Disclosure Scotland:

Sport sector guide



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Introduction

The Disclosure (Scotland) Act 2020 (the Disclosure Act) introduced 'regulated roles' to define if PVG scheme membership is required. This replaces the previous definition of regulated work, introduced as part of the Protecting Vulnerable Groups (PVG) scheme in 2011.

This guide is for organisations providing sports services and activities, including Scottish Governing Bodies of Sport (SGBs) and sports clubs. It should be used alongside Schedule 2 (children) and Schedule 3 (protected adults) of the Protection of Vulnerable Groups (Scotland) Act 2007 (the PVG Act),and the general Disclosure Scotland guidance on regulated roles.

This guidance will help organisations in the sports sector make informed decisions on which roles in your sport or club requires PVG scheme membership. You should use this as a guide for your own assessment of the legislation relating to your regulated roles. Assessing if a role meets the legislative criteria is the responsibility of the organisation who is assessing the individual's suitability to carry out a regulated role.

You may wish to speak to your National Governing Body, who have evaluated the legislation, and this guidance, to produce a definitive list of regulated roles for your sport. A list of National Governing Bodis for sport is on the sportscotland website.

This guidance can be used alongside Schedule 2 of the Protection of Vulnerable Groups (Scotland) Act 2007 (The PVG Act), Schedule 3 of the PVG Act, and the general guidance resources available from Disclosure Scotland and Volunteer Scotland Disclosure Services (VSDS):

What do the changes mean for the sport sector?

Individuals carrying out some **(but not all)** of the roles in the sport sector setting will be required to join the Protecting Vulnerable Groups scheme (PVG scheme).

Regulated roles in the sport sector are mostly roles that were also previously considered to be ‘regulated work’ under previous legislation, along with some other roles that are now considered to be regulated roles but were not previously eligible for PVG. The additional roles in the sport sector that now require PVG scheme membership may include roles that involve power and influence over children and/or protected adults.

When to apply for PVG scheme disclosures – and when not to

Not every individual in a sports role will be required to become a PVG Scheme member. The criteria for a regulated role is described in legislation, and the key points for sports roles then explained further in this guidance.

It is a legal requirement for an individual to be a PVG Scheme member before carrying out a regulated role. It is also a legal requirement for an organisation to apply for and receive a PVG scheme disclosure before the individual can carry out a regulated role.

Therefore, before a prospective volunteer or employee can carry out their regulated role:

- they must be a member of the PVG scheme for the group they will be working with (children and/or protected adults)

- the sports organisation must have received a PVG scheme disclosure for the prospective volunteer or employee, even if that individual is a PVG scheme member for children for another organisation, for example employed or volunteering elsewhere as a teacher or scout leader

However, it is also an offence under the PVG Act to apply for a PVG scheme disclosure where the individual is not carrying out a regulated role for you or your organisation. This ensures that the sensitive information contained in PVG scheme

disclosures is not shared unnecessarily. Therefore, organisations must assess the duties of each role and decide whether it is a regulated role. It is not acceptable, and may be unlawful, to take a blanket approach to every role within your organisation, without first assessing if the duties of their role mean it is a regulated role. It may be helpful for organisations to retain a written record of their assessment of whether a role is a regulated one.

An individual is also carrying out a regulated role if they are a day-to-day supervisor or line manager of someone doing the activities mentioned in the PVG Act. This is the case even if the supervisor or manager does not carry out the activity themselves.

It also continues to be an offence for an individual to do, or to seek or agree to do, a type of regulated role (with children, protected adults or both) from which the individual is barred (not allowed to carry out regulated roles).

Organisations may be reported to Police Scotland if they are found to be in breach of their legal requirements under the PVG Act or Disclosure Act.

> **Whether the responsibility for the PVG scheme disclosure lies with the sport's governing body or sports club, will depend on which organisation has the overall responsibility for assessing suitability for regulated roles in the sport.**

This legal requirement ensures that individuals who intend to work or volunteer with children or protected adults that involve an 'activity' and 'contact' with those vulnerable groups, are not unsuitable (barred) from doing so.

As the PVG scheme is a legal requirement, it cannot be replaced by a risk assessment. However, PVG membership should always support, not replace, strong safeguarding practices. Regardless of whether PVG membership is required for a specific role, organisations must have appropriate safeguarding and risk management measures in place to protect both the individual carrying out the role and the people they work with. These measures may include:

- Having clear and effective child and adult protection policies.
- Providing appropriate supervision and, where possible, mentoring support.
- Ensuring staff and volunteers understand professional boundaries and expected behaviours.
- Making sure everyone working directly with a child or protected adult understands their duty of care responsibilities.
- Providing the training needed for the individual to carry out their role safely and effectively.
- Having suitable health and safety arrangements and equipment in place.

