering will be covered as well as paid work.

3.3.2 An application for an Enhanced Disclosure through the CRB would be the starting point for entry into the system. In those cases where information is revealed by a search, all potentially relevant information will be passed on to a central expert team to consider whether an individual should be barred from working with children or vulnerable adults. It will then be up to the expert teams in the scheme to decide on the relevance and seriousness of the information received and to make a decision as to whether that person is unsuitable to work with children and/or vulnerable adults. System improvements should speed up the process but this proactive barring assessment may delay the issuing of the Disclosure in the very small number of cases where an assessment needs to be made (see question 5 below).

- 3.3.3 Even where the initial search reveals no information, the fact that an Enhanced Disclosure has been carried out for work with children/vulnerable adults will be recorded by the CRB system. This will effectively be the equivalent of registration, since the record will be flagged so that any new information that subsequently arrives relating to a flagged individual will automatically be passed on to the barring scheme. This continuous updating will allow the barring decision to be kept under review.
- 3.3.4 Referrals will be received, as now, from employers when an individual's employment is terminated as a result of reasons associated with harm, or risk of harm, to children or vulnerable adults. It is intended that the range of employers and other bodies able to make referrals will be extended. The new barring scheme, supported by improved IT systems, will deal with these referrals using streamlined processes.
- 3.3.5 Where a decision is made to bar an individual on the basis of new information, for example from the police or from a referral, the employer or parent will be notified. The precise mechanism for doing this is currently being explored but the possibility of using the electronic audit trail provided by employers and parents undertaking online checks against the barred lists is being considered.
- 3.3.6 Whether or not an employer undertakes a CRB check on an applicant will depend on the nature of the job applied for. As is currently the case, there will be certain positions and situations where a check is mandatory while in others it will be up to the employer's discretion whether or not a check is necessary.
- 3.3.7 If an individual is new to the workforce they will need to get an Enhanced Disclosure from the CRB as this is the entry route into the new vetting scheme. On subsequent changes of job or position (where a check is desired or mandatory) the legal requirement on employers will be a check against the barred lists only.
- 3.3.8 Access to the barred lists will be available to all employers with a legitimate interest – this will include personal employers such as parents and those employing carers for vulnerable adults. Access to the barred lists will possibly be provided via the e-government gateway. In the case of small-scale and personal employers and parents, access may need to be mediated via a CRB Registered Body where e-government gateway access is not available.
- 3.3.9 An individual's barred status – that is, barred, not barred or under consideration – will be provided following entry of the individual's personal details, their CRB disclosure number and a security password. The act of checking an individual against the barred lists will enter that employer into the audit trail for notification of future changes to the individual's barred status. The above section relates to Question 1. To give your answer please proceed to the response section. The questions are also included in the main body of the document for reference.

Question 1: Do you agree that the proposed model for a central vetting scheme is appropriate?

3.4 Benefits of the proposed scheme

- 3.4.1
- for **children** – extending a measure of protection to a range of children who may currently be cared for by adults who are not checked;
 - for **vulnerable adults** – extending a measure of protection to situations where people currently working with vulnerable adults may not be checked;
 - for **parents** – providing a degree of reassurance about the people who work with their children, knowing that the authorities have no evidence that the person is unsuitable;
 - for **carers and families** – providing a degree of reassurance about the people who work with vulnerable adults, knowing that the authorities have no evidence that the person is unsuitable;
 - for **employers** – reducing some of the burden of taking vetting decisions (although they will still be expected to follow other aspects of good recruitment practice) and speeding up the checking process for those already in the workforce;
 - for **workers** – making it easier and quicker to gain employment and move between jobs in the children and vulnerable adult related fields once they are in the system.
- 3.4.2 The scheme should extend a more comprehensive and consistent measure of protection for children and vulnerable adults. However, by itself the scheme cannot fully guarantee the safety of vulnerable groups from unsuitable people who have not previously come to the attention of the authorities. It will be vital for employers at all levels to maintain sound recruitment and child and vulnerable adult protection policies and practice.

Question 2: Do you agree that the new scheme will have a positive impact in terms of improving safeguards for children and vulnerable adults by preventing unsuitable people from entering the workforce and eliminating them if new information comes to light?

Question 3: Do you agree that the new scheme will not have a negative impact on the way that you recruit and select individuals to work with children? Please describe any impact you anticipate.

Question 4: Do you agree that the new scheme will not have a negative impact on the way you recruit and select individuals to work with vulnerable adults? Please describe any impact you anticipate.

Question 5: Please state how quickly employers would need the majority of initial Disclosures to be returned in order to support effective recruitment practices. Also, please comment on the maximum acceptable timeframe for the tiny minority which have information that needs to be assessed and therefore take longer to process (including time for appeals if necessary). And please state whether any additional mechanisms could be put in place to support employers.

