

ENGLAND AND WALES CRICKET BOARD – SAFEGUARDING PROCEDURE

1. Definitions and Introduction

1.1. For the purposes of this Procedure, capitalised terms shall have the following meaning:

- i. **Adult at Risk** means a person aged 18 or over who is in receipt of or in need of community care services by reason of mental health issues, learning or physical disability, sensory impairment, age or illness, and who is or may be unable to take care of themselves or unable to protect themselves against significant harm or serious exploitation;
- ii. **Body** means any cricket associations or other cricket body (other than a Club or League) affiliated to, or officially recognised by, the ECB, any First Class County Club or any County Cricket Board;
- iii. **Case Officer** means the nominated member of the ECB Safeguarding Team in respect of a particular case;
- iv. **CDC Regulations** means the Cricket Discipline Commission Regulations, as amended from time to time;
- v. **Child** means anyone who has not yet reached their 18th birthday and the term “**Children**” is to be construed accordingly;
- vi. **Club** means any First Class County Club, the Marylebone Cricket Club, the National Counties Cricket Association, any member of the National Counties Cricket Association and any other team or club which is affiliated to the ECB, a County Cricket Board or a League;
- vii. **County Cricket Board** means a body designated as such which is responsible for the organisation of recreational cricketing activity and the development of Cricket generally within a county and such other areas (if any) as may be agreed by the ECB Board;
- viii. **Cricketer** means any cricketer who plays (or has applied or taken steps to play) for any Club;
- ix. **ECB** means the England and Wales Cricket Board Limited, a company incorporated in England and Wales with company number 3251364;
- x. **ECB Board** means the board of directors of the ECB;
- xi. **ECB Safeguarding Team** means the safeguarding department of the ECB;
- xii. **First Class County Club** means the counties listed in Schedule A of the ECB’s Articles of Association, as amended from time to time;

- xiii. **League** means any cricket league affiliated to, or officially recognised by, the ECB, any First Class County Club or County Cricket Board;
- xiv. **Offence** means any one or more of the offences contained in the Schedules of the Criminal Justice and Court Services Act 2000 and any other criminal offence which reasonably causes the ECB to believe that the person accused of the offence poses or may pose a risk of harm to a Child or Children and/or Adults at Risk;
- xv. **Participant** means each Cricketer, director, officer, employee, contractor, committee member or other member of the ECB or any Club, Body or League, registered agent, match official, coach, trainer, manager, doctor or other member of any Club's medical or support staff and any other person who has agreed in writing to be bound by this Procedure (whether that person is acting in a voluntary or paid capacity);
- xvi. **Private Information Panel** has the meaning given to it in paragraph 7.1;
- xvii. **Regulated Activity** means the statutory definition of the term in the Safeguarding Vulnerable Groups Act 2006 (as amended from time to time). An individual will fall within the definition where:
 - a. their duties include teaching, training, instructing, caring for, supervising or providing guidance or advice on well-being to a Child or Children or driving a vehicle (on behalf of an organisation) only for children;
 - b. such duties happen frequently (e.g. once a week or more often) or intensively (e.g. on 4 or more days on a 30-day period, or overnight); and
 - c. the individual carrying out any of the duties in (a) or (b) above is unsupervised¹;
- xviii. **Safeguarding Appeal Panel** means an appeal panel appointed by the ECB Board to consider appeals against any decision made by the Safeguarding Panel under this Procedure pursuant to the appeals procedure detailed in section 8;
- xix. **Safeguarding Panel** means the independent safeguarding panel appointed by the ECB Board to consider safeguarding cases and make decisions in accordance with this Procedure;
- xx. **Safeguarding Panel Chair** means the chair(s) of the Safeguarding Panel, as appointed by the ECB from time to time, or their nominee;
- xxi. **Safeguarding Partners** means any organisation named in s.11 of the Children Act 2004 or Part 2 of Working Together;

