SCHEDULE 2 Regulation 7

PROCEDURE FOR LATE REPRESENTATIONS UNDER SECTION 28 OF THE ACT

Acknowledgement of receipt of late representations under section 28 of the Act

1.—(1) Where Ministers receive late representations under section 28 of the Act, they must send an acknowledgement of receipt of those representations to the individual within five working days.

(2) Within 28 days of acknowledging receipt of the late representations under paragraph (1), Ministers must send to the individual a copy of—

(a) any information which Ministers obtained under the Act or under the 2010 Regulations and upon which they relied when making their decision to list the individual under section 15 or 16 of the Act; and

(b) the notification under section 30 of the Act of their decision to list the individual, including the reasons for their decision.

Representations, comments or information to be sent to Ministers

2.—(1) In considering late representations under section 28 of the Act, Ministers may, by notice, invite—

(a) any further representations, comments or information from the individual as to why the individual should not have been listed; or

(b) any representations, comments or information from any other person as Ministers may consider appropriate.

(2) Any representations, comments or information in response to a notice sent under sub-paragraph (1) are to be supplied in the manner and within such time as Ministers may specify in the notice.

Notification of any further information on which Ministers intend to rely in considering late representations

3. Ministers must give to the individual—

(a) details of any further representations, comments or information supplied to Ministers under paragraph 2(1)(b) on which they intend to rely in considering an individual's late representations;

(b) details of any other information upon which they intend to rely in considering an individual's late representations, including—

(i) information which they obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;

(ii) information which they obtain by performing their functions in relation to the Scheme; or

(iii) any reports provided to Ministers under paragraph 5(2) or 6(2); and

(c) a notice inviting the individual to—

(i) make any further representations as to why the individual should not have been listed;

(ii) submit comments on any of the information provided to the individual under paragraph 1(2) or sub-paragraphs (a) or (b); and

(iii) submit any further supporting information which the individual wishes to be taken into account by Ministers in considering the individual's late representations,

within 28 days of the date of receipt of that notice.

Notification of further procedure

4.—(1) During their consideration of late representations, Ministers may, if they consider it appropriate, appoint—

(a) an expert adviser to prepare a report to Ministers on such matters within the expert's area of expertise as Ministers consider appropriate for the purpose of assisting Ministers in the Ministers' assessment of the individual's unsuitability to work with children, protected adults or, where applicable, both groups; or

(b) one or more such suitably qualified individuals as Ministers consider appropriate to prepare a report to Ministers providing an assessment of the individual's unsuitability to work with children, protected adults or, where applicable, both groups.

(2) Where Ministers decide to appoint an expert adviser or suitably qualified individuals under sub-paragraph (1)(a) or (b) or both, they must notify the individual of that decision.

(3) For the avoidance of doubt, Ministers may decide to make appointments under either or both of sub-paragraph (1)(a) and (b) and may do so at the same time or at different times during their consideration of the individual's late representations.

Report by expert adviser

5.—(1) Where Ministers appoint an expert adviser under paragraph 4(1)(a) they must give to that person all relevant information, which they have obtained in carrying out their functions under the Act, the 2010 Regulations or these Regulations and which is reasonably required by the expert adviser, and such information may include—

(a) a copy of the late representations under section 28 of the Act;

(b) details of any information relating to the individual which Ministers obtained under the Act or the 2010 Regulations and upon which they relied when making their decision to list the individual under section 15 or 16 of the Act;

(c) details of any vetting information relating to the individual;

(d) details of any information relating to the individual which Ministers obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;

(e) details of any information relating to the individual which Ministers obtain by performing their functions in relation to the Scheme; and

(f) details of any representations, comments and information received by Ministers under these Regulations.

(2) The person appointed under paragraph 4(1)(a) must provide their report to Ministers, in such manner and within such time as Ministers may specify.

Assessment by suitably qualified individual

6.—(1) Where Ministers appoint one or more suitably qualified individuals to assess the individual's unsuitability to work with children, protected adults or, where applicable, both groups under paragraph 4(1)(b) they must give to that person or persons all information upon which Ministers intend to rely in considering the individual's late representations, and such information may include—

(a) a copy of the late representations under section 28 of the Act;

(b) details of any information relating to the individual which Ministers obtained under the Act or the 2010 Regulations and upon which they relied when making their decision to list the individual under section 15 or 16 of the Act;

(c) details of any vetting information relating to the individual;

(d) details of any information relating to the individual which Ministers obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;

(e) details of any information relating to the individual which Ministers obtain by performing their functions in relation to the Scheme;

(f) details of any representations, comments and information received by Ministers under these Regulations;

(g) a copy of any report provided to Ministers under paragraph 5(2).

(2) The person or persons appointed under paragraph 4(1)(b) must review the information supplied to them under sub-paragraph (1) and, based on that information, provide to Ministers a report containing their assessment as to the individual's unsuitability to work with children, protected adults or, where applicable, both groups, in such manner and within such time as Ministers may specify.

Notification of determination following consideration of late representations

7.—(1) Where Ministers determine, following their consideration of late representations under section 28 of the Act, that the individual is to be removed from the list, Ministers must, as soon as reasonably practicable after making their determination, give notification to the individual of their determination.

(2) Where Ministers determine, following their consideration of late representations under section 28 of the Act, that the individual is not to be removed from the list, Ministers must, as soon as reasonably practicable after making their determination, give notification to the individual of their determination, together with—

(a) the reasons for their determination;

(b) information as to the individual's right of appeal under section 21 or 22 of the Act against Ministers' decision to include them on the list; and

(c) information as to the individual's right to seek removal from the list under section 25 of the Act.