

**EXPLANATORY MEMORANDUM TO  
THE SAFEGUARDING VULNERABLE GROUPS (BARRING PROCEDURE)  
REGULATIONS (NORTHERN IRELAND) 2008**

**SR 2008 No. 203**

1. This explanatory memorandum has been prepared by the Department of Health, Social Services and Public Safety and is laid before Parliament by Command of Her Majesty
2. **Description**
  - 2.1 These Regulations make provision in relation to some aspects of the procedure that the Independent Barring Board (“IBB”) will follow in exercising its barring functions under Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>1</sup> (“the Order”). They cover how individuals are to be invited to make representations against inclusion, or proposed inclusion, in one or both barred lists established and maintained by IBB under Article 6 of the Order, and the time within which they must do so. They also cover the periods which must expire before an individual is able to apply for a review of his inclusion in a barred list.
3. **Matters of special interest to the Select Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Background**
  - 4.1 The Order and the Safeguarding Vulnerable Groups Act 2006 (“the Act”) reform arrangements for safeguarding children and vulnerable adults from harm or the risk of harm by employees (paid or unpaid) whose work gives them significant access to these groups. The new arrangements introduced under the Order will replace those provided for under the Education and Libraries (Northern Ireland) Order 1986 (“the 1986 Order”) and the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (“the 2003 Order”).
  - 4.2 The Act creates IBB to establish and maintain lists of persons barred from work with significant access to each group that falls within the definition of regulated activity (see Schedule 2 to the Order), and to decide whether to include individuals in one or both lists. Schedule 1 to the Order provides for the inclusion of individuals in these new lists. These Regulations provide for points of detail necessary to make the processes under Schedule 1 work.
  - 4.3 People who are already subject to disqualifications under the existing regime (i.e. who are included in the lists kept under Article 3 (the DWC List) or Article 35 (the DWVA List) of the 2003 Order, or the list kept for the purposes of the

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<sup>1</sup> 2007 No. 1351 (N.I. 11)

Education (Prohibition from teaching or Working with Children) Regulations 2007 (the UP List) or who are subject to a disqualification order under Article 23 or 24 of the 2003 Order) must be included, or considered for inclusion, in the new lists in accordance with the provisions of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (“the TPO”). These Regulations will apply to those people as they will to those brought to the attention of IBB in the future.

4.4 Further detail on the legislative background to the Order is set out in an overarching explanatory memorandum on the implementation of the Order, at Annex 1 below.

4.5 These Regulations are the first to be made under paragraphs 15(1) and (2) and 18(3)(b) and (6) of Schedule 1 to the Order.

## 5. **Extent**

5.1 This statutory rule extends to Northern Ireland. A separate instrument has been made in relation to England and Wales.

## 6. **European Convention on Human Rights**

6.1 As the rule is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. **Policy Background**

7.1 The broader policy objectives of the Order are set out in the accompanying overarching explanatory memorandum (see Annex 1 below). In relation to these Regulations, four aspects of policy are particularly relevant, namely:

- the time allowed for an individual to make representations as to their removal from or inclusion in one of the new barred lists;
- the length of the “minimum barred period” (i.e. the period that must pass before an individual may first apply for permission to apply for a review of their inclusion in a barred list: see paragraph 18(3)(a) and (6) of Schedule 1 to the Order;
- the age at which a minimum barred period should be set at 10 years; and
- the length of the period within which an individual may not make any repeat application for permission to apply for a review of their inclusion in one of the barred lists.

## 7.2 **Consultation**

7.2.1 The Government formally consulted on the key aspects of its policy proposals behind regulations made under Schedule 1 of the Act and Order (these included the issues set out at paragraph 7.1). The title of the consultation was “*The Safeguarding Vulnerable Groups Act 2006 Barring Consultation*”. The consultation ran from 22 June to 14 September 2007.