¹ The following non-exhaustive list of cricket-related roles are capable of including Regulated Activity: academy director, All Stars children's helper, All Stars children's activator, captain/vice captain, children's cricket talent scout, club safeguarding officer, coach, coach support worker, county welfare officer, first aid responder, junior supervisor, juniors/colts manager, league safeguarding officer, masseur, medical staff, personal development manager, physiotherapist, psychologist, safeguarding recruiter, scorer, strength/conditioning coach, team manager, umpire and volunteer coordinator (children).

xxii. **Safe Hands Policy** means the ECB's safeguarding policy entitled "Safe Hands – Cricket's Policy for Safeguarding Children" and any supplementary guidance. A copy is available at www.ecb.co.uk/safeguarding; and

xxiii. **Working Together** means the statutory guidance "Working Together to Safeguard Children 2018" published by the Department for Education.

1.2. The ECB is committed to ensuring that all Children who participate in cricket do so in an enjoyable and safe environment.

1.3. This document is supplementary to the Safe Hands Policy. It sets out the procedures to be followed by the ECB in relation to any concerns regarding a Child and/or Adult at Risk. The ECB requires that all Clubs, County Cricket Boards, Bodies and Leagues, at all levels of the game of cricket, adopt and implement the Safe Hands Policy and this Procedure as amended from time to time.

1.4. This Procedure is intended to provide a comprehensive, fair and equitable process for the purpose of any enquiry into concerns or complaints regarding the safety or protection of a Child and/or Adult at Risk. At all stages of this Procedure, the Key Principles set out in section 2 below will apply. This Procedure shall be in force from the day that it is published on the ECB's website. At that time, this Procedure shall replace the existing Child Safeguarding Complaints and Disciplinary Procedure and that procedure, and any other historical versions of it, shall be repealed (save where fairness requires that any provision of a previous procedure be applied). A flowchart setting out the stages of this Procedure is set out in the attached Appendix.

2. Key Principles

2.1. A Child centred approach

A Child centred approach is fundamental to safeguarding and promoting the welfare of every Child. The voice of the Child will be taken into account in the application of this Procedure, where appropriate after consultation with, and obtaining the consent of, the parent(s) or carer(s) (as applicable) to ensure that this is achieved in an appropriate manner.

2.2. The Welfare Principle

The welfare of a Child is of paramount importance. Working Together places specific responsibilities on sports organisations in respect of safeguarding children: all sports organisations are required to have effective safeguarding arrangements in place and are required to work collaboratively with other organisations in line with any national and local safeguarding arrangements. Paid and volunteer staff need to be aware of their responsibilities for safeguarding and promoting the welfare of children and how they should respond appropriately to concerns.

In line with principles of making safeguarding personal, where applicable Adults at Risk will also be at the centre of the safeguarding process and their views, wishes, feelings and beliefs will be taken into account in any decision making.

2.3. Safeguarding is everyone's responsibility

Everyone who works with a Child and/or Adult at Risk has a responsibility to keep them safe. Where concerns are identified, everyone has a role to play in sharing information and taking prompt action. Any safeguarding concerns must be shared following the procedure detailed in Safe Hands at the earliest possible opportunity and in any event within one working day. A failure to share such concerns may be considered a breach of this Procedure.

2.4. ECB Responsibility

The ECB Board has the ultimate responsibility for ensuring that safeguarding arrangements and procedures are in place for cricket that comes under the auspices of the ECB. This includes having in place a system and procedure for receiving concerns or complaints, investigating such concerns or complaints, and making decisions regarding these.

The ECB's Regulatory Committee oversees this work on behalf of the ECB Board. The ECB ensures that sufficient resource and expertise is available to, and within, the ECB executive to conduct this work.

2.5. Cooperation and Information Sharing with statutory agencies

The ECB is required to comply with Working Together and work in partnership with Safeguarding Partners to enable them to carry out their duties to investigate concerns and to protect children from harm in accordance with the relevant legal framework, data protection law and regulations in force in England and Wales at any time. The ECB is also committed to complying with the governmental guidance issued in July 2018 entitled "Information Sharing - advice for practitioners providing safeguarding services to children, young people, parents and carers". This guidance makes clear that information sharing is essential for effective safeguarding and promoting the welfare of children and young people, and details best practice principles for sharing information.

