

**ENGLAND & WALES CRICKET BOARD
LIMITED**

‘WELFARE OF YOUNG PEOPLE’

**COMPLAINTS & DISCIPLINE
PROCEDURE**

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INTRODUCTION

This document has been developed as a supplementary guide to operate in conjunction with the 'Welfare of Young People in Cricket Policy'.

The following procedures are intended to provide a comprehensive, fair and equitable process to be employed by the England and Wales Cricket Board Limited (ECB) in order to investigate and resolve any alleged breaches of conduct (ECB Coaches Code of Conduct/Code of Conduct for all Cricket Staff and Volunteers).

The methods and outcomes apply to all individuals working within Cricket whether in a paid or voluntary capacity.

Strict confidentiality will be upheld with regard to all notified issues unless there is an overriding obligation in the interests of child safety or enforcement to share information.

STAGE 1 - INITIAL ACTION

Awareness of an individual's behaviour and practices should be an intrinsic part of a standard supervisory process.

1.0 As part of the ECB's on going commitment to Child Welfare/Protection it is a requirement of any 'relevant person'¹ involved in Cricket to complete a Criminal Records Bureau check. Failure to complete a check satisfactorily may result in disciplinary action being initiated.

1.1 DISCLOSURES OR ALLEGATIONS RELATING TO CHILD WELFARE

Child Welfare Issue – disclosures or allegations surrounding poor practice, bullying or harassment which involve no legal action, or Social Services and/or Police involvement.

- I. If a Child Welfare allegation/disclosure is made regarding a particular individual, the nature of the allegation should be explained to that individual, if appropriate in the circumstances.
- II. The individual must be given the right to respond.
- III. The Club/County Welfare Officer or the ECB Welfare Case Officer should be informed with regard to the allegation, whichever is applicable.

1.2 DISCLOSURES OR ALLEGATIONS RELATING TO CHILD PROTECTION

Child Protection Issue – disclosures or allegations involving potential legal action civil or criminal and/or Police and Social Services involvement.

- I. If a Child Protection allegation is made regarding any person, the individual concerned should not be approached or informed, particularly if the matter relates to a criminal complaint. The matter should immediately be referred to the Club/County Welfare Officer who in turn should notify the ECB Welfare Case Officer. In an emergency the Police should be contacted directly.

¹ 'Relevant Person' is any person involved in Cricket who has or is deemed to have contact in whatever capacity with children and includes any person directly employed by the ECB or offered employment by the ECB.

STAGE 2 – INVESTIGATION

Upon the receipt of any allegation an enquiry into the incident/disclosure may be necessary. This may take the form of a criminal investigation carried out by Police/Social Services or an investigation may be instigated by the ECB. If an ECB investigation reveals a breach of law then the investigation will cease and a referral will be made to Police and/or Social Services.

The investigative process may fall within one of two categories:

2.0 Child Welfare Issue (no legal action or Police/Social Services involvement/ Poor Practice)

If an allegation regarding an individual's behaviour falls within the Child Welfare category the following action may be initiated by the ECB:

- I. An investigation into the allegation may be actioned.
- II. The individual concerned may be temporarily suspended pending the outcome of the investigation.
- III. A Criminal Records Bureau check is required of the individual.
- IV. The matter may be referred to the Referral Management Group (RMG) for consideration. (See page p6)

2.1 Child Protection Issue (involving legal action civil or criminal and/or Police and Social Services involvement or any previous criminal matter)

If an allegation regarding an individual's behaviour falls within the Child Protection category the following action may be initiated by the ECB:

- I. The allegation will be referred to the Police/Social Services for consideration as to whether a criminal/civil investigation into the allegation will be actioned. If no such investigation is actioned then RMG may action its own investigation.
- II. The individual concerned will automatically be temporarily suspended pending the outcome of any such investigation.
- III. A Criminal Records Bureau check is required of the individual.
- IV. The matter may be referred to the RMG for consideration.

2.2 If an investigation is deemed necessary by the RMG/ECB Welfare Case Officer then the individual concerned will be notified in writing of the intention to investigate.

2.3 Any investigation will be conducted as promptly as reasonably practicable after the decision to investigate has been made.

2.4 The individual concerned will be informed every 4 weeks as to the progress or position of the investigation.

2.5 No individual being investigated shall approach, intimidate or influence any witness involved in the investigation. Further disciplinary action will be instigated if this is found to be the case.

2.6 If the RMG decide that a temporary suspension is necessary against any individual, then the individual will be notified of their right of appeal against this decision, unless there are exceptional reasons/circumstances, such as a request from the Police or Social Services, not to notify the individual concerned.

