

January 2014



## **Equality and Unification**

Please see below for the official position of Bowls Scotland regarding equitable terms for members of bowling clubs. We are happy for you to share this statement with your members who may have queries or concerns over any proposed changes to your constitution and membership terms to comply with the Equality Act 2010.

The information contained in this letter is the advice and opinion of Bowls Scotland based on our experience of working with our member clubs and the Equality and Human Rights Commission to promote compliance of the Equality Act 2010 within our sport. It is the club's responsibility to take professional legal advice if they have any concerns about their compliance with the Equality Act 2010.

### **Equality Act 2010**

The Equality Act 2010 provided a new cross-cutting legislative framework to protect the rights of individuals and to advance equality of opportunity for all, to update, simplify and strengthen the previous legislation and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The Equality Act 2010 is the law which bans unfair treatment and helps achieve equal opportunities in the workplace and in wider society.

### **Implications for your club**

Clubs should note that the Equality Act 2010 is UK legislation and applies to all private member clubs. The Equality Act affects all your activities including how you behave towards members, prospective members, associate members and guests.

It is the responsibility of all clubs to ensure that they are complying with the Equality Act 2010. This includes ensuring that all categories of membership within the club are available to both men and women and at the same cost. Clubs cannot offer membership terms, benefits and services that are directly or indirectly discriminatory. It is not acceptable to have one type of membership for men and a different type of membership that has restrictions or costs less for women, or vice versa.

### **Committee Structure**

Although it is not unlawful to have a committee made up of only males or females, it is advisable to encourage varied composition within a single structure of committee. Clubs must ensure that the process of election to a position within the Management Committee or Board and voting rights do not discriminate on the basis of one of the protected characteristics\*. That is, the opportunity to be elected onto the committee must be equally available to both men and women.

### **Potential implications of non-compliance**

Bearing in mind the increasingly litigious society in which we live, clubs could be taken to court by members, prospective members, guests, employees, prospective employees or even members of the public who use services in the club if they believe that they are being discriminated against.

If you are an association, then any claim against you that someone has been discriminated against (including that there has been a failure to make reasonable adjustments), harassed, or victimised on the basis of a protected characteristic\* will be brought against you in the Sheriff Court in Scotland.

If you lose your case in court then you can be issued with "a remedy". The Sheriff Court hearing discrimination claims can issue any remedy that the Court of Session in Scotland can grant for a civil wrong or in a claim for judicial review.

The main remedies available are:

- Damages (including compensation for injuries to feelings).
- An interdict – an order made by the court to stop a person or organisation from acting in an unlawful way.
- A declarator – a form of action in the Scottish Court of Session by which some right of property, or status, etc, is sought to be judicially declared, leaving the legal consequences of the fact to follow as a matter of course.

The court can also order you to pay the legal costs and expenses of the person bringing the claim. You would have to pay these on top of your own legal costs and expenses.

In 2013 two of our member clubs were challenged by the Equality and Human Rights Commission, presented with legal action and taken to court because they refused to change their practices to comply with the Act. One of these cases remains ongoing, while the other was settled out of court, incurring huge legal fees for the clubs in question.

If you believe your club does not currently comply with this legislation we would urge you to take immediate steps to rectify this situation to avoid such similar action.

### **Bowls Scotland's Policy Statement**

Bowls Scotland endorses the principle of sports equality and will strive to ensure that everyone who wishes to be involved within bowls in Scotland, whether as a player, volunteer, official, coach or office-bearer in a club:

- has a genuine and equal opportunity to participate to the full extent of their own ambitions and abilities, without regard to their age, gender, gender reassignment, disability, marriage and civil partnership, pregnancy and maternity, race, religion or belief, or sexual orientation\*; and
- can be assured of an environment in which their rights, dignity and individual worth are respected, and in particular that they are able to enjoy their sport without the threat of intimidation, victimisation, harassment or abuse.

Bowls Scotland would like to draw our member clubs' attention to our Equality and Diversity Policy which states:

*"It will be a condition of Bowls Scotland membership that member clubs: take steps to ensure that their Committees, members and volunteers behave in accordance with the policy..."*

We would also like to draw your attention to the Complaints and Compliance section of our Equality and Diversity Policy.

*"In the event that an individual or organisation associated with Bowls Scotland is subject to allegations of unlawful discrimination in a court or tribunal, the Bowls Scotland Board will co-operate fully with any investigation carried out by the relevant lawful authorities and, subject to the outcome, may consider taking action in relation to the matter concerned. The Board may impose sanctions on that individual or organisation in line with Bowls Scotland Policy. In deciding what sanction is appropriate in a particular case the Board will consider the severity of the matter and take account of any mitigating circumstances."*

All clubs should have an Equality Policy, or at the very least an Equality Statement, within their own constitution. There is a template Equality Policy on the Bowls Scotland website for clubs to download and adopt for their club.

### **Funding**

Please note that if a club makes a funding application to organisations such as **sportscotland**, local authorities, local sports councils or the Big Lottery Fund in order to increase memberships, develop their facilities or engage with the local community, they will be asked to provide evidence that the club is an equitable organisation. Failure to provide such evidence will result in a refusal of funding by the funding body. This is also a stance that has been taken by Local Councils who are now

seeking evidence of equality within clubs, with the threat of a withdrawal of rates relief if this cannot be provided. Any clubs considering funding bids will therefore benefit from adapting their policies and procedures to fall in line with the Act.

### **Conclusion**

- The Equality Act 2010 has simplified legislation by bringing together various Acts which were in place.
- Failure to comply with the Act may result in legal action being taken against your club.
- Nearly all funders will seek assurances about the clubs commitment to equality before agreeing to invest in your proposal.

This is a great opportunity for bowling clubs to review their current policies and practices and ensure they are providing equality for not only their current members, but also prospective members and guests.

There will be numerous clubs in Scotland who need to review their membership options to ensure they are complying with the law. This is also an opportunity to promote their clubs and membership packages within the local community and potentially attract new members.

We trust that this clarifies the position, but please do not hesitate to contact your local Development Officer/Manager should you have any further queries.

### **On behalf of Bowls Scotland.**

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