

**THE ENGLAND AND WALES CRICKET BOARD CHILD
SAFEGUARDING COMPLAINTS AND DISCIPLINARY PROCEDURE**

INTRODUCTION

The ECB is committed to ensuring that all Children (1)¹ who participate in Cricket have a safe and positive experience.

This document which is supplementary to 'Safe Hands - Cricket's Policy for Safeguarding Children' sets out the procedures to be followed by the ECB in relation to any concerns regarding child safeguarding.

The procedures are intended to provide a comprehensive, fair and equitable process for the purpose of any enquiry into any concerns or complaints received and will apply to all individuals working or participating within Cricket whether in a paid or voluntary capacity².

So far as is practicable, confidentiality will be maintained at all times in respect of all those involved in any enquiry or investigation unless there is an overriding obligation in the interests of the safety or protection of children for such information to be shared with other interested parties³. Any such information shared shall be on a need to know basis only.

All matters relating to poor practice, emotional, physical, sexual abuse or neglect must be reported to the County/Club/League Welfare Officers and as soon as reasonably practicable and thereafter to the ECB Child Safeguarding Adviser (CSA) or his/her nominated deputy.

In the exercise of its duty to safeguard children, the ECB will normally place the details (name, date of birth and address) of any individual who is temporarily suspended or permanently disqualified onto the ECB County Board Management System (CBMS). This is to make it available to Cricket Development Managers and Officers as well as County Welfare Officers for the purposes of enforcement and crime prevention.

The ECB shall not be liable to any suspended or disqualified individual, club or organisation for any loss, howsoever caused, whether direct, indirect, economic or consequential (including without limitation loss of profits, savings or opportunity) arising out of or in connection with such suspension and/or disqualification or under the ECB Complaints and Disciplinary Procedure.

¹ Reference to child/children refers to those aged under 18 years.

² The ECB will have jurisdiction to hear complaints in respect of: any ECB employees; any professional Cricketer or other person within Cricket who has agreed or is deemed to have agreed to comply with the ECB regulations or policies; and any person within Cricket who has agreed or is deemed to have agreed to comply with his/her County Board, League or Club policies (including the ECB's regulations and policies).

³ Information will be shared with the ECB Child Safeguarding Adviser and County/Club Welfare Officers as a matter of course. Any decision to temporarily suspend or permanently disqualify any individual will be communicated to all relevant Counties in order to enforce the suspension and/or disqualification. The identity of children will be protected where possible.

SECTION ONE – KEY PRINCIPLES

1. As part of the ECB's on-going commitment to Child Safeguarding it is a requirement of any 'Relevant Person'⁴ involved or participating in Cricket to complete a Vetting Check, (which is currently for those in Regulated Activity an Enhanced with Lists Check from the Disclosure and Barring Service (DBS) and for those not in Regulated Activity an Enhanced Check from DBS for all residents of England and Wales).
2. The ECB requires that all ECB Affiliated⁵ Clubs and Leagues adopt and implement the ECB "*Safe Hands – Cricket's Policy to Safeguard Children*" as amended from time to time.
3. All ECB Affiliated Clubs must nominate a Club Welfare Officer to advise and ensure that Child Safeguarding practice is adhered to.
4. Concerns in relation to child safeguarding may include:
 - (a) concerns surrounding poor practice, bullying, grooming, harassment or emotional abuse, or where there is Social Services and/or Police involvement. Where Social Services or the Police are not already involved and the concerns or matters raised are such are deemed to warrant their involvement, the ECB will notify them of the matters which have been brought to their attention. The Club/County Welfare Officer or the ECB Child Safeguarding Adviser (whichever is applicable) should immediately be informed with regard to the concerns raised.
 - (b) concerns involving physical abuse, sexual abuse or neglect. This category will also include any matters which are the subject of civil or criminal investigation or proceedings and for the avoidance of doubt, any matters which are the subject of Children's Social Care or Police investigation even where such investigation remains to be completed. The matter should immediately be referred to the Club/County Welfare Officer who in turn should notify the ECB Child Safeguarding Adviser or his/her nominated deputy. In an emergency the Police or Children's Social Care should be contacted directly and the Club/County Welfare Officer or ECB Child Safeguarding Adviser informed of the contact as soon as reasonably practicable thereafter.

