



LDAN Briefing on the Independent Safeguarding Authority (ISA)

Introduction

The Independent Safeguarding Authority was set up in January 2009 to strengthen the protection of children and vulnerable adults following the Safeguarding of Vulnerable Groups Act 2006. The ISA will require all relevant employers to register their staff and volunteers for ISA approval. They will have the authority to put those they find unsuitable on a 'barred list' and prevent them from working with vulnerable groups.

Strengthened safeguards for children and vulnerable adults is a welcome development, however these changes could have a potential negative impact on the employment options of people with substance misuse problems or histories. It has particular significance for drug or alcohol services that employ ex-service users.

The Independent Safeguarding Authority¹ has not yet outlined what their criteria will be for placing someone on the 'barred list'. The NTA has announced that they will 'work to ensure that the treatment, rehabilitation and reintegration into the workplace of service users are all appropriately considered by the ISA'.²

What is the Independent Safeguarding Authority (ISA)?

The Independent Safeguarding Authority (ISA) has been created to support the work of the work of the Criminal Records Bureau (CRB) to assess every person who wants to work or volunteer with children or vulnerable adults to ensure that they are suitable.

The CRB will receive applications to the ISA and will gather and monitor information. It will also use the information previously found in:

- the Protection of Vulnerable Adults (PoVA) list;
- the Protection of Children Act (PoCA) list; and
- List 99 (a list of people considered unsuitable for work with children, held by the Department for Children, Schools and Families).

From October this year the three current barring lists will be replaced by the creation of two new barred lists administered by the ISA rather than several government departments.

The board of independent 'public appointees' and the case workers at the ISA will assess this information and decide whether to give the individual concerned ISA registration or to put them on one of the ISA Barred Lists. Where an ISA application is likely to lead to being barred, the applicant is able to use the 'representation stage' to ensure that all relevant information is taken into account before the final decision is made. Applicants are able to appeal the final decision.

¹ <http://www.isa-gov.org.uk/>

² http://www.nta.nhs.uk/news_events/newsarticle.aspx?NewsarticleID=162

The ISA has created two types of contact with children and vulnerable adults:

- 1) **Regulated Activity** – defined as frequent, intensive or overnight contact including that which takes place in a specified place. Activities given as examples include teaching, training, supervision, care, advice and transportation.

It will be a criminal offence for an employer to employ someone in regulated activity without checking their ISA status or to allow someone to start work who hasn't been registered or is barred.

- 2) **Controlled Activity** – defined as frequent or intensive support work in more general settings such as the NHS or further education. Examples provided include cleaners, caretakers, shop workers, receptionists and car park attendants. It also includes those who have frequent access to sensitive records about children and vulnerable adults such as Administrators.

It will be a criminal offence for employers to employ anyone in controlled activities without checking ISA status, however a barred individual can work in a controlled activity "if sufficient safeguards are put in place".

The ISA defines 'vulnerable adults' (over 18) as follows:

- i) in residential or sheltered accommodation
- ii) in receipt of domiciliary or any form of health care
- iii) detained in lawful custody or released under licence with Probation
- iv) receives a welfare service of a "prescribed description"
- v) requires assistance in the conduct of their affairs.

This definition would include many people accessing drug and alcohol services.

What will drug and alcohol services need to do?

From October 2009

- Employers, social services and professional regulators have a duty to refer to the ISA any information about individuals who may pose a risk ensuring potential threats to vulnerable groups can be identified and dealt with.
- There will be criminal penalties for barred individuals who seek or undertake work with vulnerable groups and for employers who knowingly take them on.
- The eligibility criteria for Enhanced CRB checks will be extended to include anyone working in a 'regulated' position.

From July 2010

- From July 2010 those who are new to the workforce, those who are changing roles to take on regulated activity and those changing jobs whilst working in regulated activity may apply for ISA registration.
- From July 2010, individuals can apply for ISA-registration and a CRB check (including an ISA check) on one new application form.
- When a person becomes ISA-registered they will be continuously monitored and their status reassessed against any new information which may come to light.

From November 2010

- So as not to disrupt normal recruitment over the traditionally busy summer period, the legal requirement for employees to register with the ISA and employers to check their status will come into force in November 2010.

Existing employees

- Those who currently work with vulnerable groups but are staying in their current role will not have to become registered until later in the five year phasing period that begins in 2011.

What are the implications for drug and alcohol sector?

Administration and human resources

Organisations will need to communicate to their staff the potential implications of ISA and amend policy and procedure in line with this. Plans will need to be put in place for if an employee or volunteer is found unsuitable by the ISA.

The new checks could potentially add an additional delay to the recruitment process.

Some individuals with drug/alcohol related offending histories potentially barred from employment with vulnerable groups

The ISA case workers will take into account recent "relevant" offences and other information including that gathered from "referrals" made by a range of agencies on an ongoing basis. Relevant offences likely to lead to a barring decision include many that are relevant to drug/alcohol related crime. The guidelines highlight offences that are:

- i) directed towards children or vulnerable adults
- ii) involve sexual behaviour
- iii) involve **violence or potential for violence** against people and property (especially where intentional, use of a weapon or involving animal cruelty)
- iv) involve **acquisitive behaviour** or fraud
- v) indicates that a person breached a position of trust or authority
- vi) relates to **addictive behaviour or persistent offending**.

It is essential that other positive, supporting evidence be used in the earlier stages of the decision making process as well as offending history. We welcome the involvement of the NTA with the ISA and hope that the ISA will consider previous drug/alcohol related offences in a balanced and proportionate manner. The ISA should take into account when an ex-offender has demonstrated genuine commitment and skills in their work and has made positive changes in their life through their employment.

More information

For more details on the ISA see <http://www.isa-gov.org.uk>

Contact

LDAN will be monitoring developments in relation to the ISA regulations and will keep you informed. If you have comments on any of the above issues, then please contact Esther Sample, LDAN Policy Officer, e-mail: esthers.ldan@drugscope.org.uk