

MANAGING THE “APPLICANT ONLY” DISCLOSURE AND CONTINUOUS UPDATING



BAB REGULATIONS

Based on a guidance document prepared by Brabners Chaffe Street LLP
for the Sport and Recreation Alliance and the Child Protection in Sport Unit;
and on advice received from The Media Group

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Please note: these Model Regulations should not be construed as definitive legal advice to any BAB Association or member and may be subject to change following further Government announcements relating to the implementation of the changes detailed in the Protection of Freedoms Act 2012 in so far as it relates to the Applicant only disclosure and continuous updating.

Background

These Regulations are designed to help the BAB and its Members 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 our umbrella body (TMG). If the Disclosure had content on it, the BAB's Lead Safeguarding Officer then received the 'second copy' from the umbrella body and used this for the recruitment risk assessment process. **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 thus enable the BAB to carry out an online status check to confirm the individual's status. Overall, the BAB and its member Associations will have to introduce changes to their recruitment practices and vetting procedures to manage the challenges that these changes will present.

How to use the Model Regulations

The Regulations set out below are intended to provide a practical and equitable means of managing both the "Applicant only" disclosure issue and the DBS Update Service, whilst recognising the importance of confidentiality and the recommendations set out in the DBS Code of Practice.

The Model Regulations are set out in a number of sections which deal with the following:

- Role of the BAB
- Definitions of key terms;
- DBS Enhanced Disclosure Applications;
- Position Prior to Receipt of a DBS Enhanced Disclosure;
- Establishing the Outcome of a DBS Enhanced Disclosure;
- Obtaining a Copy of a DBS Enhanced Disclosure;
- Returning the DBS Enhanced Disclosure;
- Continuous Updating;
- Online Status Check;
- Manual Updating.

The role of the BAB

The risk assessment of DBS Disclosures will continue to be managed centrally by the BAB's Case Management Group. This centralised process is adopted for the following reasons:

- to ensure consistency in safeguarding and risk assessment within aikido;
- to focus training and support on a small core group of staff rather than involving large numbers of staff and/or volunteers at grassroots level;
- to minimise the need for local level members of the BAB to access personal information about people who apply for roles in respect of which DBS Enhanced Disclosures are required (who are often their peers and friends) which may dissuade potential volunteers.

Definitions

The following words shall have the following meanings unless the context otherwise requires:

Barred List Check	means a check to establish whether a person is suspended from working with children or adults at risk;
DBS	means the Disclosure and Barring Service;
DBS Enhanced Disclosure	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;
e- Bulk	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;
Individual	means the person applying to be appointed or appointed to a role involving Regulated Activity whether in a paid or voluntary capacity;
BAB	means The British Aikido Board, the national governing body for the sport of aikido to which Associations and their Clubs are affiliated;
Appeal Panel	means the BAB's panel of people appointed to determine an appeal by an Individual against a Temporary Suspension Order;
Central Safeguarding Team	means the BAB safeguarding team incorporating the BAB Case Management Group

Safeguarding Policy	means the BAB's Safeguarding Policy or any other successor policy and/or procedure for the safeguarding of children and young persons as amended from time to time;
Regulated Activity	means work that a barred person must not do as defined by the Protection of Freedoms Act 2012; and
Temporary Suspension Order	means an order temporarily suspending an Individual from undertaking a role or function which may be imposed by the Central Safeguarding Team.

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 the BAB's 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.

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 Affiliated Association having the necessary DBS clearance, for a maximum period of 3 months.

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

- 3.1 Ordinarily, the BAB 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 Central Safeguarding Team 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*.

**(NB 3.2.2 is the method that will be used by the BAB under normal circumstances).*

4. Obtaining the DBS Enhanced Disclosure only when it has content on it

- 4.1 Once it has been established via e-Bulk that a DBS Enhanced Disclosure is clear, the Central Safeguarding Team will notify Affiliated Association's CPO and the Individual as soon as reasonably possible and confirm that the Individual may undertake a role in Regulated Activity. This notification will usually be done via electronic communication.

Where the Disclosure is shown on e-bulk as 'not clear' The Central Safeguarding Team 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 (with content) has been issued, the Central Safeguarding Team shall write to the Individual requesting that he / she send the original DBS Enhanced Disclosure to the BAB's Lead Safeguarding Officer within **21** days of the written request. The Central Safeguarding Team 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 Central Safeguarding Team shall write to the Individual, requesting that he/she provide the DBS Enhanced Disclosure within a further period of 14 days and advising that should he/she fail to do so, he/she 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 Affiliated Association's CPO;
- 4.1.4 once the DBS Enhanced Disclosure with content is received the Central Safeguarding Team 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 Association CPO of the outcome of the assessment.
- 4.2 The Central Safeguarding Team may maintain any requirement for the Individual to remain in a supervised role for so long as it reasonably requires, in order to satisfy itself regarding any concerns as to the accuracy of the information provided by the DBS. Once satisfied, the Central Safeguarding Team shall proceed in accordance with Regulation 4.1 above.

