

# SAVO Enterprises ISA & Criminal Records Bureau Disclosure Service Newsletter



SAVO Enterprises  
October 2009

## Independent Safeguarding Authority - Has Started (a Bit!)

Yes, at last the Independent Safeguarding Authority has sprung into life, but most of us won't notice that it has for around nine months.....

The first impact of the ISA was felt on Monday 12<sup>th</sup> October but the changes are, for most people, very minor. The major changes will come into force in late July next year when the registration process will start to be phased in.

Given the press coverage over the last couple of months you would think that the ISA was already in operation and was about to lock people up for not complying with its draconian regulations. As I hope you know, this is not the case and the information in the press has been misinformed and has jumped to conclusions without establishing the facts. This situation has not been helped by the ISA being very slow in responding to press coverage and it has allowed all sorts of suggestions to be made without the true situation being explained.

### To counter a few myths.....

No you won't have to be ISA registered if you drive your neighbour's child to school or to scouts, brownies etc. This is a purely domestic arrangement and is completely outside the scope of the ISA.

Yes if you are driving a Scout football team to a match on Saturday morning on a regular basis then you will need to be registered - this is because some, or all of the parents of the children might not know the driver and it is reasonable for parents to be reassured that the person who is driving their child around on a regular basis has been vetted to make sure that they are not known to be at risk of harming their child.



However if the car usually used to transport the team breaks down one morning and someone else steps in at short notice to do the driving they will not need to be registered. But if they start to drive on a regular basis, i.e. at least once a month, this will be the point at which they will need to register.

## What Changes are Happening in October 2009?

The changes that have come in as from 12<sup>th</sup> October are:

- Standard CRB checks are no longer available for people working with children and/or vulnerable adults
- The POCA, POVA and List 99 are replaced by the ISA Children's List and Vulnerable Adult's List
- The POVA First service is renamed the ISA Adult First service
- The legal obligation to refer information to the ISA about individuals who may pose a risk to children or vulnerable adults comes in

- An organisation must not knowingly employ in regulated activity, or use as a volunteer, a barred person.

### **When and How to Make a Referral after 12<sup>th</sup> October 2009**

There are complicated regulations regarding when a referral to the ISA must be made, but the best approach to apply regarding when a referral should be made to the ISA is:

- if an organisation has ceased to use a person's services e.g. dismissed them from work as a care worker or told them to stop volunteering at a youth club because the person has either harmed a child or vulnerable adult, or placed them at risk of harm, you must refer that person to the ISA.

The ISA has produced a referral form and this, together with guidance notes (6.8MB to download), can be found on the ISA website at <http://www.isa.gov.org.uk/default.aspx?page=379>

## **ISA - FAQs**

At the SAVO and Young Suffolk ISA Seminars earlier in the year there was an opportunity to ask questions. We thought that it might be useful to give an update on a couple of areas in which we have taken advice from the ISA, and also to give answers to some of the questions which were asked at more than one of the seminars, as these are likely to be relevant to many organisations.

### **1. Are there different legal requirements for ISA registration if a person carries out a Regulated Activity in the same location once a month or if the activity is carried out in different locations each month?**

This has become an issue which has been covered in the media in the past couple of weeks. A group of children's authors are objecting to possibly having to register with the ISA next year because they give talks on their books in schools at least once a month but rarely go to the same school more than once a year.

When I raised a similar scenario with the ISA the response they gave was a bit complicated but does clarify the situation as there are different legal requirements on the individual and on the organisations.

#### **Individual Requirements**

The individual is undertaking a Regulated Activity which they know is deemed as frequent because they know that they are going to be going into a school somewhere in the country at least once a month.

As the individual is carrying out a frequent Regulated Activity the individual must register with the ISA.

#### **Organisation Requirements**

If an organisation has a person carrying out a one-off Regulated Activity this cannot be defined as regular as it is one-off and does not happen at least once a month.

