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**Vetting and barring care workers:  
potential and practice**

**Interim report**

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April 2011

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Please note, this report has not been subject to independent review. It presents emerging findings from the Vetting and Barring research



# Contents

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Summary .....	i
Part One: Introduction and methods.....	1
1. Introduction and Background.....	2
2. Research design, methods and sample .....	7
Part Two: Findings.....	13
3. Recruiting and vetting new staff .....	14
4. Employers' responses to misconduct and abuse .....	22
5. Making a referral .....	29
6. Barring .....	40
7. Evaluating vetting and barring schemes .....	49
8. Other ways of safeguarding people .....	63
Part Three: Conclusions .....	75
9. Discussion and conclusion .....	76
Acknowledgements.....	80
References .....	81
Appendix 1: Vignette – Rob's story.....	84

# Summary

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This is a report of the first phase of Department of Health funded research, which is based on interviews with Adult Safeguarding Coordinators (11), employers and managers (30), care workers (16), service users (10) and family carers (13). It focuses on adult social care perspectives.

## ***Key findings***

- Overall, most participants identified advantages in vetting and barring schemes, particularly the Adult Safeguarding Coordinators and managers/employers.
- There was a widespread view among interviewees, particularly managers, but also frontline staff, that the scheme had increased safety.
- There was also frequent reference to the utility of the scheme in terms of raising awareness about safeguarding generally and about the consequences for staff of misconduct.
- There were important qualifications to the generally positive views, centring on:
  - The low likelihood of workers being barred because of difficulties over proof
  - High ‘threshold’ in terms of the kinds of misconduct that results in barring
  - The possibility that referred people would get other jobs whilst the ISA gathered information on which to base a decision.

## ***Recruiting and vetting new staff***

- Almost all of the managers we asked talked about taking up references and checking that they were genuine, contacting the company or university involved.
- Many comments were made about the variability of information contained within references, although views on overall usefulness varied.
- Where good information was provided in the reference, this could be useful not only in terms of recruitment but also in terms of making people aware of potential problems, should they employ a candidate.
- The idea that making decisions about recruitment relied more on the judgement of managers than the ‘paper trail’, was expressed by a small number of managers: ‘You are still working on gut instinct’, as one Care Home Manager commented.
- The formal processes of vetting staff (whether using the VBS, or previously the POVA List, or carrying out Criminal Records Bureau, CRB, checks) appeared to be well established practice across the mainstream employers, although the small number of service users and carers who employ staff were less likely to use them.
- None of the managers interviewed mentioned having ever come across an applicant who had been on the POVA List or ISA Adults List, when checked.
- The main comments were positive in terms of the mechanisms of checking the ISA Adults List using the ISA Adults First Service provided by the CRB, or previously checking the POVA List. This was felt to be quick and straightforward, especially when compared with CRB checks themselves, which were much more variable in terms of time. This was the most common criticism of the process.
- Opinions varied as to how to interpret information provided by CRB checks. Whilst some would not employ anyone with any criminal record, some were

inclined to ignore old and minor convictions, particularly when candidates were honest about their record before the CRB check was received.

- Most participants were positive about having these formal checks on the histories of prospective staff members.
- Several managers in small providers and one or two service users and carers spoke positively about the use of umbrella organisations to manage CRB checks (including the ISA Adult First service), which relieved administrative pressure.

### ***Employers' responses to misconduct and abuse***

- In response to the vignette (see Appendix 1), many participants felt that more information and investigation would be needed before a decision about whether to dismiss Rob could be made.
- The following issues were identified by participants as important in justifying dismissing a staff member: any abuse; intention (although views were more polarised about intention in relation to dismissing staff); patterns of behaviour.
- However, response to challenging behaviour was not seen as an excuse for Rob's behaviour.

### ***Making a referral***

- While we originally intended to focus solely on referrals to the POVA List and the ISA, we soon realised as the interviews progressed that the processes involved in making referrals to local Adult Safeguarding Teams or Coordinators were closely intertwined with referrals to the POVA List and the ISA.
- Adult Safeguarding Coordinators and Care Quality Commission (CQC) inspectors played a key role in advising employers/managers: they encouraged and advised employers and managers, but were also sometimes quite directive about whether referrals should be made.
- Disentangling responsibilities for the different stages in the process was identified as a problem by some, particularly where extended investigations were carried out by local Safeguarding Teams or the Police. This was felt by some to be a disincentive to making referrals.
- The potential for negative consequences, for employers in terms of reputation, and for the individuals involved where there is disclosure of information to the referred staff member by the barring authority as part of its procedure, were both identified as possibly reducing the likelihood of referrals.
- Lack of evidence, both because suspected individuals leave their jobs and because of the difficulty in getting reliable witnesses, was also identified as potentially discouraging referrals, even where the circumstances had triggered a legal duty to do so.

### ***Barring***

- The serious impact on the referred person of a decision to bar was acknowledged by many respondents, particularly managers and employers.
- This led to a focus on the need for solid evidence, possibly even more so than for dismissing a worker.

- Overall, similar issues were felt to justify barring as for dismissal. However, a greater degree of misconduct was felt to be needed to warrant an individual being barred.
- Furthermore there was more concentration on issues of intention and other aspects of 'temperament' in making judgements about whether to bar or not.

### ***Evaluating vetting and barring schemes***

- Overall, most participants identified advantages in vetting and barring schemes, particularly the Adult Safeguarding Coordinators and managers/employers.
- There was a widespread view among interviewees, particularly managers, but also frontline staff, that the POVA List had increased safety.
- There was also frequent reference to the utility of the scheme in terms of raising awareness about safeguarding generally and about the consequences for staff of misconduct.
- There were important qualifications to the generally positive views, centring on:
  - The low likelihood of workers being barred because of difficulties over proof
  - High 'threshold' in terms of the kinds of misconduct that results in barring
  - The possibility that referred people would get other jobs whilst the ISA gathered information on which to base its decision.
- More broadly, the VBS was seen only to be a part of the overall approach to safeguarding.
- In general there was a very low level of awareness of the ISA among the service users and carers we interviewed. In addition, managers/employers and Adult Safeguarding Coordinators felt that this reflected the level of awareness more widely.
- The awareness of frontline staff was more variable – half of the interviewees we asked were clear about the scheme. Again, managers/employers and Adult Safeguarding Coordinators also felt that awareness was mixed. The delays in implementation were felt to have made awareness raising more difficult.
- Many participants were generally in favour of the idea of staff needing to register with the ISA, which was felt to facilitate the process of checking new staff and volunteers and it was felt to be a good way of increasing information sharing.
- A small number of participants from all groups were concerned about the size of the task of registering up to nine million people by 2015.
- Increasing the application of vetting and barring (to health work, for example) was explicitly welcomed by seven managers and eight Adult Safeguarding Coordinators.
- Three main areas for improvement were identified: a need for employers to be informed of the outcomes of referrals; speeding up decision-making; and having a more graded response, other than simply barring or not barring.
- There was occasional confusion as to who could and who must refer. While it was understood that employers had a duty to do so in prescribed circumstances, it was not clear whether other stakeholders had a power or a duty to refer.

### ***Other ways of safeguarding people***

- Although the focus of this study was the operation of the POVA List and the VBS, interviewees were also given the opportunity to give their views about safeguarding beyond the confines of the scheme.
- Other means of safeguarding suggested by participants fell broadly into two categories: preventative measures and practices; and, the appropriate structures for detection and response.
  - Prevention – these issues were similar to those identified as important factors to investigate in making individual judgements: good supervision; training; adequate staffing levels; and, status of social care, including levels of pay, career structures and reputation.
  - Detection and response – ongoing vigilance, in which everyone was aware of the possibility of abuse; and an ‘open’ culture, in which all parties felt able to ‘whistle blow’.
- A number of factors were also identified as making safeguarding harder:
  - Unsuitable people attracted to work in social care because it was easy to get into or because it provided opportunities to exercise power over people.
  - Personalisation was also identified as potentially making safeguarding harder because of the increased use of unregulated services. Interestingly, a small number of participants felt, by contrast, that personalisation would aid safeguarding because of the increased choice and control.

### ***Conclusion***

Overall, there were positive perceptions of the role of vetting and barring schemes as one element of an approach to safeguarding. In addition, well resourced and managed services were seen to be a critical element in enhancing the safety of people using services. There were some operational and conceptual issues identified that could improve the scheme, particularly in relation to speed of decision making and also communication, both generally about the scheme and particularly in relation to the outcome of referrals.

### ***About the study***

- In 2006, the Safeguarding Vulnerable Groups Act (the ‘2006 Act’) introduced a new Vetting and Barring Scheme (VBS), run by the Home Office, with support from the Department of Health and the Department for Education.
- The 2006 Act also established the Independent Safeguarding Authority (ISA) which has the power to bar individuals from working in regulated activity, which covers people working in close contact with children or vulnerable people.
- The VBS was implemented in October 2009 and replaced the previous vetting and barring scheme, the Protection of Vulnerable Adults List [POVA], which had been introduced by the Care Standards Act (2000) and implemented in July 2004.
- This interim report draws the distinction between the VBS (and its barring authority, the ISA) and the POVA List throughout except where this is not called for in the context, in which case the terms ‘vetting and barring scheme’ and ‘barring authority’ are used.
- The research, funded by the Department of Health, aims to inform the implementation of the VBS in respect of adults in vulnerable situations. At the



time of writing the VBS is undergoing revision by the government and this interim report takes this into account in its introduction and conclusion.

- Data collection took place between November 2009 and June 2010. Participants' opinions about the new regime are recorded here, but most of the views expressed relate to experience of the POVA List.
- This report of the first phase of the research is based on interviews with Adult Safeguarding Coordinators (11), employers and managers (30), care workers (16), service users (10) and family carers (13).
- Interviews with Adult Safeguarding Coordinators, employers and managers and care workers included consideration of a fictional vignette of a referral to the POVA List (see Appendix 1).

# Part One: Introduction and methods

# 1. Introduction and Background

## Summary

- A vetting and barring scheme for adult social care was first introduced in 2004, (the POVA List), which supplemented the existing Protection of Children Act (POCA) List and List 99.
- The Safeguarding Vulnerable Groups Act 2006 (the '2006 Act') introduced a new Vetting and Barring Scheme (VBS) run by the Home Office. The VBS covers a broader range of workers than the earlier regime. The 2006 Act also established the Independent Safeguarding Authority and two barred lists. It also set in motion a programme of registration and monitoring for workers and volunteers engaged in prescribed activities, since abolished.
- The research, funded by the Department of Health, aims to inform the implementation of the VBS which, at the time of writing this interim report, is in the process of being substantially revised by the government.
- This is a report of the first phase of the research, which is based on interviews with Adult Safeguarding Coordinators (11), employers and managers (30), care workers (16), service users (10) and family carers (13).
- Interviews with Adult Safeguarding Coordinators, employers and managers and care workers included consideration of a vignette of a fictional referral to the POVA List, (see Appendix 1: Vignette – Rob's Story).

## Background

Safeguarding vulnerable adults has been identified as a key area in public policy, especially within social care practice and health care services, and has emerged with the increasing prominence of regulation and inspection (Cambridge and Parkes, 2005). Protecting and safeguarding children have been of continuing high importance for policy makers over the past 30 years at least, resulting in ever increasing levels of surveillance (Parton, 2006). The increasing emphasis on personalisation in adult social care has increased attention on the topic due to perceptions of increased risk arising from the use of a less regulated workforce (Manthorpe *et al.*, 2010). The vetting and barring of staff working with adults in vulnerable situations is seen as a key element of the safeguarding framework.

### ***Policy history and timeline***

As part of the implementation of the Care Standards Act 2000 in England, the Department of Health introduced the Protection of Vulnerable Adults (POVA) List in July 2004, which was administered on its behalf by the then Department for Children, Schools and Families (Department of Health, 2004). The POVA List was a facet of the increasing regulation, discipline and professionalization of the care workforce (including volunteers), underpinned by checks and mandatory disclosure of criminal convictions (Higham *et al.*, 2001; Thomas, 2002). It applied in both England and Wales. Two similar schemes existed in relation to children: the POCA (Protection of Children Act) List established by the Protection of Children Act 1999, which contained the names of staff barred from working with children in care roles,

and the long-established List 99, which contained names of persons deemed to be unfit to work in the education sector on the grounds of unsuitability, misconduct, inclusion on the POCA List, or ill-health.

The Safeguarding Vulnerable Groups Act 2006 (the '2006 Act') followed the publication of the Report of the Bichard Inquiry (Bichard, 2004), itself set up in response to the murder of Jessica Chapman and Holly Wells by Ian Huntley in 2002. The 2006 Act repealed the earlier patchwork of statutory provision, introducing a new Vetting and Barring Scheme (VBS) run by the Home Office with support from the Department of Health and the Department for Education and establishing a new vetting and barring body, the Independent Safeguarding Authority (ISA).

The ISA was charged with the creation and maintenance of two barred lists, one for those working or volunteering with vulnerable adults and one for those working or volunteering with children (referred to in this report as the ISA Adults List and the ISA Children's List respectively). These two lists supplanted the POVA and POCA Lists, List 99 and also the system of Disqualification Orders operated by the criminal justice system. In establishing the ISA, the 2006 Act also brought with it the innovation of independence from government since, under the previous system, barring decisions had been the responsibility of Ministers—in the case of the POVA List, the Secretary of State for Health.

The ISA Adults List and ISA Children's List came into being on 12 October 2009 and replaced the POVA and POCA Lists. The new scheme's remit, 'Regulated activity' as set out in the 2006 Act also started to be applied from this date. The range of such prescribed activity under the VBS is significantly broader than that under the earlier regime since it includes workers and volunteers in prisons and healthcare, including the National Health Service and the independent healthcare sector.

Regulated activity in this context means any activity which involves contact with children or vulnerable adults and is of a specified nature (e.g. teaching, care, supervision, advice, treatment or transport) frequently (meaning more than once a week), intensively (more than 4 times in a 30 day period), and/or overnight. Originally, the triggering frequency was to have been more than once a month, but this attracted a great deal of criticism, not least on the part of authors who visited schools, who were going to have to register and potentially be vetted to check they were not on a barred list. To be covered by the ISA, people need to be working or volunteering to undertake regulated activities in a 'specified place' such as children's homes, hospitals or care homes.

As under the POVA List and the children's lists, it remains a criminal offence for an individual who is barred to work or volunteer in a regulated activity, as it does also for an employer to knowingly engage the services of one who is barred (excluding people using direct payments who act as employers). Regulated activity providers (typically employers and voluntary organisations), and others including local authorities, personnel suppliers and keepers of registers, have a duty to refer information to the ISA in circumstances where the statutory criteria in relation to

safeguarding are met. Furthermore, employers have a duty to establish that prospective staff have not been barred, before they can start work. Such checks cannot be made directly, but are requested when making an application for a CRB check. When the CRB check is returned, it indicates whether the person has been placed on the ISA Adult List or ISA Children Lists. If employers want staff to start working before receiving CRB checks, they can request that the CRB makes an 'ISA Adult First' check. This is a service offered by the CRB, which tells employers whether a person has been placed on the ISA Adults List. This information is usually provided within about a week, which is much quicker than a CRB check.

Two other major changes were set out in the 2006 Act, the creation of a sub-category of people engaged in 'controlled<sup>1</sup> activity' who would also have been checked, and the introduction of a registration and monitoring scheme. The registration scheme was to have created a 'positive' list of those passed and entitled to work in relevant roles, with the ISA as the registering authority. Both of these moves have been dropped by the government (see Recent policy changes, below).

In Scotland, the Protection of Vulnerable Groups (Scotland) Act 2007 contains provisions for a unified vetting and barring scheme to cover people working with children and adults. While some of the details are likely to be different to the England, Wales and Northern Ireland scheme, one agreed aim is to:

...ensure consistency, compatibility and connectivity across the UK, even though we may adopt different approaches to some of the detail  
(Scottish Executive, 2006)

### ***Recent policy changes***

Shortly after the change of government in May 2010, the further implementation of the VBS was put on hold by the Home Secretary pending a review of the scheme. In October 2010 the terms of reference for the review were set out with a view to reducing the scheme's scope to 'common sense levels' (Home Office, 2010: 1). The review was to recommend, 'what, if any, scheme is needed now; taking into account how to raise awareness and understanding of risk and responsibility for safeguarding in society more generally.' (Home Office, 2010: 1).

The Vetting & Barring Scheme Remodelling Review – Report and Recommendations was published in February 2011 (Home Office, 2011a). It recommends the continuation of a barring scheme (including the associated criminal offences), but makes the cautionary point that:

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<sup>1</sup> Controlled activity was to include ancillary posts such as receptionists or catering staff or those who had access to sensitive information relating to children or vulnerable adults, such as hospital records clerks.

“Blanket” approaches such as the VBS have the potential to place the emphasis for safeguarding in the wrong place – on the State rather than on employers and individuals. That encourages risk aversion rather than responsible behaviour. It is the effective management of risk rather than aversion of risk which is most likely to protect vulnerable people.’

Home Office, 2011a: 3

It therefore proposes that the VBS be scaled back, in particular that the registration and monitoring facet of the scheme be abolished, as well as the sub-category of ‘controlled activity’, and that the Criminal Records Bureau should be merged with the Independent Safeguarding Authority. It proposes that ‘regulated activity’ should be redefined. The report also recommends that criminal records disclosures should become ‘portable’ through the introduction of a system which allows for continuous updating.

This interim report has been in preparation during this period of policy revision. The Conclusions (Part 3) further address – in the light of our findings – these latest proposals, which form the basis for the relevant sections of the Protection of Freedoms Bill, currently before Parliament.

### ***Previous research***

Our initial research (Stevens and Manthorpe, 2005), which analysed the first 100 referrals to the POVA List received much interest from the sector, and a second phase of research on the POVA List re-analysed data on all referrals between July 2004 and November 2006 and more detailed information on a sample of 300 referrals (Stevens *et al.*, 2008). In addition, this second study investigated decision-making processes involved in barring (or not barring) workers referred to the POVA List. As far as we are aware, these studies are the only exploration of the POVA List and, perhaps surprisingly, we have been unable to identify any study of the parallel children’s List, POCA or of List 99 (teachers). In our review of the literature we identified a very small number of studies of decision making around criminal records and social services staff (Smith, 1999), and a small number of studies of decision making around workforce bans in nursing (e.g. Harman and Harman, 1989; Johnstone and Kanitsaki, 2005).

This research was originally intended to inform the implementation and development of the VBS and will now inform its remodelling. This interim report has relevance also for other stakeholders. Managers involved in making referrals to the barring scheme will gain better understanding of the approaches to assessing suitability; further, the research will inform the development of referral and checking processes. Social care staff and people using services will benefit from being better informed about the assessing of potentially unsuitable people working with vulnerable adults. More widely, an investigation of the operation of the schemes will inform debates about the increasing degree of regulation of the adult social care workforce (Higham *et al.*, 2001; Thomas, 2002), through in-depth examination of the operation of, and views about, a particular approach to regulation. Further, the

research provides insights into the relative extent of the focus on a 'person' or 'system' approach to responding to error (Reason, 2000), in other words the extent to which the approach simply is one of identifying an individual responsible for harm, or whether the approach also identifies problems with the context of adult social care and other public or private service provision.