Organisations should also consider the individual's personal circumstances, such as any health conditions, as part of their overall risk assessment.

Definition of a child

A child is anyone under 18.

Definition of a protected adult

The relevant sections of the definition of a protected adult for sports organisations are below:

A protected adult is anyone 18 or over who, by reason of physical or mental disability, illness, infirmity or ageing, and either

(i) has an impaired ability to protect themselves from physical or psychological harm

or

(ii) requires assistance with the activities of daily living

A protected adult can also be anyone 18 or over who is receiving a health service from a medical practitioner, such as a doctor or nurse

A protected adult can also be anyone 18 or over who is:

- homeless, as is defined by section 24 of the Housing (Scotland) 1987, or has experienced, is experiencing or is at risk of domestic abuse

  and

- is receiving counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing

> **In the sport sector, medical practitioners employed by sports organisations in a paid or unpaid capacity, and who provide health services intended for children or protected adults who play the sport, are carrying out a regulated role with children and/or protected adults for the sports organisation.**

What is a regulated role?

Below are the key points to consider to help you determine if your role is a regulated role:

- We have produced a list organised by sector and this can be found published on our (Disclosure Scotland) website. However, even for those roles, they must have contact with children or protected adults that is more than incidental. Your National Governing Body will have a definitive list of regulated roles for your sport.
- a regulated role in the sport sector is where an individual is carrying out a role for a sports organisation that means they are carrying out an ‘activity’ and

have ‘contact’ with children and/or protected adults as a necessary part of their role.

- a regulated role can be paid work, unpaid work or work under a contract for services.
- the role must be undertaken in Scotland or, if it takes place outside of the U.K, the individual must be ordinarily resident in the UK **and** the role is being undertaken for an organisation or personnel supplier with a place of business in Scotland. If the role is being carried out elsewhere in the U.K. and not in Scotland at all, then checks should be obtained through the Disclosure and Barring Service (England and Wales) or Access NI (Northern Ireland).
- as well as carrying out an activity, contact with children or protected adults must be more than incidental and includes at least one of the following:
    - physical contact with children or protected adults
    - visual, written or verbal communication with children or protected adults
    - exercising power or influence over children or protected adults