The organisation will not be legally required to check if the individual is registered with the ISA as the activity is not regular. However, the organisation will be allowed, as part of its pre-employment checks, to ask the individual if they are ISA registered and if they are, check their status with the ISA.

It is likely to be seen as good practice to carry out an ISA status check in these circumstances but the organisation will not be committing an offence if it fails to check. The individual will however, be committing an offence if they have, or are likely to, carry out similar activities on a regular basis.

## **2. What rights do a Management Committee of a venue such as a community centre or village hall have to insist on ISA registration arrangements for users of their venue which are carrying out Regulated Activities?**

People responsible for a venue will have the right, but not a legal requirement, to check the ISA registration status of any individuals who want to use their venue to carry out Regulated Activities.

This right will include 'registering an interest' in such individuals which means that if the individual's ISA status changes, the person who has registered the interest will be informed of the change in status.

It is recommended that venues review their booking regulations to include a reference to the requirement that hirers that plan to carry out Regulated Activities will have to agree to a nominated person from the venue checking the ISA status of all individuals from the hiring organisation who will carrying out Regulated Activities.

As the hiring organisation has a legal requirement to check their staff's ISA registrations this requirement should not involve them in significant additional work and could be combined with other pre hiring checks such as checking insurance papers etc.

## **3. What is the minimum age for requiring an ISA registration?**

As the minimum age of criminal responsibility in England and Wales is 10, there is no chance that a person aged under 10 years of age could be barred and therefore there is no point in registering or checking the registration of a person younger than that.

## **4. How will an organisation check on an individual's ISA registration status?**

All checks on an individual's ISA registration status will be carried out via a website on which the person responsible in the organisation for carrying out the checks will have to enter the individual's ISA registration number. Provided the individual has registered with the ISA and has not been barred, an immediate response that the individual is registered will be displayed on the website and the individual can legally be taken on to undertake Regulated Activities.



## 5. How will the organisation be informed of any changes an individual's ISA registration status?

At the time that the person responsible in the organisation for carrying out the ISA checks enters the individual's information on the website, they will also be able to enter an email address which will be used to inform that person that there is a change in an individual's ISA status; this is known as 'registering an interest' in an individual.



If an interest has been registered in an individual and that individual's ISA status changes, an email will be sent to the email address used when the interest was registered stating that the individual's ISA status may have changed. The organisation will then have to send an email in reply stating that they are still 'interested' in the individual, i.e. they are still employed or volunteering. Once that reply email is received the ISA will send the organisation a notification of the change in ISA status by post.

The choice of email address used should be given careful consideration as it may be some years before the ISA has to use that address to contact the organisation and so it is important that an email address which is used has a long lifespan. If the ISA does not get a reply to their email asking if an organisation is still interested in an individual, they will have to assume that the organisation is no longer interested in the person and so will not send out information about a change in that individual's ISA status.

It might be that an email address is used which is in the format [isa@organisationname.org.uk](mailto:isa@organisationname.org.uk) which is not tied to an individual's name because over time the person responsible for ISA checking might change, but the email address will remain unchanged.

## 6. How long will it take for an individual to become ISA registered?

The target is that individuals applying for ISA registration will become registered within seven working days. Once the individual has been registered an organisation which they want to work with will be able check the individual's registration status.

If an applicant has a relevant conviction, caution, warning or reprimand, the CRB, who are managing the administration of the Scheme, will send the information to the ISA who will then take a closer look at the individual's history and the appropriateness for them to work with vulnerable groups. In these cases it will take somewhat longer for a decision over an individual's registration to be made.

## 7. Will an organisation still need to get a Criminal Records Bureau Enhanced Disclosure or can they rely on an ISA registration?

An online check on an individual will only show if that individual is ISA registered; this means the ISA has found no known reason why they should not work with children or vulnerable adults.

If a person has registered with the ISA their status will be constantly monitored and it will be reviewed if any new information becomes available.