7.2.2 There were 182 responses to the consultation. These came from statutory and voluntary organisations, across a range of sectors including health and social care, unions, national and professional associations, as well as parents. Respondents broadly agreed with all the proposals put forward in the consultation document.

i. Representations

7.2.3 The Government proposed that the period in which an individual must make representations should be eight weeks. There was strong support for this proposal. The majority of people felt that eight weeks was about right given the need to balance efficient operation of the scheme with providing individuals sufficient time to put their case to the IBB. IBB will have the ability to grant extensions where necessary.

ii. The minimum barred period

7.2.4 The Government proposed that the new scheme should distinguish between young people and adults for the purposes of setting the length of the minimum barred period. The suggested minimum barred period for adults was 10 years, whilst that for younger people was 5 years. There was general support for this proposal, although a number of organisations argued strongly that either the minimum barred period should not apply at all to under 18s or that a shorter period should apply. The key arguments put forward for this were the impact which being barred has on the development of a child under 18, and the capacity of this age group to change.

iii. Age at which the minimum barred period should be set at 10 years

7.2.5 The Government proposed that the age at which a minimum barred period of 10 years would apply was age 25 and over. There was strong support for providing for different lengths of minimum barred period dependent on the age of the barred individual. Respondents agreed that the age point of differentiation between a young person and an adult for this purpose should be 25 and not 18 as under the existing regime. This was mainly based on views that young people have capacity to change quite dramatically over a shorter period. In addition, the typical circumstances behind relevant types of young offending often involve some of the most vulnerable young people, and/or those more greatly influenced by their environment and peers. Once removed from the influences that have led, or contributed, to the offending behaviour, young people often show rapid improvement.

iv. Subsequent “no review” periods

7.2.6 The Government proposed that the period within which an individual may not make a further application to IBB seeking permission to apply for a review of their inclusion in one of the barred lists should mirror the relevant minimum barred period. Again, this proposal was supported by respondents.

### 7.3 Provisions in the Regulations

- 7.3.1 Representations: The Regulations set an 8-week limit on the right to make representations as to why a person should be removed from, or not included in, one of the lists barring them from work with children or vulnerable adults. Lessons learned from existing schemes suggest that eight weeks balances efficient operation of the scheme with providing individuals reasonable time to put a case together. As mentioned above, there was strong agreement to this proposal in formal consultation. IBB will be allowed to grant extensions in extenuating circumstances, such as in complex cases. IBB will be expected to draw up its own internal review processes to deal with instances which question the validity of a barring decision, for example mistakenly attributed information, or where a conviction was overturned.
- 7.3.2 Minimum barred period and “no review” period: The Regulations set the period that must elapse before an individual is eligible to seek a review of his inclusion in a barred list, and the starting point of that period. The Order calls this the minimum barred period. The underlying rationale here is that where a person has been barred from working with a vulnerable group, some time must be allowed to pass before it is reasonable to expect that person’s circumstances to have changed in such a way that barring may no longer be appropriate. Age is felt to have a big impact on the length of this period and arrangements under the existing regime apply a period of 5 years for those under 18 and 10 years for those aged 18 or more.
- 7.3.3 In the light of experience and advice from safeguarding experts the Government proposed that the age differentiation point in relation to the minimum barred period should be raised from 18 to 25. There are a number of reasons for doing this, including: patterns of behaviour are often not settled in those aged under 25; people under that age may be relatively immature; and the age difference between the ‘perpetrator’ and ‘victim’ of particular conduct may be minimal. Respondents to the formal public consultation on barring agreed to raising the age differentiation point to 25.
- 7.3.4 For those aged 18 to 24 the policy is that the minimum barred period should be 5 years. The purpose of this period is to ensure that vulnerable groups are safeguarded in a proportionate and fair way. In general we expect that if a relevant change in circumstances were to happen, it is likely to happen more quickly with those aged under 25.
- 7.3.5 In response to concerns raised by respondents to the barring consultation the Government has decided that the minimum barred period should be 1 year for those aged under 18. Also, for under 18s there is no automatic barring; IBB will make a balanced risk of harm assessment when considering cases. Although circumstances may change very rapidly for children in this age group, change is unlikely to happen ‘overnight’. IBB’s judgement should endure for a period of time in which rehabilitation can occur. If IBB is considering or undertaking a review, it will want to be able to assess whether a change in behaviour pattern has actually happened. It will also want to avoid nuisance repeat applications for permission for a review. IBB will not be able

to grant permission unless the individual's circumstances have changed in such a way that barring may no longer be appropriate. Even then the individual will need to satisfy IBB that he or she should be removed from the list.

