

## ENGLAND GOLF SAFEGUARDING COMPLAINTS AND DISCIPLINARY REGULATIONS

### 1. Introduction and Jurisdiction

- 1.1 England Golf is committed to ensuring that all children and adults at risk of harm who participate in the sport of golf have a safe and positive experience.
- 1.2 Safeguarding is not capable of an exhaustive definition. Concerns in relation to Safeguarding are not capable of exhaustive definition but may include concerns surrounding poor practice, bullying, grooming, harassment and/or physical, sexual and/or emotional abuse and/or neglect and/or where there is Social Services and/or Police involvement.
- 1.3 These regulations will apply to all individuals working or Participating within the sport of golf in England whether in a paid or voluntary capacity and are intended to set out the procedures to be followed by England Golf and to provide a comprehensive, fair and equitable process for the purposes of:
  - a) assessing someone's suitability for working in Regulated Activity in golf following an adverse DBS disclosure; and/or
  - b) responding to any enquiry into any concerns or complaints received regarding Safeguarding.
- 1.3 England Golf works with other Participating Golf Bodies and has agreed with them a consistent case management system, investigation process and interim sanctions. However, each party maintains its own obligations in relation to permanent sanctions and disciplinary processes. Where there is cross jurisdiction, the relevant Participating Golf Bodies shall agree which golf body should take the lead but such agreement shall not prejudice each body's jurisdiction.
- 1.4 The Case Management Group ("CMG") shall have jurisdiction to consider adverse DBS disclosures and make decisions as to someone's suitability to work in Regulated Activity in golf in England and to consider progress on; to advise in relation to; and to make interim sanctions in relation to concerns or complaints regarding Safeguarding. England Golf shall have jurisdiction in relation to appeals against the Case Management Group, permanent sanctions and its disciplinary processes.
- 1.5 All Affiliated Clubs and Voting Members of England Golf agree to be bound by these Regulations. It is a requirement that all Affiliated Clubs and Voting Members of England Golf adopt and comply with either England Golf provided Safeguarding policies and procedures or their own Safeguarding policies and procedures which are consistent with these Regulations.
- 1.6 So far as practicable, confidentiality will be maintained at all times in respect of all those involved in any enquiry or investigation unless there is an over-riding obligation in the interests of the safety or protection of children or adults at risk for such information to be shared with other interested parties. Any such information shared shall be distributed on a need-to-know-basis only.
- 1.7 All matters relating to poor practice, emotional, physical, sexual abuse or neglect should be reported to the appropriate Club or County Welfare Officers and, if it has

not already happened, as soon as practicable thereafter to England Golf's Governance Department.

- 1.8 In the exercise of its duty to safeguard children and adults at risk, England Golf will normally record the details of any individual who is temporarily suspended, permanently disqualified or temporarily or permanently permitted to participate in golf but subject to restrictions. This record shall include by way of example but not limitation the reasons for suspension, disqualification or restriction, any decision and any supporting evidence. This will be made available to appropriate third parties for the purposes of enforcement and crime prevention at England Golf's sole discretion.
- 1.9 England Golf will not be liable to any suspended or disqualified individual, club or organisation for any loss, however caused, whether direct, indirect, financial or consequential arising out of or in connection with any suspension and/or disqualification under these regulations.

## 2. Definitions

In these regulations the following words shall have the meanings set out opposite them: -

"Adults at risk of harm"	<p>an individual aged 16 or over who:</p> <ul style="list-style-type: none"> <li>- is unable to look after their own wellbeing, property, rights or other interest; and</li> <li>- is at risk of harm (either from another person's behaviour or their own behaviour); and</li> <li>- because they have a disability, mental disorder, illness or physical or mental infirmity, or are more vulnerable to being harmed than other adults.</li> </ul>
"Affiliated Club"	any golf club affiliated to England Golf from time to time;
"Barred List Check"	a check to establish whether a person is barred from working in regulated activity with children or adults at risk.
"Club or County Welfare Officer"	the individual designated with Safeguarding responsibility within an Affiliated Club or County;
"CMG"	the Case Management Group of the Participating Golf Bodies which shall consist of not less than 2 independent individuals and also at least one representative of each Participating Golf Body. The independent members shall be appointed and removed by a majority vote of the Participating Golf Bodies for an initial three year term following a formal and transparent selection process which will be competence based. Independent members may be reappointed for further terms.



