

## NEW VETTING AND BARRING SCHEME

### Guidance for GPs in England, Wales and Northern Ireland

August 2010

This guidance explains the steps that GPs need to take individually and as employers to ensure that they comply with the Safeguarding Vulnerable Groups Act 2006. It applies only to GPs in England, Wales and Northern Ireland, with separate guidance being prepared for GPs in Scotland.

The guidance is split into the following parts:

- Background
- Section A: advice to GMS contractors (except single-handed GP contractors), all salaried GPs and all locum GPs
- Section B: advice to single-handed GP contractors and to PMS contractors
- Section C: advice to APMS providers
- Section D: advice to GP partnerships
- Section E: advice to GPs as employers
- Section F: advice to GP practices who engage locum GPs

#### Background

The Safeguarding Vulnerable Groups Act 2006 was passed as a result of the Bichard Inquiry which was set up following the Soham murders in 2002. The Inquiry questioned the way employers recruit people to work with vulnerable groups. One of its recommendations was the need for a single agency to vet all individuals who want to work or volunteer with children or vulnerable adults and to bar unsuitable people from so doing.

To take this forward, the Independent Safeguarding Authority (ISA) has been created as the single decision making body for England, Wales and Northern Ireland. Scotland will set up its own similar authority linked to the ISA under the terms of the Protection of Vulnerable Groups (Scotland) Act 2007. As a result, new criteria are being introduced on who may work with children and vulnerable adults (which include all patients). This is referred to as the Vetting and Barring Scheme, and is being introduced in stages; with stage one having come into force on 12 October 2009. It differentiates between 'regulated activity' and 'controlled activity' work.

**For ease of reference, this guidance clarifies the type of primary care posts that fall under each type of activity and the actions required.** For a summary of 'regulated' and 'controlled' activity, please see the ISA's factsheet, *Regulated and controlled activities*, available at: [www.isa.gov.org.uk/PDF/283896\\_ISA\\_A4\\_FactSheetNo3.pdf](http://www.isa.gov.org.uk/PDF/283896_ISA_A4_FactSheetNo3.pdf)

The ISA has two barred lists. Those on the Protection of Vulnerable Adults (PoVA) and Protection of Children Act (PoCA) lists have been moved to an ISA barred list. The PoVA list was of people who are banned from working with vulnerable adults in registered care services in England and Wales, and the PoCA list was of those who are considered to be unsuitable to work with children in England and Wales. Those on List 99 (those banned from working in education settings in England and Wales) will in due course be moved to an ISA barred list.

Once ISA registration is available, the cost of registration with an enhanced CRB check should be a one-off payment of £64. This registration will continue, so that it will not need to be renewed if changing jobs. Those who are only working as volunteers will not pay a fee, but if they subsequently enter relevant employment they will be required to pay the fee current at that time.

The ISA's website is: [www.isa.gov.org.uk](http://www.isa.gov.org.uk)

When this guidance was originally written ISA registration was due to commence in July 2010. However, it is currently on hold following an announcement by the Home Secretary on 15 June 2010. The following information therefore highlights this.

**A. Advice to GMS GP contractors (except single-handed GPs), all salaried GPs and locum GPs**

Guidance for single-handed GPs and PMS GP providers is set out in section B below. Guidance for APMS providers is at section C.

The work of an NHS GP is 'regulated activity'. In this guidance reference to a 'GP' means those performing primary medical services with patient contact.

The following is the timetable for the implementation of the 2006 Act as it applies to GMS GP partners (not single-handed GP contractors), all salaried GPs and all locum GPs.

From 12 October 2009	It will be a criminal offence to seek or undertake work as a GP if you are on a barred ISA list (e.g. what was the PoVA and PoCA list). It is understood that most individuals would be aware if they were on such a list.
From 26 July 2010	<b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b> GPs in a <b>new</b> post <u>may</u> apply for ISA registration, but it will not be mandatory. From this date, ISA registration and an enhanced CRB check may be applied for using one form. GPs can apply for this through an umbrella body; your PCO should be able to provide you with details of the body.
From November 2010	<b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b> Registration will become <u>mandatory</u> for those starting a <b>new</b> GP post*. It will be a criminal offence to start such a new post without being ISA registered. A new post includes a freelance locum GP commencing work for new practice and a locum GP joining a new locum agency.
From 1 April 2011	<b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b> GPs in post who have never had a CRB check can <u>start to</u> apply for ISA registration. An enhanced CRB check can be applied for with ISA registration on one form. It is however unlikely that any GP will fall into this category given that most have sought a CRB check in order to be included on a PCO's Performers List.
From January 2012	<b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b> GPs in post who have had a CRB check three or more years ago can <u>start to</u> apply for ISA registration.

By 25 July 2015

**AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:**

All GPs\* will need to be ISA registered.

\*However, this does not appear to apply to a single-handed GP contractor or a PMS provider (see section B for more details). It may apply to an APMS provider (see section C for more details).

### **B. Advice to single-handed GP contractors and to PMS providers/contractors**

The Safeguarding Vulnerable Groups Act 2006 apparently does not require single-handed GP contractors or PMS contractors to be ISA registered. This was confirmed by the English Department of Health. However, the review of ISA registration which is currently underway may address this issue and confirm the situation.

