

RFU REGULATIONS

RFU REGULATION 21 – SAFEGUARDING

Definitions

‘Adult’ means any person aged 18 years and over.

‘Bar’ means a restriction imposed on an individual’s involvement in Rugby Union on such terms as may be determined by the RFU in accordance with this Regulation. “Barred” means subject to a Bar.

‘CB Safeguarding Manager’ means a person designated to manage safeguarding at a Constituent Body.

‘Child’ means a person under the age of eighteen years as defined by the UN Convention on the Rights of the Child and ‘Children’ people under the age of 18.

‘Club Safeguarding Officer’ means a person designated to manage safeguarding at a Club.

‘DBS’ means the Disclosure and Barring Service.

‘DBS disclosure’ means a DBS disclosure issued by the Disclosure & Barring Service (DBS) - including any renewal Disclosures. For individuals applying to engage within the Children’s Workforce the RFU will require an Enhanced with Children’s barred list check.

‘DBS cleared’ means a person whose DBS disclosure has been cleared by the RFU.

‘Harm’ means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another as defined by the Childrens Act 1989 and, in relation to adults the Care Act 2014.

‘Legal Officer’ means one of the RFU’s in-house lawyers.

‘Offence’ means any criminal offence.

‘Policy’ means the RFU’s Safeguarding Policy, Guidance and Procedures (as amended from time to time) and the RFU Safeguarding Adults at Risk in Rugby Union Policy and Procedures or any other successor policies and procedures for the safeguarding of Children and vulnerable adults. These Policies are binding on all those involved in Rugby Union.

‘Position of Trust’ means a person in a position of authority over another person as defined by Child Protection in Sport Unit:

<https://thecpsu.org.uk/resource-library/best-practice/abuse-of-positions-of-trust-within-sport/>

‘Referral Management Group’ (‘RMG’) means an RFU appointed group charged with assessing the risk that individuals pose to children.

‘Regulated Activity’ means the statutory definition of the term as set out in the Safeguarding Vulnerable Groups Act 2006 (as amended) that for the RFU’s purposes shall be construed as meaning: (i) any coaching and training of children; and/or (b) any teaching, instruction, care or supervision of children, carried out by the same person frequently (once a week or more

often), or on four or more days in a 30 day period, or overnight. For more detailed information and examples of what constitutes Regulated Activity, please see the Policy.

‘Rugby Union’ means any form of rugby played under the jurisdiction of the RFU, including but not limited to, all age-grade rugby, fifteen-a-side, sevens, touch and tag.

‘RFU Appeal Panel’ means an appeal panel appointed pursuant to this Regulation and in accordance with the process set out in RFU Regulation 19.

‘RFU Safeguarding Panel’ means a Panel or Judicial Officer appointed by the RFU Head of Judiciary charged with reviewing matters referred to it by the RMG for the determination of a finding of fact, and to make recommendations as appropriate to the Legal Officer and/or RMG.

‘RFU Safeguarding Team’ means the team of executive staff within the RFU that is responsible for safeguarding.

All other Definitions used in these Regulations will bear the same meaning as those set out in RFU Regulation 1.

21.1 General

- 21.1.1 The RFU has jurisdiction to deal with any allegation of abuse of a Child, any breach of the Policy and/or any breach of these Regulations.
- 21.1.2 Any allegations of abuse of a Child shall be dealt with in accordance with these Regulations and the Policy. All those whose activities are covered by these Regulations and the Policy must comply with the requirements set out in each.
- 21.1.3 Any person involved in Rugby Union must report all safeguarding concerns of which they become aware to the RFU Safeguarding Team.
- 21.1.4 Any adult who works in regulated activity or could be reasonably be deemed to be seen as a person in a position of trust in Rugby Union in England must read and comply with the RFU Safeguarding Policy and the Safeguarding Policy of any club or society that they are associated with.
- 21.1.5 Each Club with an age grade section, or which has 17 year olds playing adult rugby must have a Club Safeguarding Officer. A Club Safeguarding Officer must attend an In Touch course within 6 months of their appointment.
- 21.1.6 Each Club with an age grade section, or which has 17 year olds playing adult rugby must complete an annual RFU safeguarding audit through GMS by 30 September 2019. A Safeguarding Audit may also be requested by the RFU Head of Safeguarding or the Club’s primary Constituent Body, to be completed within 14 days of such request.
- 21.1.7 Each Constituent Body must have a CB Safeguarding Manager. A CB Safeguarding Manager must attend the RFU Annual Training Conference.
- 21.1.8 In order to investigate a referral, and before deciding whether or not there is a case to answer, the RFU Safeguarding Team may require a person, Player or Club to provide information or attend a meeting.
- 21.1.9 Information collated in the course of an investigation under these Regulations and any documentation relating to any decision reached shall be recorded and retained by the

RFU for such period as is necessary and proportionate for the purposes of enabling the RFU to safeguard children and in accordance with the Data Protection legislation.