This interim report is based on a thematic analysis of 80 interviews, with Adult safeguarding leads and Adult Safeguarding Coordinators (11), employers and managers (30), frontline staff (16), service users (both receiving support from public agencies and from the independent sector) (10) and family carers (13). The research has been funded by the Department of Health as part of the core work of the Social Care Workforce Research Unit, King's College London. The report focuses on experiences of checking job candidates and referring staff to the ISA, or previously to the POVA List, in the context of other recruitment approaches and measures to safeguard people using services. In addition, overall views about the impact of vetting and barring staff and the changes made by introducing the ISA (including the idea of registering staff, now rejected by the government) are also outlined.

## ***Aims and Objectives of the Research***

### **Aim**

The overall aim of the research is to:

- Inform the implementation of the Vetting and Barring Scheme (VBS), established by the Safeguarding Vulnerable Groups Act 2006, in respect of vulnerable adults.

### **Research Questions**

1. What are the similarities and differences in the patterns of referrals to, and the barring decisions of, the POVA List and the ISA?
2. What are the processes involved in making referrals to the POVA List and in using the List to vet potential members of staff?
3. What is the perceived effectiveness of the POVA List?
4. How are decisions being taken to bar individuals from working with vulnerable adults?

This interim report addresses the second and third of these research questions: the second phase of the research will provide evidence in answer to the first and fourth research questions.

## 2. Research design, methods and sample

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Given that the research has wide ranging aims, we adopted a multi-method approach, to provide extensive and intensive evidence about vetting and barring staff working with adults in vulnerable situations. Statistical analysis of referral data from the first year of the new scheme will later be undertaken to provide extensive evidence about how it is operating. The first phase of the research used semi-structured interviews to explore the perspectives of different stakeholders, covering various aspects of the processes involved, including decisions to bar or not to bar individuals referred to the new scheme. Two approaches to building an overall picture from these disparate data sources and methodological stances were planned over the course of the study. Clearly, the results of the remodelling may well alter our plans and the implications of these will be discussed with our research commissioner, the Department of Health Policy Research Programme (PRP).

First, we intend to compare the statistical relationships emerging from our analysis of the data with the meanings and perspectives explored in the interviews, which will represent triangulation of method. In this way we will be able to indicate how far statistical relationships among large number of referrals can be perceived in the understandings and accounts of individuals. Highlighting any resonances and distinctive findings from these approaches will therefore produce a more complete and complex picture than simply presenting the findings separately.

Second, we will seek to obtain the perspectives of a range of stakeholders, including members of the ISA who are directly involved in making decisions. Obtaining different accounts of the same phenomena may also be seen as being data source triangulation (Yin, 1994; Hammersley and Atkinson, 1983). However, combining interpretations of accounts produced by different methods and from distinct groups is not simply a matter of filling in the gaps of a pre-existing picture. For example, participants from different stakeholder groups will have distinct experiences and positions in terms of the vetting and barring processes, which are likely to lead to different constructions of the value and approaches of the scheme. Using multiple sources of data thus may be thought to produce a more complex picture, rather than necessarily a more 'accurate', or 'truthful' one, which is the impression given by the idea of triangulation (Richardson, 1998).

### **Data collection**

As we outlined above, this report presents findings from interviews with a set of stakeholders: Adult Safeguarding Coordinators (11), employers and managers (30), care workers (16), service users (10) and family carers (13). These were carried out November 2009 – May 2010. Interviews with adults Adult Safeguarding Coordinators, employers and managers and care workers included consideration of a vignette (see Appendix 1), that outlined the circumstances of a referral to the POVA List. We asked these participants to make a 'decision' about the suitability of the fictional staff member. This approach partially repeats that in the POVA List research and was used as trigger and focus for the open-ended questioning about important



factors in making judgements about 'suitability'. In the report, we have identified factors seen as important and highlighted any differences in the emphasis between the groups. In the second phase of the research we will examine how far actual decisions made about suitability of dismissed staff identified in the secondary analysis of referral records reflect the factors emerging from the qualitative analysis.

### ***Employers***

Experiences of the POVA List and the ISA in relation to checking whether people have been placed on the barred list and making referrals concerning dismissed staff and of vetting potential new staff were gathered from managers of services and human resources personnel in large/small, public and private sector and voluntary sector employers. 30 interviews were undertaken, covering:

- Awareness of the schemes
- Levels of trust in using the schemes
- Areas of difficulty in using the schemes
- Views about changes made and needed and whether new scheme meets these
- Views about the overall effectiveness of the schemes in barring the right people from working with vulnerable adults including whether it is perceived as providing value for money
- Accounts of making referrals (including decisions about whether and when to refer)
- Views about making referrals, including interaction with employers' disciplinary processes
- Providing evidence to support referrals
- Role of other agencies (such as CSCI, HC (now CQC) and Local Adult Protection Units/Local Authorities) in the referral process
- Support needed in making referrals
- Issues of compliance with the existing regulations regarding employment of people working with vulnerable adults
- Ease and timeliness of making checks on the ISA Adults List, or previously the POVA List, via requests for CRB disclosures at recruitment stage, and where these fit into recruitment processes
- Views about the need to making such checks, in terms of:
  - delays to recruitment process
  - potential discouragement to provide services
  - increasing confidence in the barring schemes
- Responses to a vignette of a referral to the POVA List.

### ***Adult Safeguarding Coordinators***

We undertook 11 interviews with Adult Safeguarding Coordinators (formerly often known as Adult Protection Coordinators), who were felt to be able to provide a good overview of local practice and to be of more direct value than regulators such as inspectors whom we originally intended to interview in light of their greater experiences with vetting and barring. These interviews covered

- Involvement with individual referrals
- General involvement with safeguarding issues involving the conduct of staff
- Views about the overall effectiveness of the schemes in barring unsuitable people from working with vulnerable adults
- Effect of involvement on overall relationships with providers
- Explore differences between local and national perspectives
- Responses to a vignette of a referral to the POVA List.

### ***Care workers***

We undertook interviews with 16 care workers, who were accessed through public, private and voluntary and community sector providers. The interviews covered:

- Anonymised accounts of individual referrals
- Relationships with anonymised referred individuals
- Use of disciplinary procedures or otherwise
- Interactions with the police, CSCI/HC (CQC), APUs and local authority adult social services departments
- Views about the effectiveness of the schemes and potential improvements
- Providing evidence to support referrals
- Responses to a vignette of a referral to the POVA List.

### ***People using services and carers***

We undertook interviews with 10 people using adult social care and health services and 13 family carers (some accessed through service user and family carer groups and some with experience of involvement in the development of local adult safeguarding schemes). The interviews covered:

- Awareness of disciplinary procedures, the ISA and CRB
- Anonymised accounts of individual referrals or incidents
- Relationships with anonymised referred individuals or poor practice
- Views about the effectiveness of the schemes and potential improvements
- Providing evidence to support referrals.

It was decided not to include the vignette with people using services and family carers, mainly because of the length of the interviews.

### **Sample**

We were aiming to include a wide range of perspectives. As we mentioned above, we interviewed:

- 10 service users
- 13 family carers
- 30 employers/managers
- 16 care workers
- 9 Adult Safeguarding Coordinators and 2 Care Quality Commission (CQC) inspectors

Tables 1 and 2 show the demographic characteristics and the settings and care groups of participants. Overall, about two thirds (65 percent) of participants were White groups, with six percent Asian, about a seventh (14 percent) Black African or Black Caribbean, four percent of mixed ethnicity and five percent 'Other'. There were five participants who did not want to give their ethnicity. Almost three quarters (73 percent) of participants were in the three mid-age groups (35-44 years, 16 percent; 45-54 years, 31 percent; 55-64 years, 29 percent). However, the service users were more evenly spread with respect to age and the family carers, unsurprisingly, were older. Just over three quarters (76 percent) of participants were women, although almost all (94 percent) of the frontline staff interviewed were women.

Overall, two fifths (40 percent) of participants were either living or working in care homes, this included half of the service users (5/10) and just over half (57 percent) of the employers. Most of the Adult Safeguarding Coordinators and the two CQC inspectors interviewed covered all settings and worked with all client groups of people using services. We interviewed eight (out of ten) older people, one disabled person and one person with learning disabilities. Almost two thirds (63 percent) of the managers worked in services primarily serving older people, and just under two fifths (38 percent) of frontline staff; almost another two fifths (38 percent) of staff worked with all service user groups.

The sample includes people from different perspectives and with different sets of experience. In the findings section, we will highlight the groups of people whose quotes we use; although these groups are not representative in any statistical sense of the groups, it is important to be aware of the perspectives from which people come.

**Table 1: Demographic characteristics of participants by interviewee type**

Age group	Service user		Carer		Employer /manager		Care workers		Safeguarding coordinators		Total	%
	%		%	%	%	%	%	%	%		%	
18-24	1	10%			1	3%	1	6%			3	4%
25-34					4	13%	2	13%			6	8%
35-44	1	10%			6	20%	4	25%	2	18%	13	16%
45-54	2	20%	1	8%	11	37%	7	44%	4	36%	25	31%
55-64	1	10%	10	77%	8	27%	2	13%	2	18%	23	29%
65-74	1	10%	1	8%							2	3%
75-84	2	20%									2	3%
85-94	2	20%	1	8%							3	4%
Not given									3	27%	3	4%
<b>Total</b>	<b>10</b>	<b>100%</b>	<b>13</b>	<b>100%</b>	<b>30</b>	<b>100%</b>	<b>16</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>80</b>	<b>100%</b>

Ethnicity	Service user		Carer		Employer /manager		Care workers		Safeguarding coordinators		Total	%
	%		%	%	%	%	%	%	%		%	
Any other Asian					2	7%	1	6%			3	4%
Asian					1	3%					1	1%
Asian - Indian					1	3%					1	1%
Black - Caribbean	1	10%			3	1	1	6%			5	6%
Black African					1	3%	4	25%	1	9%	6	8%
Black or Black British – Mixed							1	6%			1	1%
Mixed White & Black Caribbean					1	3%					1	1%
Mixed White and Black African							1	6%			1	1%
White English	4	40%	10	77%	15	5	5	31%	5	45%	39	49%
White Irish	1	10%			1	3%			2	18%	4	5%
White Other	2	20%	2	15%			2	13%			6	8%
White Other British	1	10%			1	3%	1	6%			3	4%
Other					4	13%					4	5%
Not given	1	10%	1	8%					3	27%	5	6%
<b>Total</b>	<b>10</b>	<b>100%</b>	<b>13</b>	<b>100%</b>	<b>30</b>	<b>100%</b>	<b>16</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>80</b>	<b>100%</b>

Gender	Service user		Carer		Employer /manager		Care workers		Safeguarding coordinators		Total	%
	%		%	%	%	%	%	%	%		%	
Female	6	60%	10	77%	22	73%	15	94%	8	73%	61	76%
Male	4	40%	3	23%	8	27%	1	6%	3	27%	19	24%
<b>Total</b>	<b>10</b>	<b>100%</b>	<b>13</b>	<b>100%</b>	<b>30</b>	<b>100%</b>	<b>16</b>	<b>100%</b>	<b>11</b>	<b>100%</b>	<b>80</b>	<b>100%</b>

**Table 2: Service type and service user groups interviewee type**

Setting	Service user		Employer		Care workers		Safeguarding coordinators		Total			
	%	Carer	%	/manager	%	%	%	%	%	%		
Care home	5	50%	5	38%	17	57%	4	25%	1	9%	32	40%
Sheltered housing			1	8%							1	1%
Home care	3	30%	7	54%	9	30%	9	56%			28	35%
Domiciliary [sheltered] <sup>2</sup>	2	20%									2	3%
Day centre					4	13%	3	19%			7	9%
Local Authority (all)									6	55%	6	8%
NHS Trust									2	18%	2	3%
CQC – all									2	18%	2	3%
Grand total	10	100%	13	100%	30	100%	16	100%	11	100%	80	100%

User group	Service user		Employer		Care workers		Safeguarding coordinators		Total			
	%	Carer	%	/manager	%	%	%	%	%	%		
All groups			1	8%	7	23%	6	38%	10	91%	24	30%
Learning disabilities	1	10%	3	23%	2	7%	2	13%			8	10%
Learning & phys dis.			1	8%	2	7%	1	6%			4	5%
LD / older person <sup>3</sup>			2	15%							2	3%
Older people	8	80%	5	38%	19	63%	6	38%	1	9%	39	49%
Phys dis/ older people							1	6%			1	1%
Physical disability	1	10%	1	8%							2	3%
Grand total	10	100%	13	100%	30	100%	16	100%	11	100%	80	100%

### **Data Analysis**

Interviews were transcribed in full (with permission) and entered into N-Vivo qualitative data analysis software. Five members of the research team read through five transcripts each to identify key themes, within the broad areas of the interviews. The themes were compared and merged into an initial coding frame (or set of nodes), which was used by two members of the team to code the data. These two researchers discussed the meanings of codes and were in regular communication about progress with coding, updating each other about new codes created and ideas about analysis. After coding, text coded at each node was read and re-coded into overarching themes as presented in the report.

<sup>2</sup> These participants were receiving home care services and were living in sheltered accommodation

<sup>3</sup> These participants were caring for older parents and adult children with learning disabilities

## Part Two: Findings

### 3. Recruiting and vetting new staff

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#### Summary

- Almost all of the managers we asked talked about taking up references and checking that they were genuine, contacting the company or university involved
- Many comments were made about the variability of information contained within references, and views on overall usefulness varied
- Where good information was provided in the reference, this could be useful not only in terms of recruitment but also in terms of making people aware of potential problems, should they employ a candidate
- The idea that making decisions about recruitment relied more on the judgement of managers than the 'paper trail', was expressed by a small number of managers: 'You are still working on gut instinct', as one Care Home Manager commented
- The formal processes of vetting staff (whether using the ISA Adults First Service, via CRB checks, to check whether a prospective worker is on the ISA Adults List or previously the POVA List, or carrying out CRB checks) appeared to be well established practice across the mainstream employers, although the small number of service users and carers who employ staff were less likely to use them.
- None of the managers interviewed mentioned having ever come across an applicant who had been on the POVA List or ISA Adults List, when checked.
- The main comments were positive in terms of the mechanisms of checking the ISA Adults List using the ISA Adult First Service provided by the CRB, or previously the POVA List. This was felt to be quick and straightforward, especially when compared with CRB checks themselves, which were much more variable in terms of time. This was the most common criticism of the process.
- As the results of CRB checks do not prescribe the actions of the recipient, opinions varied as to how to interpret information provided. Whilst some would not employ anyone with any criminal record, some were inclined to ignore old and minor convictions, particularly when candidates were honest about their record before the CRB check was received.
- However, most participants were positive about having these formal checks on the histories of prospective staff members
- Several managers in small providers and one or two service users and carers spoke positively about the use of umbrella organisations to manage CRB checks (including the ISA Adult First service), which relieved administrative pressure.

#### Introduction

In order to examine the role and value of vetting and barring schemes, it is important to describe other processes employers use to find out about the people who apply to work with them in addition to the formal and legally based vetting

processes (the VBS via the CRB, previously the POVA List, and CRB checks). This chapter will outline these processes, which include establishing positive reasons to employ someone as well as checking whether the person is unsuitable before presenting views about making checks about whether someone is on a barred list.

### **Checking references**

Almost all of the managers we asked talked about taking up references and checking that they were genuine, contacting the company or university involved. Most of the managers required two references, including at least one from a previous employer – two employers required six references, three professional and three personal. This comment represents the most thorough approach to taking up references that we came across; two home care agencies adopted this approach:

We ask for six reference checks, three personal and three professional. Three people we write to, email or whatever. Three people we phone up, so we've got a balance. We do that and that's the reference check and so we start down that road.

MS05 Home Care Manager, All

### ***Quality of references***

Many comments were made about the variability of information contained within references, and views on overall usefulness varied. Five managers mentioned what they felt was an increasing trend for minimal information to be included on references, which could just confirm that the person had worked for the employer between the relevant dates. This was felt seriously to limit their value and also make safeguarding more difficult:

I actually got her reference back today from her employer, bearing in mind they are also in the care business and that's what it said. So it tells me that she worked there and it tells me when she left, but that's all it tells me. They are in the care business. But that's not the first one... We get quite a lot like that.

MS02 Care Home Manager, Older People

A variation of this concern was raised by a recruitment and retention coordinator in relation to a case where a worker dismissed from the company had retained the company badge: s/he was anxious that the worker may be passing as a company worker (TN15, Home Care Manager, Older People). Several managers described how they felt reluctant to 'commit anything to paper' (TN 08, Care Home Manager, Older People), for fear of being taken to an industrial tribunal. This illustrates a limit on the value of references, if managers are fearful of putting in clear information about the person:

Anyway, having discussed her and we had huge concerns about being honest about her honestly levels. We had got a reference for her. I was very wary of her anyway, because I suspected she would take us to an employment tribunal, which she did.



Where good information was provided in the reference, this could be useful not only in terms of recruitment but also in terms of making people aware of potential problems, should they employ a candidate. For example, this manager described how a reference had alerted him to the potential for a particular worker to behave in a certain way. While the person was employed, he was eventually dismissed because he had repeated the behaviour described by the previous employer. While this was a single example, it does serve to illustrate the potential of references to inform the recruitment process:

One of his references from another agency gave him a really bad reference and they actually phoned me as well to tell me about how he is, which is really bad. But we kept our eyes open and did a spot check straight away and eventually he was dismissed because he did the exact same thing he did with the last company. It wasn't good. It did help. If we didn't have those reference checks in place we would never have known about how he was and how he worked and but it does help in a lot of cases.

TN15 Home Care Manager, All

### ***Informal approaches to establishing suitability***

The idea that making decisions about recruitment relied more on the judgement of managers than the 'paper trail', was expressed by a small number of managers. Interviews helped in judging general skills, how a candidate would 'fit' with the existing staff team in terms of skills and personality and importance of respect, empathy and understanding. These issues were mentioned by a small number of managers as well as one family carer and one service user who employed care workers. This was not generally presented as an argument against having external checks, more that such instincts were always going to be a valuable supplement to recruitment:

You are still working on gut instinct. The managers are still trying to just get a sense of whether it's the right type of person and whether they are seeing the right sorts of qualities and a lot of it comes down to the interview more than the paper trail, which is kind of scary in a lot of respects.

TN06, Care Home Manager, Older People

With checks. I just get the feeling sometimes it's just never enough. You never really know a person even if you get three personal references, three professional references, a CRB, you still don't really know that person. I don't know what else. I just feel sometimes it's not enough.

