

DISCLOSURE AND BARRING

GUIDANCE for OPTICAL PRACTICES and PRACTITIONERS in England, Wales and Northern Ireland

New rules on the ‘disclosure and barring’ of individuals who are barred from working with children and vulnerable adults came into effect on 12 September 2012.

This guidance describes for community optical practices and practitioners how the new system will operate. It is not a full statement of the law and is intended for guidance purposes only.

ACTION

To date safeguarding risk to children and vulnerable adults in community optical practice has been very low and safeguards in the Opticians Act¹ preclude the supply of spectacle or contact lenses to children or visually impaired adults other than by, or under the supervision of, a registered professional.

The Optical Confederation has issued specific guidance on safeguarding for optical practices and practitioners² supported by training from the sector’s Directorate of Continuing Education and Training (DOCET).

In the light of this, and until the online checking system is introduced (see below), the Optical Confederation’s view is that

- practitioners should continue as now to notify the GOC (or GMC as the case may be) of any changes in their registration status backed by a portable “enhanced plus barred” certificate when these become available (see below)
- employers should continue their current good recruitment and employment practices of checking registration and NHS performer listing, taking and checking references, following up any gaps/discrepancies in CVs and being satisfied with their checks
- it is reasonable for employers to assume that, if a practitioner’s GOC/GMC registration and NHS performer listing are valid, the practitioner is not barred from regulated activity (until the online checking portal becomes available - see below).

¹ Opticians Act 1989 as amended

² *Optical Confederation Guidance on Safeguarding children and Vulnerable Adults*, January 2012
www.opticalconfederation.org.uk

Optical Confederation Policy

The Optical Confederation fully supports the safeguarding of vulnerable adults and children and has worked closely with the Government through the Singleton³ and Mason⁴ Reviews to develop a disclosure and barring system that will operate effectively and efficiently in community optical practice.

This was given legal force in the Protection of Freedoms Act 2012 (the Act) which is now beginning to be brought into effect in stages.

Regulated Activity

The Act defines a new category of activity known as “regulated activity” – in effect this means working (or interacting in a professional capacity with) children under age 16 or vulnerable adults.

All health care provided by a registered health care professional is categorised as regulated activity.

This means that in community optical practice any care provided by

- optometrists }
- contact lens opticians } registered with the General Optical Council
- dispensing opticians }
- pre-registration optometrists }
- ophthalmic medical practitioners registered with the General Medical Council

is classified as ‘regulated activity’. However this applies only to activity carried out by registered professionals themselves.

It does NOT apply to health care delivered by a person who is not a registrant such as optical assistants, dispensing assistants, sales staff, receptionists, clerks, secretaries even if they are operating testing equipment under the direction or supervision of a registered professional.

Examples:

- operating a field screener and passing the results to an optometrist is not regulated activity
- supplying spectacles or contact lenses for an adult who is not visually impaired is not regulated activity.

³Singleton Sir Roger CBE, ‘Drawing the Line’ A report on the Government’s Vetting and Barring Scheme, DCSF-01122-2009, December 2009

⁴Mason Sunita, A Common Sense Approach a review of the criminal records regime in England and Wales

Barred Individuals

It continues to be an offence for any person who has been barred from working with children and or vulnerable adults to engage in, or seek to be engaged in, regulated activity.

Employers

It continues to be an offence for an employer knowingly to employ or engage such a person in regulated activity.

Employers also continue to be required by law to report to the Disclosure and Barring Service (DRS) www.homeoffice.gov.uk/dbs⁵ any individuals they dismiss because they have harmed, or posed a risk of harm to a child or vulnerable adult, or whom they would have dismissed for these reasons if they had not left the organisation.

If that individual is a registrant employers should also inform the GOC (or GMC for OMPs) and, in the case of an optometrist or OMP, the NHS body on whose performers list the practitioner is entered.

Disclosure and Barring Service (DBS)

ON 1 December 2012, the old Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) were merged into a single new organisation called the Disclosure and Barring Service (DBS) www.homeoffice.gov.uk/dbs.

Registered Eye Health Professionals

Under the terms of their registration with the General Optical Council and the General Medical Council optical professionals (including pre-registration optometrists and students) are already required:

- to declare annually any change in their status which might affect their registration such as being found guilty of a criminal offense or being placed on a barred list
- to update the regulator immediately of any such changes to their status⁶.

Being barred from working with children or adults will require such an immediate declaration. The regulator will then take appropriate action.

NHS Performers Lists and Ophthalmic Lists

Similar duties apply to practitioners in respect of informing any NHS body on whose performers list they are entered of any significant change in their status such as

⁵ Independent Safeguarding Authority (ISA) until 1 December 2012

⁶ General Optical Council *Code of Conduct for Individual Registrants* and General Medical Council *Good Medical Practice - the duties of a doctor registered with the General Medical Council*

accepting a police caution, being found guilty of an offence or being placed on a barred list.

Enhanced and Barred List Checks (previously enhanced CRB check)

Both GOC/GMC registration and NHS Listing may in future require an enhanced and barred list check – this will be in the form of a single certificate. A new Updating Service to provide portability of these certificates will be introduced early in 2013. The Optical Confederation will issue further advice on this in due course.

Employers

Both the government and the Optical Confederation view barring and disclosure as one part of employers' wider recruitment and employment processes.

Annex A sets out the five types of checks that can currently be carried out. For optical practice purposes, the "enhanced plus barred list" checks will be what counts.

In time these will replace enhanced CBC checks for optical registrants.

