

# Regulation 21

## Definitions

**‘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.

**‘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 Children Act 1989. Children means more than one child.

**‘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 DBS including any renewal disclosures. There are three levels of disclosure: Standard, Enhanced or Enhanced with barred list checks. Depending on the nature of the role and the level of supervision the RFU will require either Enhanced or Enhanced with barred list checks.

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

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

**‘Offence’** means any criminal offence.

**‘Policy’** means the RFU’s Safeguarding Policy, Guidance and Procedures (as amended from time to time) or any other successor policy and procedure for the safeguarding of Children. The Policy is binding on all those involved in Rugby Union.

**‘Regulated Activity’** means the statutory definition of the term as set out in the Protection of Freedoms Act 2012 which in summary is teaching, training, 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 information regarding the statutory definition please see “DBS Factsheet: Summary of Regulated Activity relating to Children V1.0 - June 2013” which may be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249435/dbs-factsheet-regulated-activity-children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249435/dbs-factsheet-regulated-activity-children.pdf)

**‘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 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.

## Regulation 21 contd.

### 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 Each Club with a mini and/or junior section must have a Club Safeguarding Officer. A Club Safeguarding Officer must attend an In Touch course within 6 months of their appointment.

21.1.5 Each Constituent Body must have a CB Safeguarding Manager. A CB Safeguarding Manager must attend the NSPCC Time to Listen training within 6 months of their appointment.

21.1.6 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.

21.1.7 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.

### 21.2 DBS Disclosures

21.2.1 An adult 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;
- (ii) to provide 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; and
- (iii) to provide, on request from the RFU, references that attest to their suitability to be involved in working in Regulated Activity in Rugby Union.

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, Referee's Societies or National Representative Body (as applicable)

## Regulation 21 contd.

21.2.2 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.

21.2.3 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.

21.2.4 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 details. They may be required to complete a new DBS check if it is considered appropriate by the RFU Safeguarding Team.

21.2.5 Clubs, Constituent Bodies, Referee's 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 21.2.1.

21.2.6 If an individual is Barred by the RFU from working in Regulated Activity the RFU is under a duty to refer that individual to the DBS in accordance with the Safeguarding Vulnerable Groups Act 2006.

### 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 considers fit on a case by case basis.

21.3.2 A Bar may be imposed when the Legal Officer receives:

- (a) notification that an individual has been charged with an Offence;
- (b) notification that an individual is the subject of an investigation by the Police, Social Services or any other authority relating to an Offence;
- (c) notification that an individual has been convicted of, or made the subject of a caution in respect of, an Offence;
- (d) notification of the outcome of an investigation by the Police, Social Services or any other authority relating to an Offence; and/or
- (e) any other information which causes the Legal Officer 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 shall give consideration to, but not limited to, the following factors:

(See next page)

## Regulation 21 contd.

- (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 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; 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
- (b) a specified period (if, after further investigation, the conduct is such that it merits a sanction 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 the right of appeal set out in Regulation 21.5.

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 may specify that the Bar will be reviewed after a certain period of time determined by the Legal Officer, 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.

## Regulation 21 contd.

21.3.9 The Legal Officer can decide to end a Bar at any time if it decides that the circumstances justify this. Such ending of a Bar is effective upon the RFU Legal Officer confirming this in writing.

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.

21.4.2 An individual subject to a 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 The decision of the Legal Officer shall remain in full force and effect until the matter is dealt with by an Appeal Panel.

21.4.4 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.

21.4.5 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.

21.4.6 The Appeal Panel shall have the power (instead of the powers in RFU Regulation 19.14.3) to:

- (a) allow or dismiss the appeal;
- (b) increase, decrease or remove any risk management provisions or other terms of the Bar;
- (c) lift the Bar;
- (d) remit the matter, with such directions as it thinks fit, for reconsideration.

21.5 Adults at Risk The RFU Safeguarding Adults at Risk Policy sets out the definition of an 'Adult at Risk' and the procedures to follow if any concerns arise relating to an Adult at Risk. If an individual is working with Adults at Risk they may be in Regulated Activity as defined in the Safeguarding Vulnerable Groups Act 2006 and the Protection of Freedoms Act 2012 in which case it may be necessary to obtain a DBS disclosure and check the individual against the Adults barred lists. 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.