TN15, Home Care Manager, Older People

However, one of the service users taking part who received direct payments to pay for her own care and support and employed a set of care workers, and one family

carer who employed staff for the person she cared for, gave this element of the recruitment process a lot more weight than the formal processes of CRB checks and the VBS, or formerly the POVA List, which they were much less positive about. This service user stressed the importance of a 'rigorous interviewing process' and trial periods as way of making sure that candidates would be good workers:

As service users I think you know the two things that I sort of say to friends if they're considering doing it is, "Do, do, do make sure that you have some sort of rigorous interviewing process." We don't do interviews as such, we sort of invite people for tea and do a sort of couple of hours really good chat... Oh yes, definitely: don't employ anybody without a trial period.

MS16, Disabled Person

The formal checks were seen by these two participants respectively as being potentially inaccurate and also had the potential to create a false confidence about someone just because they had not had a previous conviction. The value of personal qualities and ideally employing someone known to the service user were felt to be much more important.

### **Establishing the positives**

Establishing what characteristics a candidate has that make him or her likely to be a good worker is a key part of the recruitment processes, in addition to the formal and informal checks for evidence of unsuitability for care work. Again this has a formal and informal element. Formal processes relate to requiring evidence of qualifications and checking references. Employers also need to make their own judgements through their personal interactions with a worker during the recruitment process. However employment and equalities laws require that employers make defensible judgements, which acts as a complicating factor and were explicitly mentioned by a couple of managers.

Practices varied mainly in relation to whether more than one interview was undertaken and the locus of responsibility, with larger organisations having separate human resources to advise and sometimes undertake recruitment centrally.

### **Vetting staff**

The formal process of vetting staff appeared to be well established practice across the mainstream employers, although the small number of service users and carers who employ staff were less likely to use them. This is perhaps unsurprising given the permissive (as opposed to mandatory) status of the scheme.

### ***Checks on POVA List or ISA Adults List***

None of the managers interviewed mentioned having ever come across an applicant who had been on the POVA List or now on the ISA Adults List, when checked. The main comments were positive in terms of the mechanisms of checking the Lists, which were felt to be quick and straightforward.

A small number made positive comparisons with CRB checks. This was a typical comment about the time taken for pre-appointment checks generally:

POVA roughly within a week, a week or so. That's what normally we get those responses here and CRB can take four week onwards.

TN03 Care Home Manager, Older People

However, several managers and two family carers commented that normally it took three to four months to get all the checks done, mainly due to the extended time needed for some CRB checks. This was felt to make recruitment difficult, where it did occur, and was mentioned by four frontline members of staff as being a particularly difficult aspect of their experience of applying for jobs:

Sometimes it's huge problems, they lose good staff because they then have to do all the checks and particularly the CRB checks can take up to three months and people look for other work, because I don't think they even allow them in for shadowing until they've been checked.

JH03 Family Carer for person with multiple disabilities

It came back last week. It did take a while for it to come back. That was about the only thing and they just thought it was getting a little bit stressful. I got a reference number, so I was chasing it up myself on a daily basis.

TN13, Home Care Worker, All

After a ISA Adult First check (via the CRB) has established that a job applicant is not on the ISA Adults List, employers are allowed to start a new employee working under supervision before the CRB check is received. Views varied as to whether employers were willing and able to do this. Two managers described starting new staff on their induction after receiving confirmation that they were not on the ISA Adults List and before the CRB was returned. However, another felt that in their particular field (home care services), this was not appropriate:

The reason I don't start anybody on a POVA First check is because I feel that in this kind of environment ie working in the community, you can't work supervised. For me, the recommendation that if you have a POVA First you are supervised all the time isn't something that I could do, so that's why I don't use the POVA First check either.

TN26, Home Care Manager, All

Several managers of smaller services and one family carer who employed Personal Assistants for her daughter, using Direct Payments from the local authority, talked positively about the use of umbrella organisations to manage the ISA and CRB checking process. This was seen as removing some of the administrative pressure. Managers from larger organisations, such as local authorities, reported that human resources sections managed this process:

We obviously have been operating for three years here in (Name of county)

now and we have a fairly smooth system. We actually use an umbrella body. We use (Name of umbrella organisation) data. So we will collect all of the information and send it online to (Name of umbrella organisation) data and they then send back the paper forms, which have to be read and signed by the individual. In some ways I see that as being quite good. It's not just one process that somebody goes through, they actually have to come back to the office after they've been interviewed to come and sign their form.

MS04, Home Care Manager, All

### **CRB checks**

It is required to check whether people have criminal records before they can be employed permanently in many social and health care services, although the checks are advisory, in that managers and individuals have an element of discretion about employing someone with a criminal record.

### **Value of CRB checks**

Having to undertake CRB checks was felt by many managers to be a valuable part of the recruitment process, allowing them to feel confident, at least at the point of recruitment, that they had information about the past behaviour of the worker:

What I would say is that the CRB is valuable because it's then showing that there isn't any particular information that's out there with somebody that we don't know about.

JH10, Day Centre Manager, Learning Disabilities

However, as we outline below, there was a strong belief in the value of instinct and judgement about a potential worker to supplement these formal checks.

### **Time taken**

The most important and frequently mentioned issue in relation to the process was the time taken to get results of the CRB check, which was mentioned by 10 managers and four frontline staff. This caused problems administratively and several managers felt that it had made recruitment difficult. Delays were reported in relation to problems of mistaken identity, lost forms or failure to record changes of address accurately:

The CRBs can take yonks. They, some of them can take forever. You are just constantly phoning up. It depends which police station it goes to. Some get lost. I don't know what happens. But some just disappear. And some take months and then nobody is going to work for you if they are waiting months.

MS05, Home Care Manager, All

Obviously, there is things that delay it. When the applicant might not be put in the continuous address history, for example.

MS12, Care Home Manager, Older People

However, two people felt that the process had speeded up recently, which was most welcome, as originally they felt it took too long:

Speed wise it's actually improved, yes. I think also, I think any agency now are aware that as soon as they've got someone on their books they get their checks done. They tend to actually pass that information on.

JH09, Day Centre Manager, People with Learning Disabilities

Several managers described how they had had to start people working before the CRB check came back, but after using the ISA Adult First Service offered by the CRB, to establish they were not on the ISA Adult List or previously checking they were not on the POVA List. This was seen as necessary to avoid people turning down jobs due to the long delay before the CRB check was returned. This was felt to be something slightly controversial, and not ideal, but necessary to manage recruitment successfully:

We've had this debate as well, the CQC as to whether we start people before the CRB if we've got the POVA and in some circumstances that's had to be done because people are not going to stay for the months waiting for it. When we looked at the guidelines, you know, CQC very much couldn't say one way or the other, because they are quite sketchy.

TN 05, Care Home Manager, Older People

The time taken to support applicants to complete CRB forms was identified by a small number of managers as a further significant cost in terms of staff time, particularly with international workers, whose understanding of the process was sometimes not very good.

It can take two hours. Two hours at £10 an hour that's £20, which we don't charge them. But if we've done all this and then they still decide to leave so we have to carry on and do another one.

TN04 Care Home Manager, Older People

### **Interpreting information reported in CRB checks**

While two managers indicated that they were very unlikely ever to employ people with any criminal convictions, four managers gave accounts of making judgements about the information that arose from CRB checks. They stressed that honesty from applicants was pivotal in the judgements they made, particularly in respect of offences that occurred many years in the past. Applicants who were felt to have hidden such information were highly unlikely to be employed. This day centre manager's comment was typical of the attitude towards the information on CRB checks:

The decision would be made if they were honest on application that there is something they've done 15 or 20 years ago and it may come up. Then that would be a decision between HR myself and my manager will decide whether or not that is something we could overlook.

JH07 Day Centre Manager, Older People

Little difference was noted in relation to international workers, in terms of the processes, although there was general acknowledgement that making the required checks took longer. This was a typical comment:

It all seems to work. It just takes longer, providing they furnish you with the correct details. It does take longer. It just all seems to work.

MS01 Care Home Manager, Older People

Two difficulties were identified by a small numbers of managers. First was an increased concentration on making sure that international workers were who they said they were:

It generally is more difficult, because, obviously in our heads the buzzer is around forgeries and things like that.

MS12 Care Home Manager, Older People

Another difficulty raised was a suspicion, voiced by a small number, that systems for checking criminal records in applicants' home countries were likely to be less reliable than those found in the UK:

Whether they really do a check from those people say from the time they come in and so what really happen or whether they have been on the offence list or back home, I don't know where exactly they come from. Whether they really do a check over there....

TN03 Care Home Manager, Older People

## 4. Employers' responses to misconduct and abuse

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### Summary

- In response to the vignette, many participants felt that more information and investigation would be needed before a decision about whether to dismiss Rob could be made. Issues to be investigated included:
  - Training and induction
  - Supervision and support
  - Distinguishing the importance of non-safeguarding issues, such as not handing in sick certificates
  - Impact on service users
  - Context (e.g. whether Rob was overtired because he was studying)
  - Rob's reaction – whether he showed remorse
  - Examine the views of other staff members
  - Rob's claims that he had experienced racism from the other staff.
- The following issues were identified by participants as important in justifying dismissing a staff member:
  - Any abuse
  - Intention, although views were more polarised. For some it was central to the definition of abuse and was necessary in order to justify disciplinary action and potential barring
  - Patterns of behaviour
  - Response to challenging behaviour was not seen as an excuse for Rob's behaviour.

### Introduction

Before referrals can be made to the ISA, employers must have dismissed, or be minded to dismiss the worker. Most referrals to the POVA List came after disciplinary procedures had been completed (Stevens *et al.*, 2008). We asked employers about disciplinary responses in relation to a vignette. The vignette was one of the three used in the previous research on the POVA List and described Rob's case. He had been accused of throwing water on a care home resident and shouting at her as he was helping her into bed, using a hoist. There were a number of other factors included in the vignette, which is in the appendix to this report.

As in the previous research, the vignette provoked a broad range of responses, in terms of overall views about whether to dismiss. We were interested in the kinds of reasoning used and the hypothetical response of the employer to the situation as well as more general accounts of the kinds of mistreatment and harm that would result in someone being disciplined and dismissed. This section describes these responses. The following sections describe first the approach to referrals to the

barring authority and then to barring itself. These sections throw light on the second review question, focusing on the role and function of barring schemes.

## Investigation

A large group (11 Adult Safeguarding Coordinators and 16 managers) felt that more information and further investigation were needed to make a decision about Rob, or for some, even to come to an initial view about what to do. All of these participants stressed the importance of a thorough investigation, on the grounds mainly of fairness, although some also mentioned the need to be defensible, so that they would be able to defend their decisions in tribunals. Two frontline workers also expressed this view. Issues to be investigated included:

- Training and induction – particularly in relation to working with people with learning disabilities
- Supervision and support Rob had received
- Distinguishing the importance of non-safeguarding issues, such as not handing in sick certificates
- Impact on service users as a way of interpreting the behaviour and understanding what it was
- Context in terms of Rob's general state of mind. For example, one person mentioned possible overtiredness, perhaps because he was studying
- Rob's reaction – whether he showed remorse
- Examine the views of other staff members
- Rob's claims that he had experienced racism from the other staff members.

All of these factors were felt to bear on the decision about whether to dismiss someone in such circumstances.

Stressing the need for further investigations, one coordinator felt that in response to the vignette further investigation was needed before being able even to come to an initial impression:

On the night shift (PAUSE) If it's just said staff reported that he had shouted and thrown water, in my experience, for me, I would not immediately suspend him. I would not immediately suspend him, simply because I am looking at the level of the abuse here. I would definitely investigate it.

TN25, Safeguarding Coordinator, All

Two other frontline staff also expressed doubts about the interpretation of the vignette, one in relation to the level of support that Rob was getting and another was concerned about investigating his claims of racism, which was also mentioned as being an important aspect to investigate by three of the managers:

I think I probably need more information, really. The fact that he is claiming that he's been a victim of racism as well. Maybe the way he's been treating is impacting on how he's treating residents.

MS06 Home Care Worker, All



Another frontline worker focused on the possibility of Rob being victimised, which would mean that he should not be dismissed for this one incident, as the interpretation may have been exaggerated by his colleagues:

It's quite possible that that man did get pinched and he shouted out in pain, which is possible and the other staff have sort of took it to the cleaners and made it a bit more elaborate than what it was and so if that was me I would definitely review him and disciplinary and give him a caution and mark his card and say, this is your—you've been told and we are going to give you another chance and then put him with another client away from them and find somewhere else with companion rather than personal care or that way and then try him out that way. If there is another complaint, that's it. One hit and you are out.

TN14 Home Care Worker, All

Another felt that more should be done to support staff who are working with people who are physically aggressive. These two frontline staff were concerned with their own vulnerability to being accused. These two comments illustrate the complexity of interpreting different accounts of events, and the weight to be placed on different aspects of the situation:

I do have a comment in relation to vulnerable adults who are abusive to staff. There doesn't really seem to be – to me - there really isn't any support for staff when they are being abused by service users, we just seem to have to take it, because there doesn't seem to be any policies or anything to say, well, if the service user behaves in a particular way then these are the actions to deal with that where service users are actually abusing staff.

TN28 , Day Centre Worker, Older People

Several managers were concerned about the quality of evidence from Rob's colleagues. They felt it was important that these staff members were prepared to be witnesses at any disciplinary hearing. Several also noted the relevance of the claims of racism, in order to ensure that Rob's case was investigated fairly:

If for instance the staff were unwilling to actually be witnesses at the hearing, if they were unwilling to say listen, I'm going to stand up there and say what I actually saw and how I feel, that would actually cause me a number of concerns.

JH931 Day Services manager - Learning Disabilities

I don't think the investigation has been as thorough as perhaps it ought to have been. I think the manager should have been investigated as well. Particularly if there is possibly a case of racism.

MS04 Home Care Manager, All

Three other managers stressed the difficulty of making a decision where the evidence was hard to obtain, which made it more likely that decisions might be challenged in a tribunal. This comment nicely illustrates the balancing act described by these managers, between an approach that favours dismissal and 'waiting for the tribunal' and the avoidance of tribunals, leading to greater risk of abuse, but less risk of injustice to staff members:

When they are sat there in disciplinaries and your gut feeling is that they've done something. You've not got the evidence and then, as an employer you've got a really tricky call to make then because if you go through the dismissal option and wait for the tribunal to come by you, that at least now you've protected your vulnerable adults or you cannot dismiss them, so then you don't have a tribunal heading your way and then you do have the risk that potentially you've let somebody in your building continue working when they may have abused somebody. It's really difficult to know which way to make that call. It's very rarely clear cut.

TN05 Care Home Manager, Older People

These kinds of dilemmas run through much of this kind of decision making, which illustrates the moral and ethical dilemma faced by managers and by members of the ISA team, in terms of the conflicting interests of people using services, individual workers and indeed the workforce as a whole. A system that is too quick to dismiss and to bar is likely to lead to increased difficulties in recruitment, and potentially worse standards for people using services. One that apparently tolerates an incident of abuse runs the risk of such conduct becoming normalised in day-to-day practice.

Several managers stressed the importance of separating the issues in terms of investigation. For example, this day services manager pointed out that the concerns about sick notes and other more general concerns about Rob's work should have been addressed before the incident:

That, the first thing was that—it wasn't until he'd been suspended and people were saying, this has happened and that's happened and he's not working properly and there is problems with sick notes. That shouldn't be happening. If there is a complaint about somebody's work then that should be coming forward as a matter of course.

TN27, Day Centre Manager, Learning Disabilities

Such aspects were all seen as a key part of the investigation, and may change the view about certain kinds of behaviour, informing the final decision about the right response in each case.

### ***Justifying dismissing staff***

This section looks more closely at considerations that bear on the ultimate decision to dismiss a worker, as opposed to factors that need to be investigated. Issues relating to abuse, intention and patterns of behaviour were all seen to be important factors leading to a decision to bar a worker.

## **Concept of abuse**

The concept of abuse was felt to explain and be enough of a justification for dismissal, a view expressed by participants in each group (4 service users, 7 family carers, 4 Adult Safeguarding Coordinators, 16 managers, 10 frontline staff). The general view was that, almost by definition, anyone who abused a service user should be dismissed, some left it at this level of abstraction, whilst others went into more detail about what forms abuse would take:

RESPONDENT. Well if it's like serious abuse, okay. Serious type of abuse and gross misconduct.

INTERVIEWER Such as? Do you have any examples?

RESPONDENT. Well, such as I think theft, yes or as I say, abuse, mainly abuse.

TN03 Care Home Manager, Older People

Distinguishing poor practice and abuse was very difficult, particularly in relation to emotional abuse. This is particularly important where service users present challenges:

So there is always some level of judgement when you are dealing in this area and I know staff themselves have little training and they have little money and they are doing very difficult tasks and I have the greatest admiration for them. I couldn't do it. I'm sure my mother has sorely tried members of staff. She can be very 'doolally' at times.

JMO1 Family Carer, Older person and Person with Learning Disabilities

## **Intention**

Views about the importance of intention were more polarised. For some it was central to the definition of abuse and was necessary in order to justify disciplinary action and potential barring. For others, intention was not important. This quote from a frontline care worker sums up the dilemma. The issue appears to turn on a distinction being made between the importance of intention as a marker of the person's character (and the likelihood of further incidents), and a simpler view that certain behaviour is abusive and harmful, in terms of the impact on the service user, irrespective of intention:

I don't think he [Rob] intended abuse. I think any intentions of abuse or resulting abuse, sometimes people don't intend to but they are still abusing. Any intentions, obviously that would be top priority, that's clear. Other forms, it's a very hard line to define isn't it. I think each case has to be looked at on its own merits, really.

MS07, Home Care Worker, All

...you would want in terms of investigation, did you speak to the residents and did he mishandle you and did they feel that it was deliberate or did they feel it was through inexperience? Is there potential for him to change?

JH04, Adult Safeguarding Coordinator

### **Patterns of behaviour**

A small number of participants in each group (two service users, two family carers, two Adult Safeguarding Coordinators, four managers and two frontline staff) mentioned the importance of repeated behaviours in making decisions to dismiss a worker. This was thought to show that a behaviour was either ingrained or was deliberate and therefore indicative of someone who should not be working in social care:

When it starts to become a regular thing. When it starts to become the norm. Your poor practice is just (there) and maybe you've been spoken to or maybe a member of staff has spoken —if you have been spoken to before and it carries on as poor practice.

MS05, Home Care Manager, All

Repetition means that, if you take the notion of capacity, repetition means that you would probably be thinking about what you are doing and still continuing to do it.

JH04, Safeguarding Coordinator

However, for two managers and one Adult Safeguarding Coordinator, the possibility that Rob might do the same again was felt to justify dismissal, without reference to patterns of behaviour:

I wouldn't put a client at risk. He could be trained. But somebody could pinch him again and how do we know he's just got (SLAPS HAND ON TABLE) a temperament like that for whatever reason. You never know what's going to happen next. I've done that and that didn't work, I'll do something else. Poor Rob.

