

Your Legal Questions

Stephen Soper
Partner & Solicitor



Q. I run a care home. I currently vet some staff by making a Criminal Records Bureau (CRB) check but I understand that in the future I will have to make more checks. Is this true?

A. Yes. Following the Soham murders the Government has established a scheme to regulate all those who work with children and vulnerable adults at specified places including care homes, nurseries and schools.

A new body, the Independent Safeguarding Authority (ISA), has been established to oversee the scheme and to administer the Independent Barring Board (IBA) which has responsibility for maintaining lists of all those who are barred from working with vulnerable persons. The current system of CRB checks will continue and the new scheme will be in addition to it.

Since October 2009 employers must undertake enhanced CRB checks where previously standard checks may have been acceptable. These checks must now cover volunteers as well as paid staff.

More onerously, the legislation will require compulsory registration of all those working or volunteering to work in "regulated" and "controlled" activities at care homes, schools etc.. Employers will commit a criminal offence if, among other things, they:

- Recruit an employee without confirming their ISA registration
- Knowingly allow a barred person to work in a regulated activity
- Fail to report to ISA any individual who is considered to have caused harm or to pose a risk of harm to any child or vulnerable adult

Fortunately, there is a phased timetable for implementation. The barring list, the duty to make enhanced CRB checks and the duty to report those considered to pose a risk have been implemented. The duty on employers to ensure that new recruits are registered takes effect in November 2010 and this will be followed in early 2011 with the requirement for all existing employees and volunteers to be registered with ISA.

Stephen Soper is a Partner and Solicitor in the Commercial and Property Department of Powells Solicitors

Direct dial 01934 637915
soper@powellslaw.com