2.6. Cooperation and Information Sharing with other Sports and other organisations.

The ECB is committed to working with all partner agencies and other organisations that may work with Children. The ECB will, where necessary, share information with, or seek information from, other agencies including, but not limited to, statutory organisations, other sports organisations, voluntary sector organisations, private organisations and others.

2.7. Jurisdiction

This Procedure will apply to, and the ECB will have jurisdiction to hear complaints in respect of, any Participant and any other individuals working or participating in any way in cricket in England and Wales, whether in a paid or voluntary capacity including with any Club, Body, League, other partner organisation of the ECB or otherwise.

2.8. The No Delay Principle

The ECB Safeguarding Team will take all reasonable steps to complete an investigation in a timely manner, although other processes (such as police investigation and local

authority processes) may cause delay and take precedence., Any such delays will not affect the ECB Safeguarding Team's right to impose interim suspensions in appropriate circumstances in accordance with section 4 below.

2.9. Fair Process

This Procedure will be implemented in accordance with the principles of fair process and natural justice. All complaints or concerns will be taken seriously and responded to promptly, fairly and appropriately.

2.10. Non-discrimination

This Procedure applies in respect of concerns relating to every person irrespective of their age, disability, gender identity, marriage or civil partnership status, maternity, pregnancy or breastfeeding status, race, religion or beliefs, sex, social status or sexual orientation.

2.11. Duty of Care

Notwithstanding the principle that the welfare of the Child is paramount, the ECB will also take reasonable steps to consider the wellbeing of the individual about whom concerns have been raised, and who is subject to this Procedure.

2.12. Complaints against a Child

In the event that the Participant against whom a complaint is made is a Child, the "Welfare Principle" also applies. The ECB Safeguarding Team will ensure that the processes set out within this Procedure will take into account the Child's welfare, including (as and when appropriate) involving the Child's parent or carer and any relevant statutory agencies. It will also be appropriate to ensure separate consideration is given to the welfare of both Children in such cases.

2.13. Confidentiality

So far as is practicable, confidentiality will be maintained at all times in respect of all those involved in any investigation unless there is an overriding legal obligation, or it is in the interests of the safety, protection or welfare of a Child and/or Adult at Risk for such information to be shared with other parties (in accordance with principles 2.5 and 2.6 above). Any information which is shared will be necessary for the proper application of this Procedure and in accordance with the relevant data protection law, statutory guidance and regulations in force in England and Wales at the relevant time.

2.14. Standard of Proof

The decision-making standard for all cases under this Procedure will be the civil standard of on the balance of probabilities. This may mean that a matter that has not been criminally prosecuted, or which has been prosecuted but concluded in a criminal court with a 'not guilty' verdict, will still be considered pursuant to this Procedure.

2.15. Limitation of liability

The ECB shall not be liable to any suspended or disqualified Participant, other individual, Club, Body, League or other 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 (as applicable) or under this Procedure.

3. Referrals

- 3.1. Any concerns or complaints regarding the welfare or safety of a Child and/or Adult at Risk should be reported to the appropriate Club Safeguarding Officer, County Safeguarding Officer or the ECB Safeguarding Team at the earliest possible opportunity and in any event within one working day of such concerns and/or complaints coming to the Participant's attention.
- 3.2. Upon receipt by the ECB Safeguarding Team of any referral, the ECB Safeguarding Team will consider whether any further investigation and/or referrals to statutory or other organisations are required.

