

New Deal Operational Guidelines Memo 6/05

**TO: ALL HOLDERS OF THE NEW DEAL FOR 18 TO 24 YEAR
OLDS/25+ OPERATIONAL GUIDELINES**

PROTECTION OF CHILDREN AND VULNERABLE ADULTS

Introduction

1. The purpose of this memo is to advise Lead Partners/Providers of the provisions of the new Protection of Children and Vulnerable Adults (NI) Order 2003 effective from 1st April 2005 and the impact this legislation will have. The existing PECS checks service will be replaced with The Protection of Children (NI) Service (POC (NI)) and The Protection of Vulnerable Adults (NI) Service (POVA (NI)).

Background

2. The Order requires that the Department of Health, Social Services and Public Safety (DHSS&PS) maintains a list of individuals who are considered unsuitable to work in a paid or voluntary capacity with children in a regulated position. A regulated position will include working with children in a child care organisation and will also include working with children in a range of establishments. Regulated positions include those in the voluntary and community sector as well as sporting organisations. A full definition of regulated position is set out in Article 31 of the order. The list will be known as the “**Disqualification from Working With children List**”.
3. The order also requires DHSS&PS to maintain a list of individuals who are considered unsuitable to work in a paid or voluntary capacity with vulnerable adults. This list will be known as the “**Disqualification from Working with Vulnerable Adults List**”. The Department of Education also maintains a list of individuals considered unsuitable for work in schools on the grounds that they pose a risk to children.

Duty to Refer

4. Child care organisations and providers of care to vulnerable adults will be required under the order to make a referral to DHSS&PS if a person working in a regulated or care position:
 - has been dismissed, would have been dismissed or considered for dismissal had he not resigned, or been made redundant; or
 - has been suspended or transferred from a regulated or care position.
5. The decision to dismiss, suspend or transfer from a regulated or care position must be on the grounds that the person has harmed or placed at risk of harm, a child or vulnerable adult.

Duty to Care

6. From 1 April 2005 the Order makes it a legal requirement for child care organisations to carry out checks on prospective employees/volunteers against the Disqualification from Working with Children List. The check will also automatically include a check against the DE disqualification list and a criminal records check. If an individual is included in any of these lists the organisation will be committing an offence if they offer the disqualified person employment or employ them in a regulated position. Although the legislation does not require non-childcare organisations to carry out checks there is an implicit requirement for these organisations to carry out checks on prospective employees as non-childcare organisations will also commit an offence if they knowingly employ a disqualified person in a regulated position. The requirement to carry out checks on prospective employees who work with vulnerable adults will commence at a later date. However, DHSS&PS will facilitate checks for those who work with vulnerable adults, if requested.
7. Should an organisation discover that an individual employed by it in a regulated position is disqualified from working with children it must immediately cease to employ that person in that position. It will be an offence if an organisation continues to employ the disqualified person in a regulated position.

Voluntary System of Accreditation

8. Many organisations and groups which work with children do not fall within the definition of “Child Care Organisation”. To promote good child protection practice the order introduces a voluntary system of accreditation. This is aimed at organisations operating in the non-regulated sector, principally those in the Voluntary and Community Sectors which employ staff or involve volunteers to work with children. An organisation will have to apply to become accredited and must be able to demonstrate compliance with a minimum set of standards before accreditation is awarded. Regulations setting out the requirements for accreditation will be drafted at a later date.
9. The DHSS&PS will continue to operate PECS checks until the establishment in April 2005 of the Disqualification from Working with Children List and the Disqualification from Working with Vulnerable Adults List. The arrangements under which organisations will be able to carry out checks against the Disqualification from Working with Children List, the Disqualification from Working with Vulnerable Adults List and the Department of Education List are currently being developed.

Impact on Lead Partners/Providers

10. From 1 April 2005 where New Deal participants are being placed within a child care organisation or in a regulated position in a non-child care organisation either as trainees or as employees **full legal responsibility rests with the placement provider** to carry out checks against the Disqualification from Working with Children List. In addition, though not yet a legal requirement, where participants are being placed in a “care position”, Lead Partners/Providers must ensure that checks are forwarded to and processed by the DHSS&PS before the placement is made.
11. The Protection of Children and Vulnerable Adults (Northern Ireland) Order (2003) is designed to significantly enhance the protection of children and vulnerable adults. **It is, however, important to stress that it complements, rather than replaces recruitment/placement processes. All organisations entrusted with the care of children must undertake the full range of pre-employment checks and have robust staff selection, training and appraisal processes in place.**

12. The Protection of Children and Vulnerable Adults (NI) Order 2003 and Information Notes 1 and 2 are currently available on DHSSPS website at www.dhsspsni.gov.uk/publications. Information Note 3 and guidance on the Protection of Children (NI) Service and The Protection of Vulnerable Adults (NI) Service is currently being developed and should be available by 1st April 2005 on the DHSSPS website.

Programme Management and Development
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