⁴ 'Relevant Person' is any person involved in Cricket who has or is deemed to have any appropriate responsibility in relation to children in cricket.

⁵ Affiliated refers to any Club or League associated through membership whether directly or indirectly to the ECB.

SECTION TWO - INITIAL ACTION

1. Upon the receipt of any concerns or complaints an investigation into the incident/disclosure may be necessary. This may take the form of a criminal investigation carried out by Police and/or Children's Social Care and/or an independent investigation by the ECB. If an ECB investigation reveals a potential or actual breach of law then the ECB investigation will cease and a referral will be made to Police and/or Children's Social Care.
2. In respect of any child safeguarding matter which is notified to the ECB the ECB may, in order to ensure the welfare and safety of children within cricket, impose a temporary suspension upon an individual in respect of whom the concerns have been raised, pending the outcome of further enquiries and/or investigation. A decision to suspend will be authorised by the Chair of the ECB Referral Management Group (RMG) or his/her nominated deputy. Suspension is a neutral act and should not be viewed as a sanction or penalty. A decision to suspend is not open to appeal.

Where a temporary suspension is imposed this will be a suspension from participation in any and all cricketing activities which will include but are not limited to the following activities: coaching, umpiring, scoring, chairmanship, presidency, managing teams, captaining, playing, secretarial functions, treasurer, patron, first aiding, grounds man, administrative duties, child welfare officer, general volunteering, spectating and any other activity relating to cricket where there is likely to be contact with children.

If any individual is temporarily suspended and during the course of the suspension the ECB is informed that a breach or abuse of the suspension has taken place, the individual will be issued with a written warning requiring immediate compliance with the terms of his suspension. The failure to adhere to the terms of the written warning will be brought to the attention of the RMG and may in itself result in a permanent disqualification from any and all cricketing activities.

3. The investigative process may include any of the following actions:
 - 3.1 The individual concerned may be temporarily suspended from any and all cricketing activities under the auspices of the ECB pending the outcome of any investigation where such a suspension is deemed by the ECB to be warranted or necessary to ensure the welfare and safety of the child involved and/or other children who come or may come into contact with the individual in question.
 - 3.2 Any ECB membership and/or associated benefits may be temporarily suspended, including and not limited to, the ECB Coaches Association and the ECB Association of Cricket Officials.
 - 3.3 A vetting check may be required of the individual.
 - 3.4 The matter may be referred to the Referral Management Group (RMG) for consideration. (See Section 4)
 - 3.5 The concerns may be referred to the Police and/or Children's Social Care for consideration as to whether a criminal/civil investigation into the allegation will be actioned. In addition the ECB reserves the right to proceed with its own investigation, concurrently with any criminal or civil investigation.

SECTION THREE - CHILD SAFEGUARDING INVESTIGATIONS

1. The ECB shall advise in writing to notify the individual of the intention to investigate, the nature of the investigation and the reasons for this. If a temporary suspension has been imposed by the ECB in the interests of child safety the individual will also be informed of this. (Note: only if notification would not jeopardise any Police and/or Children's Social Care investigation or place any child at risk).
2. The ECB Child Safeguarding Adviser will carry out any investigation. The ECB reserves the right to appoint an independent child protection consultant to conduct or assist in the conduct of any investigation.
3. Any investigation will be conducted as promptly as possible. The individual concerned should however be aware that the length of the investigation will be dictated by a number of factors, including, the number and availability of persons to be interviewed or contacted, the involvement of statutory agencies and the individual's co-operation. In the circumstances, the investigation process may be lengthy and potentially suspension may span a number of months.
4. During the investigation process periodic updates, at no more than 6 week intervals will be provided by the ECB Child Safeguarding Adviser and the Independent Investigator (as appropriate).
5. The individual being investigated shall not approach, intimidate or influence any witness involved in the investigation.
6. The individual concerned may be interviewed during the course of the investigation.
7. Upon conclusion of the investigation the Child Safeguarding Advisor will present relevant case papers to the RMG and a decision will be made by the RMG in accordance with Section 4.