MS05 Home Care Manager, All

### **Response to challenging behaviour**

Rob was described in the vignette as shouting and throwing water on a care home resident after she had pinched him when he had been helping her into bed, using a hoist. Participants in all groups, except frontline staff (one service user, one family carer, four Adult Safeguarding Coordinators, and three managers) felt that this was no excuse for Rob's behaviour. These participants all felt that his reaction was unacceptable and in itself grounds for dismissal. For example, this family carer felt that reacting to the behaviour of service users was indicative of not being suitable:

That's part of the thing working with vulnerable people, you are able to discriminate and act in a professional manner so yes, you are expected to have that degree of tolerance and able to handle it and if you reply, if you

thump back then you've broken that.

MS14, Family Carer, Person with Learning Disabilities

## 5. Making a referral

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### Summary

- While we originally intended to focus solely on referrals to the POVA List and the ISA, we soon realised as the interviews progressed that the processes involved in making referrals to local Adult Safeguarding Teams or Coordinators were closely intertwined with referrals to the barring authority.
- Adult Safeguarding Coordinators and CQC inspectors played a key role in advising employers/managers: they encouraged, advised employers and managers, but were also sometimes quite directive about whether referrals should be made.
- Disentangling responsibilities for the different stages in the process was identified as a problem by some, particularly where extended investigations were carried out by local Safeguarding Teams or the Police. This was felt by some to be a disincentive to make referrals.
- The potential for negative consequences, for employers in terms of reputation, and for the individuals involved where there is disclosure of information to the referred staff member by the barring authority as part of its procedure, were both identified as possibly reducing the likelihood of referrals.
- Lack of evidence, both because suspected individuals leave their jobs and because of the difficulty in getting reliable witnesses, was also identified as potentially discouraging referrals, even where the circumstances had triggered a legal duty to do so.

### Introduction

As part of the study's goal of gathering stakeholder views about the POVA List and the VBS, interviewees were asked about their personal experience of making referrals. While we originally intended to focus solely on referrals to the barring authority, we soon realised as the interviews progressed that these were closely intertwined with the processes involved in making referrals to local Adult Safeguarding Teams or Coordinators. This is explained further in this chapter. Participants (mainly employers and managers and Adult Safeguarding Coordinators), described a variety of referrals across different settings including care homes, a community hospital, and a hospital trust. Forms of harm ranged from theft, to overmedication, to the taking of inappropriate photographs of a service user, to neglect. There were two cases of physical misconduct similar to the study vignette, in one a health care assistant threw a glass of orange juice over a service user during an altercation, another saw a manager dropping water over a resident who refused to come in from the garden—both were referred to the POVA List.

The chapter presents views and experiences of both kinds of referral together, highlighting separate issues within each section. The first section concentrates on the experience of reporting incidents to the local authority and the role of the Adult Safeguarding Coordinator in advising on referral to the POVA List or the ISA. There is

further treatment of POVA List and ISA referrals in the section, 'Suggested improvements to the scheme' in Chapter 7.

### **Early stages: informing the local authority**

One head of Safeguarding Adults at a local authority outlined how an investigation may get underway, after concerns are raised by employers, inspectors or members of the public or relatives. The Safeguarding Adults team then arranges strategy meetings and case conferences, the latter to establish whether, on the balance of probabilities, the allegation is substantiated:

When we get a referral, we can get it either from a care home manager, from a member of the public, a family member. So we could get a referral from anywhere. We could be triggering an investigation. Similarly, when a registered manager reports to CQC, CQC screens everything and if they think there is a safeguarding issue that may not have been reported to us or that may have been reported to us, we get it too. We sometimes get two referrals for the same incident and if it's already been looked at then obviously we don't need to look at it again. So, it depends on the timing really and the order people do things.

MS09, Adult Safeguarding Coordinator

Another Safeguarding Adults manager explained how the performance of the duty to refer to the ISA (which, under the 2006 Act, falls on the local authority as well as employers and certain other groups) was organised between local authority and employer:

We would have a set criteria that's in our contracts [with those providers with whom the local council has a contract] with them and that would ensure that if they dismiss somebody as appropriate they would refer to ISA. We should know about these incidents anyway, because they should have been reported through as Adult Safeguarding incidents.

TN09, Adult Safeguarding Coordinator

This was a procedure borne out by the remarks of the managers interviewed.

One manager clearly considered the reporting to Adult Safeguarding or to the Police onerous insofar as it triggered a long wait and a loss of autonomy:

...the thing I personally find is that there is such a length of time between actually doing that referral and actually someone actually coming in. You are not allowed to carry out any sort of investigation yourself, are you? If you put in a safeguarding referral then you pull back and you can suspend a member of staff but you have to pull back and wait for the safeguarding team to actually send somebody in or the police to send somebody in and that can take forever.

TN06, Care Home Manager, Older People

Two directors of a provider overseeing six homes identified the same problem: the time taken for a Safeguarding Adults investigation to take place was perhaps six months during which time Social Services may suspend the home's accreditation barring new admissions.

Also, in their view safeguarding teams often judged a home's performance on the number of safeguarding referrals and convictions. Asserting that it is simplistic to apply a quantitative measure here, one of the directors thought that this tendency can generate a negative attitude to the whole process (particularly in the case of small organizations less able to bear the costs of the safeguarding procedure):

To be effective all the different parties need to come together. The homes need to feel that they can pick up the phone to the safeguarding team and actually have a conversation with them and ask for advice and help on things, rather than pick up the phone and be told that you are running an unsafe home and we'll shut it down tomorrow. When you've got that kind of fear within your home managers they are just not going to be hugely inclined to work with the safeguarding team or the police or any of the other bodies. We just need to find a way where the system is more objective and where culturally there needs to be a shift so that people actually come together and all the different parties work together and we need to move away from the idea of them versus us...

TN05, Care Home Manager, Older People

The interviewee did acknowledge there was variation—it was not a general feature of the safeguarding regime:

We have quite varied experiences. There are some teams in our patch, as it were who are very reasonable and it's a successful process. It's fine. It works as best as it can. There are still issues, but we have other teams where you put a referral in and the first thing they want to do is jump up and down and suggest that every individual associated with the home in any way, shape or form is guilty of something and we are all abusing everybody and they want to shut us down within 12 hours and there is all sorts of madness goes on.

TN05, Care Home Manager, Older People

The same interviewee was also concerned about what they saw as the lack of employment law expertise amongst the safeguarding team, and thought that this gave rise to unrealistic expectations (TN05, Care Home Manager, Older People).

At the limit, this interviewee reported, it can be as though 'battle lines are drawn' with the safeguarding team seeking 'what they conceive as a win' (TN05, Care Home Manager, Older People). At the very least 'you are almost put into a goldfish bowl and everybody can have a look at you and say, what's all this about?' (MS04, Home Care Manager, All)



## **Role of Adult Safeguarding Coordinators, CQC Inspectors**

These figures played a greater role in advising employers than we had expected. They encouraged, advised employers and managers, but were also sometimes quite directive about whether referrals should be made. Employers sometimes felt under pressure to go along with the advice, particularly of local authority Adult Safeguarding Coordinators, given the importance of local authorities, which fund a large percentage of care home beds and home care hours.

### ***Advising on making referrals to the barring authority***

Adult Safeguarding Coordinators described giving advice to managers and employers about policy and practice, whether that was at strategy meetings, case conferences, or over the telephone. There was a mix of support and encouragement, as well as more directive approaches. The extent to which employers were left to make decisions about referrals also varied.

One manager of a company with three care homes received legal advice for POVA List and ISA decisions from an advice line which provided insurance so long as their advice was followed (TN08, Care Home Manager, Older People). In another example, one inspector had found uncertainty amongst providers as to how quickly to make a referral, that is, before or after the disciplinary process, although the inspector's understanding was that early referrals can be made and this would then be put into a 'holding position' and more information could be added to the referral at a later stage (TN12, Inspector). One Adult Safeguarding Coordinator saw it as their role to encourage employers to take steps where problems begin to arise:

There is a potential for it sometimes to become a less positive role, because you are saying to people, look, you really need to consider doing something... I've used the phrase, drift several times, but that's always been my biggest concern, because that's where I think we get the most serious situations developing.

JH04, Adult Safeguarding Coordinator

A CQC inspector saw their role as highly interventionist and directive. Having ensured that a safeguarding strategy meeting was set up following an incident (the care service must notify the inspectorate of serious incidents)—they would then promote next steps:

And then, after the strategy meeting and after all make sure that then I would actually say, is this person being referred to POVA? Can you let me know when you've done it? Can you, I think this needs to be done quickly and can you get back and verify you've done it. I've really actually done it personally and refers through them who have all the information.

TN11, Inspector

There was some variation in practice when it comes to the matter of referral to the POVA List or the ISA. One Coordinator described stopping short of making decisions that are the responsibility of the employer:

It's a difficult balance. You don't want to make decisions for people. It's like their professional integrity and equally you don't want what I was talking about earlier on was just a drift.

JH04, Adult Safeguarding Coordinator

This Coordinator fights drift by setting tight timescales, holding a strategy meeting within three working days, for example. Coordinators advised when a duty to refer had arisen and then imparted know-how as to how the process should be conducted. Another inspector saw themselves as having the same role:

In most cases, the provider will actually recognise quite quickly for themselves the need to refer [to the POVA List or the ISA] and in a few cases, I would probably say if—about 70%, 70/80% of cases and in the smaller percentage of cases, you will have a safeguarding review and then you will actually say to the provider, don't you think that this person should be referred to the POVA now ISA? Usually when they've thought about it and talked about it they acknowledge that yes, it is an appropriate thing to do.

TN12, Inspector

A Safeguarding Adults manager, when asked whether the decision to refer was left to the care home or organisation manager, indicated that such decisions were taken by the multidisciplinary case conference. While the employer is a part of this meeting, this Adult Coordinator felt that the decision is made by the conference, but executed by the provider.

It's not a decision, because the decision is of the, if this had been an Adult Safeguarding case and it's been confirmed really through that case and a case conference, at the end of it that the person has been abused by X and Y care staff, then we would say, in that case conference that we would expect the provider to do it. It's not left to the provider, it's a multi disciplinary decision if you like from the case conference, but that's what should happen. The provider is then carrying that action forward.

TN09, Adult Safeguarding Coordinator

However, according to a care manager of a home care agency with about 100 clients and 100-120 staff, it is the safeguarding team at the local authority that actually makes the referral to the ISA (MS05, Home Care Manager, All), indicating that the duty to refer to the ISA is sometimes executed by the local authority, rather than the provider.

The legal advisor in a private care company suggested that 70% of his/her calls and conversations with the safeguarding team are about explaining the legal test that, if met, triggers a duty to refer: a common misconception is that the trigger for the ISA referral is the dismissal itself, with no reference to harm (MS11, Adult Safeguarding Coordinator).

Though not getting involved in an organisation's own disciplinary procedures, Coordinators are in a position to draw from the experience of overseeing a variety of cases from a variety of situations: one spoke, for example, of how s/he had warned employers about vexatious claims or complaints.

As mentioned above, one Adult Safeguarding Coordinator stated that the requirement in law for the provider to make a referral was reinforced in the arrangements between provider and local authority, by virtue of the 'set criteria' being clearly stated in the contract (TN09, Adult Coordinator, All).

### ***Improving practice***

Human Resources departments in care providing organisations were described as not 'fully up to speed' by some Coordinators (JH04, Adult Safeguarding Coordinator). Three things were seen as potentially helpful here. First, increased training about the legislation and guidance:

Coming back to my point, part of this is about being clear with people and whether it's the POVA guidance or the ISA guidance, I think clarity of information is essential. If people understand why then you are more likely to—if it's bureaucratic and complex, people switch off and they don't—tell me what to do. You often get that. We've had to commission more legal update training, because people are struggling with it.

JH04, Adult Safeguarding Coordinator

Second, the ISA website was described as good, including its fact sheets. Finally, a proposal described by the same respondent as 'ivory tower stuff', recommended exchanges between ISA personnel, social workers in duty teams and practitioners, in order to promote 'realism':

I think people from the ISA department should spend time in duty offices and *vice versa*. It's a bit like night duty services and whatever. I'm always saying this in my local authority about our emergency duty teams should do—day services and *vice versa*. I think you need much more of that cross fertilisation. That breaks down and I think people in the Department of Health should go back into practising whatever. I know that's harder to achieve. You've got to—both sides have to see what the other has to deal with. I feel that that's as important for the local authority staff to see what ISA have to do as well. That's ivory tower stuff, I know, but I suppose what I'm getting at is you get the best decisions made on comprehensive information and realism, really. That's what I'm talking about.

JH04, Adult Safeguarding Coordinator

This suggestion echoes that made from the previous research (Stevens *et al.*, 2008), which also recommended regular interchange between the POVA Team,

practitioners and service users and carers, in order that their understanding of the nature of care work could be well informed.

According to one inspector (TN12, Inspector) the degree to which persuasion has been called for to encourage managers to refer to the POVA List has declined over time. The potential for conflict plainly exists but s/he has not experienced any. Rather, from this inspector's point of view, the provider tends to see a relatively detached party (who likely knows the resident, but is much less likely to know the staff member in question) as a useful interlocutor who is in a position to validate their decision-making process. Following that process, though the inspector has no detailed involvement, they would expect to be informed of the conclusion of any referral made:

But then, to monitor it, the only way I'd monitor it was actually then getting the name of the case worker saying, this is my name and I have got an interest because this is somebody who we are deregistering, but also just want to know that it has been followed through and the outcome. They did actually let us know the outcome then. There was no official way of actually finding out. You had to just sort of keep in contact with the provider and then pick it up from there as well.

TN11, Inspector

One manager referred to the standard practice of letting inspectors know when an issue arises and then seeking their advice:

They will advise you on the procedure and that's really important to make sure that you are getting your procedure right.

MS04, Home Care Manager, All

## **Factors impeding safeguarding and POVA List or ISA referrals**

### ***Complexity***

A number of interviewees referred to complexity or a lack of clarity in the referral procedure as being factors that might impede the making of referrals, whether to the local team or to the barring authority.

Two Adult Safeguarding Coordinators and an inspector referred to complexity as a factor making it hard for managers to respond appropriately, something which places more emphasis on the need for good advice. In particular, this relates to the link between local safeguarding referrals and referrals to the ISA.

One of the Adult Safeguarding Coordinators, recounted an instance in which a 92-year old man had been through '15 different departments' (JH04, Adult Safeguarding Coordinator, All) in order to raise the alarm and that there had been a streamlining since this and a greater clarity as to the point of contact at the local authority.

These complexities might be significant if, as this Adult Safeguarding Coordinator suggested, some providers hesitate to refer because the process is seen as a lot of work, or, as another Adult Safeguarding Coordinator remarked, because employment law concerns are standing in the way of taking a case further (JH04, Adult Safeguarding Coordinator, All). He also pleaded for a more streamlined bureaucracy indicating that the experience of ‘drowning in guidance and ... drowning in initiatives’ and what s/he described as organisational and procedural ‘layering’ can give rise to a negative culture:

What happens then is people switch off. I can’t stress enough how easy it is for people to get overwhelmed in this sort of area and just switch off and they stop and listen. They stop responding and you get drifts.

JH04, Adult Safeguarding Coordinator

One respondent, a manager of a local authority Operational Adult Safeguarding Service, had experienced difficulties when it came to the question of who had a duty to refer to the ISA. His/her (correct) understanding of the 2006 Act was that the Service was under a duty to refer in certain circumstances, but in interview, s/he reported that the advice from the ISA had contradicted this—that the duty applied only to the care home in question. However, this is not in line with the fact sheet published by the ISA (ISA, 2007), which makes it clear that ‘adult/child protection teams in local authorities’ (p1) do have a ‘legal obligation to refer relevant information to the ISA’ (p1).

### ***Concern about repercussions of making a referral***

Several repercussions were suggested by employers and managers as well as Adult Safeguarding Coordinators, which may act as an inhibition to making safeguarding referrals generally, as well as referrals to the barring authority. Possible consequences for the provider and for the staff and service users involved in the circumstances of the referral were both identified as potentially discouraging managers from referring to the barring authority. This may possibly also act as a factor against making referrals to the local safeguarding teams/process as this could lead to a decision to refer to the barring authority being made by an Adult Safeguarding case conference, as outlined above.

One Adult Safeguarding Coordinator suggested that one factor that may be in employers’ minds, beyond the amount of work involved, is how the process would reflect on their organization:

I think it’s a bit of both there, really. What will be my role is always at the back of anything in terms of, how far will I have to go with this and will I have to argue to the core or whatever, that sort of thing. Will I have to have more evidence? Will there be a comeback on me if someone disagrees with what I say and that sort of thing. And then there is the other point there. ...I suppose our concern is always that some providers are worried about referring because of the ramifications on their service and will they be commissioned

again. Is bad news likely to have a material effect on your business?

JH04, Adult Safeguarding Coordinator, All

This was backed up by the remarks of two of the managers interviewed. Will culpability leach beyond the individual to the organisation as a whole, including the management team?

So the company not only was making these two scapegoats, but they were then going to report them onto POVA. And that made me very uneasy, so uneasy that I said, well, I'm off. My name would be next on the list, wouldn't it? So, when it comes to the POVA List and reporting people to the POVA List my experience has been really, really dodgy.

MS01, Care Home Manager, All

And:

There have been in the past I know there have been some companies where they've actually swept safeguarding to one side and I understand why that might happen and I don't condone it, but I understand why it might happen and I suspect it is because very often you are put in the dock yourself.

MS04, Home Care Manager, All

At the same time, as one family carer pointed out, enlarging the focus of attention may at times be justified—for example in cases where harmful or potentially harmful behaviour can be said to stem in part from a lack of good management:

For some people it could be a function of them being not properly supported, I think is what happened. Not properly supervised. Some of the culpability lies beyond that person. I don't know how you'd do that, but I think you could lose some potentially good people who, if they had the right support would behave in a different way.

JH03, Family Carer, Learning and Physical Disabilities

Another kind of repercussion that might affect the making of a POVA List or ISA referral had to do with disclosure of information to the referred person about him or her by the barring authority. One local authority safeguarding manager took this into account when making a referral since s/he understood that all information associated with a referral was disclosed to the person concerned. The manager understood this to be a matter of natural justice and did not suggest that this would obstruct a referral, but did indicate that the referral bundle has to be carefully judged—in one case material had been 'exercised' (JH05, Adult Safeguarding Coordinator). It should be noted in this context that the 2006 Act includes details of 'Prescribed Information' which, if held, must be disclosed to the ISA.

### ***Evidential concerns***

Remarks by three of the managers suggest that there are employees who are being dismissed, or are simply leaving their jobs 'under a cloud' but not necessarily being referred.

One recounted a case in which the employee's first four days coincided with unexplained bruising manifesting among the residents. She was sacked, the bruising stopped, but since nothing beyond this circumstantial evidence linked her to harm no referral was made (MS01, Care Home Manager, Older People). The case suggests some hiring and firing going on in the sector does not necessarily meet employment-law norms, and which leaves the employers in question feeling that they cannot justify making a referral even if, in the circumstances, the duty to refer does arise.

