

**RT HON RUTH KELLY MP, SECRETARY OF STATE FOR
EDUCATION AND SKILLS
SAFEGUARDING VULNERABLE GROUPS
FINAL DRAFT STATEMENT**

Mr Speaker, I am grateful for this opportunity to make a further statement about arrangements for vetting those working with children, and barring those who are unsuitable. In addition, I am placing in the Library copies of the review of List 99 that I announced last week, which gives further background on the statement I am making today.

Nothing matters to parents more than the safety of their children. So I deeply regret the worry and concern that has been caused to parents over the last few days. I am determined to do everything I can to ease their concerns.

This is a complex area. There are no easy answers. Child protection has been a top priority of successive Governments. Ministers in this, and previous administrations have made difficult decisions, particularly in maintaining the safety of children while protecting those working in schools from malicious allegations.

The operation of the list is set out in legislation going back to 1926 but attitudes have changed significantly in recent decades. This has led to a greater concentration on the terrible effects of child abuse. Consequently law and practice has been continually tightened.

I pay tribute to the Party opposite for paving the way for the Sex Offenders Register and for beginning the process of automatically barring teachers convicted of sex offences. This Government has gone further still. From the year 2000 those included on List 99 on the grounds of unsuitability to work with children have received a full bar. All sex offenders placed on List 99 are banned from schools indefinitely. And in 2003 we passed the most comprehensive overhaul of sex offences legislation since the '50s. We introduced the Criminal Records Bureau in 2002 to ensure all schools have full access to the convictions and cautions of the schools workforce. Sir Michael Bichard's report following the events in Soham made 31 further recommendations, 13 of which are already in place with the remainder being implemented.

But there is more to be done. Our vetting and barring system –

which is a shared responsibility between Government, and local agencies and employers – has developed piecemeal over the past 80 years. In addition, rightly the public mood on these issues has hardened.

It is time therefore to overhaul the system. We need a system where child protection comes first – above all other considerations. It must be a rigorous system drawing on the best expert advice. There must be absolute clarity about who does what. The system must command public confidence and it must be accountable. And it must be fair to individuals, giving rights of appeal. There must be no witch-hunts against hard working teachers and there must be protection against false or malicious allegations. Today, I am setting out how we will achieve that.

Public concern has focussed on the operation of List 99. I understand that concern but ensuring List 99 works properly is only one key part of the current vetting system. The most important check against a school unknowingly employing someone with a sex offence is the check employers do through the Criminal Records Bureau. These show the full record of potential employees including convictions and cautions and whether the applicant is on List 99 or other centrally held databases. Criminal Records Checks allow schools and others to make informed decisions about whether to appoint. List 99 provides a further check, including the most serious cases – for someone who is on the list, because they are unsuitable to work for children, it is a criminal offence for them to apply to work in school.

List 99 contains 4045 names. The vast majority are barred indefinitely from working in schools. A much smaller subset - 210 - are subject to restrictions short of a full ban. List 99 goes wider than just sexual offenders and covers those convicted of crimes such as deception as well as those who are unsuitable on health grounds. But because List 99 has only ever automatically covered those individuals who are already working in the education sector when they commit an offence the Criminal Records Bureau which covers everyone is the main safety net.

For convictions for 40 of the most serious offences inclusion on the List is automatic. For other cases the decisions have been at Ministers discretion – the vast majority always taken by officials on Ministers behalf. In these discretionary cases, advice may be sought from a wide variety of relevant sources before a decision is

taken – for example the police, experts in sexual offences, forensic psychiatrists.

In 2005, 2,554 cases were referred to the Department of which 513 resulted in a full bar. In many cases where an individual is not barred, the evidence considered will have been based on suspicions and allegations rather than firm criminal cautions or convictions or the individuals referred will have been nothing to do with education. A preliminary comparison of these numbers with historic data from 1985 and 1995 suggests that the number of decisions reached each year has increased substantially. Yet, in all three years, both Ministers and officials have made a wide variety of decisions on individuals with convictions, cautions and subject to allegations which have been referred for a wide variety of reasons, including sexual offences. As I say, these issues are complex, always have been and successive Ministers have been required to make the most difficult decisions.'

Understandably recent concerns have focused on discretionary decisions by Ministers not to include an individual on List 99, despite that individual being on the Sex Offenders Register. The review I set in place has identified 10 cases since 1997. In each case, the recommendations, after expert evidence, were that these individuals posed no threat to children. As a result these individuals were issued with a grave warning with the requirement for disclosure if they applied for a job in a school. I can, however, tell the House that officials and the police have examined each case. Current enquires suggest that none of the individuals concerned is working in a school. I have also asked police to visit each of these individuals to check whether any is a cause for concern. None is judged by the police to pose a current risk. However over the past 10 days I have been determined to go further to provide a more complete analysis. I have asked officials to look at the similar decisions by officials; and decisions by Ministers and officials on cases since 1997 where the relevant offence were committed prior to the sex offenders register. This has identified a further 46 cases. As many of these cases deal with very old offences and are not monitored under sex offender monitoring arrangements our information is much more limited. Officials, and where relevant the Police, have found the following:

- For 32 of the 46 there is no evidence the individuals are working with children.
- In 1 case an individual is working in education but has been assessed by the police as of no cause for concern;
- In 13 cases preliminary checks have shown no reason for concern but our information is as yet not complete. In 2 of these cases, inconsistent data needs to be reconciled. Further action on all 13 cases will be considered in conjunction with the police on a case by case basis.

