



## **SGU/SLGA – BRIEFING NOTE ON THE (PVG) PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007**

On 28 February 2011 the Scottish Government introduced a new membership scheme that will replace and improve upon the current disclosure arrangements for people who work with vulnerable groups, i.e. children and protected adults.

This legislation was previously scheduled to come in to effect on 30 November 2010, but was delayed by the CRBS and Disclosure Scotland in order to “ensure that the (IT) system which supports it is as robust as it can be before it goes live”.

The SGU/SLGA encourages all golf clubs to fully digest this new legislation which replaces the Protection of Children (Scotland) Act 2003. This can be studied in full, at [www.infoscotland.com/pvgscheme](http://www.infoscotland.com/pvgscheme)

In addition to the training provided at the Scottish Golf Club Seminars in November 2010, this pragmatic **briefing note** is designed to assist clubs with the impending changes to the law.

### **Why a new law?**

The PVG scheme is the Scottish Governments response to the recommendations of the Bichard Inquiry report following the murders of Holly Wells and Jessica Chapman. The PVG Scheme will therefore :

- help to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known **history of harmful behaviour**,
- be **quick and easy to use**, reducing the need for PVG Scheme members to complete a detailed application form every time a disclosure check is required,
- **strike a balance between proportionate protection and robust regulation** and make it easier for employers to determine who they should check to protect who they work with.

### **What has changed?**

Of most significance to golf clubs is that the new law will create **2 main offences** –

- (1) **An organisation may not employ (including volunteers) someone who is on the barred list for regulated work,**
- (2) **An individual may not put themselves forward for regulated work whilst they are on the barred list. Clubs can only access this information through the Disclosure Scotland process.** Under the new PVG scheme all clubs affiliated to the SGU/SLGA may continue to use the intermediary service we provide, which remains free of charge for all volunteer positions.



In addition a third legal requirement is

- (3) For an organisation that dismiss or remove an individual from regulated work with children and/or protected adults, they are legally obliged to make a referral to Disclosure Scotland, provided the grounds have been met for such a referral. It is an offence if they fail to do so. Further support and information on these grounds for referral can be obtained from the Child & Adult Protection Officer, Kevin Fish.

### **Who does this new legislation apply to?**

This legislation applies to organisations such as **golf clubs** that provide services, activities and amenities for children and/or protected adults.

### **What is the definition of regulated work with vulnerable groups?**

The new legislation is designed to assist employers to identify those who should be subject to a disclosure check. This new definition is called **regulated work**, and can be ascertained by establishing the following facts.

- 1) **Is it work (paid or unpaid)?** – *In other words, the work undertaken is not simply a personal arrangement between friends or family.*
- 2) **Who are they working with?** *Is it targeting children (U18/protected adults?)*
- 3) **What do they do?** –
  - a. *Caring for children/protected adults?*
  - b. *Teaching, instructing, training or supervising children/protected adults?*
  - c. *Being in sole charge of children/protected adults?*
  - d. *Having unsupervised contact with children/protected adults?*
- 4) **Is it their normal duties on an ongoing basis?** – *could this activity be reasonably anticipated, & therefore should appear in their job description.*
- 5) **Are there any exceptions that apply?** – *such as individuals on work experience.*

These 5 questions indicate that Volunteer Coaches and Junior Convenors will satisfy the criteria for regulated work, and therefore new volunteers taking up these posts after the introduction of the new legislation (28 February 2011), should apply to become scheme members under PVG.

For all other staff and volunteers, point 4 becomes particularly relevant, and every golf club should consider whether the regulated work criteria can be reasonably anticipated, or whether such work is purely incidental. Examples of incidental work would include

- reacting in an emergency,
- standing in at the last minute to cover unexpected sickness of another worker,
- or work done as a one-off activity of short duration which is not part of the individuals normal routine or occupation.



The guidance notes provided by CRBS (paragraph 86) contain an excellent example of this which may help clubs with these deliberations. It states that, a store worker who is asked to dress as Santa Claus in the children's shop grotto for the six weeks leading to Christmas would be regarded as having this as their normal duties, and therefore carrying out regulated work. However somebody who is asked to step in at the last moment to cover for Santa due to sickness would not be regarded as having this as their normal duties, and would therefore not be classed as carrying out regulated work.

Converting this scenario to the golf industry, you must consider whether there is an **expectation for any individuals to step in** to assist with such regulated work and if this can be **reasonably anticipated at your club**.

### **What happens now that the legislation is live?**

Life will not change dramatically now the scheme is launched.

