



SCOTTISH GOLF
UNION



SCOTTISH LADIES'
GOLFING ASSOCIATION

SGU/SLGA – BRIEFING NOTE ON

THE (PVG) PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007.

In February 2011 the Scottish Government will introduce 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 has been 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

We are providing detailed training and support at the Scottish Golf Club Seminars, taking place during November 2010. Further details on a seminar near to you can be obtained at www.scottishgolf.org/go/club-services/education/seminars. In addition, we have provided this pragmatic **briefing note** to assist clubs with the forthcoming 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 who 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** who 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/prot adults ?)*
- 3) **What do they do ?** –
 - a. *Caring for children/protected adults ?*
 - b. *Teaching, instructing, training or supervising children/prot 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 (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 childrens 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 when the legislation goes live in February 2011.

Life will not change dramatically when 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 will provide a supply of the **new disclosure forms** to the SGU/SLGA in advance of the launch date and we will forward these to affiliated clubs with any further updates or guidance notes provided to us by the authorities. In the mean time, golf clubs should continue to use the existing **disclosure forms**.

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 prot 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 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 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

Kevin will also be delivering a training session on this subject within each of the series of November Club Seminars, which are also free to all affiliated golf clubs.

More generic information can be obtained from PVG Scheme Help Service on 08706 096 006 or at www.infoscotland.com/pvgscheme