- 21.1.10 Safeguarding investigations and DBS Disclosures will be dealt with by the RFU Safeguarding Team and, where necessary, will be referred to the RMG or a sub-group of the RMG for consideration. Should there be a requirement to establish a finding of fact in a particular case, the case may be referred from the RMG (or sub-group thereof) to the RFU Safeguarding Panel. The RMG may also refer a case to the RFU Discipline department for investigation and proceedings under RFU Regulation 19.

21.2 DBS Disclosures

- 21.2.1 Clubs, Constituent Bodies, Referees Societies or National Representative Bodies must not engage anyone or appoint a volunteer to work in Regulated Activity on a paid or voluntary basis who is not DBS cleared, subject to the exception in RFU Regulation 21.2.2.

- 21.2.2 Any person aged 16 and over who works in Regulated Activity with Children in Rugby Union in England must comply with the requirements of the RFU's DBS process. These requirements are:-

- (i) to apply for a DBS disclosure processed through the RFU Safeguarding Team within four weeks of their employment or appointment; and
- (ii) to provide the DBS certificate and any such further detail, explanation or clarification of any or all part or parts of that DBS disclosure as may be required by the RFU Safeguarding Team; and
- (iii) to provide, on request from the RFU Safeguarding Team, references that attest to their suitability to be involved in working in Regulated Activity in Rugby Union; and
- (iv) to provide, on request from the RFU Safeguarding Team, any decisions from any other body that may be relevant and such other information as the RMG considers appropriate;

and in respect of the above, the RMG may take into account any such information when determining whether the individual should be cleared to work with children.

Whilst awaiting their DBS disclosure a person may temporarily work on a paid or voluntary basis with Children provided that they are supervised at all times during any activity involving Children by a person who is DBS cleared within the Club, Constituent Body, Referees Societies or National Representative Body (as applicable)

- 21.2.3 Any person who fails to comply with the RFU's DBS process or is not DBS cleared may be prevented from participating in Rugby Union by being Barred as set out in this Regulation or may be designated as not cleared to work in Regulated Activity by the RFU Safeguarding Team. Any barring decision shall be subject to a right of appeal in accordance with these Regulations.

- 21.2.4 The RMG may at its discretion conditionally clear a person's DBS and place such conditions on that clearance as it so determines.

- 21.2.5 DBS disclosures are valid with the RFU for 3 years. All adults who have DBS disclosures and wish to continue to work in Regulated Activity must apply to the RFU to renew

their DBS disclosure before the expiry of the 3 years.

- 21.2.6 If a person working in Regulated Activity is cautioned or convicted of an Offence they must notify the RFU Safeguarding Team of the caution or conviction and provide full details. They may be required to complete a new DBS check if it is considered appropriate by the RFU Safeguarding Team.
- 21.2.7 If an individual is Barred by the RFU from working in Regulated Activity, the RFU will refer that individual to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006 (as amended). If a Barred individual is not working in Regulated Activity but the RFU has concerns about a possible risk that individual poses to children then the RFU may refer that individual to the DBS.
- 21.2.8 Any organisation that provides individuals to Clubs or schools to work (whether paid or not) in Regulated Activity with children in Rugby Union must comply with the RFU DBS process as outlined in this Regulation. Any Clubs or schools using such an organisation must require them contractually to provide individuals who have been through the RFU DBS process.

21.3 Barring by the RFU

- 21.3.1 An individual may be Barred from playing in or attending rugby matches and/or participating in all or any other Rugby Union activity including, for the avoidance of doubt, from being in a clubhouse when children are, or are likely to be, present for such period and on such terms and conditions as the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar), upon recommendation from the RMG and RFU Safeguarding Panel, considers necessary on a case-by-case basis.
- 21.3.2 A Bar may be imposed when the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar) receives:
 - (a) notification that an individual is the subject of an investigation by the Police, Social Services or any other authority relating to an Offence;
 - (b) notification of the outcome of an investigation by the Police, Social Services or any other authority relating to an Offence; and/or
 - (c) notification that an individual has been charged with an Offence;
 - (d) notification that an individual has been convicted of, or made the subject of a caution in respect of, an Offence;
 - (e) any other information which causes the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar) to believe that a person poses or may be a risk of Harm to a Child.
- 21.3.3 In determining whether a Bar should be imposed the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar) shall give consideration to, but not be limited to, the following factors:
 - (a) whether a Child may be at risk of Harm;
 - (b) whether the matters or offences alleged are of a serious nature; and/or

(c) whether a Bar is necessary or desirable to protect a Child or Children from Harm.

