

A large, stylized graphic element consisting of a thick green border with rounded corners. Inside this border is a black square with a white border. The title text is centered within the black square.

**The  
Independent  
Safeguarding  
Authority**

**UNISON branch guide**

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# Introduction

This guide is to assist UNISON members who are required to register with the Independent Safeguarding Authority (ISA) Vetting and Barring Scheme and branches who may be required to assist members who are placed on the ISA Vetting and Barring Scheme barred lists.

The lists will consist of:

- a **Vetting and Barring Scheme approved list** which will only accept applicants who are judged not to pose a risk to vulnerable adults and children
- two separate barred lists, one showing those who are barred from working with children, one showing those who are barred from working with vulnerable adults. Barred individuals can be placed on one or both of these lists.

## What is the Independent Safeguarding Authority?

The ISA was established in January 2008 after being created by the Safeguarding Vulnerable Groups Act 2006. It is a non-departmental public body that will be based in Darlington that was created following the recommendations of the Bichard Enquiry into the Soham murders.

Using expert caseworkers it will consider Vetting and Barring Scheme referrals with the overriding aim of helping to avoid harm, or risk of harm, to children and vulnerable adults.

It will do this by preventing those who are deemed unsuitable to work with children and/or vulnerable adults from gaining access to them through their work in controlled or regulated activities.

# What are regulated and controlled activities?

**Frequently** is defined as once a week or more with the vulnerable group

**Intensive** is defined as four days or more in a 30 day period or overnight

**Overnight** is defined as the opportunity for face to face contact with the vulnerable group 2am – 6am

**Specified organisations** are local authority, health service, prison service etc

However, there are some activities where contact is less frequent than once a week where staff and volunteers should continue to be registered with the scheme, eg those who provide health and social care to vulnerable groups.

## Regulated activity

This is any activity of a specified nature that involves employed work or volunteering with children or vulnerable adults frequently, intensively and /or overnight.

Examples of these jobs include:

- paramedics
  - ambulance drivers
  - medical professionals
  - health care assistants
  - foster parents
  - childminders
  - prison officers
  - probation officers
  - school governors
  - trustees of certain charities
  - taxi drivers used by schools or care homes to transport children or vulnerable adults
  - people who help older, frail or disabled people with their shopping
  - St John's ambulance staff
  - private tutors
  - driving instructors who teach the under 18s
  - sports coaches
  - football referees
  - people who advise children who call ChildLine
  - mini bus drivers who take children to scout or brownie events or vulnerable adults on trips
  - directors of social services
- It also covers roles such as teaching, training, care, supervision, advice, treatment, transportation and fostering.
- This list of roles is not exhaustive.

## Controlled activity

This includes frequent or intensive support work, employed or voluntary, in general health settings, the NHS, The Health Service Northern Ireland and further education settings.

Also people working for specified organisations with frequent access to sensitive records about children and vulnerable adults and support work in adult social care settings.

Examples of these jobs include:

- cleaners
  - caretakers
  - shop workers
  - catering staff
  - car park attendants
  - receptionist
  - day centre cleaners
  - administrators in any setting where there is access to sensitive records about children or vulnerable adults ie hospitals, schools, children's detention centres and childcare premises.
- This list is not exhaustive.

## Most UNISON members will have to be registered with the Vetting and Barring Scheme

From 26 July 2010 the Independent Safeguarding Authority (ISA) new Vetting and Barring Scheme will replace the existing arrangements covered by the Protection of Vulnerable Adults (POVA), Protection of Children's Act (POCA) and List 99.

They will store information about people's Vetting and Barring Scheme status for employers and voluntary organisations to use when they are recruiting. Only applicants who are judged not to pose a risk to vulnerable people can be ISA-registered.

Once the scheme has been fully rolled out, employers who work with vulnerable people will only be allowed to recruit people who are registered. It will be an offence to employ someone in a relevant area of employment if you know they are not on the Vetting and Barring Scheme list.

The scheme will be phased in gradually over a period of five years starting on 26 July 2010.

Once the scheme has started you cannot start in employment, paid or voluntary, if you are not registered on the Vetting and Barring Scheme. You will be committing a criminal offence if you start in a new role and are not registered.

Your employer or the organisation you volunteer for will also be committing a criminal offence by not ensuring you are a Vetting and Barring scheme member before allowing you to start work or volunteer.