In another scenario a manager indicated she understood that if the employee leaves once they learn they are being investigated then the insufficiency of evidence and the absence of due disciplinary process again precludes a referral:

If the person knows that they are being investigated for whatever, theft, fraud or whatever or even a mistreatment of them, before them get the chance, they leave. If somebody has left your employment there is difficulty about notifying the POVA List about them ... You can't unless you prove that this person has definitely been found guilty of the offence of whatever it is that they are supposed to have done, fraud and all sorts of other things, abuse. Therefore, that's one of the difficulties.

TN04, Care Home Manager, Older People

This manager also linked this to a concern about the justice of making referrals before it had been proved that the person had committed the misconduct:

If there is somebody who then decides that they've been, they had one warning, they had two warnings before they had the chance to do another and they just disappeared in the first and second warning, can you then refer them to POVA? It's very difficult. In terms of fairness and justice are you able to do that?

TN04, Care Home Manager, Older People

The paucity of evidence—typical of cases where service users lack decision making capacity—was highlighted by a third manager:

The ones I've been involved in in the last couple of years, I don't think we've had any of them where we've actually known for certain whether what happened happened. I think unfortunately, that is to a point that's a little bit the nature of what we do. The nature of the clients we are looking after.

TN05, Care Home Manager, Older People, Care Home Manager, Older People

### ***Seeking more information***

In addition to concerns about the quality and kinds of evidence it was possible to gather, in the case of Rob interviewees often sought further information, in a similar way to when debating whether he should have been dismissed: what was the culture and practice of the home? Was there supervision and appraisal and mentoring? Had he spent time shadowing a more experienced worker? (e.g. JH04, Adult Safeguarding Coordinator). Others asked whether he had received any training (MS09, Adult Safeguarding Coordinator). In the case of Rob, however, this broadening of concern did not subtract from the general view that a referral to the POVA List or the ISA was called for (as indeed, in law, would be the case in the circumstances); that institutional difficulties that may exist were properly subordinate to Rob's own personal responsibility for an act which, as one manager pointed out, 'could be classed as assault' (TN30, Home Care Manager, All, Home Care Manager, All).



## 6. Barring

### Summary

- The seriousness of the impact on the referred person of a decision to bar was acknowledged by many respondents, particularly managers and employers.
- This led to a focus on the need for solid evidence, possibly even more so than for dismissing a worker.
- Overall, similar issues were felt to justify barring as for dismissal. However, a greater degree of misconduct was felt to be needed to warrant an individual being barred.
- Furthermore, there was more concentration on issues of intention and other aspects of 'temperament' in making judgements about whether to bar or not.

### Introduction

All interviewees, from each of the five groups involved in the study, were asked to put themselves in the shoes of the barring authority, by way of the following question (or a close variant):

***In general, what kinds of behaviour do you feel should lead to a member of staff being placed on the POVA List or ISA Adults List so they can't do care work again?***

We sought to establish thereby whether respondents had a clear idea of what conduct by care workers should lead to their exclusion from a role in working with vulnerable groups. What is it that leads care sector stakeholders to read off from particular acts (or omissions) an unsuitability to work in that sector that warrants the barring sanction?

### Seriousness of decision to bar

The gravity of the decision to bar was acknowledged by many respondents, particularly managers and employers. This theme arose in discussions about the vignette in relation to Rob's relative youth (20 years) and the fact that he was studying social work, which for some increased the impact of the decision to bar. It was an issue that was identified in the POVA List research (Stevens *et al.*, 2008):

I don't know. Should he be barred? He's going to go and be a social worker here. We're ruining - this is a 20 year old guy and we are ruining his life.

MS01, Care Home Manager, All

An Adult Safeguarding Coordinator reacted comparably:

...to condemn a young man of 20 to be barred, you would have to look very

hard at that. The seriousness of what you do is very far reaching...to ban someone of 20 it's going to affect his career forever. He's training to be a social worker. You would have to look very hard at that.

MS03, Adult Safeguarding Coordinator

And in the case of one Home Care Manager it provoked reflection as to the nature of the employer's responsibility:

Here is a young man and he may have been rash. He may have been foolish. He's doing a BA in social work. He won't work in social work if he goes to ISA. I think that we have to be very aware of that that we are responsible for people's livelihoods. It's as important to protect those people as it is to protect vulnerable people.

MS04, Home Care Manager, All

Given this perception, it was unsurprising that it was managers/employers, again, who predominated when it came to those stressing the need to gather strong evidence for barring. One Adult Safeguarding Coordinator felt there was an increased level of certainty required to justify someone being barred as opposed to being dismissed and that this made for a distinction between the practice of dismissal and barring:

... my experience of dealing with the POVA, because we have (had) maybe about ten since my time here. At least two of those have come back and although say like in all those cases we had dismissed they might meet the criteria for our disciplinary procedures, but they didn't meet the criteria for the POVA. The argument that we have had is that the proof was not concrete. Now, with the POVA it is all this on probability and they wanted 100% proof more or less, which we couldn't give. It was difficult. Even in this case here it is he said she said isn't it, really. There is no direct observation by the manager. It's relying on also other people the same, so that's where our difficulty had been with the POVA. In this case, probably although he has been dismissed, because it doesn't meet what the expectation of the management is. It may be a very different thing with the POVA people, you see.

TN25, Adult Safeguarding Coordinator

### **'All the main forms of abuse'**

When interviewees were asked the question about kinds of behaviour warranting exclusion from working in caring roles, we were not expecting an exhaustive listing: we were seeking a discursive response on the topic in general terms. One manager referred to 'all the main forms of abuse' (TN30, Home Care Manager, All, Home Care Manager, All) in this area and various of these were touched on by respondents. This echoes the view held by some respondents that any abuse justifies dismissal described in Chapter 4. The phrase itself suggests a familiarity with 'abuse' as the term of art fashioned by *No secrets* (2000), where government guidance on adult safeguarding formulated a headline definition:

*Abuse is a violation of an individual's human and civil rights by any other person or persons. (Department of Health, 2000: 9)*

The same document then breaks abuse down into six 'main different forms of abuse'—physical, sexual, psychological, financial or material, neglect and acts of omission, and discriminatory (ibid. 9).

It was clear that nobody among the study's subject groups expected individuals to be barred for infringements that might justifiably lead to dismissal but had no bearing on the well-being of service users (though in areas such as time-keeping it was acknowledged this could be a grey area). It was equally the case, however, that nobody objected to the very notion of the List, whether the POVA List or the ISA Adults List. There were no calls for the regime to be dropped. Given this and the initial mention of particular varieties of abuse that came to respondents' minds, subsequent discussion then became a matter of developing a richer conception of how the decision to bar might be made. Even where the misconduct constituting abuse was firmly established to have taken place might there be variation in particular cases calling for a response that stops short of barring—mere retraining say, or rearranged supervision practices or indeed simply dismissal? This was indicated, for example, by one service user who said,

So, I think I suppose I'm going to have to say the barring would be dependent upon the degree of the abuse.

JH02, Older Person

And if this is widely thought to be the case, what factors are germane to such an assessment of degree of abuse? Responses in this study suggest that subject groups make such discriminations by way of two broad approaches: an assessment of character, itself broken down into questions of intention, respect and temperament; and second, the taking into account of the context of the misconduct.

### **Assessing character**

In the matter of deciding whether to bar an individual the study revealed a concentration on questions of intention, respect or otherwise for vulnerable adults and temperament. That is to say, the primary concern of respondents lay with the agency of the alleged perpetrator, rather than looking to the harm done, if any.

When drawing a distinction between grounds for dismissal and those for barring, although 'severity' of the abuse was referred to by a number of interviewees there was only one instance (a family carer) where the actual 'outcome' of the misconduct was considered relevant to the decision. This general absence sits well with the statutory wording which puts the threshold for *referral* at 'risk of harm' not actual outcome. And unsurprisingly Adult Safeguarding Coordinators were more likely to put the criteria in these terms—'risk and dangerousness' of behaviour (JH05, Adult Safeguarding Coordinator, All), for example, or reference to 'any action that

can cause harm, be it physical or mental there is no place for them in the caring profession.’ (MS03, Adult Safeguarding Coordinator, All). But more generally among the participants making a judgement on suitability (that is on *barring*) there was a focusing upon questions of intention, respect and temperament (here treated separately for the purposes of clarity though the three may run together), that go to make up a suitable or unsuitable care worker.

### ***Intention***

Intention comes to the fore in the barring question by way of a concentration amongst responses on evidence of guilty mind. While some managers also focused on intention in relation to dismissals and referrals, ‘risk of harm’ suffices as a trigger for *referral* and intention is strictly speaking irrelevant:

We take intention right out of it. For me and for my consideration, it doesn’t refer anywhere to intent, intent to harm...it’s cut and dried, harm or the risk of harm.

MS11 Adult Safeguarding Coordinator, All

But in the case of the barring decision words connoting intention were commonplace amongst all subject groups. At the extreme of what one family carer suggested was a spectrum of ‘degrees of intent’ was ‘sadistic’ behaviour (JM02, Family carer, Person with Learning Disabilities). But others made reference to ‘motivation’, ‘deliberate taunting’, ‘evidence of malice’, a ‘premeditated’ act, ‘malicious’ intent, ‘manipulative’ financial abuse, ‘betrayal of trust’, and ‘vindictive’ behaviour.

More often than not these descriptions are saying more simply than that the individual intended to act in the way s/he did, but that the intention was accompanied by ill will emblematic perhaps of poor character, at least in the context of a caring role. They spoke in a way that seems to go further than grounds for dismissal towards grounds for lifelong exclusion.

INTERVIEWER Is there a distinction between the kinds of things between dismissal and being barred?

RESPONDENT. Between dismissal and being barred?

INTERVIEWER Yes. What extra do you think there should be?

RESPONDENT. (PAUSE) It’s the severity of what the allegation is, I personally feel. If it’s that somebody, for example... the distinction is really severity of what has occurred and intent.

INTERVIEWER Intent is important in that barring decision.

RESPONDENT. I think so, yes.

INTERVIEWER There is a sense of intent. That makes more of a difference to that than it does about dismissing someone where you might just do it from what's happened.

RESPONDENT. Yes.

MS01, Care Home Manager, Older People

Establishing such intent was seen to be easier if it was possible to point to repeated acts:

INTERVIEWER. Just more generally this distinction between stuff that gets people dismissed and stuff that gets people barred. What's that extra thing that people you think makes the difference to being barred?

RESPONDENT. I think if it's been done more than once. If somebody has done it more than once, they know what they are doing and they've not just reacted.

MS05, Home Care Manager, All – Care manager of domiciliary care agency

A safeguarding adults coordinator saw the question in similar terms:

INTERVIEWER There is an emphasis there on repetition as opposed to a single incident.

RESPONDENT. Repetition means that, if you take the notion of capacity, repetition means that you would probably be thinking about what you are doing and still continuing to do it.

JH04, Adult Safeguarding Coordinator – Safeguarding Adults Coordinator

The same respondent recounted a case of an extreme example from his/her own experience where the repetitive became the systematic—an individual dismissed from a care agency was then employed directly by a service user and engaged in 'systematic thievery' to the tune of £70 – 80,000.

### ***Disrespect***

Away from the issue of intention, responses to the barring question often made reference to the way, more broadly, individuals comport themselves toward service users, in particular whether they exhibit respect in their behaviour. One family carer, speaking of a care worker of whom she had suspicions put it thus:

However, I think that when it comes to it I don't necessarily think that [Name of main care worker] respects my mother that much. I think that's what it comes down to. I think she likes my mother. But because I think she is able to maybe the word would be to exploit her, I don't think she respects her.

...

Let's face it, caring is a very personal sort of job. It requires a great deal of trust in the people who are the care givers. I think that what [Name of main care worker] is doing is a breach of trust and that's why I'd have to do something about it.

SM04, Family Carer, Older Person

In this area respondents were referring to a quality in an individual antecedent to any particular act—'complete disrespect...[a] horrible kind of way of treating people as objects' (TN11, Inspector, CQC). A frontline worker described from her own experience:

Sometimes it's the attitude towards people I think can be very—if people have really bad attitudes. I worked years ago with a girl in a care home, at nights and I always thought I referred her to the manager, twice. I think eventually some other person had referred her and she was dismissed just because of the way she talked to the residents was just and about them wasn't right. She gave them no self respect or dignity.

...

There is a line where they have Alzheimer's—they have lucid moments where even when they were quite lucid, she would call them names and all sorts of nasty things. She should never have been in care. Her whole attitude wasn't right.

MS07, Home Care Worker, All

The same worker, when asked whether the former colleague in question should have been barred said:

I would say so, but it's very hard to prove somebody's attitude. I don't think you can bar somebody on an attitude. It's very difficult.

MS07, Home Care Worker, All

S/he thought it would be far harder to prove a case, though she acknowledged that it might constitute one of the forms of abuse, namely psychological. The issue of inappropriate comportment and proof was brought out, too, by a service user in a moment suggestive of the difficulties inherent here:

And this is the other problem I've got, because you've almost got to leave things until something definite happens before you can go down that road, I think.

INTERVIEWER Right, right.

RESPONDENT. You know, you can't just bar people because you don't feel safe with them.

### ***Temperament***

Closely allied to the matter of respect were assessments of temperament appropriate for care work. The point in this and the last section is not to negate the importance of intention, but to see that amongst interviewees a more holistic understanding of character is being developed. At times the respondent's perspective falls back onto a general assessment—is the individual well-suited to the role of care worker?—in which intention recedes in significance.

Such judgements are not always going to be agreed upon. Rob was thought by some to be beyond saving:

INTERVIEWER Should this person from the story should this person be barred from working in care services altogether?

RESPONDENT. Yes. He's got no patience at all. He should be banned.

INTERVIEWER It's not a good personality.

RESPONDENT. The personality is no good at all.

SM13, Care Home Worker, Older People

Another had come to the same conclusion:

RESPONDENT. I'd just say, barred. You don't know if somebody has got issues that they can actually once you've done that you can do it again. I'm not a very forgiving person.

MS08, Home Care Worker, All

A family carer put it in similar terms:

But I do think that there are some people who just lose their temper and lose their rag and do things that perhaps aren't deliberately, it's in the heat of the moment, so we look for and they should be barred, because social care work is stressful work.

JH03, Family Carer, Learning and Physical Disabilities

An Adult Safeguarding Manager:

I think the question is, if he's somebody who has thrown water at a resident in a fit of anger and unrepentant about that then yes. That's shown the wrong type of temperament for work and in care services.

...

if he's really got the wrong type of personality and attitude then he should be

taken out of the workforce.

TN09, Adult Safeguarding Coordinator

From this perspective, not being able to handle the stress is no excuse. And in terms of Rob there was a split in opinion—it was widely accepted that retaliation in the face of provocative behaviour was unacceptable and there were those that felt this meant he should be barred; others, however, suggested he should be given another chance. As was the case with proving intention, repeated acts might, in the eyes of interviewees constitute evidence of poor temperament. One (of three) managers who thought he should be given a second chance said, when asked, what extra thing would lead her/him to bar Rob:

If there is more than one incident then it's probably displaying a culture or a temperament and that's not quite for care. You need to be patient. You need to realise you are going to get pinched and there are going to be days when people are poorly.

MS05, Home Care Manager, All

Another manager thought that Rob could not be trusted to be left alone and therefore should be barred (TN32, Home Care Manager, All).

In the section on intention above a manager was quoted as saying that repetition of misconduct can stand as evidence of intention:

If somebody has done it more than once, they know what they are doing and they've not just reacted.

MS05, Home Care Manager, All

S/he went on to say:

They always react like that or they've got a habit of putting things in their pocket or something on those lines. Or they've got a habit of cutting corners.

MS05, Home Care Manager, All

The phenomenon of knowing what you are doing and that of habitually behaving in such-and-such a way, taken together, well represent the approach of interviewees to determining whether someone should be barred or not.

### **Context of misconduct**

As with their discussion of grounds for dismissal, so with regard to barring, interviewees saw the context of misconduct as an important area to assess. Information was sought on supervision and management of the individual; also, the views of and relationships with other staff members.

The question of training (and induction and appraisal) was frequently raised since the line between abuse and poor practice may often have to be drawn in difficult cases. Here, according to one family carer, some of the 'culpability lies beyond' the



person in question (JH03, Family carer, Learning and Physical Disabilities) and retraining might be what is called for.

One Adult Safeguarding Coordinator recommended corrective training (JH04, Adult Safeguarding Coordinator). S/he acknowledged that sometimes one incident was enough to warrant barring, but that there had to be some room for change:

You do have someone saying, yes. If we don't allow people to acknowledge mistakes and have the opportunity to change then we are doing almost like a three strikes and you are out or one strike and you are out. Sometimes one strike and you are out is absolutely correct.

...

I think you have to allow for the potential to change.

...

I think you have to allow some degree. You see it with the police. Maybe that's right maybe that's—not every police officer commits a wrong within the course of their duties is sacked. They do have more of a culture of sometimes corrective training. But obviously sometimes they will say, no.

JH04, Adult Safeguarding Coordinator

The measure of that degree will be determined by taking the personal and contextual circumstances into account, for example length of service, previous record, and remorse, if any, for the misconduct, which should involve what is often termed insight into what they have done.

Again, pattern—repeated acts or omissions—can be brought in to substantiate a view about an individual: one manager described a 'poor practice border', particularly in relation to neglect in which case 'you have to see like a pattern and you would have to establish the pattern.' (MS05, Home Care Manager, All)

In quite another way, a further reason for searching for pattern was in the case of orchestrated campaigns against an individual (in Rob's case this might be related to racism)—this relates to the question of whether there was a guilty act at all. One frontline worker recounted how one incident might be to do with two care workers not getting on:

If it was a one off complaint then chances are that it was a personal issue between two carers (care workers) and another carer just tried to get rid of him. Because it's happened a few times, I think there is no excuse, really.

