



Information about changes to vetting arrangements in Northern Ireland for those working with children and young people¹ in sports clubs

The Department of Health, Social Services and Public Safety (DHSSPS) was consulted during the drafting of the following guidance to ensure that it is both factually correct and in keeping with the steer of statutory supervision guidance.

Background

From September 10th 2012, there were some changes to safeguarding arrangements in relation to pre-employment vetting of staff and volunteers working with children and young people in Northern Ireland. These changes arose from the Protection of Freedoms Act 2012, which amends the Safeguarding Vulnerable Groups (NI) Order 2007. This includes the introduction of a new, more limited definition of regulated activity – the term which defines certain paid or voluntary work which must not be carried out by someone who has been barred from doing so. The new definition of regulated activity is the basis for eligibility for an enhanced disclosure certificate with a check against the children's barred list. This is the level of checks we as Irish Rugby Football Union (Ulster Branch) umbrella body have been undertaking on behalf of those working with children.

Checks available in NI in relation to those working with children and young people

- Enhanced disclosure with a barred list check
- Enhanced disclosure without a barred list check
- Standard disclosure check
- Basic disclosure check

What is a barred list check and why is it important?

A barred list check identifies whether an individual is barred from working with children or vulnerable adults. It is an offence for an employer/voluntary organisation to knowingly recruit a barred person to work in regulated activity. Therefore if you consider a post to be in regulated activity you should request an enhanced disclosure with a barred list check. This is the only way to establish whether an individual is a barred person.

What has changed?

¹ The term children and young people is defined as those under 18 years of age. See also if relevant - Information about changes to vetting arrangements in Northern Ireland for those working with Vulnerable Adults

Only staff and volunteers working in regulated activity (as redefined) will be able to be checked against the relevant barred list prior to their appointment. For staff and volunteers working outside of regulated activity, but who have significant contact with children/young people (that is, those who previously fell within the scope of the pre-September 10th 2012 definition of regulated activity), an enhanced disclosure without a check against the relevant barred list can, and should continue to be obtained.

Supervision

Also contained within the new definition of regulated activity with children is the concept of supervision. This means that some posts fall outside the scope of regulated activity because the individuals working in them are supervised to the level described by Government in the document, "Statutory guidance: Regulated Activity (children) - supervision of activity with children which is regulated activity when unsupervised"². These posts will be exempt or prevented from the requirement to carry out barred list checks under the new disclosure and barring arrangements. **However, it remains possible to obtain enhanced disclosure without barred list checks on supervised posts and other posts which would have been in regulated activity prior to September 10th 2012 but have fallen out of the new definition.**

Supervision must be carried out by a person who is in regulated activity rather than volunteers simply offering peer support to their colleagues. (See section entitled "How should the voluntary sector interpret the guidance on what is supervised activity?" for more guidance.)

We recognise that only a limited number of volunteering posts will be supervised to the level required by the Government guidance referenced on page one.

Other Changes

- Repeal of registration and continuous monitoring: This refers to the previous Independent Safeguarding Authority (ISA) registration and monitoring arrangements under the Vetting and Barring Scheme that were to be introduced by July 2010. Individuals are not now required to register and therefore there will be no monitoring arrangements

What has not changed?

- You should request an enhanced disclosure with a barred list check for any individual you wish to appoint into regulated activity. It remains an offence to knowingly recruit a barred person to regulated activity in a paid or unpaid capacity.
- You are still required to refer to the Disclosure and Barring Service (formally known as the Independent Safeguarding Authority), any individual who you have removed from regulated activity (or who you would have removed had they not left) because they have either harmed or posed a risk of harm to a child or an adult in vulnerable circumstances (see 'Referral to Disclosure and Barring Service' guidance <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/services/dbs-referrals/>).
- AccessNI continues to provide disclosure checks in Northern Ireland.
- Umbrella bodies will continue to receive a copy of the disclosure certificate from AccessNI.
- Clubs and organisations should continue to implement best practice procedures in relation to safe recruitment and the effective management of staff/volunteers. These include:

For safe recruitment:

- having a role/job description; being able to tell the person what they will be doing;

²<http://media.education.gov.uk/assets/files/pdf/s/supervision%20guidance%20revised%20sos%20sept%202012.pdf>

- an open application process; letters home to parents; promote on web site;
- an application form to clarify qualifications and allow for the person to self-declare any conviction(confidentially);
- interview/ Informal meeting process with the individual;
- obtaining disclosure checks from AccessNI (through their umbrella body where appropriate);
- obtaining references; and
- ensuring all appointees are agreed by the club's management committee so that those responsible for the overall running of the club are made aware of who may be joining and operating on behalf of the club.

For effective management of volunteers/staff:

- having an induction programme for new volunteers/staff to explain club policies and procedures, who is who;
- agreed codes of behaviour for all stakeholders;
- establishing a mentoring/ peer support system; and
- assisting with identification of training needs through holding regular reviews of staff/volunteers role and the provision of training.

*See IRFU Child Welfare Policy Document

What is regulated activity for those working with children and young people?

The following is a summary of regulated activity relevant to those working with children in the voluntary sector. The full definition of regulated activity (i.e. work that a barred person must not do) is defined in the Safeguarding Vulnerable Groups (NI) Order 2007, as amended by the Protection of Freedoms Act 2012.

Working in a paid or voluntary capacity with children is regulated activity if:

- (a) it is one of the activities listed below; and
- (b) is done "regularly", with the exception of health care and relevant personal care which is regulated activity even if carried out once; or
- (c) it is carried out in a specified place.