7.3.6 Therefore the policy given effect by the Regulations is that, in relation to future cases, the minimum barred period and subsequent "no review" period should be:

- Aged up to 18 at point of listing, unsuccessful review, or application for review – 1 year;
- Aged 18 to 24 at point of listing (or at conviction/ caution, for auto-bar offences), unsuccessful review, or application for review – 5 years;
- Aged 25 or older at point of listing (or at conviction/ caution, for auto-bar offences), unsuccessful review, or application for review – 10 years.

7.3.7 Minimum barred period – cases considered under the TPO: before the disqualification under the existing regime (see paragraph 4.3 above) can be removed, those subject to them will have to be included, or considered for inclusion, in the new barred lists. This process will be governed by the TPO.

7.3.8 The policy in relation to those whom IBB is required to include in the barred lists (rather than considering whether they should be included) is that account should be taken both of the time that they had already been subject to a disqualification (in effect, to treat this as time already served) and of the minimum period that would have applied in relation to that disqualification, in the absence of the introduction of the new arrangements under the Order (5 years in relation to someone under the age of 18; 10 years in all other cases). By way of illustration:

- if a person was included in the list kept under Article 3 of the 2003 Order in 2004, and was then aged over 18;
- and if that person is included in the children's barred list under the TPO in 2008;
- first establish the period that he has been subject to that disqualification (from 2004 to 2008, so 4 years);
- subtract that period from the period of 10 years, because he was more than 18 when he was disqualified (10 minus 4 leaves 6 years);
- and you find that the person becomes eligible to seek a review 6 years after their inclusion in the new barred list i.e. 2014, in this example.

Criteria IBB will use in making barring decisions

7.3.9 The Government decided that, so far as possible, IBB should be given the flexibility to determine certain aspects of the barring procedure. Consequently, these Regulations do not cover the administrative criteria to be used by IBB when considering whether an individual should be included in a barred list. IBB will consider these criteria shortly and will be expected to publish guidance on them in due course.

## 8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this Rule as it has no impact on business, charities or voluntary bodies.

8.2 There is no adverse impact on those listed under Section 75 of the Northern Ireland Act 1998 therefore a full Equality Impact Assessment is not required.

## 9. **Contact**

9.1 **Eilis McDaniel** at the Department of Health, Social Services and Public Safety, Tel: 028 9052 6429 or email: [eilis.mcdaniel@dhsspsni.gov.uk](mailto:eilis.mcdaniel@dhsspsni.gov.uk), can answer any queries regarding the Rule.

**DHSSPS, May 2008**

Annex: over-arching explanatory memorandum

**EXPLANATORY MEMORANDUM ON THE IMPLEMENTATION OF THE  
SAFEGUARDING VULNERABLE GROUPS (NORTHERN IRELAND)  
ORDER 2007**

1. The Department of Health, Social Services and Public Safety prepared this memorandum and submitted it voluntarily to Parliament.
2. **Description**
  - 2.1 This over-arching explanatory memorandum explains the context to the first set of Statutory Rules to be laid before Parliament under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>2</sup> (“the Order”). These are;
    - The Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008,
    - The Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008,
    - The Safeguarding Vulnerable Groups (Prescribed Criteria) (Transitional Provisions) Regulations (Northern Ireland) 2008, and
    - The Safeguarding Vulnerable Groups (Barred List Prescribed Information) Regulations (Northern Ireland) 2008.

These rules are described in their respective explanatory memoranda.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative background**

**Introduction**

- 4.1 The Order and the Safeguarding Vulnerable Groups Act 2006 (“the Act”) provides for a new scheme to replace the existing arrangements for safeguarding children and vulnerable adults from harm or the risk of harm by employees (paid or unpaid) whose work gives them significant access to these groups. In 2005, the Department for Education and Skills ran a public consultation for the new scheme, “*Making Safeguarding Everybody’s Business: A Post-Bichard Vetting Scheme*”. That consultation paper and a summary of responses are at [www.dcsf.gov.uk/consultations](http://www.dcsf.gov.uk/consultations)
- 4.2 The purpose of the new scheme is to minimise the risk to children and vulnerable adults from those who might seek to harm them through their work (paid or unpaid). It seeks to do this by barring unsuitable individuals not just on the basis of referrals, but also at the earliest possible opportunity, as part of a centralised vetting process that all those working closely with children and/or

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<sup>2</sup> S.I. 2007 No. 1351 (N.I. 11)

vulnerable adults will have to go through. The new arrangements introduced by the Order will replace the existing arrangements provided for under the Education and Libraries (Northern Ireland) Order 1986 (“the 1986 Order”) and the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (“the 2003 Order”).