5. **Returning the DBS Enhanced Disclosure**

The Central Safeguarding Team will return the DBS Enhanced Disclosure with content to the Individual as soon as reasonably possible using a standard Royal Mail letter service. If the applicant requires any other method of return then they may be required to pay an administrative fee. The BAB will require the consent of the Individual so that it may retain a photocopy 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 Central Safeguarding Team 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 Central Safeguarding Team 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 Central Safeguarding Team 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 Central Safeguarding Team and/or the Club or Affiliated Association 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 Central Safeguarding Team is investigating any concern regarding an Individual's conduct pursuant to the BAB's Safeguarding Policies and Procedures; or

6.3.3 the Central Safeguarding Team 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 Central Safeguarding Team 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 Central Safeguarding Team to use the DBS Update Service; and

7.1.3 the Central Safeguarding Team 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 Central Safeguarding Team shall set up an electronic reminder 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 Central Safeguarding Team shall notify the Affiliated Association's CPO 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 Central Safeguarding Team shall:
- 7.4.1 require the Individual to apply for a new DBS Enhanced Disclosure within 28 days; and
 - 7.4.2 shall inform the Affiliated Association's CPO 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 Central Safeguarding Team 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 shall be temporarily suspended from undertaking any role in accordance with Appendix 1 below. A copy of the letter will be sent to the Affiliated Association's CPO.
- 7.6 If the DBS has issued a new DBS Enhanced Disclosure to the Individual and the Individual fails to provide the Central Safeguarding Team with a copy within 28 days of its issue by the DBS, the Central Safeguarding Team may request a copy of the DBS Enhanced Disclosure directly from the DBS.
- 7.7 Upon receipt of the new DBS Enhanced Disclosure, the Central Safeguarding Team shall consider the facts of the particular case in accordance with the BAB's Safeguarding Policy.

AND/OR

8 Manual Updating

- 8.1 As an alternative to the use of the DBS Update Service, the Central Safeguarding Team shall set up an electronic reminder prior to the third anniversary of the date of receipt of the Individuals original DBS Enhanced Disclosure and every third year thereafter; and

- 8.1.1 on or about the said anniversary shall write to the Individual and request that he/she apply for a new DBS Enhanced Disclosure within 28 days of the written request;
 - 8.1.2 if the new DBS Enhanced Disclosure is not applied for within 28 days of the request, the Central Safeguarding Team 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 if he/she should fail to do so he/she may be temporarily suspended from undertaking any role in accordance with Appendix 1 below or may be permitted to undertake a supervised role only. A copy of the letter will be sent to the Affiliated Association's CPO;
 - 8.1.3 upon receipt of the new DBS Enhanced Disclosure, the Central Safeguarding Team shall establish whether it contains any new content or no new content.
- 8.2 If there is no new content on the Individual's new DBS Enhanced Disclosure, the Central Safeguarding Team shall notify the Club or Affiliated Association and the Individual that the DBS Enhanced Disclosure remains current and valid;
 - 8.3 If there is new content on the Individual's new DBS Enhanced Disclosure, the Central Safeguarding Team shall proceed to consider and assess the facts of the particular case in accordance with the BAB Safeguarding Policy before notifying the Individual and the Affiliated Association's CPO of the outcome of the assessment.

Appendix 1

1. Temporary Suspension Orders

- 1.1. In order to ensure the safety and welfare of children and vulnerable persons in aikido and in order to meet its general safeguarding obligations, the Central Safeguarding Team may at any time impose a Temporary Suspension Order suspending the Individual from any and all activity under the auspices of the BAB 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 the BAB's vetting procedures.
- 1.3 When considering the imposition of a Temporary Suspension Order, the Central Safeguarding Team 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 the Central Safeguarding Team 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 BAB's 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 BAB 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 The BAB will not be liable to any suspended Individual, Club or Affiliated Association 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

Template Request Letter

(for use in connection with Regulation 4.1.1 of the Model Regulations when requesting an Individual to send his/her original DBS Enhanced Disclosure to the BAB's Central Safeguarding Team)

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 21 days of the date of this letter to Sue Ward, Lead Safeguarding Officer at the following address

PO Box , Barnstaple

I 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 21 days as set out in this letter, it may be necessary to temporarily suspend you from undertaking any role within any BAB Association or Club. 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

Sue Ward

Lead Safeguarding Officer

Appendix 3

Template Consent Form

(for use in connection with Regulation 7.1.2 of the Model Regulations for the Central Safeguarding Team to obtain an Individual's consent to carry out an online status check on him/her using the DBS Update Service)

To: Sue Ward, Lead Safeguarding Officer, British Aikido Board.

PO Box

Barnstaple

I, *[Individual to insert his/her name]* give my consent for the Central Safeguarding Team to access my status information online through the use of the DBS Update Service as frequently as may be required by the BAB's Central Safeguarding Team for the purposes of my role as *[insert name of Individual's role]* with *[insert Club or Affiliated Association]* 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 Central Safeguarding Team that I no longer occupy a role requiring a DBS Enhanced Disclosure.

In the event of me being appointed to another role with *[insert Club or Affiliated Association]* which requires me to hold a DBS Enhanced Disclosure, then I hereby consent to the Central Safeguarding Team 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 Central Safeguarding Team to retain a photocopy for its records of any DBS Enhanced Disclosure which I have provided to the Central Safeguarding Team].

Print Name:.....

Address:.....

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Signature:.....

Date:.....