SECTION FOUR - REFERRAL MANAGEMENT GROUP (RMG)

1. Upon receipt of the case papers, the ECB Safeguarding Manager will convene a meeting of the RMG to consider the case. The individual will be offered an opportunity to make written representations to the RMG in the form of the ECB's Submissions Form. The RMG's function is to consider whether an individual poses a real and potential or actual risk to children within cricket – it is not for the RMG to prove beyond reasonable doubt that a person is a risk, but to assess if on the balance of probabilities, the individual may pose a risk towards children. A further function of the RMG is to impose relevant sanctions where appropriate which serve to either eliminate the risk to children or bring it within manageable levels. Appointment to, membership of, and removal from the RMG is governed by the procedures in Appendix One.
2. The ECB Child Safeguarding Adviser will ensure that the RMG is presented with the information gathered during the investigation and/or enquiry together with any written submissions from the individual.
3. The individual will be provided with a copy of the case papers and any other information which is to be put before the RMG unless to do so, in the view of the Safeguarding Manager, would be prejudicial to the welfare and safety of the child involved or other children who come or may come into contact with the individual in question. The individual will be given the opportunity to comment in writing on matters of fact and accuracy. Written submissions should be received no later than 7 days prior to the RMG meeting.
4. In its decision making, the RMG will consider the following factors:-
 - (a) Whether the conviction or other matters revealed is / are relevant to the position in question;
 - (b) The seriousness of any offence or other matter revealed;
 - (c) The length of time since the offence or other matter occurred;
 - (d) Whether the individual has a pattern of offending behaviour or other relevant matters;
 - (e) Whether the individual's circumstances have changed since the offending behaviour or the other relevant matters;
 - (f) The circumstances surrounding the offence and the explanations offered by the individual concerned.

This list is not intended to be exhaustive.

5. Where the RMG believes that the individual poses a potential or actual risk of harm to children in Cricket then the RMG may reach any one or more or combination of the following decisions:
 - 5.1 No further action is to be taken;
 - 5.2 A more detailed investigation is required to be carried out;
 - 5.3 A referral is to be made to Police and/or Children's Social Care;
 - 5.4 A risk assessment is to be carried out on the individual concerned, at their own expense, by a suitably qualified person. In this instance the RMG will consider if a temporary suspension is appropriate pending the outcome of any

such investigation or may extend any existing suspension until the risk assessment is carried out. A time limit for compliance with any risk assessment should be agreed by the RMG;

- 5.5 Disqualification from participation in cricketing activities in part or in whole either indefinitely or for a specific period of time. If the disqualification is for a specific period of time the individual will be subject to a review by the RMG at the end of the period of disqualification;
 - 5.6 Permanently disqualify the individual from all or any cricketing activities where the individual's name is placed on the Children's List by the Disclosure and Barring Service;
 - 5.7 Provide a written conditional warning outlining the areas of concern or improvements required;
 - 5.8 Require the individual to undergo further training (e.g. a refresher coaching course - sports coach UK/ECB Safeguarding and Protecting Children Course);
 - 5.9 Require the individual to be supervised and/or work with a mentor permanently or for a period agreed by the RMG;
 - 5.10 Suspend or revoke the individual's membership of organisations within cricket, such as but not limited to the ECB Coaches Association or the ECB Association of Cricket Officials either indefinitely or for a specific period of time;
 - 5.11 Refer the individual to the ECB Discipline Committee or ECB Employees' Disciplinary Procedure;
 - 5.12 Extend the period of any temporary suspension until such time as the individual concerned has complied with any training, supervision or mentoring that he is required to undergo;
 - 5.13 Require the individual concerned to undergo or complete a probationary period;
 - 5.14 Refer the individual to the Disclosure and Barring Service;
 - 5.15 Reach any other decision which the RMG feel is appropriate having regard to the circumstances of the case.
6. Upon the conclusion of the RMG meeting the agreed decision of the RMG (with supporting reasons) will be communicated in writing within seven (7) days to the individual and their County Welfare Officer. The individual will also be advised of their right of appeal against any decision made and the time limits for doing so, namely within fourteen (14) days from the date of notification of the RMG decision.
 7. If the individual fails to comply with decisions of the RMG further action may be instigated.
 8. All Cricket Clubs and/or relevant League(s) affiliated to the ECB shall comply with the terms of any decisions reached by the RMG and/or ECB. If any Club and/or League fails to implement or comply with any of the requirements imposed by the RMG the

