



Protection of Freedoms Act, 2012, Update 3

1. Introduction

The Protection of Freedoms Act 2012 received Royal Assent on 1st May 2012. It contains all of the new safeguarding and vetting requirements that will affect individuals in sport and recreation organisations who have contact with children and vulnerable adults.

2. PoFA changes – what’s in place?

- New terminology
- 16 years as the minimum age for Criminal Records Checks
- Disclosure and Barring Service (DBS), following the merger of the CRB and the Independent Safeguarding Authority in December 2012
- The duty to refer to the DBS anyone who is removed from regulated activity as they pose or may pose a risk of harm to a child or adult
- Requirement to not knowingly allow a barred person to work in regulated activity
- New definition of regulated activity and eligibility for the different levels and types of checks, including the concept of ‘supervision’
- More rigorous ‘relevancy’ test for when police release information held locally on an Enhanced check.
- DBS branded application forms came in to circulation via The FA Criminal Records Body (see right).
- 1st December 2012, branded certificates will be issued for all checks completed.
- 1st February 2013, DBS branded applications introduced



3. Coming from the DBS at some point in Spring/Summer 2013,

- Applicant only Disclosure
- DBS Update Service

4. Action The FA is taking for Affiliated football

Regulated Activity

The changes brought about by the new definition of Regulated Activity means that those people which The FA defines as being ‘in Regulated Activity’ are legally required to undertake a check i.e. they will be breaking the law if they do not undertake a check and continue to work (or volunteer) in Regulated Activity. There are other roles that are required by FA policy and Regulations to undertake a check. The FA Criminal Records Body monitors the checks for The FA to ensure that, if they are eligible, they are at the appropriate level.

Equality and Child Protection Department
Wembley Stadium
Wembley
London HA9 0WS

Postal address:
Wembley Stadium
PO Box 1966
London SW1 9EQ

Telephone
+44 (0)844 980 8200
Facsimile
+44 (0)844 980 8201



Regulated Activity relates to specific activities and time periods for unsupervised roles. In line with Government guidance, The FA is finalising which roles sit in which level of requirement and will communicate this via The FA's website.

Different workforces: Child / Adult / Child and Adult

When considering whether to release non-conviction information about an individual the police will apply the relevancy test to a workforce, rather than to a single position or role as they have previously. Applicants must therefore identify the workforces as 'child', 'adult' or child and adult. The 'adult' workforce is specifically aimed at adults at risk (previously defined as vulnerable adults)

Open age football

Mixed age activities, where there are young people participating in adult activities, if the number of young people is more than 50% of the total number, and the person coaching, refereeing etc does this frequently and is unsupervised, then this Regulated Activity. We are working with the Leagues and Clubs to look at how best to gather the age profile data on participants in open age teams in order to manage this.

Disclosure and Barring Service

The FA continues to liaise directly with the DBS, in line with our duty to inform them where decision are made to remove people from the workforce as they pose or may pose a risk of harm to children or vulnerable groups.

Applicant Only Disclosure

The FA has reviewed the best mechanisms to manage this change in procedure by the Government to adapt to the way in which we will receive Criminal Records certificates to undertake risk assessments. Once the check is complete, if The FA requires further information, we will contact the participant directly for this information. Our applicant guidance is being amended to detail this process. We anticipate that people will comply with our requests for further information, however, in order to ensure that safeguards are in place, The FA regulations enable suspensions for non-compliance to be put in place where necessary.

However as stated above, it is not yet clear from the DBS when this process will be introduced.

Quicker, cheaper and simpler processing of criminal records checks!

65 percent of people requiring criminal records checks in football are now using the online application process through TMG CRB. This service provides quicker, cheaper checks which are simple for clubs and organisations to administer. Feedback from users of the service has been extremely positive. We strongly recommend that applicants switch to the FA online Criminal Records Checks application system. For more about the online application system, e-mail FAchecks@TheFA.com



Update Service

The DBS Update Service is due to be available from Spring/Summer 2013. The FA Criminal Records Body is liaising closely with the DBS in relation to the proposed Update Service. At this stage, there are lots of unknowns from the DBS in relation to how specifically the service will work.

Once the full details are known The FA will seek to introduce it, however, existing Criminal Records checks will not be included in the new service. To make a criminal records check 'portable' you will be required to make a new application and subscribe to the new service via www.gov.uk.

Communication

The FA will provide a further updates and will amend the FAQs as required to guide affiliated football.

5. What should football be doing now?

- Continue to carry out Criminal Records checks for those that are eligible as normal.
- Note that The FA will guide participants as to who is eligible for which level of checks.
- Note that The FA will continue to refer individuals to DBS who we have removed from 'Regulated Activity' because they have harmed or pose the risk of harm to a child or a vulnerable person.
- Recognise the need to wait for further updates and information from the DBS on implementation dates for applicant only Disclosures and the Update Service. The FA will provide further updates once we have this information.
- Note that The FA will support CFAs, Leagues and Clubs to help them understand which individuals are legally required to be checked and what they need to do to be compliant with the law and FA regulations going forwards.

6. Actions Now

Clubs and Leagues should continue to roll out Criminal Records Checks in the usual way and take note of the information in the statement. We appreciate your support in reassuring your members that they will receive all the guidance necessary from The FA, in good time to ensure they are compliant with the relevant legislative and regulatory changes.

FA Equality and Child Protection Department
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