NHS contractors have an additional duty to check that any optometrists or OMPs they engage

- are registered with the GOC or GMC as the case may be
- have been admitted to the NHS Commissioning Board Performers list (England) or an ophthalmic list (Scotland, Wales or Northern Ireland)
- have supplied satisfactory references which have been checked (except in the case of urgent appointments eg locums where two weeks grace is permitted for reference checking)
- in Scotland comply with the slightly different vetting and barring arrangements in that country. See Optometry Scotland Guidance and information available at:[http://www.optometryscotland.org.uk/images/docs/regulatory/PCA_2011_\(O\)1.pdf](http://www.optometryscotland.org.uk/images/docs/regulatory/PCA_2011_(O)1.pdf)

In the longer term, under the Mason⁷ recommendation, an online portal is to be established to enable employers to request an "enhanced plus barred" check on any employee or prospective employee. The Optical Confederation will issue further guidance on the online portal and any changes in contractor duties nearer the time.

In the meantime, the Optical Confederation takes the view that the most secure way of checking that a health care professional is not barred from regulated activity is to check their registration with the General Optical Council (www.optical.org) or General Medical Council (www.gmc-uk.org) and that their Performers/Ophthalmic List listing is valid.

⁷ Mason Sunita, *A Common Sense Approach a review of the criminal records regime in England and Wales*

It is also wise to apply common sense and observation as recommended in the Optical Confederation Guidance on Safeguarding children and Vulnerable Adults⁸.

Further Information

Further detailed guidance is available from:

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

If in any doubt, please contact:

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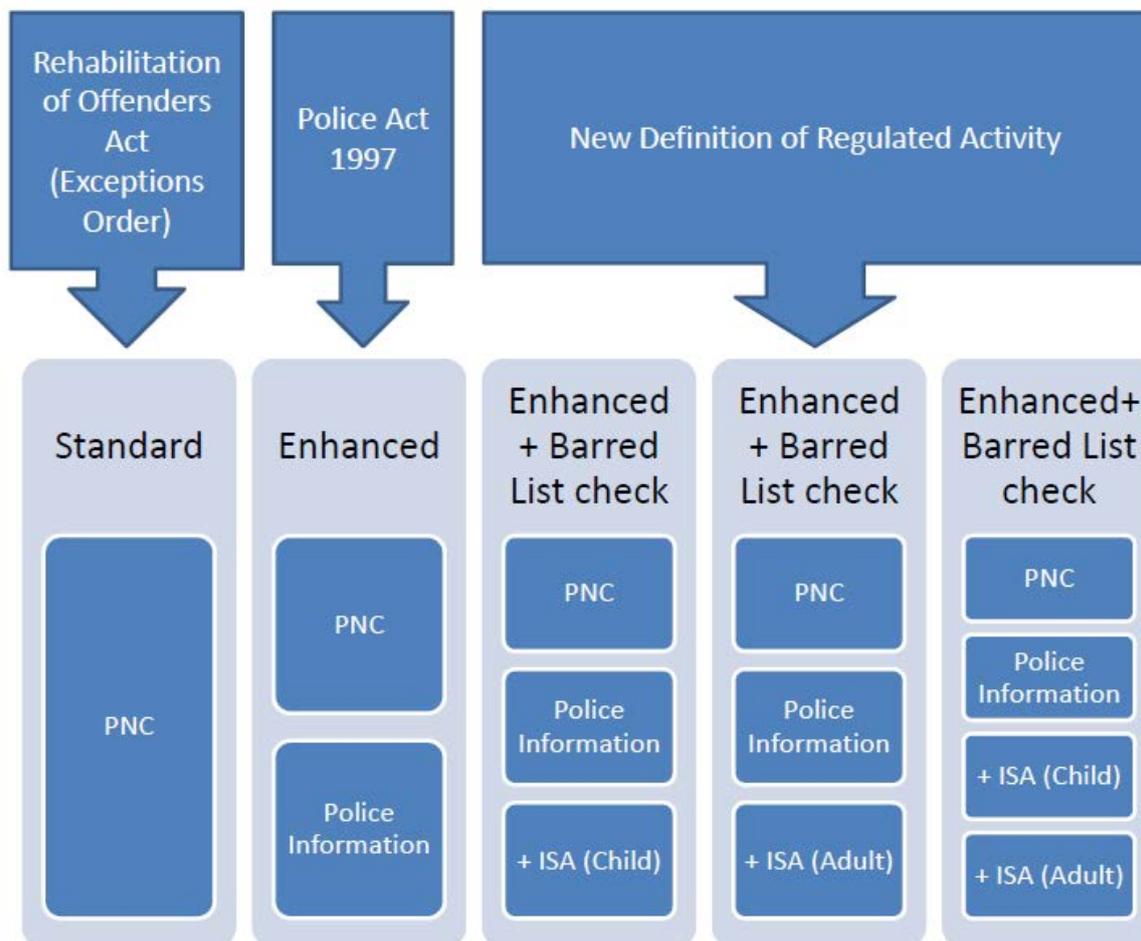
Rebecca Sinclair at rebecca@fodo.com.

We will publish further updates as the disclosure and barring service is implemented, together with any further developments and changes as they are announced.

Optical Confederation
December 2012

⁸ *Optical Confederation Guidance on Safeguarding children and Vulnerable Adults*, January 2012
www.opticalconfederation.org.uk

Five Levels of Disclosure and Barring Checks



PNC = Police National Computer

Police Information = Intelligence gathered during police investigations

ISA (Child and Adult) = Intelligence gathered by ISA (and successor bodies)

Source: Home Office (2012) Disclosure and Barring: What you need to know

<http://www.homeoffice.gov.uk/publications/agencies-public-bodies/dbs/corporate-publications/disclosure-and-barring-changes/disclosure-barring-presentation?view=Binary>