SM11, Home Care Worker, All

## 7. Evaluating vetting and barring schemes

### Summary

- Overall, most participants identified advantages in vetting and barring schemes, particularly the Adult Safeguarding Coordinators and managers/employers
- There was a widespread view among interviewees, particularly managers, but also frontline staff, that the scheme had increased safety
- There was also frequent reference to the utility of the scheme in terms of raising awareness about safeguarding generally and about the consequences for staff of misconduct
- There were important qualifications to the generally positive views, centring on:
  - the low likelihood of workers being barred because of difficulties over proof
  - High 'threshold' in terms of the kinds of misconduct that results in barring
  - The possibility that referred people would get other jobs whilst the ISA gathered information on which to base a barring decision.
- More broadly, the VBS was seen only to be a part of the overall approach to safeguarding
- In general there was a very low level of awareness of the ISA in the service users and carers whom we interviewed. In addition managers/employers and Adult Safeguarding Coordinators felt that this reflected the level of awareness more widely
- The awareness of frontline staff was more variable – half of the interviewees we asked were clear about the scheme. Again, managers/employers and Adult Safeguarding Coordinators also felt that awareness was mixed. The delays in implementation were felt to have made awareness raising more difficult
- Many participants were generally in favour of the idea of staff needing to register with the ISA, which was felt to facilitate the process of checking new staff and volunteers and it was felt to be a good way of increasing information sharing
- A small number of participants from all groups were concerned about the size of the task of registering up to nine million people by 2015
- Increasing the application of vetting and barring was explicitly welcomed by seven managers and eight Adult Safeguarding Coordinators
- Three main areas for improvement were identified: a need for employers to be informed of the outcomes of referrals; speeding up decision-making; and having a more graded response, other than simply barring or not barring
- There was occasional confusion as to who could refer. While it was understood that employers had a duty to do so in prescribed circumstances, it was not clear whether other stakeholders had a power or a duty to refer

### Introduction

The study was conducted at a transition time. While any experience stakeholders would have had was predominantly of the POVA List scheme, they were aware of the

differences that were starting to be made by the VBS. Family carer and service user interviewees were asked to talk about any experience they may have had with the POVA List. Interviewees from the other groups were asked more closely—and not necessarily just in relation to personal experience—about the *effectiveness* of vetting and barring schemes (both the POVA List and the VBS) and, in the light of the introduction of the VBS, what *improvements* might be made or that they might hope would come with the new regime. Therefore, although family carers and service users made evaluative remarks, observations by Adult Safeguarding Coordinators, managers and frontline workers predominate in this section. This chapter also includes a section describing levels of awareness of the scheme, which is important in terms of the overall impact, given one of the aims of vetting and barring schemes is to increase confidence in the social care sector (Rapaport *et al.*, 2008).

### Overall views of effectiveness of vetting and barring schemes

Overall, most participants identified advantages in vetting and barring staff from working, as shown in Table 1.

Table 1: Generally positive views about vetting and barring

Participant	Yes	No	Total
Adult Safeguarding			
Coordinators	11		11
Family carers	9	4	13
Managers	22	8	30
Service users	3	7	10
Frontline staff	9	7	16
Grand Total	54	24	80

While we did not ask for a yes or no answer, about two thirds (68 percent) of participants were broadly positive about vetting and barring schemes. All 11 Adult Safeguarding Coordinators, and about two thirds of the managers (22/29) and over half frontline staff (9/16) were generally in favour. The others were mainly neutral, rather than negative, about vetting and barring. Most family carers (9/13) were also broadly welcoming, although most (7/10) of the service users did not express positive views. However, there was a very low level of previous awareness of the existence of the scheme amongst service users and a difficulty in explaining what this meant to service users, which may have accounted for this.

#### ***Increased safety***

There was a widespread view among interviewees, particularly managers, but also frontline staff, that the scheme had increased safety. It was a frequent reflection that it was difficult to make a global judgement as to improvements in the sector, but the existence of a list does appear to enjoy approval as a result of its perceived utility. One Care Home Manager commented that ‘Well, obviously, it’s made them [services] safer.’ (MS02 Care Home Manager, Older People). Another care home manager spoke of it being a useful tool in his/her practice:

I think it’s highlighted to people that the possibility that they could be put on

the List, so that it's made more people aware of what they are doing in their jobs in the everyday job. And I think it's highlighted to people the importance of whistle blowing, for example, if there is any allegations of misconduct from people towards another or allegations of abuse or alleged abuse. I do think it's—it's something that we do bring into the induction process, something that we do bring into the interview process and we do highlight it that these areas will not be tolerated. So staff are fully aware.

MS01, Care Home Manager, Older People

A home care worker responded succinctly, in a similar vein:

INTERVIEWER You think it has overall reduced abuse, because it's stopped people working.

RESPONDENT. Definitely.

MS08, Home Care Worker, All

### ***Creating expectations of higher standards***

There was also frequent reference to the utility of the scheme in terms of raising awareness about safeguarding generally and about the consequences for staff of misconduct. Managers, in particular, spoke of the value of certain expectations as to conduct being put into relief by the scheme:

I think it's highlighted to people that the possibility that they could be put on the List, so that it's made more people aware of what they are doing in their jobs in the everyday job.

MS01, Care Home Manager, Older People

This was echoed by a safeguarding adults coordinator:

I think it has been positive because it's been said, basically, there are lines and there is unacceptable standards as well as acceptable. It's also said that if you step over those lines that there will be some sort of comeback, which I think is good.

JH04, Adult Safeguarding Coordinator

### ***Limitations of vetting and barring schemes***

There were important qualifications to these generally positive views. One care home manager took a strongly dissenting position, which focused on the low likelihood of workers being barred:

I can think of a handful of people that we've dismissed for various acts of abuse really against vulnerable adults within our homes and not one of them would actually show up on a CRB check to the next employer. Not one of them is on a POVA register. They'd all be perfectly able to work in care again. That, to me basically says the system doesn't work.

TN05, Care Home Manager, Older People

The burden of his/her complaint about the system seemed to rest on a difficulty around proof. After a succession of instances where the police had been unable to proceed to prosecution through lack of evidence, dismissal had also not been accompanied by POVA listing.

It's hard to prove. So any actions where anybody is made to feel abused or undignified or disrespected or they shouldn't be working in care. But, it never gets to that point.

TN05, Care Home Manager, Older People

It would be difficult to assess how widespread a problem this is, and therefore how many abusers exist beneath the radar, but such a strongly worded condemnation of the scheme was the exception in the study. And it should be noted that this was not a criticism of the concept of barring workers, rather one about the fact that not enough people were being barred.

Many of the other more negative views expressed also concerned the need to expand the coverage and overcome 'loopholes', rather than a desire to reduce or abandon the scheme. Most common (expressed by seven Adult Safeguarding Coordinators and two managers) was a fear that people who were referred were getting jobs while their case was assessed. Faster decision making was identified as a key improvement, as we describe in the 'Suggested improvements to vetting and barring' section, below. For many of these participants, registration and online checking were thought to be valuable ways of reducing some of these potential problems. This Adult Safeguarding Coordinator identified the difficulty of checking people working across a number of settings under the current system:

The other thing is that we will have people that do work through our agency that will just do odd bits of part time stuff. They may well, for all we know, be suspended from somewhere else, especially if it comes to support workers, because they haven't got a registration body at the moment.

MS10 Adult Safeguarding Coordinator

### **Vetting and barring schemes are only part of the process**

It was stressed by some interviewees that the scheme had to be seen as part of a broader process, and not in itself as a sufficient safeguard. As one day centre manager said:

...you do have other things in process that you are checking, because you are checking the references and you've gone through an interview with the person. You are gathering as much information about that person to make that decision about employing them. I think it is part of the process, which is quite good.

JH09 Day Centre Manager, Learning Disabilities

Or, as a service user put it, the scheme did not proffer a guarantee, it was ‘another tool’ (MS16, Disabled Person). Hiring someone was ‘always a gamble’ (Manager SM13, Care Home Worker, Older People). Other tools obviously included references, CRB checks, interviews (one domiciliary care manager pointing out that, in his/her case, this lasted one hour, it was not just a ‘little chat’, TN29, Home Care Manager, Older People). For one family carer, it extended to ‘soft intelligence’, which is to say, word of mouth about individuals (JM03, Family carer, Person with Learning Disabilities/Older Person), while another focused on the importance of generating a positive culture and attitudes in a particular institution (JH03, Family carer, Learning and Physical Disabilities).

### **It works for some people but not all**

While for some interviewees having a vetting and barring scheme was grounds for greater confidence in the sector, in that inappropriate people were being excluded, others expressed concern that it was perhaps only the most extreme cases that were being caught by the scheme. This echoes the strongly dissenting voice in the section on increased safety, above. An ‘awful lot of people slip through the net’ according to one family carer (JH03, Family carer, Learning and Physical Disabilities). A Care Home Manager shared this view:

It’s limited to people who are really, really horrible to residents. They clearly hurt them in one way or another and steal from them or abuse them psychologically. But it’s obvious what they are doing. They are obviously not very nice people.

MS01, Care Home Manager, All

Consequently, some interviewees suggested there was still considerable abuse going on. This may be because many service users will not make a complaint:

INTERVIEWER Has the existence of these schemes helped reduce abuse of people using services?

RESPONDENT. I wouldn’t think it has, because a lot of people are vulnerable don’t like to complain and are worried to raise any issue against the carers (care workers) they have for fear that it will be even worse next time they come or it will be even worse that they will tell other carers and will be mistreated even more.

SM25, Care Home Worker, Older People.

There was concern too about areas beyond the purview of the scheme, namely where the abuser was a family member, or among overseas students who had not been checked in this country, and in the area of personal budgets:

It’s the people who are doing it private. There is a lot of people have private care, it’s a lot. It makes you wonder, if the people are doing private care, why? Is it because they’ve got something to hide? And it’s the only place left

for them. Probably have a lot of good people out there, but it's somewhere they can hide, isn't it?

MS05, Home Care Manager, All – Domiciliary care home manager

### **Awareness of the POVA List and the VBS and recruitment**

Awareness can be thought to represent a key element of evaluating a scheme. As might be expected, people using services and carers were much less aware of the specific scheme, although they were often aware that something would happen to staff who mistreated them. Staff and managers were, unsurprisingly, much more aware of the nature and purpose of the scheme.

### ***Awareness of people using services and carers***

Overall there was very little awareness amongst the 10 service users about the existence of the POVA List or the Independent Safeguarding Authority, although one was aware of disciplinary procedures. Three of the 10 family carers we interviewed were aware of disciplinary procedures and two were aware of and understood the POVA List, although none had connected it with the ISA. One felt that the whole subject seemed 'so remote' (JH 016513). All of the eight family carers who commented felt that knowing more about the schemes was very important:

I haven't heard of those. I think a lot of family carers won't have. Disciplinary procedures, but they won't understand necessarily the POVA List and they certainly won't understand the ISA, because it's quite new. Unless you are following the broader development in the social care sector and that's because of my involvement as a family carer in a whole raft of things. I've always been interested and I've worked in the field. I think there is a lot of ignorance.

JH03 Family Carer, Person with Learning and Physical Disabilities

Several Adult Safeguarding Coordinators, service users and family carers stressed the need for awareness raising across all people using services and those not in contact with services, using various media and making people's responsibilities very clear:

I think I'd put the responsibility upon the agency providing that carer. In the case of a private person then I think they too should have the responsibility for providing that information. Alerting. If you employ me, I want you to know that if you believe that I have abused you in some way, you have accessed the right to have access to this body. It's not going to happen, that's pie in the sky. That's what I'd like to think might happen.

JH02, Older Person

Several family carers understood that there was a process by which care workers could be 'struck off' from professional registers, without knowing the detail of how this worked, or what it is called:

I know about the professional routes. I don't know the detail, but, in effect, I know that they get struck off.

JM06, Family Carer of person with Learning and Physical Disabilities

No. I knew about it. I didn't know the name of it, but I knew that there was some new bureaucracy.

SM03, Family Carer of an older person

A number of concrete suggestions were made about the best means of raising awareness for members of the public who are already using services, who are family carers or who are potential service users:

- GP surgeries and libraries as a good route for raising awareness
- Care homes should provide information about the POVA List and the VBS and more generally about how to make complaints,
- Social workers have a responsibility to disseminate information
- Word of mouth
- Circulars
- TV campaign.

***Awareness and understanding of practitioners***

Several Adult Safeguarding Coordinators indicated that provider managers (e.g. care home managers) had a variable understanding of the ISA, and the POVA List before that. Half of the frontline workers we interviewed were clear about the scheme. The delays in implementation were felt by two local authority Adult Safeguarding Coordinators to have made it more difficult to embed the idea about the ISA and what difference this was going to make. One Adult Safeguarding Coordinator described how the authority where she worked had developed materials to explain the different aspects of the scheme, which they had made available as a CD-rom for all members of staff. In addition, this had been shared with other agencies. Another Adult Safeguarding Coordinator felt that there was confusion in terminology between the POVA List, and local Protection of Vulnerable Adults (POVA) procedures, involving multi-agency meetings and protection plans. Clearly the ISA has now made such confusions over terminology less likely.

However, six of the managers were confident that their staff would be aware of the POVA List and understand what this was about. Several described how this was included as part of induction training. This manager was typical, although the training described was perhaps more extensive than others described:

But with regard to POVA everybody receives POVA training, so they understand. If you ask them POVA they will understand. If you ask safeguarding adults, they sometimes they have to remember the link between the two. Yes, they understand what POVA is and the implications that if you know, if somebody abuses someone, they could go on the POVA List.

TN26, Home Care Manager, All



## **Differences made by the VBS**

While interviews with all groups of participants contributed to this analysis, this section is most informed by the interviews with managers/employers and Adult Safeguarding Coordinators. (As explained in Chapter 1, interviews took place before the review of the VBS.)

### ***Registration***

Many participants (13 managers, six Adult Safeguarding Coordinators, two family carers and one frontline practitioner) were generally in favour of the idea of staff needing to register with the ISA, which was felt to facilitate the process of checking new staff and volunteers. Given a continuous updating from the CRB to the ISA register, registration would mean that only one CRB check would need to be done for each worker, before people first start working in the sector, rather than each time people move jobs. This was seen as of particular importance in an occupation with high levels of turnover. For example, this care home manager identified the importance for checking new staff:

I'm looking forward to having a proper barring scheme, so I can just go and make sure everybody is registered and that would make things a little easier. It will stop all the staff worrying, when can I start? I want to start work.

MS05, Home Care Manager, All

In addition, registering staff was felt to be a good way of increasing information sharing and making it more likely that barred individuals would be identifiable in a number of different locations, as this Adult Safeguarding Coordinator believed:

That there should be a greater sharing of information across all sort of authorities that people will share concerns more readily and quickly and that there should be one pool where everybody has put in their concerns and hopefully that should have an effect on highlighting things.

TN 11 Adult Safeguarding Coordinator

Why certain groups were not being included more comprehensively was also questioned by a small number of people, particularly in relation to GPs (who were only to have been registered when they moved practices) and privately employed personal assistants (whose employers are not required to check whether applicants are on the ISA Adults List or to make CRB checks). For example, this service user, while accepting the value of registering as part of vetting and barring felt that this was a matter for the 'health of the wider health and social care workforce'. However, she questioned the extent to which service users and family carers were ready to take on responsibility to contribute to this:

Registering and reporting and all the rest of it is to do with maintaining the health of the social care workforce, yeah, which is really, really, really valid, but I don't know that most people who are accepting direct payments and accepting the idea of employer responsibilities realise that they are also accepting responsibility for the health of that bigger sector.

A small number of participants from all groups were concerned about the size of the task of registering up to nine million people working in the NHS, social care for adults and children's services and prisons in addition to volunteers in many different fields. These participants questioned whether this was practically feasible and also felt that it would only be after all staff were registered (the target date was to have been 2015) that the impact would become clear:

So, there are over a million people working for the NHS. There are over, I don't know how many people work for the social care sector in various settings, home care and care home and nursing home, another million or something. Are they all going to be on a register? It's a massive task.

TN04, Care Home Manager, Older People

Surprisingly, the question of who was to have paid the registration fee was mentioned by only four participants: two managers; a frontline practitioner; and an Adult Safeguarding Coordinator. All of these participants identified the difficulty of asking people working in typically low paid jobs, to pay the fee, whilst acknowledging that paying for all staff to register would be very difficult for many employers, as stressed by this Adult Safeguarding Coordinator:

We do actually incorporate that in and as a hospital steering group for the ISA, because obviously we've got seven thousand people work here. We've got to get all them registered. We've got to know who is going to pay for that and how all that's going to be sorted

MS03, Adult Safeguarding Coordinator

### ***Wider scope***

Increasing the application of vetting and barring was explicitly welcomed by seven managers and eight Adult Safeguarding Coordinators, identifying this as potentially having a positive impact on safeguarding. This home care manager clearly valued the inclusion of health within the ISA's remit, whereas the Adult Safeguarding Coordinator focused more on the definition of regulated activity as helping reduce the 'avenues' for serious abusers:

It's better that we are all joined up together. I'm very, very pro the fact that Mental Health, Health and Social Care have all joined up and that's good. Hopefully, that will make it better. I still, I think for use within providers, responsible providers and for use within, how can I put it, within the public sector, it's a very, very good tool.

MS04, Home Care Manager, All

That definition of regulated activity and the frequency and the intensity of regulated activity has obviously potentially meant that there isn't and it's shut off, I suppose the avenues where people might be reminded, but people who were unsuitable and paedophiles is obviously an example, might have

knowing that their route was barred for something in their past.

TN10, Adult Safeguarding Coordinator

The interviews were undertaken soon after the implementation of the VBS and its inclusion of health settings. In the past, one of the NHS Trust Adult Safeguarding Coordinators reported that he had relied on local Social Services to make POVA List referrals. This would now be done in-house by the Trust's Human Resources department. While he had not had to make any referrals to the ISA at the time of the interview, he described how he was preparing to make the changes required. First, he had had similar prior experience in relation to nurses and referrals to the Nursing and Midwifery Council and doctors being referred to the General Medical Council. Meanwhile he was a member of the local Safeguarding Adults Board with a view to ensuring the continuity of care for individuals when they leave hospital should a safeguarding plan have been called for.

### **Suggested improvements to vetting and barring**

Three main areas for improvement were identified: a need for employers to be informed of the outcomes of referrals; speeding up decision-making; and having a more graded response, other than barring or not.

#### ***Communication***

In interview, practitioners, managers and safeguarding coordinators frequently called for a more responsive service from the barring authority following a referral. Two interviewees recounted instances when referral to the POVA List had not been followed by a notification of receipt, but a more widespread concern (expressed by six managers and five Adult Safeguarding Coordinators) centred on the fact that the referrer is not necessarily informed of the outcome of the barring authority procedure (these comments were based on experience of making referrals to the POVA List). This was seen to be important to reassure service users and family carers directly involved in the circumstances of the referral, as one Adult Safeguarding Coordinator put it:

This is a huge issue for us at the moment; we are not able to give the residents, those with capacity and/or their family any feedback. For example, when we've had somebody take some money from a resident, they just don't want them to work, be able to do it in another care home. We are not able to tell them that. All we can say is, well, we've referred.

MS11, Adult Safeguarding Coordinator

Similarly, one home care manager explained how important this was for people who may fear that a particular worker, who had been referred may potentially be working with them again.

Thinking about it now, I think for some managers as well, it's kind of a reassurance process for the service users as well. We can actually say when things have happened and we have said before look, this person has been dismissed. It's like an extra add on because people if somebody said that to

me, I suppose, thinking about it, people would say, well, they've been dismissed, but he might be going working elsewhere and I might get them from an agency...

TN30, Home Care Manager, All

Another home care manager reflected her concern about getting a response to making a referral, suggesting that this may have been a factor encouraging employers to engage with the system:

The fact you didn't get a response was a bit frustrating, because it would be nice to feel that your actions had actually achieved an outcome, but we didn't get any response from POVA.