An ISA registration does not check for malpractice and only considers relevant criminal convictions, those which relate to emotional, psychological, financial, physical, sexual, neglect or verbal harm, and therefore a registration with the ISA does not mean that an individual has no criminal history.

A CRB check provides a fuller picture of a individual's criminal history and allows organisations to make informed decisions as to whether that individual is suitable for a particular role or position.

When an individual first applies for ISA registration they will be issued with an ISA certificate which will include the details of any convictions etc. which would have been included on an Enhanced CRB check.

Therefore if an organisation is taking an individual on who has registered for the first time with the ISA, they will be able to see an up to date list of convictions etc. and so would probably not need to apply for an Enhanced CRB check at that time.

However, if an organisation is taking an individual on who has previously registered with the ISA, they may well still choose to apply for an Enhanced CRB check on the individual as the conviction etc. information which they can see on the ISA registration document may well be out of date. A new Enhanced CRB check will be the only way the organisation can be sure that they have up to date information on the individual's background.

There will still be some circumstances where it will be a requirement to carry out Enhanced CRB checks, e.g. where required by OFSTED, CSCI etc.

## **8. Will the Scheme include England, Northern Ireland, Scotland and Wales?**

The Scheme will cover England, Wales and Northern Ireland, although slightly different arrangements may apply in Northern Ireland.

A separate but aligned scheme is being set up in Scotland and anyone included on a Barred List in Scotland will also be barred from working with children and vulnerable adults across the UK.

## **9. How will the Barring Decision Making Process Work?**

The ISA's caseworkers and the ISA Board will decide whether it is appropriate that an individual should be barred from working with children or vulnerable adults because the individual presents an unacceptable risk of harm to children and/or vulnerable adults. The method used is known as the Structured Judgment Process and this will mean that a common approach will be used in all cases.

The Process was developed by the Board and it has members with considerable experience and knowledge in the areas of safeguarding children and vulnerable adults; risk assessment and risk management; child protection; education and the assessment, treatment and management of sex offenders.

A 34 page document entitled 'Guidance Notes for the Barring Decision Making Process' has been produced which gives great detail on the process and this can be downloaded from the ISA website at <http://www.isa.gov.org.uk/Default.aspx?page=382>

## 10. How much will an ISA Registration Cost and who should pay for it?

The cost of an ISA registration for an employee is £64 and registrations for volunteers are free. If an organisation uses an umbrella body such as SAVO to process the form then there will probably be a handling fee charged. In SAVO's case it is anticipated that the same charge will be made as for processing a CRB Disclosure application.



It should be noted that if an individual originally registered with the ISA as a volunteer, and so received a free registration, and then enters paid employment for which their ISA registration status is checked, the fee of £64 will then be payable by the individual and they will be sent an invoice to their home address.

The law states that an individual is responsible for paying for the cost of their ISA registration, but it is likely in some circumstances that employers will reimburse the cost of the registration.

If an existing employee who is required to register with the ISA refuses to do so the employer will be required to move the individual to work which is not Regulated Activity or dismiss them. An employer may decide that it is more cost effective to reimburse the cost of the ISA registration.

Some employers may choose to reimburse the cost of the ISA registration if an individual stays for a specified length of time, for example passes a six month probationary period. This arrangement would avoid employers paying £64 for an employee who turned out to be unsatisfactory after a short period of time.

Other employers may decide that all individuals should pay, as the ISA registration is essentially a licence to practice and will expect potential employees to be registered in the same way as they would expect an individual who is applying for a job as a driver to have a driving licence.

## 11. Are ISA Registrations portable between employers?

As the ISA registration belongs to an individual, they can use it with multiple organisations over the course of their life and it can be used with more than one organisation at any one time. An individual who, for example, works for one organisation and volunteers for another will be able to use the same registration with both organisations.

However, as discussed in another answer, each organisation may still choose to apply for an Enhanced CRB check to ensure that they have an up to date statement of an individual's full background.