4. Interim Suspensions

- 4.1. The ECB's Head of Safeguarding (or their nominee) shall have the power to impose an interim suspension on any individual to whom these Procedures apply (a) upon receipt by the ECB Safeguarding Team of any referral in accordance with paragraph 3 or other information which identifies that an individual has been charged with an Offence, is the subject of an investigation by the Police, Children's Services or any other authority relating to an Offence or which causes the ECB Safeguarding Team to reasonably believe that a person poses or may pose a risk of harm to a Child and/or Adult at Risk or (b) in circumstances where in their reasonable view it is necessary or desirable to impose an interim suspension to allow the conduct of any investigation.
- 4.2. An individual may be suspended from participating in any or all cricketing activities under the auspices of the ECB, for such a period and on such terms and conditions as the ECB Safeguarding Team consider appropriate, pending further investigation. This may include, but is not limited to, the following activities: playing, managing, coaching, umpiring, scoring, holding any club office or role, first aiding, providing physiotherapy, massage or medical services, talent scouting, ground keeping, volunteering and/or any other activity relating to cricket (including attending any cricket match).
- 4.3. If the ECB Safeguarding Team consider that it is necessary and/or appropriate to seek further information from the individual in order to assess whether an interim suspension should be imposed it may request such information from the individual, and such information must be provided in accordance with the deadline set by them.
- 4.4. Where an interim suspension is imposed in accordance with paragraph 4.1, the individual will be notified in writing by the ECB Safeguarding Team.
- 4.5. An individual who has been issued with an interim suspension may request that the Safeguarding Panel review the interim suspension and consider whether it is appropriate for the interim suspension to remain in place. If an individual exercises

this right, the interim suspension shall be reviewed by the Safeguarding Panel (in accordance with the process at paragraphs 6.2-6.4) as soon as reasonably practicable in all the circumstances of the case. The interim suspension shall remain in place pending consideration by the Safeguarding Panel.

- 4.6. The Safeguarding Panel will be provided with all relevant information upon which the ECB Safeguarding Team relied when imposing the interim suspension and any written representations submitted by the individual.
- 4.7. The Safeguarding Panel may ratify, modify or lift any interim suspension, or make any other decision it considers appropriate.
- 4.8. The Safeguarding Panel shall also have the power to review (in accordance with the process at paragraphs 6.2-6.4) the interim suspension if there is a material change in the circumstances in which the order was made.
- 4.9. Unless paragraph 4.10 applies, all interim suspensions will be reviewed by the Safeguarding Panel at the first opportunity following the expiry of 6 months from the date of the decision being imposed in accordance with paragraph 4.1 (or, if reviewed under paragraph 4.8, the conclusion of that review), and at the same interval thereafter. No interim suspension shall last beyond the final determination of any related case.
- 4.10. Where an interim suspension has been imposed and the individual's case has subsequently been closed with the interim suspension still in place, on the basis that the individual has (i) indicated that they do not intend to participate in cricket in the future, (ii) not engaged with the investigation process or (iii) been placed in custody, the interim suspension will not be reviewed every 6 months. If the ECB Safeguarding Team receives information which affects or undermines the basis for the interim suspension having been imposed, the ECB Safeguarding Team will arrange for the interim suspension to be reviewed by the Safeguarding Panel as soon as reasonably practicable.
- 4.11. If the ECB Safeguarding Team is informed that an individual has breached the terms of an interim suspension, the individual will be issued with a written warning requiring immediate compliance with the terms of the interim suspension. If the breach is sufficiently serious, the ECB Safeguarding Team may refer that individual to the Safeguarding Panel for consideration of whether any additional action or sanctions are appropriate.

5. Investigation process

- 5.1. Subject to paragraph 5.2, the ECB Safeguarding Team shall advise the individual in writing of the nature of the concerns that have been raised and state its intention to investigate those concerns.
- 5.2. The police, local authority or another agency may request that information regarding concerns is not shared with the individual until such time as they deem fit, for example where notification may jeopardise a police investigation, or may place a Child, Adult at Risk or other person at risk of harm. The ECB Safeguarding Team is usually required, as a matter of law, to comply with any such request.

5.3. The ECB Safeguarding Team will carry out any investigation into the matters addressed in the referral but reserves the right to appoint an independent safeguarding consultant, or other professional or expert, to assist in the conduct of any investigation.

5.4. During the course of the investigation the ECB Safeguarding Team:

- i. will request the individual's account of the matter. The individual concerned may be invited to attend one or more interview(s) during the course of the investigation;
- ii. may request any such further detail, explanation or clarification of the matters in question as may be required; and
- iii. will inform the individual of any intention to discuss the case with statutory agencies and any other relevant organisations.