During the first year of the scheme, **only new applicants**, or those who are changing roles at your club will be considered for membership of the Scheme. A flow chart for joining the PVG scheme is shown in diagram 1. Existing volunteers/staff who have satisfied the disclosure criteria will be progressively considered for membership of the scheme during years two to four, and this is simply to ensure that the new systems can cope with the transfer of the volunteer workforce.

CRBS is restricting the supply of the **new disclosure forms** to all approved intermediary bodies such as the SGU/SLGA so that they can be given out to new applicants only, along with a help guide on the completion of the new form.

If you have a new volunteer at your club, who is carrying out what is defined as "regulated work", please contact Lorna McClymont from our Child Protection Team on 01334 466493, and she will arrange for a new PVG form to be sent to you. We would ask our clubs to be aware that the supply of these forms is extremely small in the early stages of the new scheme, and the authorities are aware that this may slow down the processing of this important process.

For the avoidance of doubt, we can confirm that clubs are now no longer able to use the old disclosure forms, and those who do so, will be asked to complete a new PVG form, when supplies are readily available.

### **How will membership of the PVG scheme work?**

New disclosure forms will continue to be submitted through the Scottish Golf Child Protection Unit, to CRBS **free of charge**.

When an applicant has been accepted in to the membership scheme, Disclosure Scotland will provide the applicant with a scheme membership statement, detailing the type of work that they have joined the scheme to do (children or protected adult), and any vetting information gathered by Disclosure Scotland about that scheme member.



There will be no change to the current policy of sending a copy of this information to the Scottish Golf Child & Adult Protection Officer. In over 90% of cases, this scheme record will be clear, and both the applicant and his Club Child Protection Officer will receive immediate confirmation of the applicants suitability from a vetting perspective from the SGU/SLGA. Should the scheme record contain vetting information which warrants further consideration, this will continue to be carried out by the appointed Scottish Golf Child Protection Panel, with a final recommendation communicated to both applicant and their Club Child Protection Officer.

In due course, new volunteers will come to your club who can already show that they are in possession of a scheme membership statement under the new PVG law.

For these applicants, under the new law there is no need to complete the full disclosure form again, and instead they need only complete a shortened application for a **scheme record update** as set out in **diagram 2** at the end of this document. This process will reveal any new information that has come to light since the original scheme membership statement. As long as these requests are processed through Scottish Golf, this process is also **free for volunteers carrying out regulated work**.

Regardless of how current a scheme membership statement may be, it is imperative that clubs obtain this scheme record update, as it has the dual purpose of also logging your involvement with this volunteer. As the scheme record is continually updated by the authorities with vetting information, should any relevant data come to the authorities, then you will be **automatically informed** of the significance of that new information. It is therefore also important that the authorities are informed when a volunteer ceases to work with your club.

### **What if my club requires the renewal of my disclosure certificate every three years?**

**Clarification of this important point was sought from the authorities, with the following response from CRBS Customer Operations Manager, Colin Millar.**

**Colin Millar states that –**

*“In the first year from PVG commencing, Disclosure Scotland will deal primarily with scheme membership applications for individuals who are either new to regulated work or who have changed posts or had some other change of circumstance requiring confirmation of scheme membership.*

*Disclosure Scotland recognises that some organisations for legislative, regulatory or operational reasons may have a requirement to bring some of their existing staff/volunteers into scheme membership ahead of the start of planned retrospective checking in year 2. Where this is either necessary or desirable, agreement will be reached on a case by case basis between Disclosure Scotland and CRBS.*

*Disclosure Scotland have confirmed that priority will be given to "legislative and regulatory requirements" noted in the new PVG Scheme application form, such as the Care Commission, General Teaching Council & General Medical Council. Therefore, a period of grace must be granted to those organisations whose operational requirements include the systematic rechecking of their staff / volunteers.*

*A continuous assessment will be made, and you can be assured that where possible, I will work with all CRBS customers, including the SGU, to assess your needs outside of new positions and appointments.*



*In years 2 – 4 of the PVG scheme, there will be "planned retrospective checking" which will once again be managed by us and Disclosure Scotland with our customers' needs in mind.*

*Where there is any doubt or concern about an individual's ongoing suitability to volunteer with a protected group, none of the foregoing should deter you from discussing this exceptional need with CRBS and making an early PVG Scheme application."*

### **What else might help my club through these changes to the law ?**

- 1) PVG is not a replacement for good recruitment and selection procedures. Take this opportunity to review your practices to protect your club. The SGU website can help with this review. <http://www.scottishgolf.org/go/club-services/child-and-adult-protection>
- 2) Review job/role descriptions with regulated work in mind.
- 3) Make clear statements to parents regarding the personal arrangements that they may make for transporting children to matches, as such personal arrangements would not fall within the definition of regulated work.
- 4) The SGU/SLGA does not discriminate against ex-offenders. Blanket checking of all staff/volunteers at your club is not permitted, and it is an offence to request vetting information on individuals who are not carrying out regulated work.
- 5) The employment of 16/17 yr old staff, or individuals on work experience, do not fall within the regulated work definition.
- 6) The authorities hope to streamline this process still further with the availability of on-line disclosure checks, introduced during 2011.
- 7) The SGU/SLGA is the intermediary organisation with a responsibility to ensure that clubs act within the ministerial code of practice.