STAGE 3 – RMG

3.0 Pending the outcome of any investigation/proceedings or Criminal Records Bureau check. The ECB Welfare Case Officer will convene a meeting of the RMG within 10 working days of the outcome of any investigation/proceedings or Criminal Records Bureau check.

3.1 The ECB Welfare Case Officer will ensure that the RMG are provided with sufficient detail to ensure constructive debate and consideration of the case presented to them.

3.2 The individual concerned will be given the opportunity to provide a written submission to the RMG.

In the case of a Child Welfare complaint, the RMG may agree one or more of the following outcomes:

3.3

- I. No further action is to be taken.
- II. A more detailed investigation is required to be carried out.
- III. A risk assessment is carried out on the individual concerned by a suitably qualified person in this instance the RMG will consider if a temporary suspension is appropriate pending the outcome.
- IV. In exceptional cases where the investigation has revealed that it would be unlawful for the individual to continue to work with Children (E.g. previous conviction for an offence listed in Schedule 1 of the Children and Young Person Act 1933), therefore meaning that the individual is not suitable to continue his/her activities in Cricket and should be immediately permanently disqualified.
- V. Provide a written conditional warning outlining the areas of concern or improvements required.
- VI. Further training is to be undertaken (e.g. a refresher coaching course - sports coach UK/ECB Good Practice and Child Protection Course, sports coach UK How to Coach Disabled People in Sport, sports coach UK - Equity in Your Coaching course).
- VII. The individual requires supervision or is to work with a mentor.
- VIII. In the event of serious or repeated misconduct, the RMG may recommend that the individual is not suitable to continue his/her activities in Cricket and should be permanently disqualified.
- IX. That his/her Cricket Coaching Licence/Membership should be revoked.
- X. The matter should be referred to the Disciplinary Panel.

3.4 Where an allegation concerns Child Protection issues the RMG may postpone any decisions pending the outcome of any investigation by Police or Social Services.

In the case of a Child Protection complaint, the RMG may agree one or more of the following outcomes:

3.5

- I. No further action is to be taken.
- II. Provide a conditional warning outlining the areas of concern or improvement.
- III. A risk assessment is carried out on the individual concerned by a suitably qualified person in which case the RMG will consider if a temporary suspension is appropriate pending the outcome.
- IV. In exceptional cases where the investigation has revealed that it would be unlawful for the individual to continue to work with Children (E.g. previous conviction for an offence listed in Schedule 1 of the Children and Young Person Act 1933), therefore meaning that the individual is not suitable to continue his/her activities in Cricket and should be permanently disqualified.
- V. In the event of serious or repeated misconduct, the RMG may recommend that the individual is not suitable to continue his/her activities in Cricket and should be permanently disqualified.
- VI. Further training is to be undertaken (e.g. a refresher coaching course - sports coach UK/ECB Good Practice and Child Protection Course, sports coach UK How to Coach Disabled People in Sport, sports coach UK - Equity in Your Coaching course).
- VII. The individual requires supervision or is to work with a mentor.
- VIII. That his/her Cricket Coaching Licence/Membership be revoked.
- IX. That a Disciplinary Hearing should be held.

3.6 All events, circumstances and evidence of the alleged incident/misconduct/offence will be heard. Upon the conclusion of the meeting the agreed decision will be communicated in writing within 5 working days to the individual and their Club/County Welfare Officer. The individual will also be informed of their right of appeal against any decision made.

3.7 If any individual fails to comply with recommendations of the RMG then further disciplinary proceedings may be instigated.

3.8 If any Club/County or affiliated organisations fails to comply or adhere to recommendations made in respect of any individual then disciplinary proceedings may be instigated.

STAGE 4 - DISCIPLINARY HEARINGS

4.0 If the RMG can take a disclosure/allegation/investigation no further then the matter may be referred to a Disciplinary Hearing.

4.1 The Disciplinary Hearing Panel will be independent of the RMG. The Panel will comprise of at least three persons appointed by the Chief Executive of the ECB. No person connected with the individual or the Club/County concerned should be a member of the Panel.

4.2 The individual concerned shall be notified in writing of the allegation/s against him/her and the date, time and location of any Disciplinary Panel Hearing. The notification will give at least 7 days notice.

4.3 The individual concerned has the right to attend the Hearing in order to present his/her case or to make any written submission. If there is any reason why the individual cannot attend on the given date but would otherwise wish to do so, then he/she must give written notice to the ECB Welfare Case Officer stating the reasons why attendance is not possible and must provide suitable dates within the subsequent 3 weeks when attendance is possible.