3.5 Key issues

3.5.1 *Extension of entitlement to CRB Enhanced Disclosures*

- 3.5.1.1 Two changes are to be made to current legislation regarding entitlement to Enhanced Disclosures. Firstly, all disclosures for work with children and vulnerable adults are to be at enhanced level (i.e. will include soft information, such as allegations, from local police forces). Secondly, entitlement to Enhanced Disclosures is to be extended to ensure comprehensive coverage of the child-related and vulnerable adult-related workforce.
- 3.5.1.2 We propose that the scope of entitlement to Enhanced Disclosures for people in child-related employment will include:-a) As now, all those who work primarily and directly with children and young people and their managers;b) Those in other jobs whose work offers them the opportunity for regular contact (including indirect contact by phone or internet - such as child-line operators or chat room moderators) or places them in a position of trust in relation to children (e.g. priests and police officers)c) Those who have substantial access to personal and sensitive information about children and young people (e.g. Information Sharing and Assessment database operators)

Question 6: Do you agree with the scope of child-related employment and therefore entitlement to Enhanced Disclosures? Please add any categories of people who may not be covered by this definition and state any difficulties with the definition.

- 3.5.1.3 Similarly we propose that the scope of entitlement to Enhanced Disclosures for people in vulnerable adult-related employment will include:-a) As now, all those who work primarily and directly with vulnerable adults and their managers;b) Those in other jobs whose work offers them the opportunity for regular contact with vulnerable adults (including indirect contact by phone or internet - such as NHS Direct staff) or places them in a position of trust in relation to vulnerable adults;c) Those who have substantial access to personal and sensitive information about vulnerable adults (such as social services information and medical records)

Question 7: Do you agree with the scope of vulnerable adult-related employment and therefore entitlement to Enhanced Disclosures? Please add any categories of people who may not be covered by this definition and state any difficulties with the definition.

3.5.1.4 The term "work" includes both paid and unpaid activity (volunteers) and will cover those who are self-employed (e.g. music tutors and sports coaches) and those employed to care for children or vulnerable adults under private arrangements, for example someone employed by a parent. This will extend the option of carrying out checks to a wider range of employment positions and settings than at present. It is not intended to cover those who come into contact with children or vulnerable adults as an occasional or incidental part of their work (e.g. retail sales staff or general sports/leisure club workers) unless the employer determines there is a particular risk or reason for doing so (e.g. swimming pool attendants).

3.5.2 Extension of compulsory checks

3.5.2.1 It is currently compulsory for certain employers to request a CRB Enhanced Disclosure for 'regulated positions' (i.e. particular job positions and settings that involve significant contact with children or vulnerable adults or where the situations could expose children or vulnerable adults to risk). For other positions and situations (such as in sports clubs, scouts and guides etc), it is left to the discretion of the employer whether they request a check or not. The guidance on this can be found at <http://www.homeoffice.gov.uk/docs/cjcsguide.html>.

3.5.2.2 In recent discussions with practitioners and employers, the majority have expressed a desire to extend the scope of compulsory checks to a wider range of positions and settings.

3.5.2.3 If we do extend the scope of positions for which a check is compulsory, this will impact on employers and applicants for these positions. Potential impact includes: penalties for non-compliance, changes to recruitment practices, increased cost of checking more people (although we intend that subsequent barred list checks should be free, employers or applicants could still have to cover the charge for the initial Enhanced Disclosure). On the other hand we believe that increased scope would ensure greater consistency in checking procedures and improved safeguards for children and vulnerable adults in these settings.

3.5.2.4 We are considering extending those settings or positions where a check is compulsory and would like your views on this. We suggest that where services are exclusively targeted at children or vulnerable adults (e.g. an under 14s football club as opposed to sports clubs at which under 14s are occasionally present) checks should be compulsory.

Question 8: Do you agree with the proposal to extend the categories of positions for which it should be compulsory to carry out a CRB check (or a subsequent barred list check) to include all those services exclusively targeted at children or vulnerable adults? Please name the groups of people whom you believe should be subject to compulsory checks.

Question 9: Do you agree that the impact of the increase in compulsory checks would be acceptable? Please state whether your answer refers to either children or vulnerable adults or both.

3.5.3 Checking the barred list

- 3.5.3.1 All new entrants to the workforce will need an Enhanced Disclosure in order to enable initial entry into the new scheme, thereafter it is intended that employers will be able to undertake a free and instant check of the individual's barred status (ie barred, not barred or under consideration - see section 3.5.7). This check will only tell you whether a particular individual is barred or not and will not give access to the additional information that an Enhanced Disclosure would provide, i.e. all offences and soft information, including those which are not relevant to their suitability to work with children and vulnerable adults in general, but may be relevant to their suitability for certain positions (eg. driving offences for a school bus driver).
- 3.5.3.2 When employing an individual to work with children or vulnerable adults, the employer would need to decide whether the online check of barred status is sufficient or whether they require an Enhanced Disclosure. By asking for the new disclosure, the employer would be seeking all CRB information including that which is not relevant to a barring decision, such as driving convictions.