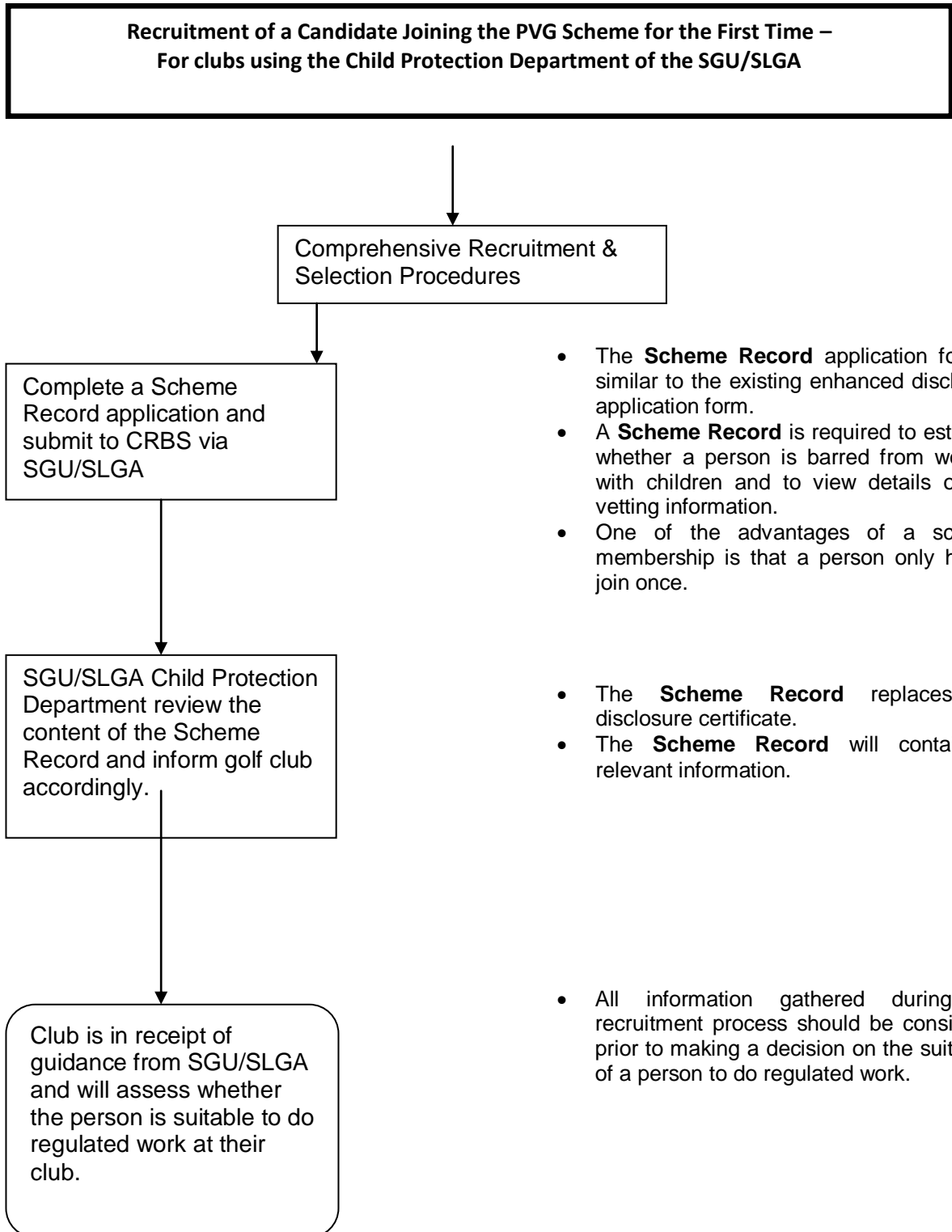
### **Additional support**

Clubs affiliated to the SGU/SLGA may call the Scottish Golf Child & Adult Protection Officer, Kevin Fish, on 01334 466494. [k.fish@scottishgolf.org](mailto:k.fish@scottishgolf.org)

More generic information can be obtained from PVG Scheme Help Service on 08706 096 006 or at [www.infoscotland.com/pvgscheme](http://www.infoscotland.com/pvgscheme)



**Diagram 1**





**Diagram 2**

