

# The Croquet Association

## Protecting Children and Vulnerable Adults

Updated Advice to Clubs, April 2013

### 1 Introduction

There have been several changes to the law and procedures for protecting children and vulnerable adults in the last year, following a review which led to the passing of the Protection of Freedoms Act 2012. The intention seems to have been to lighten the regulatory load, by reducing the requirement for checking the past records of people coming into contact with children and vulnerable adults, and to improve confidentiality for those whose records are checked. Some of the changes are still work in progress, and the latter is likely to be taken further as a result of a court case about disclosure of historical minor convictions.

This document attempts to inform clubs about these changes, give advice about how to interpret them in the context of our sport and announce how the Croquet Association intends to assist clubs to implement them. It may also be of interest to federations, CA committees and coaches or other individuals involved with children or potentially vulnerable adults. It has been drafted by a small group who have read information published by various bodies, including the Disclosure and Barring Service and the Sport and Recreation Alliance, but should not be taken as a definitive source of legal advice.

Although some of the changes are not yet in place, the CA Council asked that some interim advice should be provided to clubs as soon as possible. The [Model Child Protection Policy](#), [Code of Good Practice](#), [Incident Report Form](#) and the article "[Safeguarding Vulnerable Groups](#)" on the website will be updated as resources permit.

### 2 The Changes

The Protection of Freedoms Act 2012 changes the Vetting and Barring scheme introduced by the Safeguarding Vulnerable Groups Act 2006. Parts of it came into force on 10<sup>th</sup> September, 2012. It introduces new definitions of "Regulated Activity" in relation to children (who are defined as people under the age of 18) and adults. For children, coaches are no longer performing Regulated Activity if they are being adequately supervised. However, the person supervising them is performing Regulated Activity, and the advice below is that this exception will not usually apply. Adults are no longer regarded as being vulnerable because of their general condition or situation: the new definition of Regulated Activity applies to any adult for whom specified tasks are being undertaken and (for adults) the old frequency test has been removed.

The Act also repeals the category of "Controlled Activity", which was wider than "Regulated Activity", and the requirement (which was never in fact introduced) for individuals who wished to work or volunteer to work with vulnerable groups to register with and be monitored by the Independent Safeguarding Agency (ISA). However, it adds a requirement to check that someone has not been Banned before they engage in Regulated Activity (though this does not appear to be in force yet).

The ISA and the Criminal Records Bureau were amalgamated into the Disclosure and Barring Service (DBS) in early December 2012, which now has a website on the GOV.UK site: <http://www.gov.uk/government/organisations/disclosure-and-barring-service>

The procedure for making DBS checks will change so that only the individual whose

record has been checked will get a copy of the Disclosure, not the organisation requesting it. The individual will have to send it to the organisation. It will no longer contain information about minor historical convictions or cautions.

From a date to be announced, it will be possible for an individual who receives a Disclosure certificate to register on an update service website (which will be free of charge for volunteers). They can then give their registration number to any organisation wishing to check that the information in the Disclosure they present is still current, thus allowing a limited degree of portability.

### **3 What this means for clubs**

#### **3.1 Legal Requirements**

In addition to a general duty of care towards people using their facilities, clubs are (or, in the case of the first point, will be when the legislation is brought into force) legally required to:

- *Check that a person is not barred from engaging in Regulated Activity before permitting them to do so.*
- *Not knowingly allow a barred person to engage in “Regulated Activity”.*
- *Inform the Disclosure and Barring Service if an individual is removed from Regulated Activity because they have harmed or pose a risk of harm to vulnerable groups.*

(Individuals who are barred from working in Regulated Activity do, of course, also commit an offence if they attempt to do so.)

Conversely, clubs are prohibited (by the Rehabilitation of Offenders Act 1974) from requesting a Barred List Check on individuals unless they will be engaged in Regulated Activity, and from requesting a disclosure of their criminal record unless they are doing so under the current or previous definition of Regulated Activity.

#### **3.2 Regulated Activity - Children**

Clearly, the definition of “Regulated Activity” is key to interpreting these requirements.

The part of the definition that is likely to be relevant to activities undertaken by croquet clubs with children is:

- *any form of teaching, training or instruction of children, unless the teaching, training or instruction is merely incidental to teaching, training or instruction of persons who are not children*
- *any form of care for or supervision of children, unless the care or supervision is merely incidental to care for or supervision of persons who are not children*
- *driving a vehicle which is being used only for the purpose of conveying children and any person supervising or caring for the children pursuant to arrangements made in prescribed circumstances.*

*provided that they are carried out by the same person frequently (once a week or more often), intensively (on 4 or more days in a 30 day period), or overnight (between 2am and 6am).*

Thus, for example, someone coaching a group of children weekly during the summer term

would be undertaking Regulated Activity, whereas someone who gave a bit of advice to a youngster they had just played in a club competition, or gave first-aid to one that had been stung by a wasp, would not. Note also that merely being an officer of, or employed as a groundsman by, a club that was offering coaching to children does not qualify as Regulated Activity.