Questions 10 & 11: In what situations would you request a new Enhanced Disclosure rather than simply checking the barred list for work with children / vulnerable adults?

- 3.5.3.3 Access to the barred lists will be available to all employers with a legitimate interest - this will include personal employers such as parents and those employing carers for vulnerable adults. Access to the barred lists will possibly be provided via the e-government gateway. In the case of small-scale and personal employers, access may need to be mediated via a CRB registered body where e-government gateway access is not available.
- 3.5.3.4 An individual's barred status will be provided following entry of the individual's personal details, their CRB disclosure number and a security password. This will ensure that a list check can only be undertaken with the consent of the applicant. The act of checking an individual against the barred lists will enter the employer into the audit trail for notification of future changes to the individual's barred status.

Question 12: Do you agree that a secure online checking facility is the best way for employers to determine whether or not an applicant is barred? Please state any concerns you may have about this approach.

- 3.5.3.5 We believe that, as now, it is the responsibility of the applicant to pay for an Enhanced Disclosure, although many employers choose to cover the cost. However, since we propose to make the online check of the barred list free at the point of access to the employer, it is possible that the cost of the initial disclosure may rise in order to fund the subsequent updating and online checking facility. This would be offset by the fact that it could be valid (that is to say, updated and able to be checked online) for 5-10 years. Alternatively there

could be an annual levy of registered bodies relative to the number of applicants processed. The details of funding arrangements have yet to be worked out. It is hard to put a price on the protection of the vulnerable but we must ensure that the system is affordable.

Question 13: How much per person per year would you be willing to pay for a comprehensive updated system which will reduce the need for repeat CRB checks and provide notification of change of barred status? Please comment on preferred funding arrangements.

3.5.3.6 Currently volunteers receive free Enhanced Disclosures, funded in part by the fee for paid workers' Disclosures. We believe that this should remain the case so that there are no barriers to people who wish to volunteer.

3.5.4 Child & vulnerable adult employment

3.5.4.1 We consider that where the state has a role in arranging or co-ordinating the employment or work placement of children under 18, there will be an expectation that effective child protection procedures will be in place and that these will be proportionate to risk. For example, we would expect an employer to check the person who has prime responsibility for overseeing children during extended work placements or Modern Apprenticeships but not to check all members of staff who may come into contact with them. Proportionality is important in order to ensure that the scheme does not act as a disincentive to employers offering work experience. This approach is in line with current guidance.

3.5.4.2 Where the state has no role in the employment arrangement (e.g. full time employment after leaving school or part time work outside school hours) we think it is not appropriate to require staff to be checked. However, we wish to ensure that employers have the option to carry out a check on the basis of their risk assessment. For example, where unsupervised contact with employees under 16 is central to the routine responsibilities of a particular position e.g. recruitment and management of weekend shelf stackers.

Question 14: Do you agree with the proposal not to impose a requirement on employers of children to check other members of their workforce who have contact with them, but to enable them to do so if they wish?

3.5.4.3 We believe that the principle described in section 3.5.4.2 above should apply equally to the employment of vulnerable adults. This would give employers the discretion to check members of their workforce who come into contact with vulnerable colleagues, but would not require them to do so. An employer may, for example, wish to carry out checks on colleagues working with staff with learning disabilities.

Question 15: Do you agree with the proposal not to impose a requirement on employers of vulnerable adults to check other members of their workforce who have contact with them, but to enable them to do so if they wish?

3.5.5 Enforcement

3.5.5.1 If an individual is listed as barred, it is currently a criminal offence for them to apply for, or continue in, relevant employment. It is also an offence knowingly to employ a barred individual in such a position (i.e. to employ somebody whom you know is barred). In both cases, the maximum penalty is 5 years imprisonment or a fine or both.

Question 16: Do you agree with the intention to keep the existing penalties for non-compliance?

Question 17: Do you agree that the same penalties (see above) should apply to private employers (such as parents) as to larger employers, where they knowingly employ a barred individual to work with children or vulnerable adults?

3.5.5.2 There are currently certain matters which are considered professional negligence rather than criminal issues. These include failure to carry out discretionary checks where they would have been appropriate and failure to share relevant information. We expect that professional and regulatory bodies will wish to play a role in developing different sanctions for different sectors to encourage compliance. This may include removal of, or restriction of, professional registration if appropriate.