ECB reserves the right to take appropriate action. This may include without limitation, suspension or removal of that Club and/or Leagues affiliated to the ECB and/or Clubmark status and any other financial benefits and/or incentives provided therein.

9. The decision of the RMG shall be communicated to the appropriate County/League/Club Welfare Officer for the purpose of enforcement.
10. The ECB reserves the right to notify Child Safeguarding Lead Officers in other sporting organisations of the RMG's decision.

SECTION FIVE - APPEALS AND APPEAL HEARINGS

1. All individuals have a right to appeal the decision of the RMG by giving written notice with reasons to the Chief Executive of the ECB within fourteen (14) days of receiving notification of the RMG decision.
2. All Appeal hearings will follow the procedures set out in Appendix Two to these Rules.

APPENDIX ONE - REFERRAL MANAGEMENT GROUP

1. The Chief Executive of the ECB shall appoint the members of the RMG. The Chief Executive shall only appoint an individual if he considers that the appointee is suitably qualified and experienced.
2. The RMG will operate independently of the ECB Board. However individual members of the RMG may be members of the ECB Senior Executive or members of the ECB Board.
3. A quorum of persons for decision-making purposes pursuant to these Rules is three. Attendance may be via telephone conference. Where necessary, the Chairman of the RMG shall have a casting vote in decision making.
4. The ECB Chief Executive may appoint an alternate member of the RMG who may be a member of the ECB Senior Executive or the ECB Board, including himself, who will act as a temporary member for the purposes of a meeting, if insufficient members are unable to attend a meeting for quorum purposes but a case needs to be considered for the purposes of child safeguarding.
5. A member of the RMG may resign having given written notice to the ECB Chief Executive. This will have immediate effect.
6. The Chief Executive may give written notice to a member of the RMG removing them with immediate effect. A member shall be removed from the RMG if they have been found to have committed a Child Safeguarding offence.

APPENDIX TWO - RULES FOR THE ECB APPEALS PANEL UNDER THE ECB CHILD SAFEGUARDING COMPLAINTS AND DISCIPLINARY PROCEDURE

The following Rules (“the Rules”) shall govern the procedure for the hearing of any appeal under the ECB’s Child Safeguarding Complaints and Disciplinary Procedure.

1. The Tribunal and Jurisdiction

- 1.1 Any dispute submitted to the ECB Appeals Panel shall be decided by a Panel (“the Panel”) consisting of not less than three individuals (“the Panel Members”) who shall be drawn from members of the ECB’s Standing Appeals Panel for Child Safeguarding or elsewhere. The ECB’s Standing Appeals Panel for Child Safeguarding consists of at least four independent suitably qualified individuals who are appointed by the ECB Chief Executive to hear such Appeals. Each Panel shall choose its own Chairman and shall decide its own rules and procedures as appropriate in accordance with the principles of natural justice. None of the Panel Members shall be from or connected with the County Board or Membership Body of the Appellant (applicable as appropriate).
- 1.2 The Panel may decide by majority on its own jurisdiction and in the event of an appeal being decided by majority in favour of the Appellant, the Panel shall restore eligibility at such time and subject to such conditions and/or impose such penalty as it considers appropriate.
- 1.3 The Appeal shall be conducted in accordance with the principles of natural justice and be subject to these Rules and governed by English Law.