Diagram 1

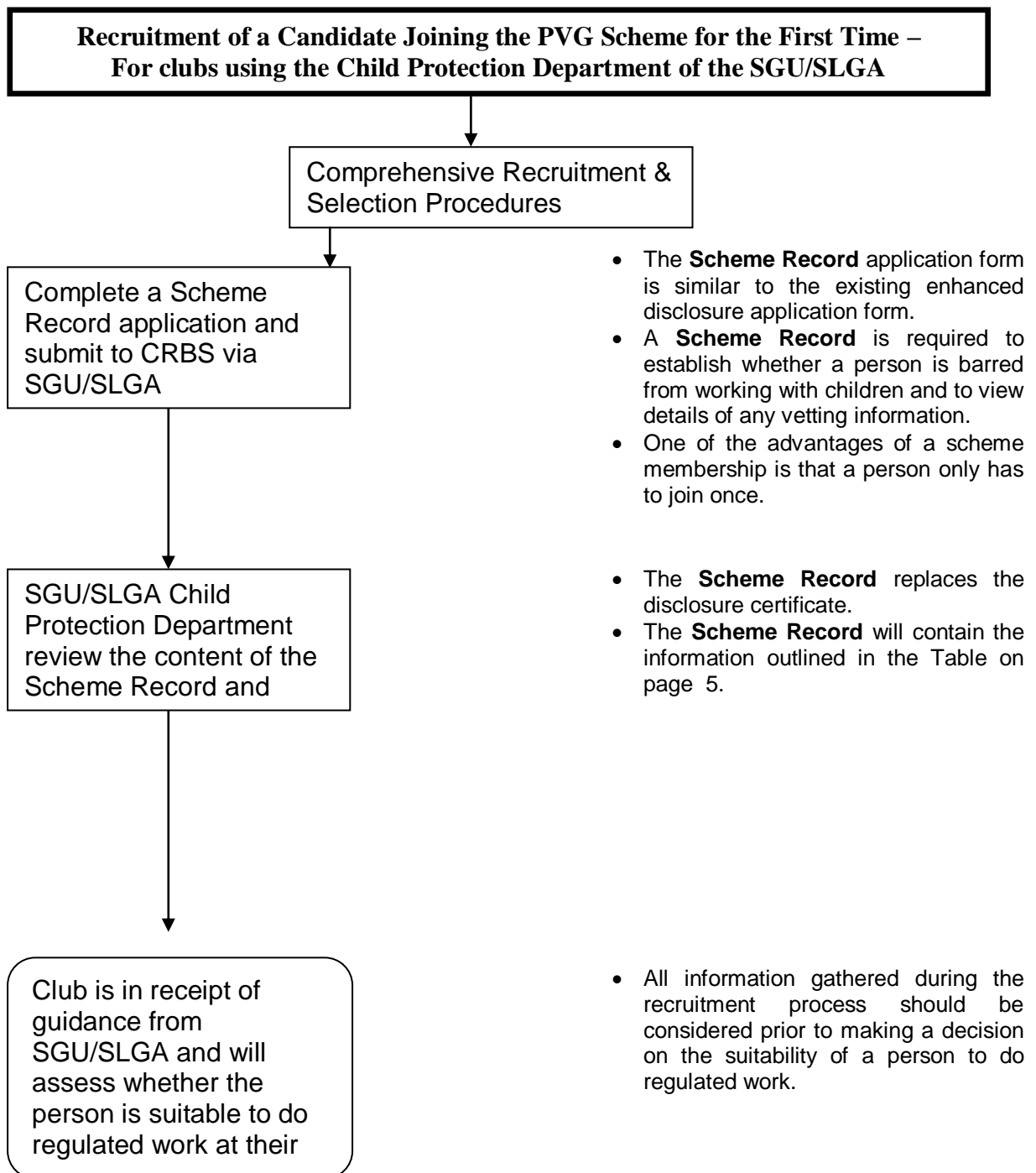
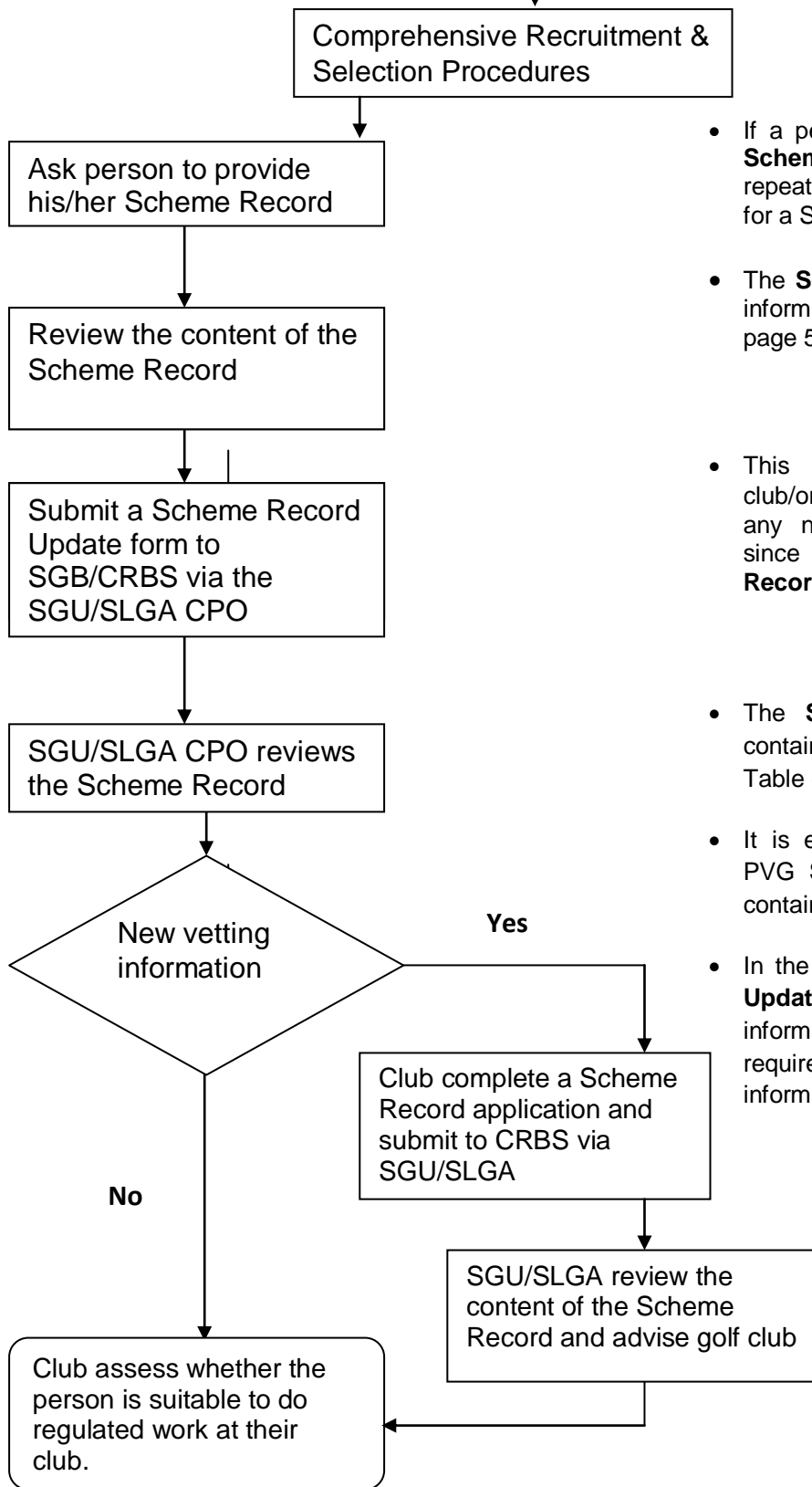


Diagram 2

**Recruitment of a Candidate who is an Existing PVG Scheme Member
For golf clubs using the Child Protection Department of the SGU/SLGA**



- If a person does not provide his/her **Scheme Record** you will need to repeat the process above and apply for a Scheme Record.
- The **Scheme Record** will contain the information outlined in the Table on page 5
- This allows the sports club/organisation to find out whether any new vetting information exists since the date that the **Scheme Record** was issued
- The **Scheme Record Update** will contain the information outlined in the Table on page 5
- It is expected that over 90% of all PVG **Scheme Record Updates** will contain no vetting information.
- In the event that a **Scheme Record Update** indicates that there is vetting information a **Scheme Record** will be required to view the detail of that information.

Note:

Final recruitment decision based on full recruitment process plus a satisfactory (clear) scheme **Record Update** or where necessary a **Scheme Record**