- 4.3 The current system for vetting people who wish to work with children or vulnerable adults operates through AccessNI, which issues criminal record disclosure certificates to employers who request them on new job applicants. The disclosure certificates issued by AccessNI give employers information about an individual’s criminal record history, which informs their assessments about the individual’s suitability to work with children or vulnerable adults. They also show whether a person has been made subject to a disqualification order (see below) or is included in any of the lists maintained by government departments of persons barred from working with children or vulnerable adults. These lists, which are subject to different legislation, criteria and procedures, are: the Unsuitable Persons List (kept for the purposes of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007), the Disqualification from Working with Children (DWC) List (kept under Article 3 of the 2003 Order), the Disqualification from Working with Vulnerable Adults (DWVA) List (kept under Article 35 of the 2003 Order) and equivalent lists held in England, Wales and Scotland. Disqualification Orders made by a court (under Article 23 or 24 of the 2003 Order) also bar individuals from working with children. Being on one of these lists or subject to a disqualification order is referred to below as being subject to an existing restriction.

### **Key features of the Order**

- 4.4 When implemented fully, the Order will replace the existing arrangements with a scheme with the following key features:
- 4.4.1 an **Independent Barring Board** (“IBB”): IBB was established on 2<sup>nd</sup> January 2008. It is a non-departmental public body sponsored by the Home Office. In relation to Northern Ireland, its primary functions will be to maintain the barred lists (see below) and to make decisions about whether individuals should be included in one or both lists;
- 4.4.2 **Barred lists**: there will be two barred lists – one of individuals barred from engaging in “regulated activity” (see below) with children (the “children’s barred list”), and one of those barred from engaging in “regulated activity” with vulnerable adults (the “adults’ barred list”).
- 4.4.3 There will be **four routes to inclusion** on one or both barred lists:
- i. automatic inclusion in one or both of the barred lists without the right to make representations or to appeal. Inclusion in the lists on this basis will happen only where a person has been convicted of, or received a caution for, one of a list of specified offences, or meet other prescribed criteria (such as being subject to an order, foreign order or direction of a



prescribed description, or being included in a specified foreign barred list) that indicate that an offender would pose such a high risk to vulnerable groups that he simply could not make a case for being permitted to engage in regulated activity;

- ii. automatic inclusion on one or both of the barred lists with the right to make representations as to why the person in question should be removed and a subsequent right of appeal following inclusion. Inclusion in the lists on this basis will happen where a person has been convicted of, or received a caution for, one of a further list of specified offences or as a result of having met some other prescribed criteria (which may be any of those described above);
- iii. inclusion on the basis that the person in question has engaged in "relevant conduct" i.e. that he has behaved in a way that that has harmed, or could have harmed, a child or vulnerable adult, or engaged in behaviour involving child pornography or of an inappropriate sexual nature. In this case, the relevant individual will have the opportunity to make representations before they are included in a list and will have a subsequent right of appeal;
- iv. inclusion on the basis that the person in question seems to IBB to pose a risk of harm to children or vulnerable adults. Again, in this case the relevant individual will have the opportunity to make representations before they are included in a list and will have a subsequent right of appeal.

4.4.4 When IBB receives any information, it must consider whether the individual to whom it relates should be included in either list.

4.4.5 **Appeals:** there will be a right of appeal (against inclusion in a barred list) to the Care Tribunal. Appeals will only be heard with the permission of the Tribunal, and only on the basis that a mistake has been made on a point of law or on a finding of fact made by IBB. On informing the barred person of IBB's decision, we expect that IBB will follow current practice of informing the barred individual by way of a decision letter of the factors taken into account in arriving at the decision to bar. We will shortly be making a set of regulations governing the procedure to be followed by the Care Tribunal in considering appeals under the Order.

4.4.6 **Regulated activity:** this is defined in Schedule 2 to the Order. Broadly, it covers 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 Commissioner for Children and Young People in Northern Ireland and the Director of Social Services of a Health and Social Services Board.

4.4.7 **Controlled activity:** this is defined in Articles 25 and 26 of the Order. Broadly, it 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, e.g. education or social services records, in certain settings. The Secretary of State has power to make regulations determining who may engage in controlled activity, what steps must be taken by the person permitting them to do so and the circumstances in which a person must not allow another person to engage in controlled activity.

