



## **MANAGING THE APPLICANT ONLY DISCLOSURE AND CONTINUOUS UPDATING**

### **NEW REGULATIONS**

16.06.2013

## **Background**

These Regulations adapted from those prepared by Brabners Chaffe Street LLP for the *Sport and Recreation Alliance* and the *Child Protection in Sport Unit* are designed to help Pentathlon GB manage the practical implications of the changes introduced by the Protection of Freedoms Act 2012 relating to DBS Enhanced Disclosures.

## **What Will Change?**

Previously, the CRB (now replaced by the DBS) issued disclosure certificates to both the Applicant and to the registered body or umbrella body. From 17 June 2013, the disclosure certificate will be issued by the DBS to the Applicant only. Also a new scheme will be introduced called the DBS Update Service which will allow participating individuals to hold one disclosure certificate for a number of roles and enable the NGB to carry out an online status check to confirm the individual's status (provided the NGB chooses to implement the DBS Update Service and an individual subscribes to it). Overall, NGB's will be required to introduce changes to their recruitment practices and vetting procedures to manage the challenges that these changes will present.

## Definitions

In these Model Regulations the following words shall have the following meanings unless the context otherwise requires:

<b>Barred List Check</b>	means a check to establish whether a person is suspended from working with children or adults at risk;
<b>DBS</b>	means the Disclosure and Barring Service;
<b>DBS Enhanced Disclosure</b>	means an enhanced disclosure provided by the DBS. This includes a record of all warnings, reprimands, cautions and convictions obtained from the Police National Computer (PNC). Chief Police Officers may also choose to disclose information which they hold and which is considered to be relevant to the role;
<b>e- Bulk</b>	means the DBS online disclosure system available for the bulk processing of disclosure applications to a registered body who processes more than 1,500 disclosures per year;
<b>Individual</b>	means the person applying to be appointed or appointed to a role involving Regulated Activity whether in a paid or voluntary capacity;
<b>NGB</b>	means <i>[insert name of NGB]</i> , the national governing body for the sport of <i>[insert sport]</i> to which [Clubs or Affiliated Associations] are affiliated;
<b>NGB Appeal Panel</b>	means Pentathlon GB panel of people appointed to determine an appeal by an Individual against a Temporary Suspension Order;
<b>NGB Central Safeguarding Team</b>	means the safeguarding department of the [NGB];
<b>NGB Safeguarding Policy</b>	means Pentathlon GB <i>[insert correct title of the NGB's own safeguarding and vetting policy]</i> or any other successor policy and/or procedure for the safeguarding of children and young persons as amended from time to time;
<b>Regulated Activity</b>	means work that a barred person must not do as defined by the Protection of Freedoms Act 2012; and
<b>Temporary Suspension Order</b>	means an order temporarily suspending an Individual from undertaking a role or function which may be imposed by Pentathlon GB Safeguarding Lead Officer.

### 1. DBS Enhanced Disclosure Applications

1.1 These Regulations apply to the appointment of both paid and voluntary roles.

- 1.2 All appointments to roles requiring DBS Enhanced Disclosures must be expressed to be conditional upon the Individual complying with Pentathlon GB vetting requirements and receipt of satisfactory DBS clearance.
- 1.3 Individuals must be checked against the barred list prior to commencing a role in Regulated Activity.
- 1.4 A DBS Enhanced Disclosure may be obtained in respect of eligible Individuals at an appropriate time in accordance with the Pentathlon GB Safeguarding Policy.

## **2. Position Prior to Receipt of a DBS Enhanced Disclosure**

- 2.1 Prior to receipt of the DBS Enhanced Disclosure and/or the Barred List Check, the Individual may be permitted to undertake a role which is supervised at all times by a person within the Club or engaging officer having the necessary DBS clearance, for a maximum period of 3 months.