4.4 If the Disciplinary Panel is satisfied that the individual concerned has been given adequate notice of the time, date and location of the Hearing, they may allow the hearing to proceed if the individual fails to attend. However, if a request for a postponement has been made, the Disciplinary Panel may exercise discretion to postpone if the time, date or location detailed for the Hearing is such that the person cannot reasonably be expected to attend.

4.5 A person adjudicating on a dispute must have no pecuniary or propriety interest in the outcome of the proceedings and must not reasonably be suspected of, or show, a real likelihood of bias.

4.6 The individual concerned is entitled to be supported by a colleague. There is no right to legal representation but the Panel would normally permit the accused person to be legally represented. However, the attendance or otherwise of the legal representative will not generally be accepted as a reason to postpone a hearing.

4.7 All events, circumstances and evidence of the alleged incident/misconduct/offence will be heard. The individual will be given the right to respond if in attendance and may be questioned by the Panel.

4.8 The individual concerned may produce any witness in support of their case. The witness evidence will be heard individually. The Panel may question the any witness.

4.9 At the conclusion of the Hearing if the individual concerned is present then they may either be informed as to whether the case to answer has been proven or otherwise or the Panel may notify them that it will reserve its decision. If not in attendance, or the decision is reserved, the individual concerned will be notified in writing, within 5 working days, of any decision made. At this time they will be informed of their right of appeal.

4.10 A full written record of the Hearing will be kept and produced at any appeal.

The Disciplinary Panel may agree one or more of the following outcomes:

4.11

- I. No further action will be taken.
- II. Provide a conditional warning outlining the areas of concern or improvement.
- III. Further training is to be undertaken (e.g. a refresher coaching course - sports coach UK/ECB Good Practice and Child Protection Course, sports coach UK – How to Coach Disabled People in Sport, sports coach UK - Equity in Your Coaching course).
- IV. The individual requires supervision or is to work with a mentor.
- V. That a risk assessment be carried out on the individual by a suitably qualified person.
- VI. That his/her Cricket Coaching Licence/Membership be revoked.
- VII. That the individual is not suitable to continue his/her activities in cricket and should be permanently disqualified.
- VIII. May take any other reasonable action which they believe is suitable, given the circumstances presented.

4.12 If any individual fails to comply with the decision of the Disciplinary Panel then further disciplinary proceedings may be instigated.

4.13 If any Club or County fails to comply or adhere to the decision made in respect of any individual by the Disciplinary Panel then disciplinary proceedings may be instigated against the said Club or County.

STAGE 5 – RIGHT OF APPEAL

5.0 An individual has the right of appeal in respect of a decision made by the RMG or Disciplinary Panel.

5.1 Any request for appeal must be put in writing within 14 days of the decision, to the ECB Chief Executive, detailing the reasons for the appeal.

5.2 The Chief Executive or any appropriate nominated member of the Senior Executive will decide how the appeal should proceed. The Chief Executive may hear the appeal or has the prerogative to convene an Appeal Panel of suitably qualified individuals.

5.3 The Appeal Panel must be comprised of different persons to those who sat on either the RMG or Disciplinary Panel. The Appeal Panel must comprise of not less than 3 people, none of whom should be connected with the individual or Club/County.

5.4 The appeal against any previous panel verdict should take the form of a complete re-hearing. The individual concerned shall have the same rights of attendance and representation as per any Disciplinary Panel Hearing.

5.5 Any decision made by the Appeal Panel shall be by majority vote. The nominated Chairman shall have the casting vote where applicable. The decision of the Appeal Panel, or where applicable the Chief Executive, is final and binding.

5.6 The Appeal Panel, or where applicable the Chief Executive, may confirm any previous decision, vary it, reverse it or increase it.

5.7 The individual concerned will be informed in writing, within 5 working days, of the appeal decision.

TERMS OF REFERENCE – ENGLAND AND WALES CRICKET BOARD LIMITED (ECB) REFERRAL MANAGEMENT GROUP

1. Appointment

The Chief Executive of the ECB shall appoint the members of the RMG. The Chief Executive shall only appoint an individual if he/she considers that the appointee is suitably qualified.

2. Operation

The Members of the RMG shall include the ECB Welfare Case Officer who will co-ordinate, administer and oversee the operations of the RMG.

The RMG will operate independently of the ECB Executive Directors. However individual members of the RMG will be members of the Senior Executive.