3.5.6 Threshold for barring

3.5.6.1 The thresholds set for evidence and seriousness of offences will have a high impact on risk for vulnerable groups and also on time delays and costs of the scheme. A high threshold would bar only those applicants who have been convicted/cautioned of/for serious offences. This may result in some applicants who are unsuitable not being barred. Reliance on conviction data only would not have stopped Ian Huntley from being employed in a school. A low threshold would consider a wide range of offences and allegations and use a broader range of evidence to inform judgements. This would identify more borderline cases but would also be slower and more costly to administer. At present the current barring schemes are able to take into account such evidence.

3.5.6.2 We will continue to work with stakeholders and weigh up the evidence as we decide where to set the threshold. We are working from the principle that there should be no reduction in current levels of protection.

Question 18: Do you think that there should be a high barring threshold whereby only the most serious offences lead to barring meaning a quicker and cheaper system with fewer people barred; or a low barring threshold meaning that more offences and allegations are considered, more people are barred and the system is more expensive?

3.5.7 Under review or provisional listing?

- 3.5.7.1 Continuous updating will mean that the central vetting scheme will be informed of any new relevant offences committed by, and potentially also allegations against, those working with children or vulnerable adults. The agency will then assess the information and decide whether or not the individual should be barred. This may take time as the agency may need to investigate the circumstances behind the offence or allegation.
- 3.5.7.2 Under POCA and POVA, anyone who is referred to the scheme by an employer following dismissal or a disciplinary hearing, and where there is a prima facie case, may be provisionally listed as barred and unable to work with children or vulnerable adults. On the other hand, a referral to List 99 puts that person 'under review' – they are not barred and may continue working until the final decision is taken.
- 3.5.7.3 'Provisional listing' puts children's and vulnerable adults' interests first and is low risk. 'Under review' carries a higher risk in that it leaves to the discretion of employers whether or not to suspend an individual or to put in place additional safeguards such as continuous supervision while the barring process is under consideration. However, there have been concerns about false allegations and it should also be noted that less than 1 in 3 referrals across both schemes currently result in a final decision to bar.
- 3.5.7.4 Taking into account expected improvements to referral processes and to IT systems enabling speedier resolution of considerations, on balance we recommend that provisional listing be the approach adopted by the new scheme.

Question 19: Should an individual with relevant offences or allegations be 'under review' and therefore able to work with children pending the barring decision or should they be 'provisionally listed'? If they are under review, please state what interim safeguards could be put in place?

Question 20: Should an individual with relevant offences or allegations be 'under review' and therefore able to work with vulnerable adults pending the barring decision or should they be 'provisionally listed'? If they are under review, please state what interim safeguards could be put in place?

3.5.8 Wider sources of information

- 3.5.8.1 For the central expert team to make reliable, fair and accurate decisions on an individual's potential unsuitability, it is vital that they have as much relevant information as possible.
- 3.5.8.2 Police information on convictions, cautions, reprimands, warnings and allegations will be the main source along with employer referrals. In addition to this we are seeking to have secure information channels between the scheme and professional and regulatory bodies so that we are informed if they strike someone off their registers.

Question 21: Do you agree that the new scheme should take into account information from professional and regulatory bodies in considering an individual's suitability to work with children and vulnerable adults even if it delays the process?

- 3.5.8.3 We also consider it important for social services to notify the scheme when they have taken action in private family matters when the individual is working with children or vulnerable adults and the circumstances suggest that the individual could pose a risk.

Question 22: Do you agree that the new scheme should take into account referrals from social services in considering an individual's suitability to work with children or vulnerable adults?

- 3.5.8.4 We are working with the appropriate organisations to ensure that access to the information outlined above would not unduly delay the vetting or barring process.

3.5.9 Other consequences

- 3.5.9.1 We would like to know if you can foresee any additional consequences of the new scheme not mentioned here.

Question 23: What other consequences do you think the scheme might have for the children's workforce?

Question 24: What other consequences do you think the scheme might have for the vulnerable adults' workforce?

4 How To Respond

- 4.1 This form can be filled out online at <http://www.dfes.gov.uk/consultations/>. Or return a hard copy version to **Bichard Consultation, DfES Consultation Unit, Area 1A Castle View House, East Lane, Runcorn, WA7 2GJ**.
Or send an electronic version to bichard.consultation@dfes.gsi.gov.uk

5 Additional Copies

- 5.1 For additional hard copies please contact us at bichard.consultation@dfes.gsi.gov.uk or by post at **DfES Consultation Unit, Area 1A Castle View House, East Lane, Runcorn, WA7 2GJ**

6 Plans for making results public

- 6.1 We will publicise the results of the consultation on the DfES Bichard Implementation website and will use them to inform policy decisions as we take the work forward.