

Regulated Activity update

Important information for British Rowing clubs and events about Regulated Activity in relation to Children and Adults at Risk following the assent of the *Protection of Freedom Act*:

Under the new *Protection of Freedoms Act* (2010) it is a legal requirement for any organisation employing individuals, whether paid or unpaid, in a Regulated Activity to check those individuals against the Barred Lists. This can be done by applying through the DBS for a Barred List and Criminal Records Check.

Regulated Activity with Children and Defining of Supervision

The new definition of Regulated Activity with children combines the old definition that was focused on the type of activity and the frequency or intensity of the contact, with a further requirement that the individual conducting the activity must be unsupervised.

An individual is defined as being in Regulated Activity if the following requirements are met:

Activity that involves:

Teaching, training, instructing, caring for or supervising children;

OR

Providing guidance/advice on well-being;

OR

Driving a vehicle only for children

AND

Happens frequently (once a week or more often)

OR

Happens intensively (on 4 or more days in a 30-day period, or overnight)

AND

The individual carrying out the activity of teaching, training or instructing is unsupervised.

The impact of the new definition of Regulated Activity

The new definition of Regulated Activity has the largest impact on sport and recreation organisations. It is imperative that a club or organisation (i.e. a club or event or other sports organisation) understands the new definition so they can apply it appropriately as outlined in the table above and explained below.

Firstly, an organisation is required by law to refer an individual to DBS (formerly the ISA) if they remove them from Regulated Activity because they have caused harm or because they may cause harm to a child or an Adult at Risk. An organisation must understand what regulated activity is in order to know if they have removed an individual from it.

Secondly, an organisation can request criminal records checks on individuals in and out of Regulated Activity. However barred information will only be provided for individuals who are in Regulated Activity. An organisation must understand what Regulated Activity is in order to know if they can request barred information on an individual.

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How to understand and use the new definition of Regulated Activity

The old part of the definition is relatively straightforward to determine i.e. is an individual teaching, training or instructing children and do they meet the frequency or intensity requirements.

The tricky part of the new definition is in understanding if someone is unsupervised. The concept of supervision in the sports environment can be difficult to define. For example you may have a head coach and an assistant coach. In large part the work of the assistant coach is supervised by the head coach – however the assistant coach may also take a group of children off to a different area of the gym or river to work on specific skills. In this scenario the assistant coach may not be in sight or hearing of the head coach and it may therefore be unclear whether s/he is supervised or not.

- Individuals you define as supervised - Will be classed as **not** in Regulated Activity
You will be able to ask for a Criminal Records Check on them but will not be allowed to have a Barred Lists Check on them
- Individuals you define as unsupervised - Will be classed as in Regulated Activity
You will be able to ask for a Criminal Records Check on them and you will also be obliged to ask for a Barred Lists Check on them

We are currently awaiting sector specific guidance on this however clubs will need to ensure that they are very clear about who is and who isn't supervised in their organisation. It is important to remember that anyone supervising someone who would otherwise be in Regulated Activity is, by definition, in Regulated Activity himself or herself and must therefore be checked against the Barred Lists.

Regulated Activity with Adults at Risk (formerly Vulnerable Adults)

Adult at Risk means an individual aged 18 years or over 'who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation' (Dept of Health, 2000)

An Adult at Risk may therefore be a person who:

- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long-term illness/condition
- misuses substances or alcohol
- is a carer, such as a family member/friend, who provides personal assistance and care to adults and is subject to abuse
- is unable to demonstrate the capacity to make a decision and is in need of care and support.
- is elderly and frail due to ill health, physical disability or cognitive impairment

(This list is not exhaustive.)

Note: The Sport & Recreation Alliance are currently working on a new definition of Adults at Risk that is specific to the sports sector. We will update this section once this has been finalised.

The Government has introduced a new definition of Regulated Activity with Adults at Risk. In the past the definition of Regulated Activity with Adults at Risk has been focused on the location of the activity. The new definition focuses much more on the type of activity and contact an individual may have with an adult at risk. It also does not stipulate a frequency requirement like the definition of Regulated Activity with children. For Adults at Risk the activity alone means an individual is in Regulated Activity – there is no frequency requirement – once is enough.

Physical intervention

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The types of activity that fall into Regulated Activity with Adults at Risk are clearly set out and in the large part there are no activities that apply for sport and recreation organisations in the mainstream. This means that for the majority of sport and recreation organisations there will be no legal requirements in terms of safeguarding adults at risk because there are no individuals deemed to be in Regulated Activity. However, best practice states that sport and recreation organisations should be conducting CRB checks (even if they are not entitled to Barred Lists Checks) on all individuals who have an opportunity to build up a relationship of trust with Adults at Risk and this is consistent with British Rowing 's current Safeguarding and Protecting Vulnerable Adults Policy.

An individual is only defined as being in Regulated Activity with Adults at Risk if one of the following conditions is met:

1. Providing Healthcare (health care by a healthcare professional – only first aid if it is administered by an individual on behalf of an organisation whose purpose is to provide first aid). There is potential under this activity for sports physiotherapists to be classed as in regulated activity – however this is unlikely. As soon as sector specific guidance is available we will let you know.
2. Providing Personal Care (physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of the adult's age, illness or disability)
3. Providing social work
4. Assistance with general household matters (managing the person's cash, paying the person's bills, or shopping on their behalf)
5. Assistance in the conduct of a person's own affairs (power of attorney)
6. Conveying (any form of transport)

It is important to note that personal relationships are exempt from Regulated Activity in relation to Adults at Risk.