5.5. The investigation will be conducted as promptly as possible. The length of the investigation will depend on a number of factors, including the number and availability of the persons to be interviewed or contacted, the involvement of statutory agencies and the individual's cooperation. It will not always be possible to provide a clear timescale for completion of an investigation.

5.6. During the investigation process, periodic updates regarding the progress of the investigation will be provided by the ECB Safeguarding Team to the individual being investigated. The individual shall not discuss the case with, intimidate or influence any witness involved in the investigation or any potential witness.

6. Referral to the Safeguarding Panel

6.1. On conclusion of the investigation, the ECB Safeguarding Team Manager will review the information gathered and may:

- i. Decide that no further action is required and close the case;
- ii. Make any further enquiries that they consider necessary;
- iii. Refer the case back to the relevant Club Safeguarding Officer or County Safeguarding Officer; or
- iv. Refer the case to a Safeguarding Panel if the ECB Safeguarding Team Manager considers that the individual poses or may pose a risk of harm to Children and/or Adults at Risk.

6.2. If the case is referred to a Safeguarding Panel, the Safeguarding Panel will consider the case at its next meeting (or, in particularly urgent or complex cases, convene a separate meeting to consider the case).

6.3. A Safeguarding Panel Chair will chair each meeting of the Safeguarding Panel and appoint at least two other members to attend each meeting. Each Safeguarding Panel will include at least one safeguarding expert and a legally qualified chair.

6.4. The individual will be advised of the identity of the members of Safeguarding Panel. If the individual wishes to object to the appointment of a Safeguarding Panel member on the basis of a conflict of interest that party shall, as soon as reasonably practicable, submit in writing to the ECB the basis of that objection. The chair of the

Safeguarding Panel (unless the chair is the subject of the objection in which case the ECB), shall determine whether there is a real or perceived conflict of interest and shall, if necessary, request that a replacement member be appointed to the Safeguarding Panel.

- 6.5. The ECB Safeguarding Team will compile all relevant information gathered during the investigation (which may include a report from the ECB Safeguarding Team) and provide this to the individual. In exceptional circumstances (as set out in paragraph 7 below) certain material may be shared with the Safeguarding Panel that is not shared with the individual.
- 6.6. The individual will then be given an opportunity to submit written representations and any supporting documentation.
- 6.7. If the individual has raised any new issues or disputed any factual points in its written representations submitted under paragraph 6.6, the ECB Safeguarding Team will have the opportunity to submit a written reply.
- 6.8. The Safeguarding Panel will then be provided with a copy of all documentation referred to at paragraphs 6.5-6.7.
- 6.9. The Safeguarding Panel shall determine all procedural matters for the conduct of the hearing, including requiring more information from either the ECB Safeguarding Team or the individual. Unless the Safeguarding Panel, in its sole discretion, allows or requires the ECB Safeguarding Team and/or the individual to submit any oral evidence (or a representative of the individual to submit oral representations on their behalf), the Safeguarding Panel shall only consider the documentation referred to at paragraphs 6.5-6.7. Such discretion will only be exercised by the Safeguarding Panel where fairness requires it.

7. Referral to a Private Information Panel

- 7.1. In exceptional circumstances, the ECB Safeguarding Team may make an application to a Private Information Panel, which will be convened by a Safeguarding Panel Chair for this purpose, for permission to submit material to the Safeguarding Panel that has not been shared with the individual.
- 7.2. An application to a Private Information Panel may be made by the ECB Safeguarding Team where the Case Officer considers that the exceptional material concerned should not be sent to the individual because revealing it may create a risk of harm to any person(s) and/or revealing it may amount to a criminal offence or otherwise be unlawful.
- 7.3. If the case is referred to a Private Information Panel, a Safeguarding Panel Chair will chair a meeting of the Safeguarding Panel and appoint at least two other members to consider the matter. Each Safeguarding Panel will include at least one safeguarding expert and a legally qualified chair. No member of the Private Information Panel may act, or have acted, as a member of the Safeguarding Panel in the same case.