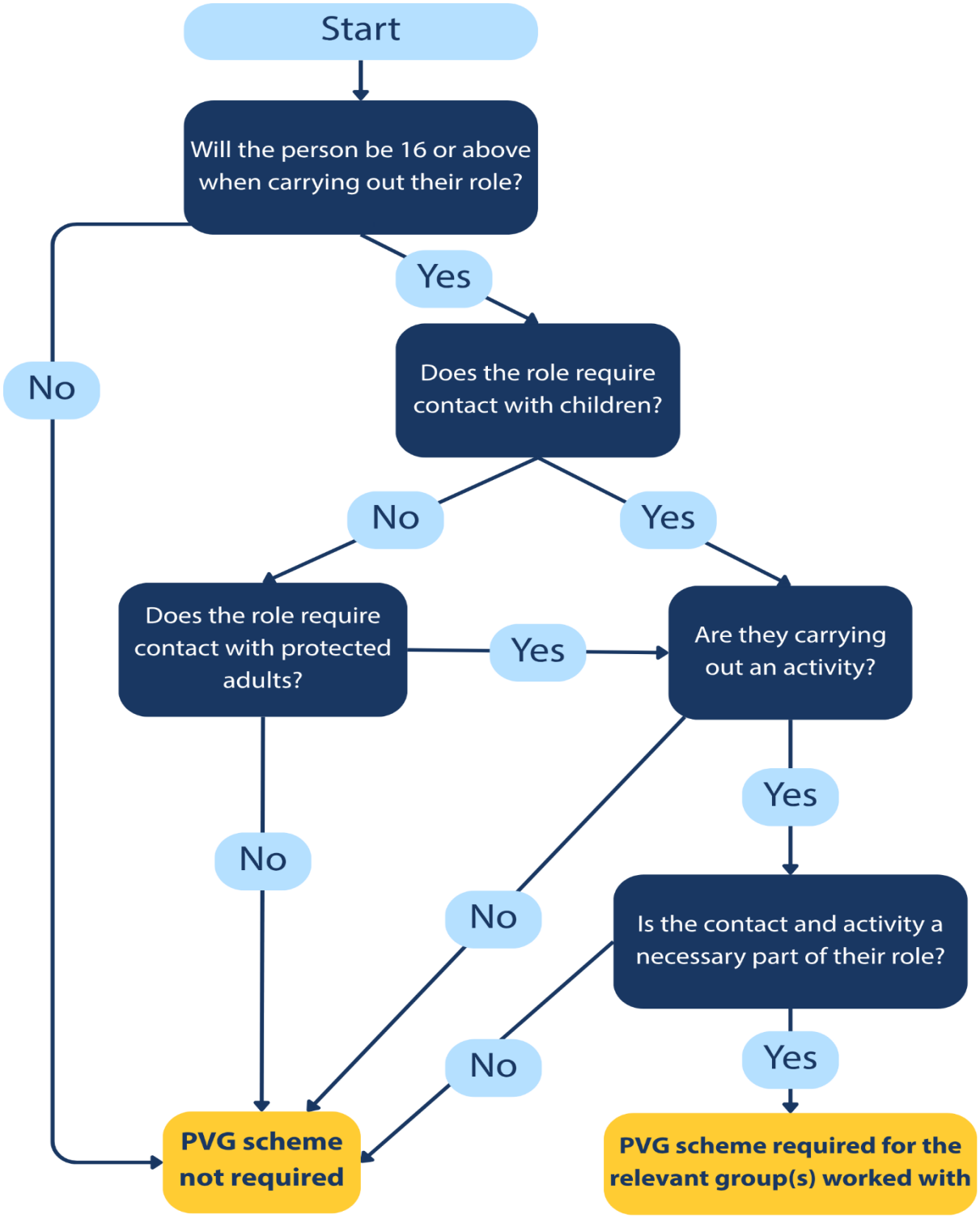
Exercising power and influence means any of the following:

(a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child or protected adult

(b) making decisions of an operational or strategic nature that could have an impact on a number of children or protected adults

(c) persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child or protected adult

The graphic below provides a step-by-step guide to considering whether your role will be considered a regulated role.



Regulated roles - common activities in the sport sector



Key points

To carry out a regulated role, an individual must be carrying out at least one of the activities set out in Part 2 of Schedule 2 (children), or in Part 2 of Schedule 3 (protected adults), of the PVG Act.

This guide focuses on the most common activities that may apply to some roles within the sport sector. There are also case studies throughout this guidance to assist you in deciding whether a role is a regulated role.

However, you must consider all of the activities under Schedule 2 and Schedule 3 of the PVG Act as part of your assessment of whether your role requires PVG scheme membership.

Is it “a necessary part of the role”?

For a role to be considered a regulated role, the activities and contact with children and/or protected adults must be a **necessary part of the role**. This means the person is expected to carry out these activities as part of their job, education, or volunteering.

An activity or contact is likely to be a necessary part of the role if:

- it is included in the role description, or would reasonably be expected as part of the role.

- the person is a designated substitute or stand-in for someone who carries out regulated work. For example, if a group of staff may be called upon to cover a regulated role, all members of that group should be treated as having a regulated role as a necessary part of their role.

An activity or contact is unlikely to be a necessary part of the role if:

- It only happens in an emergency or at very short notice to cover an unexpected absence.

- It is not normally expected as part of the role.

The individual and the recruiting organisation are responsible for deciding whether regulated activities and contact are a necessary part of the role. Clear role descriptions and documented responsibilities can help make this decision.

These responsibilities should be agreed and recorded before the individual starts working with children and/or protected adults. This helps organisations determine whether a PVG scheme disclosure is required.

There is no minimum frequency or duration for an activity to be considered a necessary part of a role. An activity carried out daily may be necessary, but so may one performed only occasionally, even just once a year or for a single day.

If someone joins the PVG Scheme solely to carry out a regulated role for a short period and does not expect to carry out a regulated role again, they should leave the PVG Scheme once that work has ended.

There is information on how to do this on the Disclosure Scotland website.

Individuals coming to Scotland from elsewhere and “a necessary part of the role”

Some people may have roles outside Scotland, elsewhere in the UK or overseas, that involve activities or contact which are necessary parts of their role, such as being responsible for children. If they travel to Scotland to carry out that role, both the individual and the organisation should consider the purpose of the work they will be doing in Scotland.