2. Request for Appeal

- 2.1 If any party wishes to instigate an appeal pursuant to this procedure, that party (“the Appellant”) must submit to the Chief Executive of the ECB written notification (“the Appeal”) containing the following details:
 - (a) the name and address of the Appellant (and of any representative); and
 - (b) Confirmation of the grounds for the appeal being one or more of the following:
 - (i) Information was ignored or not considered by the RMG. The process was tainted by reasonable bias or conflict of interest; or
 - (ii) Provisions of the procedure were not adhered to in a material fashion; or
 - (iii) The findings of the RMG were irrational or otherwise exhibited in error of general law.
- 2.2 The notice of appeal must be submitted within fourteen (14) days of receipt of notification of the original RMG decision.
- 2.3 Within three (3) days from receipt of the notice of Appeal the ECB will acknowledge receipt and invite the Appellant to submit availability details for an Appeal hearing.

- 2.4 The Appellant will be advised of the identity of the Appeal Panel Members. If any party wishes to object to the appointment of a Panel member that party shall, as soon as reasonably practicable submit in writing to the ECB the basis of that objection. Unless the applicable Panel Member withdraws or the other party supports the objection the Chairman of the Panel (unless the Chairman is the subject of the objection in which case the ECB, acting through its Chief Executive, shall decide), shall determine the matter and shall if necessary request that a replacement Panel Member be appointed from the ECB's Standing Appeals Panel for Child Safeguarding or elsewhere.
- 2.5 If any Panel Member, after appointment to the Panel dies, refuses, or in the opinion of the Chairman becomes unable or unfit to act, the Chairman shall request the ECB's Ethics and Compliance Manager to appoint an alternative Panel Member.

3. Communications

- 3.1 The parties shall communicate through the ECB offices at Lord's. Copies of all relevant correspondence and documents will be provided to the Panel Members and the other party in advance of the Appeal hearing.
- 3.2 All communications shall be delivered or sent by first class post, fax or email to the parties at the addresses notified to the ECB.

4. Conduct of the Proceedings

- 4.1 Unless otherwise agreed between the parties or as determined by the Panel the parties shall make written submissions to the Panel as follows:
- (a) the Appellant shall, within fourteen (14) days of receipt of notification from the Head of Ethics and Compliance of the appointment of the Panel, send a statement of claim ("the Statement of Claim") to the ECB Head of Ethics and Compliance setting out in as full detail as possible, any facts, law or rules upon which the Appellant wishes to rely, and the relief he claims;
 - (b) the ECB may, within fourteen (14) days of receipt of the Statement of Claim submit a response ("the Response") stating in as full detail as possible its response to the Statement of Claim and of any facts, law or rules upon which it seeks to rely. The Response will be sent to the Appellant by the ECB Head of Ethics and Compliance; and
 - (c) within seven (7) days of receipt of any Response, the Applicant may file with the ECB a reply to the Response ("the Reply").
- 4.2 The time limits set out in Rule 4.1 may be extended or reduced by agreement between the parties. In the absence of agreement, the Panel may on application from either party direct that the time limits set out herein may be varied.
- 4.3 Each party must submit at the same time as submission of the Statement of Claim, Response or Reply, copies of all documents upon which the party

concerned relies (unless the document has been previously submitted and included in the original case papers).

- 4.4 The Panel may proceed with the Appeal hearing and reach a decision even in the absence of a Response or a Reply having been prepared.
- 4.5 The ECB Head of Ethics and Compliance shall fix the date, time and place of the Appeal hearing and shall give the parties as much notice as reasonably practicable. Appeal hearings shall be in private unless the parties agree otherwise. The minimum notice of such a hearing will be twenty one (21) days unless there is express agreement between the parties to reduce this notification time period.
- 4.6 Any written submissions must be with the Panel Members at least seven (7) days before the hearing, unless there is express agreement between the parties and the panel to reduce this period.