(a) The activities include:

- teaching, training or instruction;
- care or supervision, including health care and relevant personal care;
- advice or guidance provided wholly or mainly for children relating to their physical, emotional or educational well-being;
- moderating a public electronic interactive communication service likely to be used wholly or mainly by children;
- driving a vehicle being used only for conveying children and carers or supervisors.

Day to day management or supervision on a regular basis of a person carrying out one of the activities listed above is also a regulated activity.

Activities that are excluded from the definition of regulated activity are:

- activity or participation of children that is merely incidental to what would normally be an adult activity;
- "supervised activity"*- an individual who is under reasonable day to day supervision by another person engaging in regulated activity (see below for guidance); and

- activity by a person in a group assisting or acting on behalf of, or under direction of, another person engaging in regulated activity in relation to children. This is the “peer exemption”.

(b) ‘Regularly’ is defined as: carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period, or overnight**.

**Definition of “overnight” - In relation to teaching, training or instruction; care or supervision; or advice or guidance, it is also regulated activity if carried out (even once) at any time between 2am and 6am and with an opportunity for face-to-face contact with children.

(c) The Safeguarding Vulnerable Groups (NI) Order 2007 lists specified places, including schools and day care premises, where an activity with children is a regulated activity if it is carried out regularly by the same person in connection with the purposes of the place where it is carried out. This could include, for example, sports coaching in a school. The supervised exemption also applies in a specified place but only where the activity is carried out by a volunteer.

*Please Note: Not all regulated activities are now exempted when supervised – the exemption applies to teaching, training or instructing and caring or supervising and only to unpaid positions in specified places; but there is no exemption for care that constitutes relevant personal care or health care; advice or guidance; moderating a public electronic interactive communication service; and driving a vehicle used only for conveying children and carers.

How will clubs/organisations decide if a post is unsupervised or supervised?

When an club/organisation decides to supervise a person with the aim that the supervised work will not be regulated activity (when it would be, if not so supervised), in such a case, the law makes three main points:

- there must be supervision by a person who is in regulated activity;
- the supervision must be regular and day to day; and
- the supervision must be “reasonable” in all the circumstances to ensure the protection of children.

How should the voluntary sector interpret the guidance on what is supervised activity?

The club/organisation must have regard to the statutory guidance referenced on page one of this guidance, and may wish to consider the points below in relation to supervision issues in the voluntary sector. The introduction of the term “supervision” is intended to give local leaders the flexibility to determine what is reasonable and regular for their circumstances. As your umbrella body we are attempting to ensure consistency in how those involved in our activities in certain roles are checked. While the precise nature and level of supervision will vary from case to case, guidance on the main legal points above is outlined as follows.

- Supervision of the individual is provided by a person in regulated activity in a more senior position than the individual. Peer to peer supervision does not mean the individual is in a formally supervised position.
- The supervision is regular and day to day, i.e. supervision must take place “on a regular basis.” This means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception rather than the rule. It must take place on an on-going basis, whether the worker has just started or has been doing the activity for some time. It must be consistent and on every occasion the individual is working/volunteering.
- The supervision must be reasonable in the circumstances for the purposes of child protection. Your club/organisation must consider can you ensure the consistent level of supervision at all

times to ensure it would not impact on the safety of children in your care if a barred individual was in this “supervised” position.

Examples:

- 1) A club meets twice a week and has between 10 and 15 volunteers on any one evening. They believe they always have good supervision of the young people and ratios in place and want to know if that means that only their leader is now in regulated activity. Firstly, the club needs to be made aware that the term ‘supervision’ does not relate to the supervision of the young people but of the adults. The club need to consider whether:
 - the supervision by the one leader can be constant during all activities at all times;
 - the level of supervision in place adequately protects children in the event of unforeseen or unexpected events;
 - the level of supervision is of such a degree that it would not impact on the safety of the young people if any of the coaches were on the barred list.

If the club can confirm they are able to ensure all the above points have been considered and they can guarantee the level of supervision will be consistent to ensure no risk to young people then the post can be considered not to be in regulated activity.

- 2) A 2nd Dan Black belt martial arts coach is formally supervised by another 7th Dan instructor as part of his grading when learning to coach young people. The 2nd Dan will always be under the supervision of the 7th Dan when coaching young people for insurance reasons and the sport have decided to make this a requirement as well. Therefore the 2nd Dan is not in “regulated activity” under the new definition but should still undergo an enhanced disclosure without a barred list check.
- 3) The senior coach managing the club has no formal documentation about his leadership over the other coaches in place. A number of other coaches have the same level of qualification as the senior coach who has taken on this role on account of the length of time he has been involved in the club and his willingness to take on administration responsibilities. The location of the activities cannot facilitate robust supervision of the volunteers (for example, there is one senior coach responsible for 10 coaches in 3 separate rooms in a sports centre). Therefore, this would not constitute constant supervision and the 10 coaches would be in regulated activity.

Useful links and contacts:

- Department of Health, Social Services and Public Safety www.dhsspsni.gov.uk/svg
- Home Office www.homeoffice.gov.uk
- AccessNI (see Guides for completing a form) Tel: 0300 200 7888 www.nidirect.gov.uk/accessni

Child Protection in Sport Unit www.thecpsu.org.uk cpsu@nspcc.org.uk

Northern Ireland Sports Forum www.nisf.net

Volunteer Now www.volunteernow.co.uk email: info@volunteernow.co.uk

Updated March 2013