They should assess whether the work carried out in Scotland is a necessary part of the individual's role. For example, a teacher may bring a group of children from their school overseas to Scotland. While in Scotland, the teacher's responsibilities are limited to the children they already supervise from their home country. In this situation, PVG scheme membership is not required because the work carried out in Scotland is not a necessary part of a Scotland-based role.

Organisations should also consider whether the work is being carried out for an organisation that operates, even partly, in Scotland.

For example, someone may travel from another country to take part in an international event organised by an organisation that operates in Scotland. During the event, they may be expected to carry out activities on behalf of that organisation, or its Scottish branch, such as leading activities for children or providing sports coaching. In this case, PVG scheme membership is required because carrying out these activities in Scotland is a necessary part of their role.

Whether or not PVG scheme membership is required, organisations should ensure that appropriate safeguarding measures are in place. The PVG scheme is only one part of a wider safeguarding framework and should be supported by other suitable safeguards where necessary.

Regulated role activities

The most common activities that may apply to roles in the sport sector include:

- having responsibility for the safety and welfare of a child or protected adult, other than acting as a foster carer in relation to the child
- teaching, instructing or delivering training to children
- holding power or influence over a child for the purpose of either:
    a) an activity in which the child is taking part or seeking to take part in
    b) arranging the future recruitment, training or employment of the child
- being in charge of or caring for children/protected adults, other than acting as a foster carer
- practising as a registered medical practitioner with children/protected adults
- coaching children/protected adults in relation to sports or physical activity
- providing religious activities or services for children/protected adults
- driving or escorting children/protected adults in connection with transport services provided exclusively or mainly for children/protected adults
- holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children/protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)

Each of the most common activities are described in more detail below.

Activity descriptions

Having responsibility for the safety and welfare of a child or protected adult, other than acting as a foster carer in relation to the child

This activity includes roles that have a specific focus on the safety and welfare of a child or protected adult in their role.

The individual carrying out the role should specifically be responsible for the child's safety and welfare. This includes child protection and wellbeing officers for sports organisations.

In some instances, this activity may include **some** sports officials, but only where the specific responsibilities placed upon officials, do include responsibility for welfare of children/protected adults as a necessary part of the role. It is not the case that all sports officials are carrying out a regulated role on the basis of this activity. Sports organisations can speak to their National Governing Body if they are unsure.

Teaching, instructing or delivering training to children/protected adults

This activity is intended to include teaching of any subject, for example an anti-bullying workshop delivered as part of a sports organisation's development programme. It can either take place in a recognised educational establishment (such as a school or further education college) or within a sports club or sports facility. The role must be targeted at children and/or protected adults, rather than the general population.

Where senior pupils are involved in teaching other children, consideration must be given to whether this is part of a specific role (in which case, it is carrying out a regulated role), or if it is as part of a senior pupil's own education (in which case, it is not carrying out a regulated role).

Holding power or influence over a child for the purpose of either (a) an activity in which the child is taking part or seeking to take part in, or (b)arranging the future recruitment, training or employment of the child

This activity is intended to include individuals who act on behalf of children where there is a likelihood of that individual having an opportunity to exert power or influence over the child.

This activity is intended to include sports agents or talent scouts who, while they may liaise more with the child's parent/guardian, are carrying out a role that provides the opportunity to exercise power or influence over the child's future career.

For this activity, exercising power or influence over children means (at least one of):

- assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child or group of children

- making decisions of an operational or strategic nature that could have an impact on a number of children

- persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child or children

Being in charge of or caring for children, other than acting as a foster carer

This activity includes anyone who is responsible, as part of their role, for caring for children in any way other than by formal arrangement.

It may also include, for example, volunteers or staff of a sports organisation, who have a designated role of being in charge of children as a necessary part of their role.

Practising as a registered medical practitioner with children/protected adults

These activities are intended to include both registered health professionals who are actively practising and individuals who carry out this activity while they are in training for their profession.

In a sport setting, medical professionals, such as doctors or physiotherapists, are carrying out a regulated role for the sports organisation. They are carrying out a regulated role with protected adults as the players are receiving a health service from the medical practitioner employed by the sports organisation. If their service is also intended for children, they will also be carrying out a regulated role with children.

Coaching children/protected adults in relation to sports or physical activity

This activity is intended to include individuals providing sports coaching, or coaching for any physical activity, that is specifically aimed at children and/or protected adults.