## **3. Establishing the Outcome of a DBS Enhanced Disclosure**

- 3.1 Ordinarily, Pentathlon GB will not receive a copy of the DBS Enhanced Disclosure. The exception to this is set out at Regulation 7.7 below.
- 3.2 The Pentathlon GB Safeguarding Lead Officer will establish whether a DBS Enhanced Disclosure has been issued by:-
  - 3.2.1 manually checking the DBS application on line; or
  - 3.2.2 by way of notification by e-Bulk.

## **4. Obtaining the DBS Enhanced Disclosure**

- 4.1 Pentathlon GB Safeguarding Lead Officer shall ask the Individual to provide the DBS Enhanced Disclosure in all cases as follows:-
  - 4.1.1 on establishing that a DBS Enhanced Disclosure has been issued, the Pentathlon GB Safeguarding Lead Officer shall write to the Individual requesting that he / she send the original DBS Enhanced Disclosure to him within 21 days of the written request. The Pentathlon GB Safeguarding Lead Officer has the discretion to vary the timing of this requirement as it sees fit if the Individual advises that he/she is pursuing the DBS dispute process;
  - 4.1.2 pending receipt of the DBS Enhanced Disclosure, the Individual shall not be permitted to undertake a role in Regulated Activity but may remain in a supervised role for a maximum of 3 months;
  - 4.1.3 if the Individual fails to send the DBS Enhanced Disclosure within the requisite 21 days, the Pentathlon GB Safeguarding Lead Officer shall write to the Individual, requesting that he/she provide the DBS Enhanced Disclosure within a further period of 7 days and advising that should he/she fail to do so, he/she [may/shall] be temporarily suspended from undertaking any role pursuant to the provisions of Appendix 1 below. A copy of the letter will be sent to the Club or engaging officer as appropriate.

4.1.4 if the DBS Enhanced Disclosure is received within the requisite period and is clear, the Pentathlon GB Safeguarding Lead Officer shall notify the Club or engaging officer and the Individual in writing, as soon as reasonably possible, confirming that the Individual may commence a role in Regulated Activity;

4.1.5 if the DBS Enhanced Disclosure is received within the requisite period and it is not clear, the Pentathlon GB Safeguarding Lead Officer shall proceed to consider and assess the facts of the particular case in accordance with its existing Safeguarding Policy before notifying the Individual and the Club or engaging officer of the outcome of the assessment.

## 5. **Returning the DBS Enhanced Disclosure**

The Pentathlon GB Safeguarding Lead Officer will return the DBS Enhanced Disclosure to the Individual as soon as reasonably possible. Subject to Pentathlon GB having the consent of the Individual, it may retain a photo copy for its records. Any updated DBS Enhanced Disclosure obtained under Regulations 7 or 8 should also be returned in the same way.

## 6. **Continuous Updating/Renewals**

6.1 The Pentathlon GB Safeguarding Lead Officer will be responsible for the process of checking the status of an Individual's DBS Enhanced Disclosure and any subsequent assessment of an Individual's on-going suitability to undertake a role. Such checking will be undertaken, as a minimum, every 3 years from the date of receipt of the Individual's original DBS Enhanced Disclosure.

6.2 The Pentathlon GB Safeguarding Lead Officer may carry out a status update by:

6.2.1 undertaking an online status check using the DBS Update Service; and/or

6.2.2 requiring an Individual to obtain a new DBS Enhanced Disclosure.

6.3 The Pentathlon GB Safeguarding Lead Officer may at its discretion, obtain a status update at any time and more frequently than set out in Regulation 6.1 above where, for example:

6.3.1 the Pentathlon GB Safeguarding Lead Officer and/or the Club or engaging officer becomes aware of or has any reason to believe that there may be a change to the Individual's DBS status; or

6.3.2 the Pentathlon GB Safeguarding Lead Officer is investigating any concern regarding an Individual's conduct pursuant to the NGB's Safeguarding Policies and Procedures; or

6.3.3 the Pentathlon GB Safeguarding Lead Officer reasonably considers it to be appropriate for any reason to require an Individual to provide a new DBS Enhanced Disclosure.