## 12. How will the ISA Registration Scheme work for work funded through personal budgets?

If an individual holds a personal budget to pay for their care, then they will be able to use the ISA to check on the status of anyone who is being paid through their personal budget. However the legal requirement to carry out checks will not apply in these circumstances.

The ISA are treating work carried out through personal budgets in the same way as domestic employment situations such as paying for music tuition etc. This means that there is a right to check on an individual's ISA registration status and the individual carrying out the work can apply for ISA registration, but there is not a legal duty on either party to do so.

It is likely that most employees paid through personal budgets will choose to be ISA registered and if an individual refused to register, then it would raise questions as to why they were refusing to register and therefore their suitability for the job.

If the work is arranged through an agency, then the agency will have the right to check on a potential employee's ISA status and also to register an interest in them so that if the person's ISA status changed in the future they could be informed of this change.

Again, it will not be a legal duty for the ISA status to be checked, but it is very likely that a check will be carried out as part of pre employment checks by all agencies and any refusal from an individual to co-operate is likely to raise concerns as to their suitability. This arrangement is very similar to the one described in another answer about venues that hire their premises to other organisations.

## CRB News.....

### Not Home Based - Why Do We Need to Know?

You may have noticed that some of your recent Disclosures have 'Not Home Based' or 'Not HB' written after the job title and wondered how and why this has appeared.

The answer to how, is that we have written it onto the CRB Applications Form before sending it off to the CRB.

The answer to why, is that we are trying to avoid delays occurring with the processing of applications by the Police.

To explain more: about two months ago we started to get phone calls and letters from the CRB asking if a particular post was home based and so we asked the CRB why we were suddenly being asked this question for all manner of job titles.

The answer was that the Police were starting to ask about a significant number of applications and whether the post was 'Home Based'. In this context 'Home Based' is defined as being a post where the applicant would be seeing children or vulnerable adults in the applicant's own home.

If the Police raise a query about an application, it will cause delays and so after discussion with the CRB, we were advised to write 'Not Home Based' or 'Not HB' after the job title so that the police could see that information about the post without having to query it via the CRB. If we are unable to fit that information after the job title we were advised to write it in the space above the job title so that it can be seen on the scan of the form held by the CRB.

In the majority of these cases we have been able to answer the question through our knowledge of the posts, but on occasion we have had to contact the organisation applying for the check to establish whether it is a home based post.

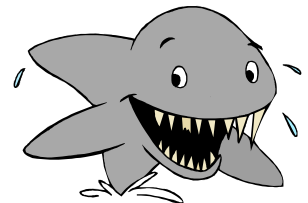


In order to allow us to include this information on each application form, we have changed the SAVO Disclosure Request form to ask whether the post is Home Based. A copy is attached to this newsletter.

In future we will be sending out this new version of the form; but if you still have supplies of the old form you can continue to use these until you run out. It would be helpful however if you could write if the post is home based on the old version of the form.

### Contact us if you have any questions ..... we don't bite!

Many of you will have had contact with one or both of us and hopefully we are correct in our view that we are very happy to answer any questions regarding CRB or ISA matters!



In particular, we would encourage you to contact us if you have any questions about completing an application form. It is often easier and quicker to resolve the problem whilst the applicant is with you rather than sending the form in to us and then having to contact the applicant again to resolve any queries we have on the information provided.

We can be contacted at the SAVO offices and at least one of us is usually available to answer your question during office hours.

Tom Bright - 01473 275193 [tom.bright@savo.co.uk](mailto:tom.bright@savo.co.uk)

Louise Bradshaw - 01473 275190 [louise.bradshaw@savo.co.uk](mailto:louise.bradshaw@savo.co.uk)

We hope you found this newsletter useful. If there are any items you would like covered in future issues please let us know.

*Tom Bright*



**Enterprises**

*Louise Bradshaw*

Dickson House  
43a Woodbridge Road East  
Ipswich, Suffolk, IP4 5QN  
Company Number: 2919237