## **ACTION**

*Discuss with your employer the introduction of the ISA Vetting and Barring Scheme and which staff are likely to be affected.*

*What process will the employer use to check employees status after the 26 July 2010 introduction of the scheme?*

*Will the employer pay the ISA fees for existing staff to join the register?*

## **Do I need to pay to join the scheme?**

**Yes.** Each individual in paid employment is responsible for the scheme fee. This will be a one off fee as follows:

- England and Wales £64
- Scotland £59
- Northern Ireland £58

Volunteers in England and Wales will not have to pay for ISA registration.

In Northern Ireland, **Access Northern Ireland** determines the definition of a volunteer. However if your organisation does not currently pay for disclosures checks for volunteers they will not pay for ISA Vetting and Barring registration.

In Scotland, **Disclosure Scotland** will not charge a fee for Protection of Vulnerable Groups Scheme if the organisation you volunteer for does not currently pay for disclosure checks.

## **ACTION**

*Do you know which staff already have a CRB check?*

*Will the employer pay for existing staff that may need a CRB check from 26 July 2010?*

*Is the information on existing posts requiring a CRB check up to date?*

## **What information will be checked?**

The Vetting and Barring Scheme will assess every person who wants to work or volunteer with children or vulnerable adults in regulated and controlled activities. They will do this by working closely with the Criminal Records Bureau (CRB).

The CRB will receive applications to the Scheme and will gather and monitor information. It will also use the information previously found in:

- the Protection of Vulnerable Adults (POVA) list
- the Protection of Children Act (PoCA) list
- List 99 (a list of people considered unsuitable for work with children, held by the Department for Children, Schools and Families).

The Scheme will then assess this information and decide whether to give the individual concerned registration or put them on one or both of the Vetting and Barring Scheme barred lists.

## What if I am on the barred lists?

If you are registered on one or both of the barred lists you will not be permitted to work in regulated activity with children and/or vulnerable adults.

However, you may be able to work with children and/or vulnerable adults in controlled activities if your employer has safeguards in place.

Certain extremely serious offences will result in automatic barring. These offences fall into two distinct categories:

### **Automatic barring with no rights to make representations**

This list covers most serious offences against children and vulnerable adults, which indicate that an individual poses a risk or harm to children or vulnerable adults in every conceivable case.

There is no opportunity for the individual to make representation to the ISA about why they should not be barred because there can be no mitigating circumstances that might explain why these offences were committed.

### **Automatic barring with the right to make representations**

This list covers other serious offences that indicate a very probable risk of harm to children or vulnerable adults but not necessarily in every conceivable case.

Therefore it is necessary to give individuals the opportunity to make representations.

**At this present time representations can only be made by the individual in writing to ISA. Once the ISA receives an allegation individuals will have eight weeks to respond.**

## What information will be held on registrants?

Applicants will be assessed using data gathered by the CRB, including relevant criminal convictions, cautions, police intelligence and other appropriate sources. Using this information they will decide whether each person is suited to this work. Their records will be constantly updated and monitored as fresh information is gathered.

If new data indicates that an individual might pose a risk to vulnerable people, they will be put on one of the ISA Vetting and Barring scheme barred lists and their current employer will be informed immediately. Since 12 October 2009, it has been illegal for an employer to knowingly employ someone in regulated or controlled activity who is on the ISA Vetting and Barring Scheme barred list without the right safeguards in place.

## When do I need to register and what is the process?

From 26 July 2010 if you move into a new paid or voluntary role in regulated activity you can join the scheme before starting that role.

From 1 November 2010 if you move into a new paid or voluntary role in regulated activity you must join the scheme before starting that role.

All employees in regulated activity must register between 1 April 2011 and 31 July 2015.

All employees in controlled activity must register between 1 January 2014 and 31 July 2015.

Registration will start with employees/volunteers with no CRB checks in place followed by those with the oldest CRB.

### Exception

Students training for regulated activity roles where they are required to undertake placements in the workplace will be regarded as being in continuous employment and will not need to register straightaway.

Students who start their course after 26 July 2010 will be required to register before their workplace placements begin.

Your employer or manager should be able to advise you on when you should apply to join the scheme.

If you are already working in a controlled activity, you do not need to be with the scheme to work in these positions until 1 January 2014 at the earliest. However, it has been a criminal offence since 12 October 2009 for employers to employ a barred person in one of these positions without the right safeguards in place.

You will need to complete a form to apply for Scheme registration.

This form will be very similar to that used to apply for a CRB or Access NI checks. The CRB will check whether there is any relevant information from the police or referred information from other sources, such as previous employers or professional bodies.

If there is no information the CRB will inform the applicant that they are registered with the Vetting and Barring Scheme. If there is relevant information, the CRB will pass this to the Scheme, who will decide whether the referral merits an investigation.