For children, it includes youth sports.

For protected adults, it includes coaching that is specifically aimed and/or tailored to the needs of protected adults, for example, sports coaching sessions provided for adults who, by reason of disability, have an impaired ability to protect themselves from harm .

It does not include where a sports activity is provided for the general population. In this scenario, contact with children and/or protected adults would be incidental, as

the service itself is not particularly intended for children or protected adults, and the activities remain the same for the children participating.

School pupils aged 16 or above who, during their school education, have contact with other children (for example, as part of a school sports leadership role) do not require PVG scheme membership to carry out their role.

Providing religious activities or services for children/protected adults

This activity is intended to include, for example, individuals delivering chaplaincy services that are specifically targeted towards children or protected adults. For this activity, anyone can be a protected adult when receiving pastoral care from a chaplain.

This may include, for example, club chaplains who are providing religious or spiritual activities or services as part of their role with the sports organisation.

The definition of 'providing' these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are involved in the actual provision or delivery of the service to children or protected adults.

Driving or escorting children/protected adults in connection with transport services provided exclusively or mainly for children/protected adults

This activity is intended to include individuals providing transport services specifically for children or protected adults.

This may include where an individual has a regular arrangement or contract with the sports organisation to provide transport services for children/protected adults. It includes volunteers or staff who, as part of their role, carry out various activities for a club, one of which is transporting children/protected adults.

It does not include where, for example, parents of children in a sports team provide ad hoc transport arrangements for the sports organisation. This is because such an arrangement would not be part of the individual's normal duties or part of a role for the sport sector organisation.

Holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children/protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)

This activity includes individuals who are in positions of responsibility for sports organisations where one of their main purposes is to provide benefits for, or to, children/protected adults.

It is intended to include, for example, individuals acting as charity trustees for organisations whose main purpose is to benefit children and/or protected adults. It can also include directors, committee or board members.

It is **not** the intention that every member of a committee governing a sports organisation will be in a regulated role. You must assess whether the role of a committee member including carrying out an activity, and contact, with children and/or protected adults that is a necessary part of their role.

For your regulated role assessment for this activity, please consider the below table to help you decide if the role includes an activity and contact as a necessary part of their role.

Activity and contact
If the answer is 'YES' to Step 1 **and** Step 2, and 'YES' to **either** Step 3 or Step 4, it will be a regulated role.

If the answer is ‘no’ to any of these steps, it is not a regulated role under this activity.

There are also case studies to help you determine if this activity applies to your role.

Step 1: Is the person’s role a ‘position of responsibility’ within the sports organisation? There is no specific definition of a ‘position of responsibility’ as this will be dependent on the governance and decision-making arrangements with each sports organisation. Roles that solely involve looking after or raising money, for example, a treasurer with no other responsibility or influence, are not considered to be a position of responsibility on that basis alone.

Step 2: Is one of the organisation’s main purposes the provision of benefits to children/protected adults? Organisations should consider whether the purpose of their organisation includes providing such benefits or not. For some sports organisations, they may consider this to be one of their main purposes but, for others, they may not. The purpose may be included in the organisation's formal constitution but is not required to be for this activity under the PVG Act to apply.

Step 3: Do they have physical contact with children as a necessary part of their role or do they have visual, written or verbal communications with children as a necessary part of their role?

Step 4: If ‘no’ to Step 3, does the role involve exercising power or influence over children or protected adults as a necessary part of their role? (Note that exercising power and influence means any of the following:

(a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child (note – this may also be for groups of children)

(b) making decisions of an operational or strategic nature that could have an impact on a number of children (note – sports organisations should consider whether the input of, for example, each committee or club member does include 'making decisions of an operational or strategic nature'. Providing feedback to others to inform a decision making process by someone else is not considered to be exercising power and influence.)

(c) persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child.

The exercising of power and influence must be a necessary part of the role of the employee or volunteer for a sports organisation. It is not possible to provide an exhaustive list of what constitutes power and influence in a sports organisation, as whether this is applicable will depend on each sports organisation's own governance and decision-making arrangements.

Trustees, directors, board members and committee members who do not meet this activity of a 'position of responsibility' must also consider whether they are doing any of the other activities described in this guide or in Schedule 2 or Schedule 3 of the PVG Act.

