

PROTECTION OF CHILDREN ACT 1999

EXPLANATORY NOTES

BACKGROUND

Department of Health “Consultancy Index List”

8. This list has been in operation in one form or another on an administrative basis for a number of years as a resource for identifying people unsuitable for employment with children in child care roles. With the exception of local authorities, in respect of whom guidance is currently in place requiring them to refer names and carry out checks before making an offer of employment, there has been no compulsion on employers to refer cases to it for inclusion, to consult it when making appointments, or to take any specific action in respect of job applicants found to be listed. Equally, there has been no formal recourse for appeal against inclusion by persons listed.

Department for Education and Employment “List 99”

9. This list has also been in use for a number of years, but with two differences: it has wider criteria (e.g. to include medical reasons or forms of misconduct other than ones which reflect on suitability for employment in child care positions); and it has always been on a statutory basis (though without any formal rights of appeal against inclusion). Hitherto, the various reasons for inclusion on the list have not been prescribed to the degree set out in the Act because it has not been necessary to do so. Further, the Protection of Children Act provides a statutory avenue of appeal against inclusion on the list, and thus provides for both lists a common regime of appeal simultaneously.

Interdepartmental Working Group on Preventing Unsuitable People from Working with Children

10. The Working Group’s consideration took place in the context amongst other things of the formulation of the Government’s response to the Report of the Review of Safeguards for Children Living Away from Home (entitled “People Like Us” and known as the Utting Report) published in November 1997. The Utting Report made a number of recommendations in its Chapter 13 for improving recruitment and selection procedures in the child care field. In its published, formal response to the Utting Report in November 1998 (“The Government’s Response to the Children’s Safeguards Review”), the Government said (paragraph 8.6) that it looked forward to the Working Group recommending how a “one stop shop” for single access to the relevant information might be set up. In turn the Working Group recommended (Report, December 1998, placed in the Parliamentary Libraries 25 January 1999) how advantage might best be taken of the creation of the Criminal Records Bureau established by Part V of the Police Act 1997. It was always envisaged that primary legislation would be necessary, and this Act will allow the goal to be approached by setting up the “one stop shop” where all employers may, and those employers specifically designated under the Act must, ensure that all the necessary checks to prevent the employment of unsuitable people in positions involving regular contact with children are carried out and through the facility of one operation on their part.