This list is not intended to be exhaustive.

## 7. **Online Status Check - DBS Update Service**

- 7.1 The Pentathlon GB Safeguarding Lead Officer may carry out an online status check using the DBS Update Service provided that:
  - 7.1.1 the Individual has subscribed to the DBS Update Service; and
  - 7.1.2 the Individual has given his/her consent (in accordance with the form attached at Appendix 3) for the Pentathlon GB Safeguarding Lead Officer to use the DBS Update Service; and
  - 7.1.3 the Pentathlon GB Safeguarding Lead Officer holds a copy of the Individual's original DBS Enhanced Disclosure.
- 7.2 If the criteria set out in Regulation 7.1 is satisfied, the Pentathlon GB Safeguarding Lead Officer shall set up an electronic reminder on the NGB database prior to the third anniversary of the date of receipt of the Individual's original DBS Enhanced Disclosure and every third year thereafter and on or about such anniversary shall log-on to the DBS Update Service to carry out a status check, and shall check in particular:
  - 7.2.1 the Individual's identity;
  - 7.2.2 that the name on the DBS Enhanced Disclosure matches this identity; and
  - 7.2.3 the DBS Enhanced Disclosure reference number, the Individual's name and date of birth.
- 7.3 If the status check shows that the Individual's DBS Enhanced Disclosure remains current as no further information has been identified since its issue then the Pentathlon GB Safeguarding Lead Officer shall notify the Club or engaging officer and the Individual that the DBS Enhanced Disclosure remains current and valid.
- 7.4 If the status check shows that the Individual's DBS Enhanced Disclosure is no longer current, the Pentathlon GB Safeguarding Lead Officer shall:
  - 7.4.1 require the Individual to apply for a new DBS Enhanced Disclosure within 28 days; and
  - 7.4.2 [may/shall] inform the Club or engaging officer that the Individual may not undertake any role in Regulated Activity and that he/she may only undertake a supervised role until such time as the Individual provides a new DBS Enhanced Disclosure.
- 7.5 If the Individual does not comply with the request to apply for a new DBS Enhanced Disclosure within 28 days, the Pentathlon GB Safeguarding Lead Officer shall write to the Individual requesting that he/she provide the new DBS Enhanced Disclosure within a further period of 14 days and advising that should he/she fail to do so he/she [may/shall] be temporarily suspended from undertaking any role in accordance with Appendix 1 below. A copy of the letter will be sent to the Club or engaging officer.
- 7.6 If the DBS has issued a new DBS Enhanced Disclosure to the Individual and the Individual fails to provide the Pentathlon GB Safeguarding Lead Officer with a copy within 28 days of its issue by the DBS, the Pentathlon GB Safeguarding Lead Officer may request a copy of the DBS Enhanced Disclosure directly from the DBS.
- 7.7 Upon receipt of the new DBS Enhanced Disclosure, the Pentathlon GB Safeguarding Lead Officer shall consider the facts of the particular case in accordance with the NGB's Safeguarding Policy.

## Appendix 1

### 1. Temporary Suspension Orders

- 1.1. In order to ensure the safety and welfare of children and vulnerable persons in Modern Pentathlon and in order to meet its general safeguarding obligations, the Pentathlon GB Safeguarding Lead Officer may at any time impose a Temporary Suspension Order suspending the Individual from any and all activity under the auspices of the Pentathlon GB for such duration and on such terms as it considers to be appropriate.
- 1.2 For the avoidance of doubt, a Temporary Suspension Order may be imposed when an Individual fails to comply with any aspect of Pentathlon GB vetting procedures.
- 1.3 When considering the imposition of a Temporary Suspension Order, the Pentathlon GB Safeguarding Lead Officer shall consider the facts of each individual case and shall consider, by way of example only:-
  - 1.3.1 the nature of the role;
  - 1.3.2 whether a child or children or vulnerable persons are or may be at risk of harm;
  - 1.3.3 any explanation offered by the Individual for his or her non-compliance with the vetting process.