Examples – committee members

Case Study 1 – a committee member for an organisation that does not have a main purpose of benefits to either children or protected adults

Ewan is the Chair of a sports club committee. The club runs activities that are open to the community, but not specifically aimed at children or protected adults. The committee has carefully considered and

determined that, while the club does provide a benefit to children and protected adults who participate, these are not one of its main purposes.

The sports club committee have made this decision based on a number of different factors such as SGB guidance, their club constitution, its set up and governance and the participant demographics.

While Ewan is in a position of responsibility and is involved in making decisions about the running of the club, he is not carrying out a regulated role because the club does not have benefits to either children or protected adults as one of its main purposes.

Case study 2 – sports organisations contributing views for others to make a strategic decision

A sports club sub-committee is developing their junior league competition programme and meets with club members to seek their views. Club members attend a meeting and provide the sub-committee with feedback on the events programme and training camps. The final decisions on these are then taken by the sub-committee.

As the sports club members are contributing views, rather than making an operational or strategic decision, they are not carrying out a regulated role.

The sub-committee members are carrying out a regulated role as they are in a position of responsibility, and are exercising power and influence through making decisions of an operational or strategic nature.

Case study 3 – committee member in a position of responsibility

Joyce is a committee member of a sports club. The club includes members who are under 18 years of age. One of the main purposes of the club is to provide benefits to children and protected adults.

Joyce is not involved in the day to day running of the club, but instead makes decisions about club policies and operational processes. Joyce is carrying out a regulated role as they are in a position of responsibility. They are exercising power and influence because they are making decisions of an operational and strategic nature.

Contact with Children or Protected Adults



Key points

Contact with children and protected adults means one or more of the following:

- physical contact
- visual, written or verbal communication
- exercising power or influence

Contact must be a necessary part of the role to be constitute a regulated role, when carrying out an activity.

Visual communication generally means communication via sign language or where the individual interacts with children or protected adults via digital means (for example, online teaching).

> **Accessing systems or data regarding children and/or protected adults is not considered to be contact with children and/or protected adults.**

Exercising power or influence over children or protected adults means:

- assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child, children or protected adult(s) (**note - this may also be for groups of children or protected adults. It is intended that the duties of the role contribute directly to the objective or outcome. Providing feedback for other bodies to consider in relation to**

the other body's own objectives and outcomes is not intended to constitute power and influence)

- making decisions of an operational or strategic nature that could have an impact on a number of children or protected adults (**note – sports organisations should consider whether the input on, for example, each committee or club member does include 'making decisions of an operational or strategic nature'. Providing feedback to others to inform a decision making process by someone else is not considered to be exercising power and influence)**

- persuading or putting pressure on a particular child/protected adult to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child, children or protected adult(s)

Case study 6 – regulated role due to exercising power and influence

John is a sports agent based in Scotland and particularly represents children in their future recruitment, training or employment with sports clubs. In that role, John possesses power or influence over the children over their future career prospects, even if contact with children occurs in the presence of a parent or other responsible person (for example, a teacher).

Therefore, John is carrying out a regulated role.

Incidental contact

Understanding whether contact is incidental helps determine if a role is a regulated role and therefore requires PVG scheme membership.

If contact with a child or protected adult is considered incidental, the activity will not be a regulated role.

When deciding if contact is incidental, consider who the service is designed for:

- is it aimed at the general public?
- or is it specifically intended for children and/or protected adults?

Contact is more likely to be incidental if the activity:

- is part of a service open to everyone.
- is advertised and accessible to the general public.
- appeals to a wide range of people, rather than specifically to children or protected adults.

Contact is more likely to be more than incidental if the activity:

- is part of a service specifically intended for children or protected adults.
- is promoted or designed to attract children or protected adults more than other groups.

For example, a sports event is advertised on a website for the general public may or may not appeal to some participants who are children or protected adults. Regardless of the level of actual participation of children and protected adults, the instructing of these groups in this situation is an incidental activity as the service is not particularly intended for children or protected adults.

If the sports event is targeted at, or more attractive to, children or protected adults, for 'vulnerable groups,' those carrying out activities as part of the event are carrying out a regulated role.

Other considerations

Studying or courses including sports coaching

Individuals who participate in any education such as a sports coaching course at college, university or through a training provider must be a PVG Scheme member prior to carrying out their regulated role. The regulated role will be when they are carrying out normal duties that include both an activity **and** more than incidental contact with children or protected adults.

