

The Independent Safeguarding Authority Summary of concerns.

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All quotes come from the document “Guidance notes for the decision making process”, written by the “ISA Board”.

PREAMBLE: Within ISA guidelines a person is barred purely on an assessment of evidence presented in the form of paper documents. There is no hearing. The standard is that of a civil court “the balance of probabilities” ie: more likely than not. As the person can be barred on the basis of character alone the assessment is whether the person is “probably a dubious character.” This is a very low standard, perhaps one that makes all teachers vulnerable.

SPECIFIC CONCERNS.

- 1) **The ISA can receive information from any source to initiate an investigation.** *“2.3 The information can take the form of convictions or cautions; competent body findings; referrals from organisations, including employers; and other or further information from any source, e.g. stories in the press”*
- 2) **The ISA does not have to prove an event took place (even on the balance of probabilities) to bar somebody:** *“3.4.1 The initial action is to determine, on the face of it, whether the case indicates that a person has, at any time, engaged in ‘relevant conduct’ or, if there is no suggestion of relevant conduct, whether there is anything to suggest that a person may harm or in any way cause or put at risk of harm a child or vulnerable adult... 4.4.1 The Act and the Order provide two further limbs which prescribe the circumstances in which a person may be included on the children’s and/or adults’ lists. 4.4.2 Behaviour - If it appears that the person has (at any time) engaged in relevant conduct ...4.4.3 Risk of Harm - If it appears that a person may harm a child or vulnerable adult;(s)”*,
- 3) **The definition of behaviour that would be sufficient to bar somebody is also different and more stringent than other definitions used by previous bodies including behaviour that may previously have just been regarded as bad teaching:** *“4.5.12 It may involve conveying to children that they are worthless or unloved, inadequate. ; It may feature age or developmentally inappropriate expectations being imposed on children.”*

- 4) **The definition of relevant offences has been expanded to include such things as having ever committed benefit fraud or two indictable driving offences in a ten year period:** *“4.6.5 Relevant convictions and cautions – ...offences that involve acquisitive behaviour and fraud; indicate that the person holds/held a position of authority and breached a trust; 4.6.8 In addition, where more than two ‘not initially relevant’ offences are disclosed in the last 10 years (that is, where a person has been convicted on more than two separate dates in last 10 years), all conviction details are forwarded to ISA for consideration irrespective of whether relevant offences are present.”*
- 5) **The cumulative behaviour clauses mean someone can be barred without ever committing an act of gross misconduct:** *“4.10.1 You must look out for instances of behaviour which, although not “relevant conduct” or otherwise in themselves determinative of the potential for risk, give rise to concerns when looked at cumulatively that someone may pose a risk of harm to children or vulnerable adults.”*
- 6) **Any teacher formally disciplined (for misconduct as well as gross misconduct) will have their details forwarded to the ISA and may be barred:** *“5.1.1. Referral information is received from employers which have dealt with individuals through their internal disciplinary procedures, whether or not an individual has been dismissed.”*
- 7) **Unlike in a court case the ‘defendant’ has no right to see evidence collected by the ISA that may aid their defence:** *“5.1.2 simply receiving information does not trigger a requirement to disclose it.”*
- 8) **A person can be barred for a connection to someone else who committed an act rather than an act they committed themselves, although this is ‘exceptional’:** *“5.5.1. There may be very exceptional occasions when the ISA is notified that an applicant (or someone who is subject to monitoring) has some form of association with another who is (or if they applied, would be) barred from working with children and/or vulnerable adults.”*
- 9) **The definitions of behaviour that might lead to someone being barred are very broad, including an attempt to assess thoughts as well as acts:** *“6.3 Personal gratification derived from thoughts/acts of violence or violent fantasy; Personal gratification derived from thoughts/acts of theft and/or causing others to suffer financial harm; **Personal gratification derived from thoughts of being in control over others and/or thoughts of having/abusing power over others through, for example, neglect or arbitrary discrimination.**”*
*“6.4. **Thinking, Attitudes and Beliefs** – the extent to which the behaviour was underpinned by attitudes or belief systems that are linked to harmful activity.*

6.4.1. *Within this context, consider how far the case material reflects the presence or absence of the following risk factors (not exhaustive); Belief that one is entitled to or deserves to have sex; **Beliefs/attitudes that would support acts of financial harm**; Belief that one is entitled to breach rules and act outside of recognized safeguarding advice/guidance.*”

- 10) **The personality traits that could lead to someone being barred are also very broad including ‘loneliness’ and ‘poor problem solving skills’:** “6.5.1. *Within this context, consider how far the case material reflects the presence or absence of the following risk factors (not exhaustive): **Presence of severe emotional loneliness** and/or the inability to manage/sustain emotionally intimate relationships; Elective links with anti-social peers and/or associates; Inability to meet personal needs responsibly within the context of interpersonal relationships. 6.6. **Self Management and Lifestyle** –6.6.1. *Within this context, consider how far the case material reflects the presence or absence of the following risk factors (not exhaustive): Poor emotional arousal management skills; **Poor problem solving and/or coping skills** (e.g. using...sex to cope with stress); Poor coping in response to provocation; Out of control emotions/urges; Presence of impulsive, chaotic, unstable lifestyle; Inability to manage impulses/urges to act anti-socially e.g. theft.*”*
- 11) **There is only one sanction (for anyone over 25) barring for 10 years even though there will be differences in certainty and severity concerning the person’s actions or character:** “8.9.1. *A decision to include a person on a list means that they will be barred from the entirety of the workforce affected for a minimum period of one, five or ten years depending on the individual’s age.*”
- 12) **The ISA justify the difference between their standards and those of a court (or even the GTC) by claiming that inclusion on the list is not a punitive sanction. Considering to a teacher inclusion means loss of job and future career it is hard to agree with this:** “3.8.3 *The decision to include in the list is not a punitive sanction but is a protective measure to safeguard children and vulnerable adults.*”