TN26, Home Care manager, All

And another home care manager suggested that this feature went further than denying the referrer satisfaction, but that receiving news of outcome would allow for a calibration of safeguarding standards in relation to the requirements of the scheme:

Anybody who makes a referral should get some information back, even if they say, this is a load of rubbish and what the heck are you doing? At least then you can realise, okay, maybe I have to look at my standards against your standards or something on those lines and maybe I'm more concerned that you are or maybe I'm not concerned enough, either way. But I'd like something back. I'm disappointed with that one. I'd like something back and I said, an explanation why and it was not going forward. We've had a look at it and we don't think it's enough.

MS05, Home Care Manager, All

This lack of feedback or transparency, as it was termed by one respondent, also presents employers with difficulties in relation to giving references. One interviewee in particular (MS11, Adult Safeguarding Coordinator) had felt stymied by the fact that a request for a reference might come 18 months or two years following referral and there was a possibility that in the interim the individual's referral had been closed, so that there was a danger of giving a detrimental reference by saying that the individual had been referred.

### ***Time taken***

Although there were two calls from interviewees for the List to be made available online, the time taken for an ISA Adult First check to come back was not generally a source of complaint for interviewees, certainly not when compared to the delay associated with CRB checks, as described in Chapter 3. However, as we describe above in the section on effectiveness, there was considerable concern around the length of time it was taking for the scheme to move from referral to closing or listing, as the case may be. Nine Adult Safeguarding Coordinators and four managers identified a need to reduce the time between referral and decisions about barring

and were concerned about referred workers getting other jobs in the sector in the 'meantime':

the concern was that ISA would take a year to make a decision and in the meantime, how do we make sure that we protect vulnerable adults. That was a real serious concern, because we really think that - we can dismiss this person. We can suspend this person. But we can't stop them working with anybody else if ISA are going to take a year to get, you know, there is no fast track decision. That was a real worry.

MS09 Adult Safeguarding Coordinator

I think in terms of the lead time and not quite knowing what the timescales are and whether those people, in the meantime, have sought other work in an attempt to cover their tracks and whatever the circumstances in which they have been dismissed from previous employment. That's a little bit concerning.

TN10, Adult Safeguarding Coordinator

And, in the eyes of one interviewee, this would mean that if registration were to be introduced a number of people now listed would be found to have gotten another post in this interim, and this would necessitate a clearing out of staff.

Timescales between referral and barring quoted by interviewees ranged from 11 months to two years. Note though, that these were POVA List timescales and this phase of our research was not designed as a survey of this facet of vetting and barring. The second phase of this research, which includes secondary analysis of data held by the ISA will investigate the time taken to make decisions after the ISA has received a referral.

### ***A varied response***

The need for more options than just barring or not barring referred people was identified by eight managers, four family carers and three advisers. Several referred to the Nursing and Midwifery Council (NMC) approach, which allows for suspension from the register, or that the staff member works under supervision for a set period, and can give conditions before nurses can be reinstated. This would be of value in promoting and developing staff, and potentially might reduce a barrier to making referrals, which was identified in relation to the impact of barring on a worker. Having an intermediate outcome was felt to reflect a fairer response to some situations. For example, this family carer felt that barring an individual from working with certain groups would be a better response in some circumstances:

That's where almost in a sense you need a different category lower than barred that is some sort of referral system, but which says, this guy is not very good at this, but in another situation he might be okay. It doesn't mean a complete bar. It needs something that other employers need to be aware of.

MS13, Family Carer, Learning Disabilities

Another family carer expressed this point of view vividly, implying the need for differential barring for adults and children:

The most unlikely people are very good carers. One of my mother's carers (care worker) had a history of abusing her children. She definitely didn't abuse elderly people. She was an extremely good carer.

SM03, Family Carer, Older Person

A care home manager felt that the graduated response of the NMC would be more appropriate:

As a nurse, I've got to be registered. Being registered means that I've got to be of good conduct. If I'm not of good conduct, I can be reported to my registering body and they can take action. They can say, you've been a really naughty girl. They can say you are not working as a nurse for another six months. They can say, right, that's you, you've had your chips.

MS01, Care Home Manager, Older People

Another interviewee mooted the possibility of a further list, along the lines of a not-proven verdict:

The possibility of actually if you weren't barring people, you would have something which would be like a second list or something and I know you'd actually say to somebody, I'm actually there is no evidence, but at the moment we'd like to put you under a caution...

TN11, Inspector – Regulator inspector

Two of the managers interviewed approved the idea of an intermediate list, though problems presented by the presumption of innocence were acknowledged. One manager suggested that a history of disciplinary procedures against a staff member should follow an individual between jobs (TN05, Care Home Manager, Older People – Clinical director, domiciliary care).

### ***Other suggestions from interviewees***

One interviewee observed that the referral form was in an inappropriate format, Microsoft Word, which reduced its utility (JH05, Adult Safeguarding Coordinator).

There was concern, particularly among safeguarding adult coordinators, that people employed by people using personal budgets and direct payments were not being referred or would not be, given that this is not compulsory.

As mentioned in Chapter 5, one respondent had experienced difficulty in establishing whether his/her Adult Safeguarding Service had a duty to refer information to the ISA or whether the duty lay solely with the care home concerned.

On registration, one or two participants suggested that registration might be off-putting for volunteers; also, it was suggested that the Nursing and Midwifery Council might be the registering authority, rather than the ISA.

## 8. Other ways of safeguarding people

### Summary

- Although the focus of this study was the operation of the POVA List and the VBS, interviewees were also given the opportunity to give their views about safeguarding beyond the confines of the scheme
- Other means of safeguarding suggested by participants fell broadly into two categories: preventative measures and practices; and the appropriate structures for detection and response
- Prevention – these issues were similar to those identified as important factors to investigate in making individual judgements:
  - Good supervision
  - Training
  - Adequate staffing levels
  - Status of social care, including levels of pay, career structures and reputation
- Detection and response
  - Ongoing vigilance, in which everyone was aware of the possibilities for abuse
  - An ‘open’ culture, in which all parties felt able to ‘whistle blow’
- A number of factors were also identified as making safeguarding harder, for example, that unsuitable people are attracted to work in social care because it is easy to get into or because it provides opportunities to exercise power over people
- Personalisation was also identified as potentially making safeguarding harder because of the increased use of unregulated services. However, a small number of participants also felt that personalisation would aid safeguarding because of the increased choice and control

### Introduction

Although the focus of this study was the operation of the POVA List and the VBS, interviewees were also given the opportunity to give their views about safeguarding beyond the confines of the scheme. Specifically, practitioners were asked whether they could think of other ways of making care services safer for the people using them; service users and family carers were asked, at the close of the interview, whether they had any final thoughts on preventing unsuitable people from working in care services.

The responses to these questions may have a bearing on the review set up by the Home Secretary in October 2010 as part of the ‘Coalition’s commitment to scale back the vetting and barring regime, to common sense levels’ (Home Office, 2010), and which reported its recommendations in February 2011 (Home Office, 2011a), since interviewees, while not themselves arguing for the dismantling of the scheme, were reflecting on what other means might serve its goals.



Such other means suggested by the study participants, fell broadly into two categories: preventative measures and practices; and the appropriate structures for detection and response when prevention fails.

## **Prevention**

Interviewees spoke of creating circumstances in which abuse was, in their view, less likely to occur. Such circumstances were conceived in terms of goings-on *within* care settings—laid out here under the headings, Supervising; Training; Staffing—and those factors, such as the status of care work, which feature across the piece.

### ***Supervising***

The quality of supervision was perceived to be of great importance by interviewees from each participant group in relation to the incidence of abuse. As one family carer said: ‘There is safety in staff supervision.’ (JH03, Family Carer, Learning and Physical Disabilities).

This is in part a question of ongoing checks on competence and behaviour: following induction with a trial period of practice observation, for example; supervision at regular intervals thereafter; or instituting the practice of having full-time care staff always working alongside agency workers.

More than this, for some interviewees, it was a matter of having the manager present or visible:

Because we are fairly small organisation and not only am I the registered manager and provider, I’m also the older and I’ve got 24 years in running the home. I am on the floor and I am a visible manager just not administration. So, we are a training centre. I suppose that because of that we are more visible, hence staff who might have the intention of doing so would not stay or would not even take up employment.

TN01, Care Home Manager, Older People

Such engaged management was felt to be able to halt problems early on:

... certainly some of the people I know who have been guilty of what at first sight looks like horrendous abuse, have got to that stage because they haven’t had the opportunity to learn about underlying principles and bad practice has escalated from little bad practice to big bad practice, because both the care worker and their employer haven’t known how to manage the situation.

MS16, Disabled Person – Service user

There was a point where such oversight of competence and behaviour was seen by some to merge with the manager’s pastoral role:

Well, I think regular staff meetings that are about how they feel about the

work and the residents are important. I think debriefing and I think to have a good line manager system almost like a supervisor and certainly good morale.  
SM05, Family Carer, Older Person

One family carer recommended that this should be replicated in the case of personal assistants by way of some kind of 'support system' (MS14, Family Carer, Learning Disabilities). In a slightly different application of this idea, one care worker noted that employers should provide support in those instances of abuse by the service user where the worker was the victim (TN28, Day Centre Staff). Such thoroughgoing supervision was seen as integral to creating a safer environment:

I think it's about their wellbeing as well. It's about, down to awareness again, if there is things in their life that are troubling them that could impact on their work then that, if they feel comfortable or they've got somebody, a supervisor that they can talk to about that then it would avoid maybe situations. It's more about preventing.

MS06, Home Care Worker, All

### ***Training***

Training was relevant for interviewees in three ways. First, in relation to specific tasks it was important to instil good practice. Most frequently cited were moving and handling and the use of hoists—both instances where the move from 'little bad practice' to 'big bad practice' (MS16, Disabled Person – Service user) might easily cross the line into abuse.

Secondly, staff members should understand what constitutes abuse. This would take place in induction, but also in refresher courses:

Maybe with staff training with abuse etc, staff are a lot more aware now of what's acceptable and what isn't and I think that's helped quite a bit.  
TN06, Care Home Manager, Older People – Clinical lead nurse, nursing home

Such training should cover the whole gamut of abuse, including the most minor, not least since this could always be the first step on the road to something worse or itself constitute neglect:

There is one where people don't do the job. People go out there and sit there and have a cup of tea and a cup of coffee, rather than doing the lady's laundry. She's got her dinner down here and that's abuse. They can't see it's abuse. I explain that it's abuse. I think it's emphasised that people in induction and training that they go down this road and they are taught what abuse is and what constitutes abuse. Maybe if they realise that if you do abuse anybody and it's proven you would go down this road. The end result is this and maybe that will stop a few people thinking, hang on. People take an apple and take a bag of apples and then take their shopping. You know 'I can get away with this and nobody knows what's happening', until they realise what's happening.

Finally, managers themselves should be trained to recognize the ‘trigger points’ of abuse, although, as this manager of a day centre indicates, such training is already often in place:

The fact is that it is so highly up there in the organisation of where you work is just unbelievable. All of us are doing safeguarding adult training. All of us have done that. They give you training on the trigger points. The fact is, they alert you.

JH09 Day Centre Manager, Learning Disabilities

### ***Staffing***

Staffing levels were occasionally, but not often, mentioned in response to the question about other ways of safeguarding. There was a call from a CQC inspector, for example, for ‘realistic timetables for staff to work, so they really do get a break’ and a ban on 12-hour shifts (TN11, Inspector). And there was concern from a small number of family carers that staff were ‘overextended’ (SM06, Family Carer, Older Person), there were acute staff shortages (JH03, Family Carer, Learning and Physical Disabilities), and that there was too great a dependency on agency or temporary workers (MS14, Family Carer, Learning Disabilities).

In adjunct to these concerns, some interviewees also thought that recruitment practices could be improved. In particular, references should routinely be taken up (not always the case according to one owner/manager of a nursing home – TN01, Care Home Manager, Older People, although almost all managers reported taking up, if not checking references, as we describe in the ‘Recruitment’ Section) and three interviewees recommended that service users should be involved in the recruitment process. One family carer said:

As I said earlier, you do develop antennae and I always feel it’s important before recruitment and they have involved the service users that would be staff come and meet the person and you can make an assessment.

JH03, Family Carer, Learning and Physical Disabilities

One operational manager in domiciliary care went so far as to suggest that it would be helpful if s/he could call upon a ‘willing bank of participants’ to assist with interviewing job candidates (TN26, Home Care manager, All).

### ***Status of social care***

Small numbers across all subject groups except frontline workers made reference to the status of social care when discussing the creation of circumstances in which abuse would be less likely to occur. One family carer said:

it’s about cultures and it’s about attitudes and it’s about support and it’s about the situations that occur that maybe the, like as I say when staff get

really stressed and tired and despondent and don't feel valued. There is not enough value attached to people who work in social care. It's fundamental. It's so important to our society. They feel devalued. I think all those things are beyond—lists aren't going to—

JH03, Family Carer, Learning and Physical Disabilities, Family Carer

One CQC inspector described coming across an 'if I can't do anything else, I can go into caring...last ditch' approach (TN11, Inspector). She spoke of the need to raise the 'profile' of workers; a family carer spoke of the need to raise the status of workers (SM05, Family Carer, Older Person). Both spoke, in this connection, of adequate rates of pay. Mention, too, was made by the inspector and a service user (JH02, Older Person) of the value of a career pathway or structure.

Interviewees spoke of the need for a profession with a positive sense of itself. Adequate pay was seen as a bulwark against the 'last ditch' approach:

The first thing is to pay them adequately so that they attract people with a commitment to do the work. People without a commitment to do the work rarely will do it very well.

SM05, Family Carer, Older Person, Family Carer

A career structure and attendant training would allow individuals to 'feel good about themselves' (TN11, Inspector, inspector). And a service user brought together these themes when asked about what things other than the POVA List and the VBS might protect service users:

Raising the ethics of the people that serve them. This broadens out into a great thing [...] and I think until we can have some sort of career pathway created for people who work as carers, which hopefully will lead to a sense of pride in the job that they undertake. And, therefore, some willingness to both submit themselves to appropriate training and to submit themselves to some code of ethics or some code of practice and to do some monitoring of colleagues and reporting of abuses and yes, when people feel, when we get to that stage then maybe I'm going to feel a little more comfortable. We are light years away from that, because we pay people, agencies pay people a pittance and I suspect that people come into the job because they do not have the qualifications to do other jobs or because they are being exploited because they have limited time and they need flexible work hours.

JH02, Older Person, Service user

The confluence suggested here of a sense of pride in the job and a willingness to submit to codes of ethics or practice is itself suggestive. Professions, such as nursing or medicine have codes of ethics instituted by professional bodies such as the Nursing and Midwifery Council or the General Medical Council. However, the VBS is imposed from without, by government and therefore does not represent a marker of professional status, in the same way as these other codes of ethics and degree of self regulation. This section of the study, on status, raises the question of the degree to

which care working can be said to have a sense of itself, one element of which might be the degree to which it publicises its own GSCC codes of ethics or practice.

### ***Other concerns relating to prevention of abuse***

A few interviewees mentioned the following concerns under this topic:

- *Inspection.* A Home Care Manager said:

I think that we need to have really rigorous inspections. There should be no half measures. I think that when say, for example we have an inspection of any description then they do look quite closely at our safeguarding. We really need to take it apart bit by bit by bit, I think. We need to make sure that people are inspected.

MS04, Home Care Manager, All, Director, home care agency

A frontline worker recommended random drugs and alcohol checks. Others suggested spot checks in home care.

- *Personalisation.* This was seen by a family carer as a positive because of the choice it gave the service user and the fact that it allowed the service user to look beyond paper qualifications to whether or not the individual was really suitable to be a care worker. However, a Safeguarding Adults head cautioned that mechanisms must be in place that allow for Direct Payments employers to make checks. One manager thought a move to registration in social care would be helpful here. This is contrary to the fears about the potential for increased risk of abuse associated with personalisation, which have been expressed elsewhere in this report (see 'Factors making safeguarding harder' section below) and in the evaluation of the Individual Budgets pilot projects (Manthorpe *et al.*, 2010). However there is to date little evidence about the impact of personalisation on levels of abuse.
- *Sharing information.* Sharing information between local authorities about individuals moving jobs was seen as positive by two Safeguarding Adults Coordinators and one manager, but there was comment that although this practice used to happen, data protection law now impeded it.

### **Detection and response**

The other main category of safeguarding suggestion related to developing better detection of abuse or its likelihood, and responding in timely and appropriate ways.

#### ***Ongoing vigilance***

Managers, in particular, stressed the need for constant watchfulness as a key element in safeguarding people using services:

I don't know how to improve it. I know what I do in here to try and do that. May be some of this doesn't travel so well. It's monitoring and watching out

and picking up on indicators, following indicators through and listening to what people are telling you...Listening and observing and looking.

MS01, Care Home Manager, All – Manager, nursing home

Staff themselves should be encouraged to be the eyes and ears of the system as, another manager suggested, it is everyone's responsibility to ensure vulnerable adults are safeguarded (TN18, Day Centre Manager, Learning Disabilities). Given that staff members may be part of the problem in a particular instance, there is an obvious tension here—well caught by a juxtaposition of the comments of two frontline care workers, the first evincing a flowing together of care and watchfulness in his/her relation to service users:

I don't know how people do what they do to vulnerable people and children ... Just have to get on with it and be one of those people that look out for people. Just look out for people.

TN19, Day Centre Worker, Learning Disabilities

The second suggesting that this could lead to a very suspicious climate, where everyone is a potential abuser; whether this was a 'healthy' thing was questioned by this worker:

This is the personal opinion of mine. I judge everybody with certain suspicion, not because I'm a naturally suspicious person or anything. It's just that I do and to me if that person can prove that they can be trusted then maybe I will let my guard down a little bit. But to me I do judge everybody with a certain amount of suspicion. I don't know whether that's healthy or unhealthy.

TN13, Home Care Worker, All

One manager was at pains to point out that staff are not the only candidates for such suspicion, which again could lead to unintended negative consequences:

There is all these other considerations you have to make and so...it's not just actually your staff that's in the home. You've got relatives coming out and you've got friends coming in and out. You've got deliveries coming in and out. You've got other health professionals coming in and out. They could be doing pretty much you don't know. It not just from the staff point of view.

TN05, Care Home Manager, Older People

Notwithstanding such comments there were calls for those not part of the everyday run of an individual's care to self-consciously take up a role of vigilant outsider—the importance of GP visits was mentioned, hospital staff were encouraged to be 'proactive' (in relation to people being admitted with sores, for example, MS03, Adult Safeguarding Coordinator – Safeguarding adults lead, NHS Trust), and one family carer commended the practice of advocacy, involved yet independent, particularly in cases where concerns are raised about managers:

It's no good saying, go to the manager if you've got concerns about the

manager.

JH03, Family Carer, Learning and Physical Disabilities

It is a reflection that moves the focus from detection to response.