The CA advises that if half or more of a group under instruction are under 18 then teaching them would be Regulated Activity (if the frequency or intensity conditions were met), but a few children attending a course aimed mainly at adults would not.

### ***The supervision exception***

There is an exception to the first of these bullet points, that teaching, training or instruction is not Regulated Activity if it is under

*regular and day to day supervision by someone who is engaging in Regulated Activity and which is reasonable in all the circumstances to ensure the protection of children*

However, in the context of croquet coaching, it is difficult to see how one of several coaches could effectively supervise the others, given the size of a court, so the Croquet Association's advice is that this exception should generally be ignored. Note that, even if it was felt that a group of coaches could effectively supervise each other, at least one of them would have to be treated as undertaking Regulated Activity, and hence checked against the Barred List (and there would then be problems if the coach that had been checked was not available for some reason). The CA's recommendation is therefore that anyone coaching children who meets the frequency or intensity test should be treated as being involved in Regulated Activity, unless the activity is in a setting, such as a school, where adequate supervision will be available.

### **3.3 Regulated Activity – Adults**

The old categories of vulnerable adults no longer apply. Croquet clubs are not likely to carry out any of the activities which (if undertaken for adults) are classed as Regulated Activity: things like healthcare, personal care, social work etc.

### **3.4 DBS Disclosures and Checks**

It is thought that the changes to the definition of Regulated Activity will mean that few individuals will be engaged in it, even if, as hoped, clubs increase the amount of activity involving young people. However, those who are will need to be checked that they are not on the list of those barred from engaging in it, or have criminal records that indicate that they might pose a risk to children.

The Croquet Association (CA) has been advised by the Sport and Recreation Alliance that the CA should provide a service for obtaining DBS Disclosures and Barred List checks for member clubs or other bodies who wish to engage a CA member in Regulated Activity. Doing this centrally means that only one or two individuals nationally need to be trained to undertake what is a specialist role, rather than someone in each club that organises Regulated Activity. Centralisation would help to maintain consistent standards and reduce duplication of effort if an individual is involved in coaching children at several clubs or nationally. It also reduces concerns that people being checked might have about confidentiality, as local club officers will not need to be shown Disclosures.

Given the relatively small size of the sport and its generally low involvement with children, the anticipated number of checks required each year will be too low for the CA to register with the DBS. Instead, it will have to find an "Umbrella Body" which is willing to obtain

checks and disclosures on its behalf. Obtaining these requires the individual being checked to produce documents (such as a passport) to prove their identity, so ideally the CA needs to find one that has a good coverage of local or at least regional representatives who are authorised to check identity documents, or is willing to authorise club secretaries to do so on its behalf.

Currently, a copy of a Disclosure issued is sent to the organisation requesting it, and is not transferable. This will change from a date to be announced this spring, after which the Disclosure be sent only to the individual concerned, who will have to send it on to the organisation requesting it (after checking its accuracy). From that date, the individual will be able to register the Disclosure on an update service and provide their registration details, along with the Disclosure, to any organisation wanting to check that its contents are still current.

The DBS has stated that Disclosures and registering on the update service will be free for volunteers, but umbrella bodies may make administrative charges.

Once the CA service and the update service are available, it is envisaged that the procedure for a club or other body wishing to engage a CA member in Regulated Activity will be:

1. The club asks the individual if they are on the CA's list of those that have been successfully checked and confirms that with the CA if so.
2. If not, the club asks the individual if they already have a Disclosure that is registered on the update service. If so, the clubs asks the individual to send it and the registration details to the CA for approval. Having checked it, the CA will return the disclosure to the individual and inform the club whether or not it was approved.
3. If not, the club will ask the CA to obtain a Disclosure and Barred List check for the individual, which will, of course, need the individual to complete a form and prove their identity. The Disclosure will be returned to the individual, who should register with the update service and send the disclosure and registration details to the CA for approval. The CA will then inform the club accordingly.
4. In the, hopefully unlikely, event that concerns are raised that someone whom the CA has approved may pose a risk to children then the CA should be informed.

Further details of the CA service will be provided when they are available. In the meantime, clubs needing Disclosures will need to obtain them from an Umbrella body themselves. A list of Umbrella Bodies can be found on the DBS website.

### **3.5 Other Advice**

Every club is encouraged to appoint a Child Protection Officer.

Further guidance can be obtained from the CA's Child Protection Officer, [Jean Hargreaves](#).