**Sheffield District**

**Briefing on changes to criminal record checks as from June 17th 2013**

**Introduction**

The protection of Freedoms Act 2012 received Royal Assent in May 2012 after a difficult passage through Parliament. The Act makes significant changes to the safeguarding and criminal records disclosure systems. Some key changes came into force on June 17th 2013 and the purpose of this briefing note is to inform key District personnel about these changes and action that now needs to be taken as a consequence. It is supported by the latest guidance form the Churches Agency for Safeguarding (CAS).

**Purpose of legislation**

The Government’s aim was to simplify the system of obtaining criminal record checks and enable organisations to check if someone is already barred from work with children or vulnerable adults. A secondary aim was to reduce the range of posts and individuals included in regulated activity and to ensure no inappropriate checks, and a third aim was to encourage organisations to increase their emphasis on safer recruitment processes. Noting that only a minority of abusers may have a criminal conviction, the Government noted that checks are only one part of the process.

There was some resistance to a number of these changes form the NSPCC, Action for Children and churches who were concerned that the original Bill would increase risks, and consequently the final Act does contain some concessions to these concerns. However these checks and balances, whilst reducing some of the identified risks, do create complexity.

**Summary of changes from September 2012**

* December 2012 –the Disclosure and Barring Service (DBS) was established replacing CRB and the Independent Safeguarding Authority. The following new terms were introduced – ‘criminal record check’ and ‘barred lists check’.
* November 2012 – new SBS forms published and obtainable from Methodist Publishing
* February 2013 – old CRB forms rejected
* Enhanced Criminal Record checks – now two types: the first includes a check on the barred lists and t5he second without a check on the barred list
* Enhanced Criminal Record check with a barred list check is only available **for those engaging in regulated activity** (see below for more detail about regulated activity)
* The same DBS form is used for both types of check but for **enhanced plus** checks the applicant has to tick the ‘yes’ box in answer to Q 64 if working in regulated activity in relation to children and Q 65 in relation to vulnerable adults
* The enhanced check without a check on the barred list is available for roles that no longer quality as being engaged in regulated activity and in effect this ,means a more limited definition
* Minimum age for a check is is now 16, but Methodism has 18 as the minimum age as we believe that it is inappropriate to expect someone aged under 18 to be engaging in an activity, or having a position of responsibility that warrants a criminal record or barring check
* The police are now able to provide additional information on the criminal record disclosure if ‘reasonably believed’ to be relevant to the application
* June 2013 – initial Connexional guidance issued pending further changes yet to come into force. There will be further final policy and practice guidance later.

**June 17th 2013 changes**

* The DBS will now only send out a single certificate to the individual applicant. In the past a second copy will have been sent to the employer’s Registered Body (i.e. CAS). **Current guidance is that church safeguarding co-ordinators or ministers (whoever is taking the local lead on recruitment for a position) will require completion of the DBS form and then require the applicant to show them the certificate once it is returned to them.** Only where the certificate is totally clear should the individual applicant be allowed to start work with the identified group.
* The minister/safeguarding co-ordinator will need to record the details of the certificate and make a copy for their own records. Remember the certificate is the property of the applicant. The safeguarding co-ordinator must then notify CAS by e-mail or telephone the basic details of the clear certificate giving name, d.o.b. and date of clearance
* Where the applicant’s certificate is not clear (i.e. has blemishes or additional information) the certificate must be copied by the co-ordinator and sent to CAS for consideration and resolution. Until that separate process is completed, the applicant must not start work.
* From May 2013 individuals may keep their own criminal record status up to date on-line. Individuals can choose to join this on-line update service and thus be able to provide and prospective or current employer with log in details to access the information, obviating the need for a fresh check. The individual fee is currently £13 per annum. However due to planned changes of Government contractor delivering this service, Connexional advice is to ask people not to use this system until at least November 2013 to avoid teething troubles
* There are plans to introduce a ‘Basic Disclosure’ and provide evidence of unspent convictions with no further police information. This will not be appropriate for safeguarding activity but may be useful in other church roles which involve and element of trust or responsibility (e.g. treasurer). This is available in Scotland currently but not in England or Wales. More information later.
* CAS is now able to carry out on line checks which is clearly much quicker system than before. There are changes here however for verifiers who were written to sometime ago and provided with the necessary details. The paper based system remains an option and more details are provided at the CAS website: [www.churchsafe.org.uk](http://www.churchsafe.org.uk/)
* Changes to DBS application form – I have already written about the need to answer in a particular way at section 61. To re-iterate, the first line should be completed according to whether the applicant plans to join or is engaged in ‘the child workforce’, ‘adult workforce’ or ‘child and adult workforce’. The section below (maximum 30 characters) should outline the position applied for.

**Points to note**:

* The law requires all employers (noting both paid and voluntary posts) that they should notify the DBS if no appointment is made, terminated, or a person resigns because of a safeguarding concern. The Local Authority Designated Officer (LADO) should be informed and and can provide further advice. I have established contacts with the LADO’s in each of the local authorities in the Sheffield District and can assist with this process.
* The church must not allow anyone to undertake regulated activity who is barred from doing so. This means in effect that no-one can start work in a regulated activity without a check being undertaken by the DBS
* For details of who should be checked please see accompanying eligibility circles diagram and text which clarifies the correct approach to be taken
* Further guidance wll be published by the Connexion once the relevant sections of the Act have come into force and their practical details become clear

**Regulated Activity definition**

<https://www.gov.uk/government/publications/dbs-regulated-activity>

The website above describes in detail what is meant by a regulated activity in respect of children and vulnerable adults. Further guidance is available in the accompanying Connexional Guidance

GS June 24th 2013

(With acknowledgement to West Yorkshire District whose briefing provided the template for this).