"DBS"	the Disclosure and Barring Service.
"Disciplinary Regulations"	Regulations made pursuant to the powers of England Golf to act as the governing body for the amateur golf game in England as set out in its Articles of Association.
"Enhanced Disclosure"	an enhanced check provided by the DBS.
"LADO"	the Local Authority Designated Officer.
"Member"	A voting or non-voting member of England Golf as defined in the Rules of England Golf;
"Participating"	engaging in any act of Participation
"Participating Golf Body"	England Golf, the Professional Golfers' Association, the Golf Union of Wales and the Golf Foundation.
"Participation"	being employed or engaged in a golf related paid, voluntary or consultancy capacity by England Golf, any Participating Golf Body or any Affiliated Club or Voting Member of England Golf; playing golf as an amateur or professional golfer; providing golfing related services to any amateur or professional golfer; participating in any tournament or other golfing activity promoted by England Golf, any Participating Golf Body or any Affiliated Club or Voting Member of England Golf. All such persons agree or are deemed to have agreed to comply with England Golf regulations and policies.
"Regulated Activity"	work that a barred person must not do as defined by the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012.
"The Rules of England Golf"	the rules of England Golf in place at the relevant time.
"Safeguarding Panel"	the panel constituted in accordance with paragraph 5.1 below;
"Safeguarding Appeals Panel"	the panel constituted to hear appeals from the Safeguarding Panel in accordance with paragraph 5.1 below;
"Voting Member"	A voting member of England Golf as defined in the Rules of England Golf

### **3. Investigations**

- 3.1 It is a requirement that any individual applying to be appointed or appointed to a role involving Regulated Activity in the sport of golf complete a Barred List Check (an Enhanced Disclosure from the DBS for all residents of England and Wales or an equivalent check from the relevant vetting body). Any such individual agrees to cooperate with England Golf and to provide such information as England Golf may reasonably require, including any adverse DBS disclosure. England Golf at its reasonable discretion may investigate any such person's suitability for working in Regulated Activity in golf and may refer any such person/*matter* to the CMG.
- 3.2 England Golf may also receive concerns or complaints regarding Safeguarding in relation to someone Participating in golf. England Golf at its reasonable discretion may investigate any such concern and complaint in accordance with these Regulations.
- 3.3 Where Social Services, the LADO or the Police are not already involved and the concerns or matters raised are deemed to warrant their involvement, England Golf will notify them of the matters which have been brought to its attention. The Affiliated Club/ County Welfare Officer should, where appropriate, be immediately informed of any concerns raised.
- 3.4 Any investigation may take the form of a criminal investigation carried out by the Police and/or Social Services and where appropriate an independent investigation undertaken by England Golf. If an England Golf investigation reveals a possible or actual breach of the law then the England Golf investigation may be suspended and an appropriate referral will be made to the Police and/or Social Services.
- 3.5 In respect of any Safeguarding matter which is notified to England Golf, the CMG may impose a temporary suspension upon an individual in respect of whom the concerns have been raised or an adverse DBS disclosure received, pending the outcome of further enquiries and/or investigation where such a suspension is deemed by the CMG to be warranted and/or necessary to ensure the welfare and safety of the child/adult at risk involved and/or other children/adults at risk who may come into contact with the individual in question. A decision to suspend will be authorised by any 2 members of the CMG. Suspension is to be considered a neutral act and should not be viewed as a sanction or penalty. A decision to suspend under this regulation 3.5 is not open to appeal.
- 3.6 Where a temporary suspension is imposed this may be a suspension from or a restriction on any and all Participation, and which may include but are not limited to coaching, managing teams, the appointment as captain, playing, acting in a position of trust in relation to young people or adults at risk, undertaking any official position such as board membership or administrative duties, spectating or other activity relating to the sport of golf where there is likely to be contact with children or adults at risk.
- 3.7 If any individual is temporarily suspended or restricted and during the course of the suspension England Golf is informed of any breach or abuse of the suspension or restriction the individual will be issued with a written warning requiring immediate compliance with the terms of his or her suspension. Failure to adhere to the terms of the written warning will be considered a potential breach of England Golf's policies and regulations and may be dealt with as such under England Golf's Disciplinary Regulations.
- 3.8 The investigative process may include any of the following:

