

## Success Starts Here Free Information Guide

### Services

Children Law  
Criminal Law & Fraud  
Education Law  
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Family Law  
Human Rights &  
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Mental Health &  
Mental Capacity Law  
Property  
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Welfare Law  
Wills, Probate, Trusts  
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Services for Business

### Contact Us

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# Criminal Law & Fraud



If you have received a letter from the ISA indicating that they are considering placing you, or have already placed you, on their list barring you from working with children or vulnerable adults then this guide will help you determine how best to respond.

### What are the barred lists?

The Safeguarding Vulnerable Groups Act 2006 created two new lists:

- 1) A list of people barred from working with children; and
- 2) A list of people barred from working with adults.

If you are on either of these lists then you are committing an offence if you seek to engage, offer to engage or engage in any activity from which you are barred.

### From which activities will I be barred?

You will be barred from any activity listed in the legislation as “regulated activity”. The regulated activities for those on both barred lists are wide ranging and include both paid and unpaid work/activities. They vary from teaching and training children to caring, advising, driving and moderating a public interactive communication service which is likely to be used wholly or mainly by children or vulnerable adults.

There are some exceptions and you should always seek legal advice if you are unsure.

### Can I be removed from the lists?

If you have been convicted or received a caution for certain offences, then you will be automatically included on the lists. The ISA will write to you to tell you that you have been included on either or both lists and also whether or not you have the right to make representations.

Representations are made in a letter to the ISA outlining the reasons that you feel you should not be on the lists. For details of how to make these representations see below.

If you have been informed that you have been included on either or both lists with NO RIGHT to make representations then you cannot make any submissions to the ISA that you should be removed.

If the ISA have received a referral from an employer then they will write to you to tell you that they are minded to include you on the lists. They will invite you to make representations as to why you should not be included on the lists.

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## I have the right to make representations but what should I write?

Representations should include the following:

- Any explanation for the offending behaviour;
- Any factors which mitigate the offending behaviour;
- Pre-Sentence Reports, OASys reports, Judge's Sentencing Remarks, Probation Service Reports or Social Services Assessments;
- Any relevant reports from medical experts;
- Any relevant specialist assessments completed by other professionals;
- Details of your career; or
- Professional references or testimonials.

The essence of the representations should be why you think that you do not pose a future risk of harm to children and/or vulnerable adults.

You will normally be given eight weeks within which to respond to the ISA with your representations.

## What will happen next?

Once the ISA receive your representations then they may seek additional information such as police reports. They will send whatever information is provided to them to you for your comments. They will then make a final decision as to whether to include you.

The whole process can take some months.

## I have made representation but I am still on the lists. Can I challenge that decision?

You can appeal the final decision to the Administrative Appeals Chamber of the Upper Tribunal in England and Wales in England and Wales, or to the Care Tribunal in Northern Ireland. Permission must first be sought from the Tribunal. Appeals can only be made if you think that the ISA has made an error of law in your case; or made an error in a finding of fact.

Where the tribunal finds that the ISA has made a mistake on a point of law or finding of fact, it will direct the ISA to review the case. Where the tribunal directs the ISA to review the case, it may provide its finding of facts on which the ISA must base any new decision. The individual will be removed from the list until the ISA has made a new decision, unless the tribunal directs otherwise.

If you are refused permission to appeal you may apply within 14 days of the decision for this to be reconsidered at an oral hearing. A refusal can be set aside by the Upper Tribunal judge if there is a procedural irregularity in the proceedings and the judge considers that it is in the interest of justice to do so.

There is a right of appeal to the Court of Appeal on a point of law against a refusal of permission to appeal or a decision of the Upper Tribunal in relation to the substantive appeal.

## I am still on the list/s. How long will I stay there?

You have the right to apply to the ISA for a review of your case once a minimum period has elapsed. The ISA must give permission for the review.

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The minimum periods are:

- One year for individuals aged under 18 when barred
- Five years for individuals aged 18–24 when barred, and
- 10 years for individuals aged 25 or over when barred.

When considering whether to carry out a review, the ISA must first be satisfied that the individual's circumstances have changed in such a way as to warrant a review.

### Useful links

ISA

<http://www.isa.homeoffice.gov.uk>

Guidance to the ISA decision making process

<http://www.isa.homeoffice.gov.uk/default.aspx?page=382>

Unlock

<http://www.unlock.org.uk/xoffenders.aspx?sid=269#appeals>

### I require further advice. What should I do?

If you are not comfortable making the representations on your own then we can make the representations on your behalf. Please call our legal helpline on 0800 014 7445 for more information.