This list is not intended to be exhaustive.

- 1.4 Temporary Suspension Orders will be issued by Pentathlon GB Safeguarding Lead Officer and confirmed to the Individual in writing, confirming the right to appeal as set out in Regulation 2 of this Appendix 1 below.

### 2. Appeals

- 2.1 An individual may appeal against the imposition of a Temporary Suspension Order. Any appeal should be submitted in writing to the CEO for the Appeal Panel within 10 days of receiving confirmation of the Temporary Suspension Order. The letter of appeal should set out clearly the grounds of appeal.
- 2.2 Any appeal will be considered in accordance with the Pentathlon GB Safeguarding Policy and the Appeal Panel will, at all times, adhere to the principles of natural justice.
- 2.3 The terms of the Temporary Suspension Order will continue to apply during the appeal process.
- 2.4 The Appeal Panel may confirm the original decision to impose a Temporary Suspension Order, vary it or dismiss it. Its decision will be final and binding.
- 2.5 Pentathlon GB will not be liable to any suspended Individual, Club or engaging officer for any loss of any nature arising as a result of or in connection with the imposition of a Temporary Suspension Order or the application of these Regulations.

## Appendix 2



To: *[insert name of Individual]*

*[insert address]*

*[insert date]*

Dear *[insert name of Individual]*

Further to your application for the role of *[insert name of role]* with *[insert name of Club or Affiliated Association]*, we understand that your DBS Enhanced Disclosure has been issued by the DBS.

Please send your original DBS Enhanced Disclosure within 14 days of the date of this letter to Dr Richard Cox, Safeguarding and Child Protection Lead Officer at Pentathlon GB.

We wish to inform you that pending receipt of your DBS Enhanced Disclosure, you shall not be permitted to undertake the role of *[insert name of role as per above]* but may remain in a supervised role for a maximum of 3 months.

If your DBS Enhanced Disclosure is not received within 14 days as set out in this letter, it may be necessary to temporarily suspending you from undertaking any role with Pentathlon GB. We trust however that this will be unnecessary and thank you in anticipation of your co-operation.

We look forward to hearing from you.

Yours sincerely

*[Name of Appointing Officer]*  
Pentathlon GB





## Consent Form

To: Dr Richard Cox, Safeguarding and Child Protection Lead Officer

I,      *[Individual to insert his/her name]* give my consent for Pentathlon GB Safeguarding and Child Protection Lead Officer to access my status information online through the use of the DBS Update Service as frequently as may be required by the NGB for the purposes of my role as *[insert name of Individual's role]* with *[insert Club or Camp, etc.]* which requires me to hold a DBS Enhanced Disclosure and such consent is provided by me for the duration of my appointment to the role of *[insert Individual's role]* and until such time as I notify the Lead Officer that I no longer occupy a role requiring a DBS Enhanced Disclosure.

In the event of me being appointed to another role with Pentathlon GB which requires me to hold a DBS Enhanced Disclosure, then I hereby consent to the Safeguarding Lead Officer continuing to access my status information online through the DBS Update Service for the purposes of this role and for the duration of my appointment to such role.

In addition, I give my consent to the Safeguarding Officer to retain a photocopy for its records of any DBS Enhanced Disclosure which I have provided to the NGB.

I understand that as a freelance coach, I will be expected to pay in full (£60), the cost of the check and enclose the full amount with this form/require an invoice from Pentathlon GB/agree to have this sum deducted from my first payment (delete as necessary)

I understand that as a volunteer, Pentathlon GB will pay for my check

**Print Name:**.....

**Address:**.....

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**Signature:**.....

**Date:**.....