- 3.8.1 A requirement on the individual to submit references
- 3.8.2 A Barred List Check or new Barred List Check may be required of the individual.
- 3.8.3 The concerns may also be referred to the Police and/or Social Services and or the LADO for consideration as to whether a criminal or civil investigation into the matter is necessary.
- 3.8.4 Interview of the person under investigation, any witness, any person making a complaint or allegation, any child or adult at risk of harm, and/or anyone else who England Golf reasonably believes may be able to assist in the investigation.
- 3.8.5 The production of and consideration of any other evidence.
- 3.9 In addition England Golf reserves the right to proceed with its own investigation, concurrently with any criminal or civil investigation where considered appropriate by the CMG.
- 3.10 Save where in England Golf's reasonable opinion it may prejudice the investigation, England Golf may notify the individual in writing of the intention to investigate, the nature of the investigation and the reasons for this. The decision whether or not to inform the individual will be made balancing the need to properly investigate the matter and the rights of the individual under natural justice. If a temporary suspension has been imposed by England Golf in the interests of Safeguarding, the individual and any relevant Affiliated Club and/or Voting Member will be informed of this. Notification will not be necessary if it is considered that this may prejudice any Police and/or Social Services and/or England Golf internal investigation or place any particular child or vulnerable adult at risk.
- 3.11 England Golf will carry out or coordinate any investigation. Any investigation will be conducted as promptly as possible and will provide periodic updates to the individual being investigated and any relevant Affiliated Club and/or Voting Member during the course of the investigation where appropriate. England Golf reserves the right to appoint a third party investigator to conduct or assist in the conduct of any investigation.
- 3.12 The individual being investigated shall not approach (whether directly or indirectly), intimidate or influence any witness involved in the investigation. A failure to adhere to this requirement shall be considered a potential breach of England Golf's policies and regulations and may be dealt with as such under England Golf's Disciplinary Regulations.
- 3.13 The individual being investigated may be interviewed during the course of the investigation. This may take place more than once but will only take place where it is necessary to put further information to the individual concerned that has come to light during the course of the investigation. The individual shall, at his/her own expense, be entitled to have a legal or other representative present during any interviews.
- 3.14 Upon conclusion of the investigation England Golf will present relevant case papers to the CMG which will proceed in accordance with paragraph 4 below.

#### **4. The Role and Responsibilities of the CMG**

- 4.1 Upon receipt of the case papers a meeting of the CMG will be convened to consider the case and decide what action if any to take.
- 4.2 The individual may be provided with a copy of the information gathered during the course of the investigation; be given the opportunity to comment in writing on matters of fact and accuracy; and may be offered an opportunity to make written representations to the CMG within such timescales, as the CMG may deem appropriate in the circumstances, unless to do so, in the reasonable opinion of England Golf, would prejudice investigation or the welfare and safety of the child or adult at risk involved or other children or adults at risk who come or may come into contact with the individual under investigation.
- 4.3 The CMG's function is to consider whether an individual poses an actual or potential risk of harm to children or adults at risk within the sport of golf. The CMG is not required to prove beyond reasonable doubt that a person is or may pose a risk of harm but to assess this on the balance of probabilities. The CMG is required to impose appropriate sanctions in order to manage any such risk where possible.
- 4.4 In its decision-making, the CMG will consider the following factors but will not be limited to them:
  - 4.4.1 Whether any conviction or other matters revealed is/are relevant to the position in question;
  - 4.4.2 The seriousness of any offence or other matter revealed;
  - 4.4.3 The length of time since the offence occurred;
  - 4.4.4 Whether the individual has a pattern of offending behaviour or other relevant matters;
  - 4.4.5 Whether the individual's circumstances have changed following the offending behaviour and/or other relevant matters; and/or
  - 4.4.6 The circumstances surrounding the offence and the explanations offered by the individual concerned.
- 4.5 Where the CMG believes that an individual poses an actual or potential risk of harm to children or adults at risk in golf then the CMG may respond by reaching one or more or a combination of the following outcomes:
  - 4.5.1 take no further action;
  - 4.5.2 commission a more detailed investigation;
  - 4.5.3 make a referral to the Police and/or Social Services or the LADO;
  - 4.5.4 require the individual under investigation to commission at their own expense a risk assessment prepared by a suitably qualified person (to be agreed by England Golf).
  - 4.5.5 impose or extend a temporary suspension pending completion of any further investigation referral or risk assessment.
  - 4.5.6 provide a written conditional warning outlining the areas of concern or improvements required;

