

Safeguarding Newsletter

 The Diocese of
Peterborough

Emailed to clergy, licensed lay ministers, parish safeguarding officers and churchwardens in the Diocese of Peterborough.

Issue 5, September 2012

Welcome . . . to the Newsletter for Safeguarding Children and Adults who may be vulnerable. You can find this and previous Newsletters on the Diocesan Website at www.peterborough-diocese.org.uk/safeguarding.htm. This Newsletter reproduces and adapts updated information received from the Church of England on 29 August 2012. It is a lengthy Newsletter but given the complexities of the Protection of Freedoms Act 2012 and the number of changes to existing practice of which we need to be fully aware – I'm afraid it's unavoidable!

Garry Johnson, Diocesan Safeguarding Officer

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- **New eligibility for Criminal Record checks**
- **Revised eligibility for Criminal Record Disclosures (interim)**
- **Regulated Activity**

New eligibility for Criminal Record checks

**The changes and what they mean for our churches in the Diocese
Interim Guidance from 10 September 2012**

1. The Protection of Freedoms Act 2012

received Royal Assent earlier this year. The changes in the Act have not yet come into effect but some will come into effect on 10th September 2012. The Act changes some of the arrangements for Criminal Record checks. It follows on the Government's intention to reduce the need for Criminal Records checks and to scale them back to what they describe as 'common sense levels'. This information follows my Safeguarding update of 14th August setting out the changes to ID checking requirements for Criminal Disclosure checks. The new Government guidance includes new definitions of what is called 'Regulated Activity'. Regulated Activity is different for work with children and adults. Some of the changes come into force on 10th September 2012, so this Newsletter outlines what needs to happen from then. The final set of changes which the Government has currently timetabled for Spring 2013. (This is why this is interim guidance). More detail can be found on the Church of England website in the monthly Information sheets (May – August 2012).

2. Safer recruitment measures and safer working practices

become even more important now that access to Criminal Record checks and barring information has been narrowed. In addition, most people who represent a risk to children or adults will have nothing recorded on their criminal record. The safest way forward is to recruit and appoint all those who will work directly with children or adults using the guidance provided on the Diocesan Website which is based on twin polices of the Church of England and the Methodist Church. This includes volunteers. Following appointment, good practice should always be followed.

3. Barring. The Independent Safeguarding Authority (ISA) makes decisions about barring individuals who are reported to them as representing a possible risk. The Criminal Records Bureau (CRB) provides access to criminal record information through its checking service. **The CRB and ISA are to combine from 1st December 2012 to form the Disclosure and Barring Service (DBS). The requirement on all organisations to notify ISA / DBS when someone is dismissed for safeguarding reasons continues.**

New eligibility for Criminal Record checks continued

4. Enhanced Criminal Record checks

There will be two types of enhanced disclosure or check.

- An 'Enhanced Criminal Record plus Barred List Check' discloses whether the individual is barred from Regulated Activity with children / vulnerable adults, as well as the convictions / cautions and other relevant information. This is only available for those in Regulated Activity (as defined in the Protection of Freedoms Act 2012.)
- The second type of Enhanced Check provides information about convictions /cautions and other relevant information but NOT whether a person is barred from Regulated Activity, (although the decision which led to a bar may be provided by the police if the police deem it relevant for the role.

5. Minimum age for Criminal Record Checks

Criminal record checks are now restricted to those aged 16 or over. Counter-signatories will have to be aged 18 years or over.

6. Portability

This is the term employed by the Government for using a Criminal Record disclosure obtained in one role, for a different role sometimes with a different employer or organisation. **This guidance can only be finalised following the implementation of new Government arrangements in 2013 when new arrangements for portability may be available.**

Meanwhile, the Church of England's interim guidance is set out here:

There can be some portability of a criminal record disclosure within the Church as follows:

- anyone applying for a further role within the same church does not require a second criminal record check, if the work is with the same group – i.e. still with children or still with vulnerable adults.
- Where someone wishes to work/volunteer in a role with a different group (for example, someone who has volunteered at a youth club now offering to work as a driver for a housebound adults scheme) then a second criminal record check is required.