21.3.4 If the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar) Bars an individual they will be promptly notified by the RFU. The notification shall:

- (a) set out the reasons why the Bar has been imposed;
- (b) advise that the individual has 14 days from the date of the notification in which to appeal the decision (with the exception of an interim Bar imposed in accordance with Regulation 21.3.5(a)); and
- (c) that the RFU Safeguarding Team will notify the relevant statutory authorities once the appeal period has passed or if any appeal is unsuccessful.

21.3.5 A Bar may be imposed for:

- (a) an interim period (before, during and pending the outcome of an investigation or to enable the RFU to make further enquiries or seek further information). An interim bar is a neutral, precautionary measure, intended to safeguard the interests of all parties. The Bar is not a penalty and implies no assumption of guilt; or
- (b) a specified period (if, after further investigation or if an investigation is completed, the conduct is such that it merits a Bar and/or criminal proceedings or investigations are underway); or
- (c) indefinite period (if it is considered that the conduct and potential ongoing risk to Children or a Child is such that it is considered necessary, reasonable and proportionate).

Subject in each case to any right of appeal or review set out in Regulation 21.4.

21.3.6 The RFU will promptly notify the individual of the details of the Bar. The Barring notice shall be copied to the applicable Club, any relevant Constituent Bodies and/or the Referee Societies and a referral and/or notification may also be made to any relevant authorities, other sports' governing bodies and/or any such other individuals and bodies on a need to know basis.

21.3.7 The Legal Officer may review a Bar at any time if they choose to do so. When imposing a Bar, the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar) may specify that the Bar will be reviewed after a certain period of time determined by the Legal Officer (or RFU Head of Safeguarding in the case of an interim Bar), or upon a certain event (such as the completion of an investigation by another agency, or a criminal prosecution).

21.3.8 An individual who has been Barred for an indefinite period may also request that a Bar be reviewed at the stated review point stipulated in the Bar notification, and the RFU will review the Bar if it is satisfied that there is new evidence not previously considered by the RFU which shows that the risk posed to children by the individual has reduced.

21.3.9 The Legal Officer may decide to lift a Bar at any time if he/she decides that the circumstances justify this.

21.3.10 If a Bar is for a fixed term, the Bar will lift at the expiry of that term (unless ended earlier by the RFU under Regulation 21.3.9).

21.4 Appeals

- 21.4.1 To bring an appeal under these Regulations, the individual must give notice in writing to the RFU's Head of Discipline requesting such an appeal within the 14 day deadline set out in the notification. The notice must include the grounds for the appeal together with any supporting documentation and must be accompanied by the relevant administration fee.
- 21.4.2 An individual subject to a specified or indefinite Bar only has the right to appeal to an Appeal Panel on the grounds that the decision by the Legal Officer to impose a Bar was irrational or unreasonable in the circumstances.
- 21.4.3 An individual subject to an interim Bar does not have a right to appeal but is entitled to request a review of such Bar upon 90 day intervals from the date of the original Bar. Upon such request, the RFU may review the Bar if it is satisfied that there is new evidence not previously presented to the RFU.
- 12.4.4 The decision of the Legal Officer shall remain in full force and effect until the matter is dealt with by an Appeal Panel.
- 21.4.5 Where an appeal is lodged within the 14 day deadline, an Appeal Panel shall be set up and the appeal process and hearing shall be conducted in accordance with RFU Regulation 19.
- 21.4.6 The Chairman of the Appeal Panel may make any directions concerning the conduct of the appeal hearing including with regard to the provision of evidence by any Child affected or potentially affected as he or she considers appropriate.
- 21.4.7 The Appeal Panel shall have the power to:
- (a) allow or dismiss the appeal; and/or
 - (b) increase, decrease or remove any risk management provisions or other terms of the Bar; and/or
 - (c) lift the Bar; and/or
 - (d) remit the matter, with such directions as it thinks fit, for reconsideration.
- 21.4.8 In the event that an appeal is partially or wholly successful by the appellant, the Legal Officer shall either:
- (a) amend the Bar as directed by the Appeal Panel and communicate this to the appellant; or
 - (b) should the matter be remitted back to the RFU for reconsideration, consider the next steps and communicate these to the appellant.

21.5 Safeguarding Adults

- 21.5.1 The provisions of RFU Regulation 21 are applicable to Adults at Risk in Rugby Union and those working with them in the same way as they apply to Children in Rugby Union and those working with them.

- 21.5.2 If an individual is working with Adults at Risk it may be necessary that they obtain a DBS disclosure in accordance with process and requirements of regulation 21.2.
- 21.5.3 The RFU Safeguarding Adults at Risk Policy which includes definitions and guidance can be found at: <https://www.englandrugby.com/governance/safeguarding>