4.4.8 **Monitoring:** to become “subject to monitoring”, individuals will make an application to the Secretary of State – in practice, to AccessNI. AccessNI will check any information relating to the individual and pass any that it discovers to IBB. IBB will then consider whether the person should be barred from working with children and/or vulnerable adults, or bar them automatically, where appropriate. The Criminal Records Bureau (CRB) must repeat these checks at intervals for as long as the individual remains subject to monitoring, again, passing on any information that it discovers to IBB.

4.4.9 **Offences:** there will be a series of criminal offences to:

- prevent barred individuals from engaging in regulated activity in relation to children or vulnerable adults;
- ensure that people permitted to engage frequently or intensively in regulated activity in relation to children or vulnerable adults with the permission of a "regulated activity provider" (usually, the employer) are “subject to monitoring” (see below);
- 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.

## **Transition**

4.5 Schedule 6 to the Order makes provision for the transition from the existing arrangements to the new arrangements provided for under the Order. During the transition period, all those who are subject to an existing restriction must be included, or considered for inclusion, in the new barred lists kept under the Order. This will happen in accordance with the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 and subject also to the provisions of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008.

4.6 Further detail on how the new scheme will work is in the Explanatory Notes to the Order at [http://www.opsi.gov.uk/si/si2007/pdf/uksi\\_20071351\\_en.pdf](http://www.opsi.gov.uk/si/si2007/pdf/uksi_20071351_en.pdf).

## **Grouping of implementation of secondary legislation**

4.7 We propose three main groups of secondary legislation:

- the first, providing for people subject to existing restrictions, to be included or considered for inclusion in the new barred lists;

- the second, to allow IBB to include, or consider for inclusion, in the new barred lists new cases of referral under existing arrangements; and
- the third, providing for the full commencement of the Order, the repeal of the legislation underpinning the existing arrangements, and the phasing-in of the duties under the Order in relation to different groups of employees who are seeking or engaged in regulated activity or controlled activity, all to start to take effect from a “go-live” date (i.e. the date from which inclusion in a barred list will take effect to bar individuals from engaging in regulated activity).

4.8 For each Statutory Rule, we will submit an individual explanatory memorandum setting out the detail of the SR. Government consultation on policy issues in these S.R.s included a formal consultation document in summer 2007 – details below.

4.9 The Statutory Rules for the first group will be as follows:

4.9.1 The Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 1) Order (Northern Ireland) 2008, S.R 2008 No. 127, which was made on 14<sup>th</sup> March 2008;

4.9.2 The Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (“the TPO”), which is to be made and laid subject to the negative resolution procedure and, as described above, will require IBB to transfer, or consider transferring, all those subject to existing restrictions to the new barred lists. Cases considered under this Order will be handled in accordance with the procedural regulations referred to at paragraph 4.9.3 (which are referred to in, and applied by, the TPO) and by reference to the regulations referred to at paragraph 4.9.4;

4.9.3 The Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008, which are also to be made and laid subject to the negative resolution procedure and will make provision in relation to the making of representations, and the periods that must elapse before a person may make an application for permission to apply for a review of their inclusion in one of the barred lists;

4.9.4 The Safeguarding Vulnerable Groups (Prescribed Criteria) (Transitional Provisions) Regulations (Northern Ireland) 2008, which are also to be made and laid subject to the negative resolution procedure and which will specify the criteria which will enable IBB to identify individuals it considers in accordance with the TPO who will not have the right to make representations as to their inclusion in the new lists;

4.9.5 The Safeguarding Vulnerable Groups (Barred List Prescribed Information) Regulations (Northern Ireland) 2008, again to be made and laid subject to the negative resolution procedure and will set out the information which must be retained by IBB in respect of those persons who are placed on the new barred lists.

- 4.9.6 In addition, a further set of regulations will be made which will set out the procedure to be followed by the Care Tribunal when considering appeals against decisions taken by IBB. These regulations will be made at the Northern Ireland Assembly under the Health and Personal Social Services (Quality, Improvement and Regulations) (Northern Ireland) Order 2003.
- 4.10 The intention is that the S.R.s referred to in paragraphs 4.9.2 to 4.9.5 should come into operation on 16th June 2008.