To accept a pre-existing criminal record disclosure from a body outside the church, the following requirements must be met:

- The disclosure must be completely clear (i.e. no record of cautions, convictions or further information.)
- It is less than 2 years old.
- It is at Enhanced level and for a similar position.
- The applicant's identity is verified.
- The applicant is still in the post or job for which the disclosure was obtained.
- A reference from the previous employer or appointer is obtained to ensure that the applicant was appointed following receipt of the disclosure.
- The issue date and serial number of the disclosure is recorded together with the applicant's name and date of birth.
- A Confidential Declaration Form must be completed.

There are some circumstances where a new criminal record check should always be made:

- where a person applies for an employed position working with children or vulnerable adults, and
- where a person is candidating for the ministry (Methodist Church) or seeking ordination training (Church of England) then a new criminal record check is always required. Note - once accepted for training, there is no requirement for the training institution to do a new criminal record check where the one obtained for at the stage of candidating / seeking training can be provided.

7. Vulnerable Adults

a) Regulated Activity (adults) – Eligibility for Enhanced Criminal Record plus Barred List check

The Regulated Activity definition has been changed and tightened. In future, Regulated Activity for adults will be defined by the role and not by the characteristics of the recipient – ie their type or level of vulnerability.

Within a Church setting, those undertaking Regulated Activity with adults will be limited to the small number of roles where the person concerned is involved in the activities set out below. Differing from

New eligibility for Criminal Record checks continued

the children's definition, there is no frequency test for these activities. If the worker is expected to do them as part of their role at any point, then the role becomes Regulated Activity. An Enhanced Criminal Record plus Barred List check must be applied for.

Apart from the work of health or social work professionals, the activities are:

- help with washing/dressing; eating/drinking; toileting; or teaching someone to do one of these tasks.
- help with a person's cash, bills or shopping because of their age, illness or disability. (A good example is helping someone pay a household bill. Posting the letter for the housebound person is not Regulated Activity but taking the money from them to take and pay at the PO counter is Regulated Activity. This would not usually be part of any church role but is included here for the small minority of exceptional occasions.)
- helping someone in the conduct of their affairs (for example, a Power of Attorney for someone who is not a relative or friend. This would be very unlikely in a church context).
- driving someone (because of their age, illness or disability) to/from places in order to receive health, personal or social care. (Note: not as family or friend but as part of the church role.)

b) Eligibility for an Enhanced Criminal Record check (without Barred information)

Where a worker has a significant level of involvement through their work with adults who are in need or at risk because of age, illness, disability or factors arising from social exclusion (and we recognise that the need or risk may be temporary or permanent) then an Enhanced Criminal Record check should be carried out.

8. Children and young people

A) Regulated Activity (children) – Eligibility for Enhanced Criminal Record plus Barred List check

To obtain an Enhanced Criminal Record plus Barred List check when working with children and young people, the Supervision and Frequency criteria must be met:

Supervision. The question of whether or not a worker (or volunteer) is supervised is important. The Government has not provided a formal definition, but

rather left it to each organisation to implement its own definition. In most church situations, one worker will not be acting as the formal supervisor of another worker. The more usual pattern would be for people to co-work. It is also important to recognise the definition of supervision.

On an interim basis (until Spring 2013) the Church of England defines supervised activity as:

Activity where the supervisor – who has him / herself been safely recruited - is always able to see the supervised worker's actions during his / her work.

Where you are uncertain whether this level of monitoring can be maintained continuously – for example, ensuring cover for all holidays and sickness absence by the supervisor then the role is not a supervised position and therefore remains Regulated Activity.

Frequency is defined as where the activity meets one or more of the following: Frequently - at least once a week; Intensively - 4 days in a 30 day period; Overnight - between the hours of 2am and 6am.

b) Eligibility for an Enhanced Criminal Record check (without Barred information)

This is available in relation to those with significant contact through their work. The threshold frequently quoted by Government is that the level of contact should be greater than the sort of casual contact with a local shopkeeper.