- 7.4. The ECB Safeguarding Team shall give written notice to the individual of its application to the Private Information Panel unless to do so may in itself cause risk of harm to any person(s), and/or the sharing of the material may constitute a criminal offence or be otherwise unlawful.
- 7.5. Where notice is given, any reply by an individual must be passed to the Private Information Panel for consideration.
- 7.6. The Private Information Panel may allow or reject the application in whole or in part. It shall also consider whether any of the material should be shared with the individual in a redacted or summarised form.
- 7.7. Where the Private Information Panel directs that information should be withheld, the situation should be kept under review whilst the case is ongoing and until the conclusion of any appeal. If the identified risk of harm ceases and/or revealing it no longer amounts to a criminal offence or is otherwise unlawful, the ECB Safeguarding Team shall refer the matter back to the Private Information Panel to determine whether the information should be provided to the individual.

8. Relevant factors for consideration

- 8.1. In assessing whether an individual poses or may pose a risk of harm in accordance with paragraph 6.1, the Safeguarding Panel may consider any of the following non-exhaustive list of factors (as appropriate in the circumstances of the particular case):
- i. Whether the offence, behaviour or other matters revealed are relevant to the individual's role in cricket;
 - ii. The seriousness of any offence, behaviour or other matter revealed;
 - iii. The length of time since the offence, behaviour or other matter occurred;
 - iv. The number of times the offence, behaviour or other matter has occurred and whether there is a pattern of offending behaviour or escalation of behaviour or other relevant matters;
 - v. Any expert or professional views about this type of offence, behaviour or other matter revealed which have been provided to the Safeguarding Panel;
 - vi. Any legal or other restriction or requirement;
 - vii. Whether anybody was harmed and the extent of the harm suffered;
 - viii. The vulnerability of any person who suffered harm;
 - ix. Whether the individual was, or was perceived to be, in a position of power, influence and/or trust in relation to anybody who was harmed or adversely affected by their behaviour;
 - x. Whether the individual has accepted responsibility for the offence, behaviour or other matter revealed, and whether remorse has been expressed or demonstrated;
 - xi. Whether the individual's circumstances have changed since the offence, behaviour or other matter revealed, and whether the changed circumstances indicate a change in the level of risk;
 - xii. The circumstances surrounding the offence, behaviour or other matter revealed and any explanations offered by the individual concerned;
 - xiii. The current age of the individual and age at the time of the incident;
 - xiv. The level of predictability or unpredictability in the situation;
 - xv. What involvement the individual seeks in cricket;

- xvi. The capacity of the environment where the individual would be operating to manage any risk;
- xvii. The expressed view of any statutory or other agency involved in the assessment or management of the individual;
- xviii. The individual's compliance and/or cooperation with the ECB Safeguarding Team in accordance with any investigation under this Procedure;
- xix. Any breach of suspension and/or failure to adhere to the terms of a written warning submitted under paragraph 4.11 above; and
- xx. Any other relevant information.

