

## **SERIOUS ORGANISED CRIME AND POLICE BILL**

### **FINAL REGULATORY IMPACT ASSESSMENT**

#### **POWER TO CHARGE FOR 'POVA FIRST' CHECKS**

##### **1. Title of Proposal**

Power to charge for the Protection of Vulnerable Adults Scheme (POVA FIRST) checks.

##### **2. Purpose and intended effect of measure**

(i) Objective: to enable the Criminal Records Bureau (CRB) to support the Department of Health's Protection of Vulnerable Adults (POVA) Scheme.

(ii) The background: on 26 July 2004, the DoH launched its POVA Scheme. The Care Standards Act 2000 provided for the establishment of the POVA list, which identifies people who are considered to be unsuitable to work with vulnerable adults. Employers of staff working with vulnerable adults are required to refer, for inclusion in the list, people who they have reason to believe have caused harm to vulnerable adults. Employers are further required to ensure that potential recruits to care positions, and people supplied by employment agencies and businesses, are checked against the list and to refuse employment to anyone whose name is on the list. Checks against the list are made through an application to the CRB for a Disclosure.

In light of representations made to the DoH, it was agreed that, exceptionally, employers might take on new staff in advance of completion of the Disclosure process, subject to a range of other precautionary steps having been taken. These include making application for the Disclosure, and arranging a preliminary check against the POVA list (known as a "POVA FIRST" check) which produces a "no trace" result. These exceptional arrangements apply only where failure to appoint staff quickly is likely to result in inability to meet the fundamental care needs of vulnerable people. Such cases are subject to scrutiny by the regulatory body, the Commission for Social Care Inspection.

The issue of Disclosures is subject to the usual charging policy of the CRB, whose fees include the normal POVA check. But the arrangement for the provision of POVA FIRST checks (including building in additional procedural safeguards) have necessarily added to the CRB's costs.

(iii) Risk assessment: the potential risk to vulnerable adults through allowing unsuitable people access is set out in some detail in the RIA on the POVA scheme itself ("Protection of Vulnerable Adults Scheme", Department of Health and the National Assembly for Wales, May 2004 – copy attached). But, in this instance, it has been necessary also to have due regard to the risk to vulnerable people if care providers are unable to employ sufficient staff to meet their essential needs. In extreme cases, it would be necessary to

transfer people from care homes; or to take people into care homes or hospitals where resources were insufficient to care for them in their own home.

### **3. Options**

#### **Option 1 - Do nothing**

It has always been the intention that the CRB should be financed by means of the charges that it makes for its services. The cost of using the CRB service should not fall on taxpayers in general. The establishment of POVA FIRST checks has introduced an additional cost element. Doing nothing is not an option because it would be contrary to the Treasury Fees and Charges rules which require charges to reflect the cost of providing a particular service.

#### **Option 2 – Charge all persons using the CRB**

Under this option, the additional cost of providing POVA FIRST checks would spread across all people applying for a CRB Disclosure. This would reduce the cost falling on any individual. But it would require a specific provision for cross-subsidisation. And it would be inequitable to expect all users of the CRB to incur additional cost when the great majority of Disclosure applicants do not require a POVA FIRST check.

#### **Option 3 - Introduce a specific charge for those applying for POVA FIRST checks**

Recovering the additional costs of providing POVA FIRST checks from the users of the service through an additional charge would be the most appropriate course, and fairer than option 2.

### **4. Benefits**

#### **Option 3**

- Economic

This provision will enable the CRB to meet the cost of this new service within its general financial remit, namely to recover its costs through charges paid by the users of the Disclosure service.

- Environmental None.
- Social

This service provides vital support to the DoH's programme to provide additional protection for vulnerable adults.

## **5. Costs**

- Economic

It is expected that the charge for POVA checks will be around £6.50. Available information suggests that there could be 20,000 requests for such checks each year, giving a total annual cost of around £130k. The prospective employee will initially pay for the check although employers of staff working with vulnerable people will be encouraged to refund such payment.

- Environmental None.

- Social None.

## **6. Equity and Fairness**

The purpose of the provision is to ensure that the cost of providing the service falls on those who use it. No Race Equality Impact Assessment needed.

## **7. Consultation with small business: the Small Firms' Impact Test**

Proposals for establishing the POVA list were previously the subject of an earlier DoH consultation, including with representatives of small businesses in social care and were the subject of a full RIA ("Protection of Vulnerable Adults Scheme", Department of Health and the National Assembly for Wales, May 2004). They generally welcomed the proposals. They did not see them as having an adverse impact on their businesses; nor did they see the cost that would fall to them as being onerous. Representative of this sector have been kept informed as the further proposals in relation to POVA FIRST checks have been developed – largely in response to reactions from the sector itself to perceived implications of the application of the POVA scheme. The need to make an additional charge for POVA FIRST checks was made clear and accepted. In practice, the cost to the sector is a small part of the total.

## **8. Competition Assessment**

The RIA on the POVA Scheme itself noted that the market for this area had been studied and was found to have many large, medium and small companies. It was concluded that the changes to be introduced under that scheme would not deter new entry. No other concerns were identified and it was concluded that it was unnecessary to undertake a detailed assessment. As noted, the introduction of a charge for POVA FIRST checks is a very small further development.

## **9. Enforcement and Sanctions**

None.

## **10. Monitoring and Review**

The arrangements for, and use of, POVA FIRST checks will be kept under review to ensure that use is made of the facility only when necessary, and that the interests of vulnerable adults are adequately safeguarded. The detailed arrangements, and charge, will also be reviewed.

## **11. Consultation**

Consultation has already taken place, as described above.

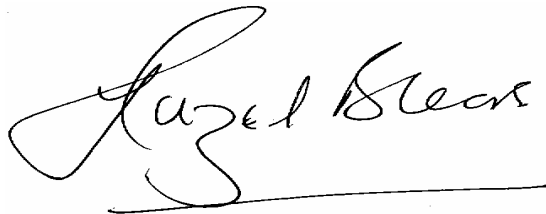
## **12. Summary and Recommendation**

We recommend option 3 (i.e. introduce a power for the CRB to impose a separate charge for POVA FIRST checks) at a cost to the individual of £6.50 which an employer will be encouraged to refund. The total cost will be £130,000 based on estimate of 20,000 POVA first checks per annum.

## **13. Declaration**

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs*

**Signed**

A handwritten signature in black ink that reads "Hazel Blears". The signature is written in a cursive style and is positioned above a horizontal line.

**November 2004**

**Hazel Blears, Minister of State for Crime Reduction, Policing and  
Community Safety**