9. Parish Church review

The PCC's (parochial church council's) need to maintain oversight of all work roles (for example employed, volunteer or office holder) and the processes of recruitment and safe working practice. This time of change offers a useful opportunity to also implement this regular review which will be assisted by the updating and thorough revision of all existing Safeguarding Guidance on the Diocesan Website by the end of September 2012.

REVISED ELIGIBILITY FOR CRIMINAL RECORD DISCLOSURES (interim)

Interim Guidance from 10 September 2012

TABLE 1 Clergy (Church of England), Ministers (Methodist)

No change: all should be subject to current safer recruitment guidance and all will be eligible for an Enhanced Criminal Record plus Barred List Check. For a more detailed explanation see July Information Sheet.

Role	Safer Recruitment?	Enhanced Check?	Enhanced Plus Barred List Check <i>Yes for all - tick boxes 64 and 65 on criminal record application form</i>
C of E roles			
Archbishop, Bishop, Dean, Archdeacon	✓	✓	✓
Ordained and licensed clergy - stipendiary parish clergy -SSM and NSM clergy - chaplains - local ordained clergy - 'Permission to Officiate' clergy	✓	✓	✓
Seeking ordination training or ordination (NB extra check not needed when first at college after acceptance for training.)	✓	✓	✓

TABLE 2 Working with children / young people (see section 8 above)

Little change: All should be subject to current safer recruitment guidance. All will be eligible for an Enhanced Criminal Record Check (without Barred Information). Most will be eligible for an Enhanced Criminal Record plus Barred List Check – provided that they are not supervised and meet the frequency standard. As this is interim guidance the lists set out here indicate the most likely position. Where an individual situation does not fit this norm, you should seek advice from the diocesan safeguarding officer.

Role	Safer Recruitment?	Enhanced Check? <i>If significant contact</i>	Enhanced Plus? <i>If yes, tick box 64 on application form</i>
Youth worker (employee / volunteer)	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8 above
Children's worker (employee / volunteer)	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8.
Family workers (with assumption that work done separately with children)	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Managers of youth, children's, family workers	✓	✓	If ticked for the worker then ✓ for manager
Bell ringers who teach/train – the adults who train / teach children plus the Tower Captains who manage those adults	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Music leader where the choir / musical group is mainly with children or young people	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Server (C of E) – when the role includes supervision or training of children <18	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Caretaker - only where the role includes teaching, training, supervising or caring for children <18	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Leader of Parent & Toddler Groups – only where children are cared for away from the parents at any stage.	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8
Drivers for young people or children's activities organised by the church	✓	✓	Usually ✓ but decide based on Supervision and frequency -see section 8

REVISED ELIGIBILITY FOR CRIMINAL RECORD DISCLOSURES (interim) continued

TABLE 3 - Working with adults

Some change: All should be subject to current safer recruitment guidance. Most will be eligible for an Enhanced Criminal Record Check (without Barred Information). Some will be eligible for an Enhanced Criminal Record plus Barred List Check. Much greater need for individual decision-making. As this is interim guidance the lists set out here indicate the most likely position. Where an individual situation does not fit this norm, you should seek advice from the diocesan safeguarding officer.

Role	Safer Recruitment?	Enhanced check? <i>If significant contact with vulnerable adults</i>	Enhanced Plus? <i>If yes, tick box 64 on application form</i>
Licensed evangelists	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Readers licensed by Bishop	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Local preachers and worship leaders (see detailed position 8.28-30 Recruiting Safely, which remains unchanged.)	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Pastoral assistants	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Lay ministers	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Home visitors	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Pastoral visitors	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Drivers for church activities	✓	✓	Unlikely – individual decision needs to be based on the specific activity.
Church-organised driver for transporting someone to receive health, personal or social care.	✓	✓	✓
Managers of anyone undertaking Regulated Activity with adults.	✓	✓	✓

TABLE 4 Roles where it is unlikely that either an Enhanced Criminal Record Plus Barred List Check and an Enhanced Criminal Record Check (without Barred Information) is possible.