3. Jurisdiction

All matters relating to potential child abuse, poor practice or misconduct must be reported to the Club/County Board and subsequently to the ECB Welfare Case Officer. When absent this should be to a temporarily nominated person.

The RMG will have jurisdiction to hear any 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.
- Any person within Cricket who has agreed or is deemed to have agreed to comply with his/her County Board or Club policies, (including the ECB's regulations and policies).

4. Referral to Police/Social Services

The ECB Welfare Case Officer may, if appropriate, in consultation with the ECB Child Protection Adviser, directly inform the Police/Social Services with regard to a referral/disclosure relating to child abuse, potential child abuse or child protection concerns.

Where any referral or disclosure is received directly from the Police/Social Services, the ECB RMG are entitled to take supplementary action in conjunction with or upon the conclusion of any investigation.

The RMG will work with any relevant agency and implement any appropriate measures or recommendations arising from that investigation.

5. Further Information and Outside Assistance

If the RMG concludes that further evidence is required in respect of any particular case presented to it. The ECB Welfare Case Officer shall be responsible for obtaining this information.

The RMG have the authority to request the assistance of outside specialists but are under no obligation to unless it is deemed necessary in order to achieve a particular conclusion or recommended action.

6. Suspension and Investigation

The RMG are hereby given the authority to suspend/disqualify whether temporarily or permanently any person whom they deem to pose a potential risk to any young person/vulnerable adult whilst an enquiry into a disclosure/referral takes place.

The RMG will take such steps as are reasonable to ensure that any such enquiry is conducted as promptly and reasonably as possible.

7. Revocation of Licence/Membership

The RMG are hereby given the authority to revoke any Coaching Licence/Membership acquired from the ECB Coaches Association if appropriate.

8. Notification to RMG

The ECB Welfare Case Officer, prior to calling a RMG meeting, will consider whether sufficient information has been provided for the purposes of decision making. In particular, the ECB Welfare Case Officer will consider whether further information is required from the referral/disclosure source or from the person against whom the complaint has been made in order that they may provide details by way of rebuttal.

Where the ECB Welfare Case Officer considers that receipt of additional information is necessary to present to the RMG, the meeting may be postponed and held within 10 working days of receipt of the information.

9. Proceedings

Any issues of deliberation or disagreement arising at the RMG forum shall be resolved by majority vote. In the case of a 'stalemate' the Chairman of the meeting shall have the deciding or casting vote.

10. Conflicts

If any member of the RMG become aware or learn that they are connected to or have an interest in any case presented to them, they should immediately declare the nature of their conflict to other members.

The member shall not be deemed to share a conflict of interest if:

- He/she has links to the relevant County within which the incident occurred, provided he/she is not linked to the actual Club and has no direct knowledge of the individual referred to.
- He/she is a member of the same profession (e.g. Umpire/Coach) as the person against whom the complaint has been made provided he/she does not have direct knowledge of the individual referred to.

11. Quorum

The physical assembling of the RMG is not necessary to make preliminary decisions in respect of a presented matter. Meetings may be held by telephone or decisions taken by a written resolution, signed by at least two members. A quorum of persons for decision making purposes with regard to any action initiated is two.

12. Alternates

Any member of the RMG may appoint a nominated person of the Senior Executive who will act as temporary member for the purposes of a meeting, if he/she is unable to attend.

13. Implementation of Decisions

The decision of the RMG shall be communicated to a senior Official e.g. Chairman, Club/County Welfare Officer, who is responsible for the Club/County/Organisation within which the complaint was received for the purpose of enforcement.

The senior individual may only refuse to accept a decision made by the RMG if he/she considers that the RMG decision process was questionable/flawed due to participation of an individual with a conflict of interest.

Where the matter disclosed/referred to relates to any Club, County Board or the ACU&S, that body shall be responsible for implementing the decision of the RMG and any other applicable sanctions.

14. Appeal

An individual has the right of appeal against any decision made by the RMG.

Any decision made by the RMG shall remain effective until such time as an appeal judgment is issued.

The appeal must be put in writing to the Chief Executive of the ECB detailing the grounds for appeal. The appeal must be made within 14 days of being notified of the RMG decision.

15. Resignation/Removal from the RMG Board

A member of the RMG may resign having given notice to the ECB Chief Executive. This will have immediate effect.

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 it is found to be the case that they have committed a Child Welfare or Child Protection offence.

16. Confidentiality

All matters referred to the RMG shall be regarded as highly confidential. All members shall be bound by strict confidentiality regardless of whether they cease to participate in the RMG.