If the Vetting and Barring Scheme is minded to bar an individual they have the right to make representations to the Vetting and Barring Scheme against this decision – this can only be done in writing.

## What happens if the member is not on the list?

If an employer checks the list and finds an employee or potential employee is not on it, it could be because they have not yet registered or they are barred. In either case they must not be employed.

## Can a job applicant be employed if they are not on the list?

**No.** If an employer wishes to employ a person who will be working with children or vulnerable adults then they must

## ACTION

*Agree local procedures with employers for handling cases where members are put on the ISA barred list.*

*Forms for an appeal can be obtained from the following websites:  
[carestandardtribunal.gov.uk](http://carestandardtribunal.gov.uk)  
[caretribunalni.gov.uk](http://caretribunalni.gov.uk)*

*For Scotland your representative must contact the Sheriffs Court and go through the summary application process.*

*Complete a CASE form and return it to the regional office.*

*Do not submit an appeal on behalf of the member without first receiving advice.*

ensure that the individual is Vetting and Barring Scheme registered before they start work. Anyone who applies for a job will need to provide their prospective employer with a Scheme registration number so they can check on that person's registration status, online, free of charge. The employer will not have to wait for written confirmation.

## **ACTION**

*Agree local procedures with employers for handling cases where members are not on the ISA Vetting and Barring Scheme list.*

*Did they admit an offence when employed or is this a post employment offence?*

*Is there a criminal offence or merely suspicion of inappropriate behaviour by an agency such as the police or social services?*

*Are there non-defined posts that they can be transferred to?*

## **What happens if I move jobs?**

Subsequent employers or service providers will be able to check an individual's status online free of charge. In most cases they will also be able to seek enhanced disclosure (which will contain information on any criminal records) from the CRB. As is currently the case, certain employers will be required to obtain enhanced disclosure.

## **What happens if a member is removed from the register?**

The member and their employer will be informed. It will become immediately necessary for the employer to remove the member from the job that gives them access to children or vulnerable adults. If the member is a registered professional, the relevant statutory registration body will also be informed that the member is no longer suitable to be on the Scheme registration list.

In all but the most serious cases an individual can appeal to the Care Standards Tribunal England & Wales, Care Tribunal Northern Ireland or Sheriffs Court Scotland. You will require advice and representation from UNISON either the region or national office and members should not submit an appeal without advice. The Care Standards

Tribunal, Care Tribunal and Sheriffs Court are courts and members appearing before them should be represented.

Appeals must be based on the grounds that the ISA has made a mistake on a point of law or a finding of facts.

If the appeal is unsuccessful they have the right to apply for a review after a set period after being barred (or convicted/cautioned for automatic barring offences): one year if they were aged under 18 when barred; five years if they were 18 – 24 when barred (or convicted/cautioned for automatic barring offences); 10 years if over 24.

Those who have committed the most serious sexual offences against children or vulnerable adults will be barred with no right to make representation or to appeal the decision. However, they will be able to apply for a review of their case after the minimum barred period.

An individual will only be taken off the Vetting and Barring Scheme barred lists following a review if they demonstrate that they are no longer a risk to children or vulnerable adults.

## ISA and devolution

The scheme will extend to England, Wales and Northern Ireland, although arrangements for application and appeals may differ slightly in Northern Ireland.

A separate but aligned scheme is being set up in Scotland under the Protection of Vulnerable Groups (Scotland) Act 2007. Anyone included on a barred list in Scotland will also be barred from working with children and vulnerable adults across the UK.

Further information on the ISA and additional UNISON advice and guidance can be found on the UNISON website at [unison.org.uk/prru](http://unison.org.uk/prru) and on the ISA website at [isa-gov.org.uk](http://isa-gov.org.uk) [pvg.enquiries@scotland.gsi.gov.uk](mailto:pvg.enquiries@scotland.gsi.gov.uk)

## ACTION

*Will the employer redeploy the member to a non-defined post while an appeal to the ISA takes place?*

*Will the employer continue to employ the member in a non-defined post pending the tribunal appeal?*

*Will there also be a hearing before a registration body if the member is in a registered profession?*

*Contact your regional office if the member has also been referred to their registration body.*



For further information or to join UNISON online  
go to [unison.org.uk/join](http://unison.org.uk/join)  
or call **0845 355 0845**

Textphone users call freephone **0800 0 967 968**

*Lines open from 6am to midnight, Monday-Friday  
and 9am to 4pm Saturday.*