9. Potential outcomes

- 9.1. Having reviewed all relevant information, the Safeguarding Panel will consider, on the balance of probabilities, whether the individual concerned poses or would pose a risk of harm to Children and/or Adults at Risk. Where a risk of harm is identified, the Safeguarding Panel will consider whether any steps can be taken to manage that risk (including, where appropriate, taking a decision that the risk cannot be managed within the game of cricket).
- 9.2. Any decision taken by the Safeguarding Panel shall be made by a majority vote. In the event of a tie, the Safeguarding Panel Chair shall have the casting vote.
- 9.3. The Safeguarding Panel may make any decision(s) that it considers appropriate, including but not limited to a decision that:
 - i. No further action is required;
 - ii. The individual's interim suspension imposed in accordance with paragraph 4 shall be removed;
 - iii. Further enquiries should be made;
 - iv. A forensic social work or psychiatric risk assessment shall be carried out by a suitably qualified person;
 - v. A written warning shall be issued identifying the areas of concern or improvements required;
 - vi. The individual shall be required to undergo appropriate training;
 - vii. The individual shall be required to work with an ECB approved mentor;
 - viii. The individual shall be required to be monitored or supervised when carrying out all or any specific cricketing activities or Regulated Activity for such period and on such terms and conditions as the Safeguarding Panel considers appropriate;
 - ix. The individual shall be suspended from all or any specific cricketing activities (or carrying out Regulated Activity) for such period and on such terms and conditions as the Safeguarding Panel considers appropriate; and/or
 - x. Any other decision which the Safeguarding Panel considers appropriate having regard to the circumstances of the case.
- 9.4. The Safeguarding Panel has the power to direct the ECB Safeguarding Team or the individual concerned to pay the costs of (i) the other party and/or the Safeguarding Panel and/or (ii) facilitating any decision or order made by the Safeguarding Panel in accordance with paragraph 9.3. However, the Safeguarding Panel will only exercise its discretion to make a direction under paragraph 9.4(i) in exceptional circumstances.

10. Communication of decisions

- 10.1. Decisions shall be communicated to the parties in writing within 7 calendar days. Decisions shall be communicated to the individual's County Safeguarding Officer once the period for filing an appeal (in accordance with paragraph 11.3) has expired, or earlier if the individual has confirmed that they do not intend to appeal the decision.
- 10.2. Decisions and/or information shall be communicated to other appropriate third parties in accordance with the Key Principles set out in section 2 above.
- 10.3. Individuals shall comply with the terms of any decisions imposed on them under this Procedure. If any individual fails to comply with a decision of the Safeguarding Panel, the ECB's Head of Safeguarding (or their nominee) shall have the power to impose an interim suspension and/or the ECB Safeguarding Team may refer that individual back to the Safeguarding Panel for consideration of whether any additional sanctions are appropriate.
- 10.4. All Clubs, Bodies and/or Leagues shall comply with the terms of any decisions reached under this Procedure.

11. Appeal process

- 11.1. The ECB and the relevant individual will have the right to appeal against any decision made by the Safeguarding Panel under this Procedure pursuant to the appeals procedure detailed in this paragraph 11. For the avoidance of any doubt, this appeals process is intended to be and shall be construed as being an arbitral process for the purposes of the Arbitration Act 1996.
- 11.2. A decision of the Safeguarding Panel shall remain in force pending final determination of any appeal by the Safeguarding Appeal Panel.
- 11.3. In order to validly lodge an appeal, the appealing party (the "**Appellant**") must lodge a notice of appeal which complies with the requirements of paragraph 11.4 with the ECB by email to safeguarding@ecb.co.uk within 14 calendar days of the date of the decision being appealed. If the Appellant does not lodge a compliant notice of appeal within this timeframe, the appeal will not be considered by the Safeguarding Appeal Panel.
- 11.4. A notice of appeal must:
 - i. record the decision which is being appealed;
 - ii. identify the ground(s) of appeal, in accordance with paragraph 11.5;
 - iii. contain a statement of any facts, laws or rules relied upon and any supporting documentation; and
 - iv. save where the Appellant is the ECB Safeguarding Team, be accompanied by an appeal administration fee of £125.
- 11.5. Valid grounds of appeal (available to either party) shall be that:
 - i. the Safeguarding Panel came to a decision to which no reasonable body could have come;

