

The future of safeguarding

Registration with the new Independent Safeguarding Authority will replace all existing mechanisms for checking those who work with vulnerable people

Following the Soham murders in 2002, the Bichard Inquiry reviewed how people are recruited to work with children and vulnerable adults, whether checks are sufficiently reliable and if employers should be held responsible for deciding whether an applicant can be employed safely. It led to the Safeguarding Vulnerable Groups Act 2006, which provides for a single agency to establish whether individuals who wish to work with vulnerable people are fit to do so. This will affect the position of all existing and newly recruited staff, and members should be aware of steps being taken in their own organisation to meet new requirements.

One agency, one list

Healthcare professionals are currently regulated by bodies such as the NMC and subject to Criminal Records Bureau (CRB) checks when seeking employment. They are also subject to a legislative framework that provides for the Protection of Vulnerable Adults (PoVA) and the Protection of Children Act (PoCA) lists, and the Department for Children, Schools and Families' List 99 of people considered unsuitable for work with children. These arrangements will all be superseded by the creation of the Independent Safeguarding Authority (ISA).

The ISA has a role under statute to prevent unsuitable people from working with children and vulnerable adults, and all potential employees and volunteers will need to apply to register with them. They will be assessed using data collected by the CRB, including relevant information on criminal convictions, cautions, police intelligence and other sources, and only those judged to not

pose a risk will be registered. Employers who do not ensure that employees are registered with the ISA could be subject to legal action. The ISA will have a wholly independent role from government and ministerial responsibilities, and a central part of its responsibilities will be the transition to a new Vetting and Barring Scheme. This will be in place by October 2009 for England, Wales and Northern Ireland, with comparable arrangements developed in Scotland.

Implications and concerns

Everyone involved in the care of children or vulnerable adults will be required to be registered with the ISA by 2014. This will be in addition to registration with statutory bodies such as the NMC. Those seeking registration with the ISA

will be required to pay a registration fee, currently set at £64 – something that will have to be taken into account with regard to future pay, since healthcare professionals and other health workers will be required to this in addition to fees for their statutory regulation. The process for ISA registration also includes a criminal record check, which employers pay for at the moment. From October 2009, all those applying for new jobs in the NHS and other areas covered by the new legislation will be required to be registered with the ISA, and this will raise the issue of duplication or potential duplication with existing requirements for health workers who are already on a professional register where they pay an annual registration fee. The arrangements that will be needed for co-operation between existing statutory regulators and the ISA provisions are unclear.

A further concern arises from how the ISA will make judgments and establish clear and transparent standards to determine whether someone should be registered or placed on the 'barred list', where they would be prevented from working with vulnerable individuals. There can be no question that the government's move to provide greater confidence in protection arrangements for children and vulnerable adults is supported completely. However, alongside this is a need to ensure that individuals are not treated unfairly within the new process. As the ISA scheme develops, it will be important to monitor how transparent and consistent the decisions that they make are, and what opportunity will be available for individuals placed on the barred list to defend themselves against the new authority's findings. The 2006 Act specifically provides for appeals that individuals can seek where they have been placed on the barred list, which must be based on the grounds that a mistake has been made on a point of law or any finding of fact that can then be challenged. For any members who find themselves in this position, the issue of providing support and advice may have to be similar to procedures the union has in place for those who are subject to investigation by the NMC or Health Professions Council.

A priority for members

For the overwhelming majority of members, there should be no cause for concern in the development of this new legal framework, though some may understandably be irked at the prospect of having to pay an additional £64 fee for registration with the ISA.

However, the key priority for all members and local representatives will be to ensure that their employing organisations have begun the process of providing appropriate arrangements within the workplace in order to meet the requirements of the new legislation fully.

Further information

For more information on the new authority and arrangements, please see: www.isa.gov.org.uk

Barrie Brown

Unite Health Sector lead officer for nursing

PHOTOLIBRARY