For example, if a course includes coaching children in a targeted manner as part of a course offered by a college, university or other training provider, a PVG scheme disclosure is required. This will be carried out by the organisation who have responsibility for assessing the individual's suitability for the course. This will usually be the college, university or training provider.

Under 16s

Children aged under 16 years of age cannot generally become a member of the PVG scheme. Disclosure Scotland do not consider it to be generally appropriate for under 16s to be in the position of carrying out duties equivalent to a regulated role and having the level of responsibility for vulnerable groups that would support a legal requirement for PVG scheme membership.

Under 16's being generally unable to participate in the PVG scheme also protects them from unnecessary stigma related to disclosure for roles they may occupy when under the school leaving age. This is in line with arrangements in place in England, Wales and Northern Ireland, where organisations cannot carry out criminal records checks on anyone aged under 16.

Anyone under 16 can still carry out activities that would amount to a regulated role if they were aged 16 or over. However, the recruiting organisation should assess what activities may be suitable for the child under 16 to undertake and put in place

suitable safeguarding measures both for the child undertaking the role and any children or protected adults they were working with.

Moreover, organisations should carefully consider whether it is appropriate for under 16's to be carrying out activities that constitute carrying out a regulated role.

Where a child aged 15 years and 8 months (the minimum school leaving age in Scotland) or above is carrying out activities amounting to a regulated role and is anticipated to continue doing so beyond their 16th birthday, for example, someone starting a college placement before they turn 16, the individual can apply for PVG membership from 15 years and 8 months onwards. The PVG scheme disclosure is processed from the date of application and issued as normal.

Those individuals carrying out activities equivalent to a regulated role are only legally required to be PVG scheme members from their 16th birthday.

Applications for PVG membership for under 16's must be made via an offline application (email or paper). These cannot be applied for online.

Carrying out a regulated role for more than one organisation

If an individual carries out their regulated role for more than one organisation, they must apply for a PVG scheme disclosure for each organisation for whom they are carrying out their regulated role.

Exceptions to regulated roles

There are some exceptions which mean a role is not a regulated role. This means that, regardless of what activities the role involves, the individual carrying out those activities does not need PVG scheme membership. The exceptions are:

- if the activity is carried out in the course of a child's work (whether paid or unpaid work)

- if the activity is carried out in the course of the child or protected adult's family relationship

- if the activity is carried out for another in the course of a personal relationship but for no commercial consideration, to benefit the child or protected adult, their friend or a member of their family

These exceptions mean that where, for example, a sports coach is working alongside other staff or volunteers who are under 18, they are not carrying out a regulated role solely because they work alongside children who are also carrying out work.

These exceptions also mean that, where parents transport their own children to sports matches, they are not carrying out a regulated role. Similarly, where parents arrange between themselves to transport children to a sports match, with no payment involved, this is not carrying out a regulated role.

Self-employed individuals carrying out a regulated role

Some individuals who carry out regulated roles in the sports sector do so on a self-employed or freelance basis.

Where someone who is normally self employed or freelance, but are carrying out a a regulated role under contract for an organisation, the organisation engaging them must carry out a PVG scheme disclosure for the individual before they can begin their regulated role for the organisation.

Individuals carrying out a regulated role for private individuals, for example parents or guardians, or for an organisation, must be members of the PVG scheme for the group(s) they are working with, prior to carrying out the regulated role on any basis.

Self employed or freelance individuals who do not work for an organisation and are **only** carrying out their regulated role for private individuals should apply for PVG scheme membership by applying for a Confirmation of Scheme Membership on the Disclosure Scotland website.

Private individuals such as parents/guardians should ensure that the individual carrying out the regulated role is a member of the PVG scheme for children/protected adults. This means that the parent/guardian can be assured that the individual is not barred from working with children/protected adults.

Case study 7 - a self-employed individual carrying out a regulated role for an organisation

Paul is a self-employed sports coach. A sports club offer Paul a one-year role as club youth sport team coach.

Paul will continue to work in a Self-employed capacity with private clients while carrying out the role for the club.

Paul is already a member of the PVG scheme for children. The club must seek their own PVG scheme disclosure for Paul, as he is carrying out a regulated role for the club.

Case study 8 – a self employed individual carrying out a regulated role for a private individual

Michaela is a self-employed sports coach. Michaela is contracted by a sports club in a Regulated role for one year as the club's youth sports team coach.

Michaela is asked by one of the parents, John, to provide his son with additional coaching on a Sunday.