- ii. there was a serious procedural irregularity which caused the decision to be unjust;
 - iii. there was an error of law which caused the decision to be unjust;
 - iv. there is fresh evidence (in which case the particulars must state why the evidence could not be presented at the original hearing and is, or would have been, material to the decision); and/or
 - v. the sanction imposed was manifestly excessive (in respect of an appeal by a Respondent) or unduly lenient (in respect of an appeal by the ECB).
- 11.6. If an appeal has been validly commenced in accordance with paragraph 11.3, the ECB Safeguarding Team shall appoint a Safeguarding Appeal Panel of 3 members to consider the matter. Each Safeguarding Appeal Panel will include at least one safeguarding expert and a legally qualified chair.
- 11.7. The Appellant will be advised of the identity of the members of the Safeguarding Appeal Panel. If the individual wishes to object to the appointment of a Safeguarding Appeal Panel member on the basis of a conflict of interest that party shall, as soon as reasonably practicable, submit in writing to the ECB the basis of that objection. The chair of the Safeguarding Appeal Panel (unless the chair is the subject of the objection in which case the ECB), shall determine whether there is a real or perceived conflict of interest and shall, if necessary, request that a replacement member be appointed to the Safeguarding Appeal Panel.
- 11.8. Unless otherwise directed by the Safeguarding Appeal Panel, the parties shall make written submissions to the Safeguarding Appeal Panel as follows:
- i. The respondent shall serve a written response to the notice of the appeal on the Appellant and the Safeguarding Appeal Panel within 14 calendar days of the notice of appeal being lodged; and
 - ii. The Appellant shall serve any written reply to the response on the respondent and the Safeguarding Appeal Panel within 7 calendar days of the response being lodged.
- 11.9. The chair of the Safeguarding Appeal Panel shall decide the time, date and place of the Safeguarding Appeal Panel hearing subject to:
- i. the requirement that the hearing shall take place as soon as reasonably practicable after the notice of appeal and the response to that notice have been received; and
 - ii. the ability of the Safeguarding Appeal Panel to, where it deems it appropriate, and having heard any representations in respect of it, hear the cases of more than one individual in the same proceedings.
- 11.10. The chair of the Safeguarding Appeal Panel shall inform the parties of the time, date and place of the Safeguarding Appeal Panel hearing and inform the parties that they are required to attend the hearing and entitled to be legally represented. Save in cases of particular urgency, this notification shall be in writing.
- 11.11. The ECB Safeguarding Team shall compile all relevant papers for the Safeguarding Appeal Panel and ensure that (subject to paragraph 7) both parties have copies of all papers put before the Safeguarding Appeal Panel at least seven calendar days before the Safeguarding Appeal Panel considers the appeal.

11.12. The Safeguarding Appeal Panel may determine its own procedure and deal with the appeal in any way it sees fit, consistent with a fair and just consideration of all grounds of appeal. For the avoidance of doubt:

- i. The parties shall have no right to a complete rehearing of the case, and the Safeguarding Appeal Panel shall confine its review to the grounds of appeal only;
- ii. The Safeguarding Appeal Panel shall have sole discretion to determine whether the parties shall be permitted to submit any (and if so, what) oral evidence at the hearing;
- iii. The Safeguarding Appeal Panel shall be permitted to proceed in the absence of any party, unless it is satisfied that there are reasonable grounds for the failure of the party to attend;
- iv. The Safeguarding Appeal Panel shall be permitted to have regard to any documents put before the Safeguarding Panel, transcripts of evidence and/or submissions before the Safeguarding Panel and decisions made by the Safeguarding Panel; and
- v. Any decision taken by the Safeguarding Appeal Panel shall be made by a majority vote. In the event of a tie, the chair of the Safeguarding Appeal Panel shall have the casting vote.

11.13. The Safeguarding Appeal Panel shall have the power to allow or dismiss the appeal and to exercise the same powers as were available to the Safeguarding Panel hearing the case, as set out in paragraph 9. In deciding whether to allow or dismiss the appeal, the Safeguarding Appeal Panel will consider whether the grounds of appeal have been made out and the overarching need to protect Children and Adults at Risk. The Safeguarding Appeal Panel also has the power to direct that the case be remitted for re-hearing by a new Safeguarding Panel.

11.14. Any decisions by the Safeguarding Appeal Panel shall be final and binding and there shall be no further right of appeal.

11.15. Decisions shall be communicated to the parties and the individual's County Safeguarding Officer in writing and written reasons for the decision will be communicated to the parties as soon as reasonably practicable. Any decision will specify the date by which any costs ordered by the Safeguarding Appeal Panel must be paid.

Appendix

