EXPLANATORY MEMORANDUM TO

THE SAFEGUARDING VULNERABLE GROUPS ACT 2006 (AMENDMENT) (PROVISION OF INFORMATION) ORDER 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Jess Phillips, Minister for Safeguarding and Violence against Women and Girls at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

2.2 Shehla Husain, Deputy Director for the Public Protection Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alison Ryan at the Home Office can be contacted with any queries regarding the instrument: svpu-dbs&siacorrespondence@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument adds non-territorial and specialist police forces in the UK and police forces in the Crown Dependencies (Jersey, Guernsey and the Isle of Man) to section 50A(3) of the Safeguarding Vulnerable Groups Act 2006. This will give the Disclosure and Barring Service (DBS) an express power to share with these forces its data on individuals barred from working with children or vulnerable adults.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The DBS produces and maintains two lists: one of individuals barred from working in regulated activity with children; and one of those barred from working in regulated activity with adults. Section 50A of the Safeguarding Vulnerable Groups Act 2006 (SVGA) gives the DBS the power to provide any information it has to a chief officer of police for purposes specified in the Act. Section 50A confirms that a "chief officer of police" includes Police Service (Northern Ireland) and Police Scotland. It does not make express reference to the non-territorial police forces and Crown Dependency

police forces. Following an extensive review, that included consideration of access arrangements via the Police National Database (PND), the DBS took the view on a precautionary basis that there should be an express statutory ground for sharing its barred list data with the non-territorial police forces and Crown Dependency police forces under s.50A. Accordingly, in March 2024, the DBS took steps to prevent the non-territorial and Crown Dependency forces from accessing its barred list data on PND, pending resolution of the legislative position.

5.2 Therefore, we are now amending section 50A to make clear that 'chief officer of police' includes the chief officers of non-territorial and specialist police forces in the UK and Crown Dependency police forces. The added forces are the British Transport Police Force, the Civil Nuclear Constabulary, the Ministry of Defence Police, the National Crime Agency, the Royal Navy Police, the Royal Military Police, the Royal Air Force Police, the tri-service serious crime unit and the police forces of the Crown Dependencies of Guernsey, Jersey and the Isle of Man.

5.3 DBS barred list information contributes to the intelligence picture available to forces on individuals to support operational decisions, for example, regarding applications for sexual harm prevention, stalking protection or criminal behaviour orders, and when vetting police officers. By adding to the list in section 50A(3) SVGA, we are providing the DBS with the express power they have looked for in order to share this information with the wider list of forces. This confirms beyond any doubt that these added forces have access to information which indicates that someone is considered to pose a risk to some groups, particularly when the barred list data may be the only information on police systems to indicate that. The majority of those on the barred lists are placed there because they have a conviction for a serious sexual or violence offence, or because police information indicates that they pose a high safeguarding risk. However, the fact of someone being barred may be important information in its own right, particularly in the rarer cases where DBS' barred list information will be only information about that individual held on police systems, which indicates that this person is not suitable to work closely with children or vulnerable adults.

What was the previous policy, how is this different?

5.4 There was no previous policy intention to limit the police forces with which the DBS could share its information on whether an individual is barred from working in regulated activity with children and/or adults.

5.5 In order to provide the greater legal certainty which DBS sought, the instrument gives the DBS an express power to share barred list information with the non-territorial/specialist police forces in the UK and also the Crown Dependency forces as listed in the Order, on the same footing as territorial forces. This sharing of information will enable those forces to use a person's barred list status for their investigative and vetting purposes.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument adds the following forces to Section 50A of SVGA, to provide the DBS with the express power to share its barred list information with them: the British Transport Police Force, the Royal Navy Police, the Royal Air Force Police, the Royal Military Police, the Ministry of Defence Police, the Civil Nuclear Constabulary, the National Crime Agency, the tri-service serious crime unit, the States of Jersey Police

Force, the salaried police force of the Island of Guernsey and the Isle of Man Constabulary.

Why was this approach taken to change the law?

6.2 Section 50A of the SVGA provides DBS with a clear legal basis for the sharing of its barred lists data with the police forces to which it pertains. This is why amendment is being made to this provision to include non-territorial/specialist and Crown Dependency forces. Adding forces to section 50A(3) required this Statutory Instrument, enabled by section 64(2) of SVGA. The DBS welcomes this change, as it provides the legal certainty it has sought.

7. Consultation

Summary of consultation outcome and methodology

7.1 From April 2024, the Home Office has worked closely with DBS on these changes, and also consulted with the relevant government departments, affected forces and agencies. The responses received have been positive, with forces keen to get a wider range of information to inform their operational decisions. We have also consulted the National Police Chiefs' Council. The consultation was largely carried out through meetings, or written communications discussing the proposals and impacts, identifying the forces who need access to the barred list data, and the purposes for which they require it, to ensure that it is in line with purposes prescribed in legislation. From this, we confirmed the forces to be included in section 50A(3) of the SVGA. In accordance with section 56(3) of SVGA, we consulted Welsh Ministers in August 2024. In adherence with Article 36(4) of the General Data Protection Regulation (GDPR), we have also consulted with the Information Commissioner's Office (ICO).

8. Applicable Guidance

8.1 No guidance is being provided.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because this is a straightforward technical change which is including police forces to the list of those with whom DBS has the express power to share its barred list data. There will be no impact on DBS checks arising from this.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies because it is adding police forces to a list of forces with which the DBS may share information regarding its barred lists.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no financial impact on the public sector or the cost of DBS checks.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to use existing mechanisms of engagement with DBS, and the forces concerned through the National Police Chiefs' Council, regarding its implementation.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Safeguarding and Violence against Women and Girls has made the following statement regarding Human Rights:

"In [my/our] view the provisions of the Safeguarding Vulnerable Groups Act 2006 (Amendment) (Provision of Information) Order 2025 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").