If, in any of these roles (listed in **Table 4** at the foot of this page), the individual works directly with children, young people or vulnerable adults, or manages somebody who does this direct work, then they should be dealt with as for **Table 2 or 3** above.

Safe working practice for these roles is important as the people carry responsibility and respect in the eyes of children and/or adults who are vulnerable. Caution is also needed to ensure that no-one moves from this type of role into closer direct working with children or adults who are vulnerable, without the proper safer recruitment checks being done.

This list is not exhaustive. As this is interim guidance the lists set out here indicate the most likely position. Where an individual situation does not fit this norm, you should seek advice from the diocesan safeguarding officer.

TABLE 4 - see notes in right column

Safeguarding adviser / officer / worker
 Members of the PCC / Church Council
 Safeguarding lead on PCC / Church council
 Shop staff
 Flower arranger
 Sidesmen and women
 Churchwarden
 Church tour guides
 Church welcome team members for services
 Gardener

Verger
 Server
 Caretaker
 Refreshment servers
 Choir leader
 Musical director
 Organist
 Choir members
 Self Help: Family members or other vulnerable adults helping a leader in providing for people who experience the same situation as themselves.

Regulated Activity

1. Regulated Activity with Children and Young People

The concept of Regulated Activity was introduced in the Safeguarding Vulnerable Groups Act 2006. The Protection of Freedoms Act 2012 amends the original definition contained in the SVGA and now limits the number of people carrying out Regulated Activity by restricting the definition.

From September 2012, Regulated Activity for children and young people will be defined as:

(a) Unsupervised activities: teaching, training, instructing, caring for or supervising children, or providing advice/guidance on well-being or driving a vehicle only for children.

(b) Working for a limited range of establishments (known as 'specified places'), with opportunity for contact, e.g. schools, children's homes, childcare premises (but not work by supervised volunteers).

Work in (a) and (b) above still has to be carried out on a regular basis. The current definitions have not changed:

Frequently - at least once a week

Intensively - 4 days in a 30 day period

Overnight - between the hours of 2am and 6am.

(c) Relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional, even if done once.

(d) Registered child-minding and foster carers.

The manager / person responsible for Regulated Activity is also deemed to be carrying out Regulated Activity so the same provisions apply.

Regulated Activity also now needs to be unsupervised (see later discussion.)

A charity trustee of a children's charity is now removed from the definition of 'Regulated Activity' positions (see appendix for further details).

2. Regulated Activity with Vulnerable Adults

The 2012 Act changes the definition of vulnerable adult to focus on activities rather than characteristics.

'..... the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in Regulated Activity'

(Changes to disclosure and barring: What you need to know – HM Government (2012)).

There are broadly 6 activities listed:

- a. The provision of health care by a health care professional, or by a person acting under the direction or supervision of a health care professional (such as a health care assistant in a hospital or care home);
 - b. The provision of relevant personal care (such as washing, dressing, toileting, eating and drinking);
 - c. The provision of social work or community care services by social workers to adults who are clients or potential clients;
 - d. The provision of assistance in relation to general household matters for an adult who needs that assistance because of age, illness or disability, (e.g. managing a person's cash, paying bills or shopping for someone);
 - e. Any relevant assistance in the conduct of an adult's own affairs, (e.g. under an enduring power of attorney);
 - f. Transportation in certain circumstances which is needed because of age, illness or disability, although the Government has pointed out that this will not include family and friends or taxi drivers.
- as in the case of children, a charity trustee of a vulnerable adult's charity is removed from the definition of Regulated Activity positions.
 - the 'period condition' is removed in relation to vulnerable adults (although it remains for children.) This means that a person providing health or personal care, for instance, need only do so once to come within the scope of Regulated Activity.

If you have any queries about Safeguarding, please contact:

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