Single-handed GPs and PMS contractors who employ staff and/or contract with locum GPs should also see the advice set out in sections E and F below.

### **C. Advice to APMS GP contractors**

Under the Safeguarding Vulnerable Groups Act 2006 where an APMS contract with a PCO is held by an individual, there is no requirement for the individual contractor to register with the ISA. However, where the contract with the PCO is held jointly (e.g. by a company), then those who are involved in the hands-on management of the contract and/or work as a GP will be required to register and should see the guidance set out in section A above.

All APMS practices that employ staff and/or contract with locum GPs should also see the advice set out in sections E and F below.

### **D. Advice to GP partnerships**

All GMS partners who work as a GP or have hands-on involvement in the management of the practice will eventually need to be ISA registered and should see the guidance set out in section A above. As confirmed by the English Department of Health, ISA registration does not apply to PMS contractors/providers as their contract for service with the PCO is held by individuals rather than by the partnership as a whole. See section B above for guidance to PMS partnerships/contractors.

All partnerships that employ staff and/or contract with locum GPs should also see the advice set out in sections E and F below.

A practice partner (GMS or PMS) will commit an offence now if he/she knows or has reason to believe that one of the partners is barred. Also once ISA registration is fully in place, it will also be an offence if a GMS partner fails to ascertain whether another partner is ISA registered.

### **E. Advice to GPs as employers**

This section explains the type of work that is currently regarded as regulated activity and that which is controlled activity. It also sets out the duty of the employer for those undertaking each type of activity. However, with the review of ISA registration these definitions might change.

#### Employees who undertake 'regulated activity'

Owing to the nature of their work, the following are classed as undertaking 'regulated activity':

- Salaried GPs
- Practice nurses
- Healthcare assistants
- Other healthcare professionals

The requirements set out in section A above apply to these groups.

Please see below for further details on the responsibility of a GP employer.

Employees who undertake 'controlled activity'

Employees who have regular contact with patients and/or patient's health records but do not give advice to patients are regarded as undertaking a 'controlled activity'. Also, the line managers of those who have such access undertake a 'controlled activity'.

The following are therefore regarded as undertaking 'controlled activity' work:

- Receptionists in a GP practice
- Practice managers

This is because the majority of practice managers will need to access patient data as part of their role. Furthermore, they are often the line managers of the receptionists, and as such their work is classed as 'controlled work'.

- Cleaners who are present when patients are in the practice.

To avoid falling foul of the law we advise GP employers to regard all practice staff (who are not otherwise regarded as undertaking 'regulated activity' and apart from cleaners who work when the surgery is closed) as performing 'controlled' work, and so to meet the requirements as set out below.

The responsibility of the GP employer:

It will be the responsibility of the GP employer to ensure the following:

**For regulated activity work:**

From 12 October 2009	It is a criminal offence to appoint a person into a regulated activity role if the employer knows or has reason to believe that the person is on a barred list. The GPC lawyer has advised that this does not require an employer to see or require a CRB check. However, we do advise employers to ask new recruits if they are on a barred ISA list (e.g. previously a POCA or POVA list). Furthermore if an employer suspects that a person may be on a barred list then further checks should be undertaken.  GP providers/employers also have a duty to inform the ISA of any individual working with patients and/or children where they consider them to have caused harm or pose a risk of harm. The ISA expects an investigation to have been conducted prior to any referral. Failure to inform constitutes a criminal offence.
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November 2010	<p><b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b></p> <p>All new recruits to a regulated activity role must be registered with the ISA. The employer must check that the new recruit is ISA registered prior to the new recruit commencing work. Failure to do this will be a criminal offence.</p> <p>When hiring a freelance locum GP directly (i.e. not through a locum agency), practices must check that the locum is ISA registered. When a GP locum is supplied by a locum agency, the agency will be responsible for ensuring the locum is registered with the ISA.</p> <p>There will be no charge for checking whether a person is ISA registered.</p>
July 2015	<p><b>AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:</b></p> <p>All those undertaking regulated activities must be registered with the ISA by 25 July 2015. The employer must check that the employee is ISA registered.</p> <p>As noted above, for freelance locum GPs, unless the locum is supplied via a locum agency, the contracting practice must ensure that the locum is ISA registered.</p> <p>Locum agencies will be responsible for ensuring their GP locums are registered.</p>

**For controlled activity work:**

**AT PRESENT ISA REGISTRATION IS ON HOLD. The following information is provided to show the arrangements that were previously in place:**

From 1 January 2014	ISA registration becomes possible for controlled activity workers.
By 25 July 2015	<p>All those undertaking controlled activities must be registered with the ISA.</p> <p>The employer must check that the employee is ISA registered.</p>

Please note that if an employee is barred from working in regulated activity it is possible that he/she could work in a controlled activity. However, an appropriate risk based assessment would need to be carried out and appropriate safeguards would need to be in place.

**F. Advice to GP practices who engage locum GPs**

Locum GPs undertake regulated activity.

For freelance locum GPs, the advice to practices set out in section E above with regard to regulated activity work should be followed.

For locum GPs engaged through a locum agency, it will be the responsibility of the locum agency to ensure that the locum GP complies with the ISA registration process. The advice in section E will be relevant to locum agencies. It should be noted that the locum GP will be regarded as a new recruit when they start with a new agency.