- 4.5.7 require the individual to undergo further training;
  - 4.5.8 require the individual to be supervised and/or work with a mentor permanently or for a period to be agreed by the CMG;
  - 4.5.9 extend the period of any temporary suspension until such time as the individual concerned has complied with any training, supervision or mentoring that he or she is required to undergo;
  - 4.5.10 refer the individual to the England Golf Safeguarding Panel to consider whether or not to disqualify the individual from Participation in part or in whole either indefinitely or for a specific period of time.
  - 4.5.11 refer to the individual to the DBS;
  - 4.5.12 reach any other decision which the CMG feels is appropriate having regard to the circumstances of the case, but which shall not include a suspension other than a temporary suspension;
- 4.4 Upon the conclusion of the CMG meeting the agreed decision with supporting reasons will be communicated in writing within seven days to the affected individual and any relevant Affiliated Club and/or Voting Member. The individual will also be advised of their right to appeal against any decision made and the time limits for doing so.
- 4.5 Failure to comply with the decision of the CMG shall be considered misconduct under the England Golf Disciplinary Regulations.
- 4.6 All Affiliated Clubs and other Members shall comply with the terms of any decisions reached by the CMG and/or England Golf. If any Affiliated Club or Member fails to implement or comply with any of the requirements imposed by the CMG, England Golf reserves the right to take appropriate action, which may include a referral to a tribunal under the England Golf Disciplinary Regulations or to the Board under the Rules and Articles of Association of England Golf.
- 4.7 The decision of England Golf will be communicated to the appropriate Affiliated Club and/or Voting Member for the purposes of enforcement and the Safeguarding of participants in golf.
- 4.8 England Golf reserves the right to notify child Safeguarding lead officers in other sporting organisations of the CMG's decision.

## **5. Appeals, Safeguarding Panel and Safeguarding Appeals Panel**

- 5.1 The Safeguarding Panel and Safeguarding Appeals Panel will consist of three members. The members of the Panels shall be appointed from the individuals listed on the Disciplinary and Safeguarding Register. The Safeguarding Panel and Safeguarding Appeals Panel shall be formed by the England Golf Governance Department, who shall also nominate the Chair of the Disciplinary Panel. The England Golf Governance Department shall appoint those individuals from the Disciplinary and Safeguarding Register who it is deemed are the most appropriate / qualified to hear the specific issue.
- 5.2 Save where provided otherwise in these Regulations, the powers and procedures of the Safeguarding Panel and Safeguarding Appeals Panel shall be the same as

the Disciplinary and Appeals Panels as set out in the England Golf Disciplinary Regulations.

- 5.3 Any Appeal against the decision of the CMG shall be referred to a Safeguarding Panel.
- 5.4 Any individual wishing to present an appeal in accordance with these regulations must submit to England Golf written notification ("the Notice of Appeal") containing the following information: -
- (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) that the decision of the CMG was based on error of fact or could not have been reasonably reached by the CMG when faced with the evidence before it; or
    - (ii) significant and relevant evidence has become available which was not available prior to the CMG decision which, had it been available, may have caused the CMG to reach a materially different decision; or
    - (iii) provisions of these regulations were not adhered to in a material fashion; or
    - (iv) the findings of the CMG were irrational or otherwise exhibited an error of general law.
- 5.5 The Notice of Appeal must be submitted within 10 days of receipt by the individual of notification of any CMG decision.
- 5.6 The Safeguarding Panel hearing an appeal from the CMG may uphold the original decision, quash the original decision, refer the matter back to the CMG for further deliberation and decision or substitute its own decision, provided such decision does not go beyond the powers of the CMG set out in paragraph 4.5 above. The appeal will be by way of review only.
- 5.7 There shall be no appeal against a decision of the Safeguarding Panel where such decision is itself an appeal from a CMG decision.
- 5.8 Any decision by the CMG to refer the individual to the England Golf Safeguarding Panel under paragraph 4.5 shall be referred to a Safeguarding Panel and such panel shall be convened and operate as if it were being convened under the England Golf Disciplinary Regulations, which procedures shall apply where relevant to the extent that they are not in conflict with anything within these regulations. The standard of proof in all cases shall be the balance of probabilities.
- 5.9 A Safeguarding Panel convened in accordance with paragraph 5.1 above shall have all the same powers of the CMG as set out above and in addition may disqualify the individual from Participation in part or in whole either indefinitely or for a specific period of time.

- 5.10 Any Appeal against the decision of the Safeguarding Panel, other than an appeal against a decision of the CMG, shall be referred to a Safeguarding Appeals Panel. The appeal will be by way of review only and not a re-hearing.
- 5.11 The Safeguarding Appeals Panel may uphold the original decision, quash the original decision, or substitute its own decision, provided such decision does not go beyond the powers of the Safeguarding Panel set out in paragraph 5.7 above.
- 5.12 England Golf will confirm the decision of the Safeguarding Panel or Safeguarding Appeals Panel in writing within 7 days of any hearing. In addition, any decision will be communicated appropriate Affiliated Club and/or Voting Member.
- 5.13 No fees shall be payable in relation to an appeal by a party, but each party will bear its own costs associated with the Safeguarding Panel or Safeguarding Appeals Panel, including the cost of attendance at any hearing.
- 5.14 If a party proceeds with an Appeal, notwithstanding the fact that a provision of, or a requirement under these regulations, has not been complied with, without promptly stating its objection, that party shall have waived its right to object.