### ***An 'open culture'***

It was seen by many interviewees to be important to create an atmosphere in which service users felt comfortable complaining. There was a call from a CQC inspector for a 'much more open culture within care homes' (TN11, Inspector), an 'easy feedback system' (SM06, Family Carer, Older Person) in which the service user knew the complaints procedure and, more, was 'empower[ed] to complain' (TN18, Day Centre Manager, Learning Disabilities – project manager, day centre). This last point was a reflection of the fact that some service users are felt to be reluctant to complain:

it's the issue about how you put it in place and getting people to complain. Better than it was, but a lot of elderly people or other people don't want to complain. The carer [care worker] might take it out on them and they might not get the services, things like that. I think over the years things have improved on that line. It's still out there and just finding a way to reassure them that if they are not happy with what's happening to them that they need to be able to tell people about that.

TN29, Home Care Manager, Older People

Another manager also emphasised the importance of complaints as learning opportunities:

Another thing, I do embrace complaints. Okay, we are not always happy to be getting complaints, but I say to people, the only way we are going to grow is by getting the complaints. It's nice to be getting the positives, but it's also nice to get the complaints that makes us have to stop and look at what we are doing and if we can do it in a different way.

JH09 Day Centre Manager, Learning Disabilities

Again, just as advocates were seen as having a role in detection, so they were perceived to be an important element of an open culture, as were, in the opinion of this inspector, older people's forums:

...there is much more advocacy in care settings. There is much more chance of people, if they are unhappy that there is something that people feel they can actually say that without it being a complaint that there is always someone they can talk to who might be separate and might not be within the home... and to set up forums more forums for people where they can, for people who live in care homes, older people to express their views.

TN11, Inspector

### ***Whistle blowing***

An openness to complaints from service users should be echoed in relation to whistle blowing:

I do think it's quite frightening when you hear like the staff hospital that staff are scared to blow the whistle. I think there has to be very robust whistle blowing systems and levels where people can go, depending on where their concern is. Those need to be open to everybody who is involved with that person.

JH03, Family Carer, Learning and Physical Disabilities – Family Carer

Managers spoke of such policies being inscribed with the guarantee both that the whistle blower would not themselves be sacked, and also that the bystander who does not report poor practice or abuse would be disciplined:

People just need to understand that it's not only the person committing the act, it's the people standing by and watching it that are as guilty as the person committing the act.

TN32, Home Care Manager, All

### **Factors making safeguarding harder**

While considering the promotion of a culture of safeguarding beyond the confines of the statutory, it is valuable to highlight those characteristics of the social care sector that were described by interviewees as making safeguarding harder. Two factors were felt by participants from all groups to make safeguarding more difficult. First, the attraction of care work for unsuitable people, either because of an active desire to abuse vulnerable people, or because of the relative ease with which it is possible to get work in the field (this mirrors the importance of the status of social care as a safeguarding issue as described in the previous section). The second major area is personalisation. While many have suggested that personalisation will make people safer because of the increased choice involved (SCIE, 2008; and see the view of a family carer expressed earlier in this chapter), there have also been concerns raised that the increased choice and control, particularly over employing staff, for whom CRB and ISA checks are not required, could increase risk. Finally, there was a set of issues raised by one or two participants that is useful to note.

### ***Unsuitable people attracted to work in social care***

A small number of participants from all groups, except people using services identified that care work attracted some people who are either unsuited by temperament or who were actively seeking out the work because it provided the opportunity to abuse people. It was acknowledged that this was a tiny minority, but one that could do a great deal of harm. For example, this carer felt that some people were attracted to care work because of the opportunity it offered to exercise power over vulnerable people:

There are people who are deliberately malicious and who have power trips and things. I think that's the saddest part about social care sector is it attracts



people with their own baggage.

JH03 Carer, Person with Learning and Physical Disabilities

A less extreme example was given by this manager who described how some people brought their problems at home into work, which negatively affected service users. The manager felt, however, that this was hard to stop and would in all likelihood get worse:

Unfortunately, people coming to this service with all sorts of personal issues. We've got staff who come in on a really bad day that have had problems at home and a service user actually says this and can I have his cup of tea and they bark at them.

JH93 Day Centre Manager - Learning Disabilities

One frontline staff member described how difficult it was for her to know what to do about a situation where she had felt managers were unsuitable and where they were colluding with bad practice. Her response had been to leave the job, but this was not satisfactory to her:

No, because I was still naïve then. I didn't know, at the time, I thought it was normal, because I didn't have any training. I thought it was normal to lift six foot fellows up the bed. Since working here I realise obviously it's not good. I heard like the senior carer was 'well in' with matron.

MS08 Home Care Worker, All

Two frontline workers also felt that some unsuitable people ended up working in care work because it is easy to get into and they could not find any other work; this being a common perception about care work:

People resort to care, because they found out that it will be done quickest and it's the profession to resort to. The justification for that job, most of them don't have it. They don't have, can I say, the rationale for choosing the profession is not well defined. To some, it is the easiest way to make money.

SM19 Home Care Worker, Older People

### **Personalisation**

Personalisation, particularly where people privately employ care workers, was identified by a small number from all groups except frontline workers as making safeguarding more difficult. They all felt that the lack of regulation of people working in these private arrangements could present an increase likelihood of abuse from the workers involved. While this goes against the view of the family carer cited earlier in this chapter who felt that greater service user autonomy in choosing a carer equated with greater safety, this perception of greater risk was more common. It reflects wider concerns about personalisation that have been voiced in the evaluation of the Individual Budgets Pilots (Glendinning *et al.*, 2008). For example, this carer felt that the contrast between the amount of regulation involved in mainstream services

created a sharp contrast with the situation for people employing their own personal assistants. From her perspective, this created a potentially dangerous division:

There is a problem today, because on one side you have this incredibly risk averse regulation and then outside that personalisation you have nothing at all.

JH03 Carer, Person with Learning and Physical Disabilities

Similar points could be made about self funders, about whom increasing attention and concern are being raised.

### ***Other factors identified as making safeguarding harder***

Three other factors were identified by one or two participants: the lack of ethics of people providing services; the difficulty in getting reliable witnesses; and the increasing scope of safeguarding itself.

One service user highlighted the importance of the overall ethics of the service as being more important than any systems. She was fearful that services would not have the required ethical standards to safeguard people who used them:

I'm afraid, it's dependent upon the ethics of the agency and the people who operate them and I think, sadly that, with a burgeoning population of older people, the people taking up these tasks and setting up these agencies are going to mushroom. No, I'm sorry, I'm afraid I do not have faith in that, no. Unless they have a code of ethics.

JH02 Older person

Over- or under-reporting of abuse was mentioned by one carer and one frontline worker. They suggested that some older people were very vulnerable and would be too frightened to report abuse. Again, this emphasises the value of an 'open' culture as a safeguarding factor, as described in the previous section. The carer also said she had had experience of older people who may falsely accuse workers of abusing them, because of general anger about getting older, which made interpreting genuine accusations more difficult:

I've had quite a lot of experience of people who in the rage about being old and dependent will be angry with everybody and it can take just an irrational dislike which isn't in any way the fault of the worker. For the person to complain bitterly, so it's actually a very difficult matter

SM05 Carer of an Older Person

One manager felt that safeguarding had grown so much in scope that it could potentially reduce attention on the more serious abuse, because of the amount of time taken up responding to lower level misconduct or situations that could be addressed in other ways. The manager gave an example where a care worker's

failure to turn up had been characterised as safeguarding—this was felt potentially to take resources away from identifying and preventing serious abuse:

When I mean that, I mean in the care organisation you sometimes a carer has either failed to attend, because they've forgot or they didn't go, what have you. You've then checked to ensure that that person is okay. Some organisations that is still deemed as a safeguarding issue. And I think that sometimes waters down the focus on the more important stuff. I'm not saying that's not important. I think that if you try to incorporate too much under safeguarding, it's like everything, you just can't see the wood through the trees and you are more likely to miss something that is really important.

TN26, Home Care Manager, All

## Part Three Conclusions

## 9. Discussion and conclusion

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### Introduction

This report presents findings from the first phase of research investigating vetting and barring schemes. It has explored the perspectives of employers/managers, who are playing a vital role in implementing the VBS 'in the field', as well as service users, carers and Adult Safeguarding Coordinators and other advisors such as inspectors. However, because of the timing of data collection (November 2009 – May 2010) respondents had little, if any, experience of the operation of the VBS, which commenced in October 2009. Most of the views expressed in this report derive from experience of the prior POVA List regime, although Coordinators, advisors, and employers and managers in particular were typically aware of, and expressed their opinions about, the VBS. By contrast, the second phase of our research will focus on the VBS—by means of statistical analyses of referral data collected by the ISA and the perspectives of ISA personnel.

The demise of the POVA List has now been followed by the substantial 'remodelling' of its successor, the VBS. The Report and Recommendations resulting from the Remodelling Review called for by the government was published in February 2011 (Home Office, 2011a). In accordance with the government's wish for a scaled down version of the VBS, the main points of the remodelling are:

- 'to maintain a barring function
- to abolish registration and monitoring requirements
- to redefine the requirements of 'regulated activities'
- to abolish 'controlled activities'

(Home Office, 2011)

In addition the report recommends that the Criminal Records Bureau and the Independent Safeguarding Authority should merge. These proposals form the basis for the relevant sections of the Protection of Freedoms Bill, currently before Parliament.

Completed prior to publication of these proposals, the analysis which forms the basis for this interim report suggests there is support for vetting and barring schemes in general, and for the registering of staff and volunteers and the increase in scope of the VBS in particular. This chapter will address itself to the proposed changes in the light of the research findings. However, the research has more wide-ranging implications for improving practice and it also places vetting and barring schemes in the broader safeguarding context.

### **Maintaining a barring function**

The government proposes to retain a vetting and barring scheme, albeit a scaled back version of the VBS. Participants in these interviews expressed broadly positive views about the value of a vetting and barring scheme as part of the overall approach to safeguarding vulnerable adults. There was a widespread perception among interviewees, particularly managers, but also frontline staff, that the scheme, and in this participants were referring overwhelmingly to the POVA List, had increased safety.

### **The barring decision**

Amongst interviewees, barring was recognised as a very serious decision, with highly significant consequences for staff. Consequently, managers and employers placed emphasis on intention and overall characteristics including, for example, respect for people as factors thought to be appropriate to consider in barring decisions. This emphasis sits in tension with another perception among some interviewees that the threshold for barring is too high and that some unsuitable people are not being barred. And taken together such a range of views may reflect the general tension between the perceived need to be fair to referred people and the wish to safeguard people covered by the scheme. As was found in the previous research on the POVA List (Stevens *et al.*, 2008) and explicitly recommended by one participant here, drawing this balance requires a good knowledge of the kinds of services and contexts covered by the scheme. This has potential implications for recruitment, training and practice of ISA staff. Ensuring ongoing involvement of stakeholders with ISA, including frontline staff and service users as well as managers and employers, will also be of great value in this regard.

### **Awareness of the scheme**

The evidence from this study is that people using social care services and carers are not very aware of the ISA and how it functions. There was also a suggestion that those who use mainstream services have much less awareness compared with those using personal budgets or direct payments to employ their own support workers. This was evident in responses of people using services whom we interviewed and in the perceptions of other stakeholders. Clearly for some people using services, awareness of who to complain to about incidents and mistreatment is enough. However, for others an awareness of how the scheme operates, and that staff members may be barred, may increase confidence and indeed overall safety.

### **A vetting and barring scheme is one facet of a safeguarding culture**

Managers/employers were clearly aware that vetting and barring schemes, including CRB checks, were not the whole story with regards to safeguarding. Several aspects were all identified as contributing to safeguarding practice, including the good judgement of managers, vigilance and an open culture. More broadly, issues relating to the overall quality of services in terms of supervision, training and staffing levels as well as increasing the status and pay of social care workers were felt to be of importance in safeguarding vulnerable people.

The set of factors identified as supporting or hindering safeguarding are typical of other research about good quality care, and reflect an ongoing debate about the relative importance of quality as a means of safeguarding people using services, the place of regulation and the 'discourse of abuse' (Mclaughlin, 2007: 1275). However, like Mclaughlin (2007) we found little evidence that the overall place for schemes such as VBS is controversial amongst practitioners and stakeholders.

It is interesting to note that the positive reasons for employing someone were not given a great deal of attention – while this was not a focus of the research, it is possible that years of recruitment problems have not made for a system of competitive interviews, where there is a choice of suitable (i.e. not unsuitable) candidates, and therefore finding ways to establish who would be best has been less important for employers.

### **Organisational issues**

This study has highlighted the important role played by Local Adult Safeguarding Teams and Coordinators. They were seen to play a key role in referrals to the barring authority and in advising employers/managers. However, there were concerns about potential negative consequences for providers if they were censured by such bodies and removed from preferred providers' lists, this anxiety possibly inhibiting the safeguarding benefits through discouraging cooperation. However, having less direct influence, the VBS was felt to be outside this potential negative feedback.

Disentangling responsibilities for the different stages in the process was identified as a problem by some, particularly where extended investigations were carried out by local Safeguarding Teams or the Police. This was felt by some to be another disincentive to make referrals both to local safeguarding teams and to the barring authority. Again, this may well be a matter more of awareness raising and communication than changes in form and function of safeguarding bodies.

### **Criticisms of the scheme**

Improving timescales (in relation to the operation of the POVA List) and communication were seen as crucial to increasing the value of the scheme. Information sharing was an important element identified as problematic. Most strongly this concerned providers not being informed about the outcomes of referrals, which was felt to reduce the potential benefits of the scheme in terms of general confidence amongst service users and carers. Also, knowledge that a staff member has been barred could be beneficial, in particular cases, for the vulnerable person involved in the events leading to the referral.

A second and linked concern also has relevance for the operation of the scheme in relation to fears of repercussions for staff and service users resulting from disclosure of information to referred people. This is a more difficult issue, reflecting the difficulty of balancing justice and fair treatment for those referred to the scheme and the involvement of witnesses. More explicit guidance perhaps on how to manage such potential difficulties would be a significant improvement.

### **Abolishing registration**

The government has elected to abolish registration and monitoring. Registering staff and volunteers was seen to be a valuable additional safeguard by 22 participants in our study allowing, it was thought, for greater ongoing scrutiny and also facilitating recruitment. As far as care working is concerned, in the absence of a professional body for care work or registration with the GSCC, ISA registration may have provided a valuable additional role in regulating care workers.

There were some sceptics, amongst participants, about the proposal to register. However, in contrast to the reasoning that grounds the government's decision, their doubts centred on the practicability of the proposal. The government's concern is that registration exemplifies a tendency toward risk aversion rather than the more appropriate risk management (Home Office, 2011a). In this field, such management would involve the taking up of responsibility as regards risk by those seen as best equipped to take decisions because of their proximity to, and knowledge of, the employment/volunteering circumstances in question, most especially employers (Home Office, 2011a).

### **Reducing the ambit of the scheme**

'Controlled activity' is to be abolished and 'regulated activity' is to be redefined by the Protection of Freedoms Bill. Since October 2009 the Independent Safeguarding Authority has exerted control in the field of working with children and vulnerable adults across the care and education sectors (the legacy of the earlier schemes), but also the NHS, the Prison Service and certain other spheres. The Remodelling Review stated: 'We have decided to re-define regulated activities as those which provide the highest levels of risk arising from the nature of the post and access to vulnerable people.' (Home Office, 2011a: 17). This indicates that it is the nature of the contact (its regularity and closeness) that is to be redefined, rather than the sectors covered.

The increased scope of the VBS was explicitly welcomed by seven managers and eight Adult Safeguarding Coordinators, who identified this as potentially having a positive impact on safeguarding. In this, respondents were talking about the sectors covered by the term 'regulated activity' within the VBS, since 'controlled activity' was not asked about by interviewers.

This expansion in regulated activity was significant, on the one hand, because it constituted a move by government into those areas that were previously the preserve of well-established professional bodies, such as the Nursing and Midwifery Council (NMC) and the General Medical Council (GMC). Such bodies already regulate their own professions on grounds of competence, but also 'suitability' (in ISA terms) according to their own codes of ethics and practice.

On the other hand, care working has historically enjoyed little in the way of self-regulation, the GSCC, for example, holding back from a proposal to register all care workers. Previously, care services were regulated by the various predecessor organisations to the Care Quality Commission, which has represented an externally



imposed regulation. Social care workers do not have any similar body to undertake extra duties performed by the NMC or GMC. Indeed it may be that care working is not susceptible to such 'professionalization', given that service users tend to value personal relationships over professional status (Beresford, 2007). Nevertheless, one question raised by this contrast between care working (the focus of the present study) and the established professions now also regulated by the ISA, is whether more measures of a self-regulatory character in care working might serve to augment the goal of the VBS and its successor, namely security for vulnerable groups. For example, the call for a more graded response from the ISA (as opposed to the barring or not barring response to which it is limited), which mirrors that available to the professional councils may reflect a sense of the value of such internal regulation. Also, the stress on quality of services and well supported staff in safeguarding vulnerable people may indicate that more internal regulation might be of value. Such an approach, which may focus attention more on general issues of quality and competence, may complement the VBS, which inevitably is very much a 'person' approach to error, using Reason's (2000) terms, by placing more emphasis on systemic factors.

## Conclusion

Overall, there were positive perceptions of the role of vetting and barring schemes as one element of an approach to safeguarding. In addition, well resourced and managed services were seen to be a critical element in enhancing the safety of people using services. There were some operational and conceptual issues identified that could improve the scheme, particularly in relation to speed of decision making and also communication, both generally about the scheme and particularly in relation to the outcome of referrals.

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## Appendix 1: Vignette – Rob’s story

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Rob (20 years) was referred to the POVA List by the manager of a private care home for young adults with severe learning and physical disabilities where he had previously worked as a care assistant. Rob was studying for a BA in social work and had worked shifts to fit in with his studies and social work placements.

After one night shift, a member of staff reported to the manager that Rob had shouted and thrown water at a resident, when they both had been helping her go to bed. The manager immediately suspended Rob. In the course of the investigation that followed, a few other night staff who regularly worked together, complained about Rob’s approach to the residents during night shifts. They alleged that Rob had handled a couple of other residents very roughly when using the hoist to transfer them into or out of bed. They also complained that he had on one occasion failed to give out medication when other members of staff had been unavailable to do so. The manager had found Rob quite challenging in that he would not provide sick notes when off sick or ring in to say he was ill and that he had often been late for work without explanation. However, his work with the residents had hitherto been satisfactory.

At the disciplinary hearing, Rob acknowledged the inappropriateness of his actions. As part of his defence he said that the resident had been pinching him when he and the other staff member had been helping her get into bed; Rob maintained that he had shouted out in pain and that he had only thrown the water to make the resident stop pinching him. However, the staff member involved did not support this version of events.

Rob claimed that he had been the victim of racism from the manager and referred to a ‘black and white team’ in the care home generally. He also complained about the expectations placed upon him for which he felt unprepared, particularly in use of equipment such as the hoist. Neither of these aspects of the case was considered significant by the care home managers.

The investigation into the allegations against Rob was hampered because the residents were unable to recall the incidents. However, it was decided at a disciplinary hearing that there was enough evidence to dismiss him.