## **5. Extent**

5.1 The Order extends to Northern Ireland only. The provisions of the Order are mirrored in the Safeguarding Vulnerable Groups Act 2006 (“the Act”) which extends to England and Wales. Section 1 of, and Schedule 1 to, the Act which provide for the establishment of IBB, also extend to Northern Ireland. The Scottish Executive passed its own legislation, the Protection of Vulnerable Groups (Scotland) Act 2007, and is now consulting on its implementation.

## **6. Policy background**

6.1 The Bichard Inquiry Report (2004), at <http://www.bichardinquiry.org.uk>, identified systemic failures in current vetting and barring systems. These included the following factors:

- 6.1.1 inconsistent decisions were being made by employers on the basis of CRB disclosure information;
- 6.1.2 CRB disclosure information is only certain to be accurate on the day of issue;
- 6.1.3 inconsistencies between current lists, which operate under different legislative procedures;
- 6.1.4 an existing barring system which is reactive to harmful behaviour rather than preventive;
- 6.1.5 inconsistencies between police authorities in the disclosure of police information.
- 6.2 The aspects of policy most relevant to each of the Statutory Rules referred to at paragraph 2.1 are described in those Rules’ respective Explanatory Memoranda. Looking at the broader policy behind the Order, the intention is to address the failings identified at paragraph 6.1 and to put barring decisions into the hands of a body of experts that is independent of Government.
- 6.3 As described above, all those who are subject to current restrictions are to be included or considered for inclusion in the new barred lists. From a “go-live” date, inclusion on those lists will bar the relevant individuals from engaging in regulated activity with children and/or vulnerable adults (there is no current intention to prevent a barred individual from engaging in controlled activity, though those with responsibility for managing controlled activity will be

required to put in place safeguards to manage the risks posed by barred individuals).

- 6.4 It is anticipated that the current restrictions will fall away at that point (subject to any savings that may be necessary).
- 6.5 Because we are still finalising details about the later stages of implementation, a supplementary over-arching memorandum will be provided once further substantive details have been finalised. In addition, we will publish a suite of guidance documents to help intermediary bodies, employers, employees and volunteers clearly understand their rights and responsibilities under the new scheme. This will be published well in advance of the go-live date, now set at October 2009. Some key points in the guidance will depend on the outcome of current public consultation – see below.
- 6.6 **Public Consultation:** The Government consulted publicly in summer 2007. The results were published on 14 November 2007 at: <http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1476> . The explanatory memorandum with each Statutory Rule will, where relevant, give further detail on any consultation responses relevant to that SR.
- 6.7 We have also recently concluded a second, wide-ranging, formal consultation on implementation of the scheme. This is online at: <http://www.dcsf.gov.uk/consultations/conDetails.cfm?consultationId=1516> . This consultation set out in detail how it is intended that the IBB scheme will operate. The scheme is still being designed and systems built. This consultation invited views on a range of issues that are fundamental to implementing the IBB scheme. It covers:
- the definitions of children and of vulnerable adults;
  - further defining the scope of regulated activity and controlled activity;
  - eligibility to make checks on employee's status in the scheme;
  - how to apply to the scheme;
  - phasing-in of applications to the scheme;
  - the application fee;
  - referring information to the IBB; and
  - representations and appeals against barring decisions.

This second consultation closed on 20<sup>th</sup> February 2008.

## 7. Impact

- 7.1 England and Wales have already carried out a Regulatory Impact Assessment and after consideration it was concluded that the benefits outweigh the costs. The published Assessment for the overall Vetting and Barring scheme, signed by a Minister in July 2006, is available at: [www.dfes.gov.uk/ria/index.cfm?action=assessments.view&i\\_assessmentID=73](http://www.dfes.gov.uk/ria/index.cfm?action=assessments.view&i_assessmentID=73) . We are of the view, given the similarities of the Northern Ireland scheme, that we have no reason to conclude that the impacts would be any different in Northern Ireland.

## **8. Contact**

- 8.1 Eilís McDaniel at the Department of Health, Social Services and Public Safety, Tel: 028 9052 6429 or email [eilis.mcdaniel@dhsspsni.gov.uk](mailto:eilis.mcdaniel@dhsspsni.gov.uk) can answer any queries.

*DHSSPS, May 2008.*