5. Hearings

- 5.1 The Panel shall conduct the Appeal hearing in such manner as it considers fit and as necessary in order to meet the principles of natural justice.
- 5.2 The Appellant is entitled to be accompanied at the hearing by a friend, colleague or family member. There is no right to legal representation but the Panel would ordinarily permit the individual concerned to be legally represented. The ECB must be notified of any intention to have legal representation present no later than seven (7) days prior to the hearing. The availability of a legal representative will not generally be accepted as a reason to delay or postpone a hearing.
- 5.3 The appeal will be heard de novo.
- 5.4 The Panel may question a witness at any stage and shall control the questioning of a witness by the parties.
- 5.5 The Panel may, provided it shall have notified the parties in advance, appoint one or more experts to report to the Panel on specific issues and may require a party to provide such expert with any relevant information or to produce, or to provide access to, any relevant documents, goods or property for inspection by the expert.
- 5.6 The Panel may require an expert witness to give evidence either in advance of a hearing in the form of a written report and/or at the hearing in the form of oral evidence, and may also require an expert witness to attend the hearing so that the Panel and the parties may put questions to him or her. The parties may appoint their own expert witnesses in relation to the points in issue.

6. Decisions and Awards

- 6.1 The Panel shall decide on any issue by a majority and if the Panel fails to reach a majority decision on any issue, the Chairman of the Panel shall have a casting vote. The decision of the Panel shall be final and binding on the parties.

- 6.2 The Panel may confirm any decision made by the RMG or vary it, or reverse it or increase it or reach any such other decision as it feels is appropriate in all the circumstances.
- 6.3 The ECB Ethics and Compliance Manager will confirm the decision and/or award of the Panel in writing within seven (7) days of any hearing (or in the event of there being no hearing, within fourteen (14) days of receipt of all pleadings) and the Panel will at the same time provide the parties with a copy of the written decision.
- 6.4 The decision of the Appeal Panel will be communicated to the appropriate County League/Club Welfare Officer for the purpose of enforcement.

7. Costs

Each party will bear its own costs associated with the Appeal including the cost of attendance at any hearing.

8. General Rules

If a party proceeds with an Appeal notwithstanding the fact that a provision of, or requirement under, these Rules has not been complied with without promptly stating its objection that party shall have waived its right to object.

APPENDIX THREE - RULES FOR THE NEW APPLICANT ONLY DISCLOSURE PROCESS

1. In accordance with the ECB's ongoing commitment to Child Safeguarding, all appointments to paid and voluntary roles, requiring DBS Enhanced Disclosures must be expressed to be conditional upon the individual complying with the ECB vetting requirements and receipt of satisfactory DBS clearance.
2. Individuals must be checked against the barred list prior to commencing roles in Regulated Activity.
3. The ECB Safeguarding Team will require individuals to provide their DBS Enhanced Disclosure in all cases (whether it shall or shall not have content upon it) as follows:-
 - 3.1 on establishing that an Enhanced Disclosure has been issued, the ECB Safeguarding Team shall write to the individual, requesting that he/she send the original DBS Enhanced Disclosure to the ECB Safeguarding Team within 21 days of the written request. The ECB Safeguarding Team has the discretion to vary the timing of this requirement as it sees fit if the individual advises that he/she is pursuing the DBS dispute process;
 - 3.2 pending receipt of the DBS Enhanced Disclosure, the individual shall not be permitted to undertake a role in Regulated Activity;
 - 3.3 if the individual fails to send the DBS Enhanced Disclosure within the requisite 21 days the ECB Safeguarding Team shall write to the individual requesting that he/she provide the DBS Enhanced Disclosure within a further period of 7 days and advising that should he/she fail to do, he/she shall be temporarily suspended from any and all activity under the auspices of the ECB;
 - 3.4 if the DBS Enhanced Disclosure is received within the requisite period and is clear, the ECB Safeguarding Team shall notify the individual in writing as soon as reasonably practicable confirming that the individual may commence a role in Regulated Activity and shall update the County records accordingly;
 - 3.5 if the DBS Enhanced Disclosure is received within the requisite period and is not clear, the ECB Safeguarding Team shall proceed to consider and assess the facts of the particular case in accordance with the remaining terms of this procedure.
4. A temporary suspension may be imposed in the event that an individual shall fail to comply with any aspect of the ECB's vetting procedures.