

*These notes refer to the Safeguarding Vulnerable Groups Act 2006 (c.47) which received Royal Assent on 8 November 2006*

# SAFEGUARDING VULNERABLE GROUPS ACT 2006

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

#### *Overview*

8. The Act provides that:
- There will be two barred lists – one for those who are barred from engaging in regulated activity with children (the “children’s barred list”), and one for those who are barred from engaging in regulated activity with vulnerable adults (the “adults’ barred list”).
  - There will be an Independent Barring Board (“IBB”). The IBB will maintain the children’s barred list and adults’ barred list and will make decisions about whether an individual should be included in one or both barred lists.
  - There will be a right of appeal to the Care Standards Tribunal, with the permission of the Tribunal, against inclusion in a barred list on a point of law or on a finding of fact made by the IBB.
  - There will be four routes to inclusion on one or both of the barred lists (**see diagram at Annex D**).
  - Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for specified offences, or other criteria which may be specified (such as orders, foreign orders or directions, and inclusion on a foreign barred list). There will be no right for the individual to make representations nor a right of appeal in these cases.
  - Automatic inclusion on one or both of the barred lists as a result of receiving a caution or conviction for certain other specified offences or as a result of having met some certain other specified criteria. There will be a right to make representations and a right of appeal following inclusion.
  - Specified behaviour (the term “relevant conduct” is used in the Act) that leads to consideration for inclusion on one or both of the barred lists. This includes, for example, conduct which harms a child in the case of the children’s barred list, or conduct which harms a vulnerable adult in the case of the adults’ barred list, or conduct involving child pornography for both lists.
  - Risk of harm: where evidence suggests that an individual may present a risk of harm to children or vulnerable adults, this will lead to consideration for inclusion on the appropriate list.
  - An individual who is included in the children’s barred list must not engage in regulated activity in relation to children. An individual who is included in the

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adults' barred list must not engage in regulated activity in relation to vulnerable adults.

- Broadly, regulated activity will cover a range of specified activities that provide an opportunity for close contact with children or vulnerable adults, other activities in key settings such as schools and care homes which provide an opportunity for contact and key positions of responsibility such as the Children's Commissioner and the Director of Adult Social Services.
- There are a series of criminal offences to:
  - a. prevent barred individuals from engaging in regulated activity in relation to children or vulnerable adults
  - b. ensure that people permitted to engage in regulated activity in relation to children or vulnerable adults with the permission of a "regulated activity provider" are subject to monitoring
  - c. ensure that relevant employers check an individual's status in the scheme before permitting an individual to engage in regulated activity in relation to children or vulnerable adults
- To become subject to monitoring individuals will need to make an application to the Secretary of State, in the guise of the Criminal Records Bureau (CRB).
- The Act also confers power on the Secretary of State to make regulations about controlled activity. This covers certain activity other than regulated activity. There is no current intention to prevent a barred individual from engaging in controlled activity. But in part the regulations will be used so as to require employers (and others with responsibility for managing controlled activity) to put in place appropriate safeguards to manage the risks posed by barred individuals.
- Broadly, controlled activity covers support work in general health settings, further education settings and adult social care settings. It also covers work which gives a person the opportunity for access to sensitive records about children and vulnerable adults, including education and social services records.