I am sure the House will want me to thank the police for their work in following up individuals as a part of this exercise.

In addition, the police have carried out an initial review to see if there were any further individuals being monitored on the sex offenders register who might be eligible for List 99. Initial investigations suggest there may be 32 such cases in England and Wales. As a precaution, the police have assessed all these cases. In one case, investigations are continuing.

Mr Speaker, I fully accept that this review of individual cases has identified wider issues about how the vetting system currently operates. Building on Sir Michael Bichard's enquiry, I have identified 3 key issues that we now need to address.

- First, the lack of coherence between List 99 and the other lists held nationally. This is made worse by problems in sharing information and by the fact that historically cautions have been treated differently to convictions despite both being a legal statement of guilt.
- Second, the lack of clarity about who is responsible for doing what, locally and nationally.
- And third, Ministerial involvement in decisions.

I have concluded that further reform is necessary. Some of it can be done immediately and some through the primary legislation that we have already planned.

Over the past 10 days I have considered whether it would be possible more closely to align the sex offenders register and List 99. I have decided that we need to go further than that.

After extensive consideration I have decided the most effective approach is to bar from working with children all those who are now convicted or cautioned for any sexual offences against children whether the individual is on the sex offenders register or not. I will shortly bring forward regulations automatically to enter on List 99 anyone who is convicted or cautioned for a sexual offence against a child. I will also automatically bar individuals for a range of other serious sexual offences against adults. By including cautions as well as convictions the anomaly between offenders who are convicted and those who admit their guilt and accept a caution will end. Individuals will have the right to make representations but they will need to prove that they are not a threat to children before they can work in a school or other education establishment. I shall consult widely on the detailed implementation of this measure.

Second, I will require mandatory Criminal Records Bureau checks for all newly appointed school employees replacing the current guidance. This will also require that teaching agencies ensure their teachers have a Criminal Record Bureau check. This should ensure that all employers make judgements about appointments in full knowledge of the facts whether or not a potential employer has previously worked in the education sector.

Third, Ofsted will carry out an urgent survey of existing vetting practice in a sample of schools to report to me in the spring.

Fourth, I will be writing today to all schools setting out how the checking system will work and informing them of the change to mandatory CRB checks. My Rt Hon Friend the Home Secretary is writing today to all Chief Constables, Chief Officers of Probation and the Youth Justice Board to restate how the current system works, how it is changing and the priority attached to this area.

Fifth, I will ensure that all DfES staff who are part of the vetting process receive appropriate training, support and advice in child protection issues.

Finally – in advance of legislating to remove Ministers from the process entirely - I will establish a panel of independent experts, chaired by Sir Roger Singleton, the former head of Barnados to oversee the whole List 99 process. His role will be to ensure

the quality of the process and advise me on any further List 99 cases that need to be decided. They will draw on expertise from the police and child protection specialists. While I will not fetter my discretion on individual cases, I cannot presently envisage the circumstances in which I would not follow their expert advice.

The expert panel will also review cases determined before 1997. The panel will examine cases which, had the Sex Offenders Register existed, would have resulted in the individual's inclusion on the Register and all cases involving a sexual offence or allegation which resulted in a decision not to include on list 99 or in a restriction or partial bar. The aim of this review will be to establish whether any individual poses a risk of harm to children and if any action should be taken. The Permanent Secretary at the Department for Education and Skills will ensure that the relevant former Minister is consulted in any such case.

These reforms will make the current List 99 system work better immediately. But the whole Government is determined to replace List 99 entirely with a new, better system as quickly as possible. As my Rt Hon Friend the Home Secretary has said in his statement today, good progress is being made in implementing the recommendations of the Bichard enquiry. The necessary legislation which was promised in the Queen's speech, will be brought forward in February. In particular this legislation will bring together List 99 and the Protection of Children Act List into a single register of those barred from working with children.

I will also use this legislation to make further reforms. I will legislate to give independent experts the final decision on who should be barred. This will have the effect of removing from Ministers the responsibility for taking barring decisions. Decision making will be transferred to a statutory body which will be the holder of the new combined register and will take all decisions about who should be barred. Individuals will retain the right to appeal. Whilst I will consult about the exact role of the body, I will ensure that the police advice will inform every decision.

Mr Speaker, over the years procedures have been strengthened. It is time however to strengthen them further. Nobody who is

convicted or cautioned for child sex offences should be allowed to teach in schools. We need an independent panel to take decisions. And we must do all this with proper safeguards to ensure no teacher, subject to claims or allegations that may be strongly contested, should be unfairly condemned. Our task as a Government, my task as Secretary of State and all our tasks as legislators is to get this framework right. That is what the reforms I have announced today will do.