Michaela carries out this role separately from the club as a private arrangement between Michaela and John.

Michaela is already a member of the PVG scheme for children. John requests that Michaela provides him with evidence of his PVG scheme membership. Michaela applies for a Confirmation of scheme membership, and shares this with John. This provides John with evidence that Michaela is not barred from regulated roles with children, and that he is not under consideration for listing.

Remote working

Where a role is undertaken remotely, for example, online sports coaching, the main question in determining whether it is a regulated role will be where the **individual carrying out the role** is based.

For example, if the individual is based in Scotland and performing a role remotely that involves an activity mentioned in schedule 2 and/or schedule 3 of the PVG Act, and gives the individual the opportunity to have contact with children and protected adults (including physical contact, visual, written or verbal communication or exercising power or influence over them), that is more than incidental then the role will be a regulated role.

This is because the individual is carrying out the activity in Scotland, even if the children or protected adults themselves are based out with Scotland.

If the individual is based outside of Scotland (and is not someone normally resident in Scotland) and is remotely delivering a service to children and protected adults in Scotland, the service cannot be treated as a regulated role (even if the work involves an activity mentioned in schedule 2 and/or schedule 3 of the PVG Act and the individual has contact with the children and protected adults). This is because the individual is not carrying out the activity in Scotland.

If the individual is based elsewhere in the UK, Channel Islands or Isle of Man, appropriate checks can be obtained from the Disclosure and Barring Service or Access Northern Ireland.

Organisations can request that individuals provide criminal record checks from the individual's country of residence, if they are delivering remote services from outside of the UK, Channel Islands or the Isle of Man to children or protected adults in Scotland. There is more information on this process on the Home Office website.

Cross border issues

If an individual is carrying out a regulated role in Scotland as a necessary part of their role, they must be in the PVG scheme, even if they are already subject to a check by the Disclosure and Barring Service (DBS) for their role.

The PVG scheme is unique to Scotland and although some of the aspects of a DBS check are the same as that carried out for PVG scheme members, there are some differences. For example, the PVG scheme is supported by technology and legislation that allows the continuous monitoring of every PVG scheme member and for action to be taken to remove unsuitable parties from the workforce should concerning information be detected.

For sports organisations who provide their services both in Scotland and elsewhere in the UK, this means that individuals may require checks by DBS along with being legally required to be a PVG scheme member for the group(s) they are working with.

Regulated roles carried out abroad

Roles that are being carried out outside of the UK, Channel Islands and the Isle of Man, which would be a regulated role if they were carried out in Scotland, are treated as a regulated role if both:

- the individual is ordinarily resident in the UK (although they do not need to be a UK national)

- the role is being undertaken for an organisation or personnel supplier with a place of business in Scotland, provided that place of business is used by the organisation or personnel supplier as a principal place of business

Case study 9 – sports organisation employee/volunteer for a Scottish based organisation but working outside of the U.K.

Stewart is a sports coach who lives in Scotland and is volunteering for a Scottish based sports organisation (whose principal place of business is in Dundee). Stewart undertakes work abroad that includes providing sports coaching to children. Stewart needs to be a PVG scheme member for the period during which they are carrying out that work even though it does not take place in Scotland.

Free PVG scheme disclosures for Qualifying Voluntary Organisations (QVOs)

Some organisations, including many sports governing bodies and clubs, can access free PVG scheme disclosures for their volunteer regulated roles. The recruiting organisation must meet the Qualifying Voluntary Organisation (QVO) criteria. The QVO criteria means that:

- The organisation must be not for profit, such as a charity, and
- it must not be:
    - a school, college or university
    - a public or local authority
    - managed by a public or local authority

Volunteer Scotland Disclosure Services (VSDS) help the voluntary sector, including many sports governing bodies and clubs, process checks and understand the disclosure system. The service from VSDS is free of charge. Further details can be found on the Volunteer Scotland website.

Further reading

The full text and explanatory notes of the Disclosure (Scotland) Act 2020 can be found on legislation.gov.uk.

Further guidance is available from Disclosure Scotland and VSDS:

- Disclosure Scotland guidance
- VSDS guidance.

Both Disclosure Scotland and VSDS provide free training to organisations, including sports organisations. You can sign up training using the below links:

- Disclosure Scotland events
- VSDS training (available for organisations enrolled with VSDS only)

Children First also provide SGBs with support regarding wider child wellbeing and protection policy, training and advice. Further details can be found on the Children First website.