THE ASSOCIATION'S SAFEGUARDING CHILDREN REGULATIONS

PREAMBLE

This Preamble is provided for guidance. If there is any inconsistency between the Preamble and the operative parts of the Safeguarding Children Regulations below, the operative parts shall prevail.

As set out in The Football Association's Safeguarding Children Policy, The Association is committed to safeguarding children within football and has Case Management procedures in place to assess the suitability of individuals to be involved with children in football.

In assessing that suitability, children's welfare is the paramount consideration.

Towards this, The Association has the power under the Safeguarding Children Regulations to issue an order where any one or more of the following applies:

(i) The individual fails to comply with any part of The Association's Criminal Records Check (CRC) process;

(ii) The individual has been barred by the Independent Safeguarding Authority (ISA) or the Disclosure and Barring Service (DBS) from engaging in regulated activity relating to children;

(iii) The individual has been disqualified from working with children under the Criminal Justice and Court Services Act 2000;

(iv) The individual is subject to any other restriction on their involvement with children not within (ii) or (iii) made pursuant to statute;

(v) The individual has been convicted of, or made the subject of a caution for, an "Offence" defined in Regulation 1.1; or

(vi) Following a risk assessment, The Association is satisfied that the individual poses or may pose a risk of harm to children.

GENERAL

1.1 In these Regulations the expression "Offence" shall mean any one or more of the offences contained in the Schedules of the Criminal Justice and Court Services Act 2000 and any other criminal offence which reasonably causes The Association to believe that the person accused of the offence poses or may pose a risk of harm to a child or children.

1.2 The Safeguarding Review Panel shall determine its own procedures save that in making findings of fact the test that the Safeguarding Review Panel shall apply shall be the civil standard of the balance of probability. Where a case is referred to the Safeguarding Review Panel pursuant to these Regulations it shall have the discretion to depart from the procedures set out in these Regulations where it considers it appropriate to do so.

1.3 The actions that may be taken under these Regulations by a Case Manager may also be taken by the Case Manager's nominee.

1.4 The Association may notify other parties of the terms of any order imposed under these Regulations where the Case Manager considers that such notification is appropriate in order to give effect to the terms of the order.

1.5 Where urgent cases arise under these Regulations the Chairman of the Safeguarding Review Panel may exercise the functions and powers of the Safeguarding Review Panel, as provided for by these Regulations, on an interim basis. An interim decision taken by the Chairman of the Safeguarding Review Panel shall not be final until such time as it has been ratified by the Safeguarding Review Panel, which shall have the right to ratify, modify or make any other order as it considers appropriate in relation to the decision taken by the Chairman of the Safeguarding Review Panel.

THE ASSOCIATION'S SAFEGUARDING PROCESS

2. All "eligible persons" applying for or currently in such positions that The Association considers relevant must comply with the requirements of The Association's Safeguarding process.

Eligible persons include :

(i) Those in "Regulated Activity" as defined in Part V of the Protection of Freedoms Act 2012. An individual will fall within the definition where:

a) his/her duties include teaching, training, instructing, caring for, supervising or providing guidance or advice on wellbeing to Children or driving a vehicle (on behalf of an organisation) only for Children; and

b) such duties happen frequently (e.g. once a week or more often) or intensively (e.g. on 4 or more days in a 30 day period, or overnight); and

c) The individual carrying out any of the duties described in (a) and (b) above is unsupervised.

Any person falling within this Regulation 2(i) shall be referred to as a "Regulated Activity Person"; and

(ii) Those who would otherwise fall within the definition of a Regulated Activity Person but for the fact that their duties are supervised (a "Supervised Person").

The requirements of The Association's Safeguarding Process are:

2.1 (a) In respect of a Regulated Activity Person, to obtain and provide to The Association a DBS Enhanced Criminal Records Check with Children's Barred List

(b) In respect of a Supervised Person, to obtain and provide to The Association a DBS Enhanced Criminal Records Check

2.2 To provide any such further detail, explanation or clarification of any part of the matters disclosed pursuant to Regulation 2.1 (a) or (b) above, as may be required by The Association;

2.3 To comply with any other request or requirement which may assist The Association in progressing or completing its' assessment;

2.4 Where required, to provide at least two references that attest to their suitability to be involved in youth football. The spouse or partner of the person subject to this requirement cannot act as a referee for this purpose. Any reference provided by a spouse or partner will not be accepted; and

2.5 To comply with each of the requirements set out in Regulations 2.1 – 2.4 within any such time limit as The Association may stipulate.

Any person who fails to comply with any of the requirements set out in Regulation 2 shall be subject to an immediate suspension from football activity, on such terms and for such period as The Association may stipulate.

Any requirement under this Regulation 2, or any suspension arising from any failure to comply with any of the requirements of this Regulation, shall apply whether or not a person at any time withdraws their application or ceases to hold the relevant position.

INTERIM ORDERS

3. Upon receipt by The Association of:

3.1 Notification that an individual has been charged with an Offence;

3.2 Notification that an individual is the subject of an investigation by the Police, Children's Services or any other authority relating to an Offence; or

3.3 Any other information which causes The Association reasonably to believe that a person poses or may pose a risk of harm to a child or children,

The Association shall have the power to make any interim order including, but not limited to, issuing an interim suspension order suspending the individual from all or any specific football activity for such a period and on such terms and conditions as it considers appropriate. Interim orders shall be issued by the Case Manager, who shall provide the individual with written notification of the interim order, the reason(s) for its imposition and of the right of appeal pursuant to Regulation 6.

4.1 In determining whether an order under Regulation 3 should be made, the Case Manager shall give consideration, inter alia, to the following factors:

4.1.1 Whether a child is or children are or may be at risk of harm;

4.1.2 Whether the matters are of a serious nature; and/or

4.1.3 Whether an order is necessary or desirable to allow the conduct of any investigation by The Association or any other authority or body to proceed unimpeded having regard to the need for any suspension order to be proportionate.

4.2 An interim order may be issued without prior notice to the individual where, having given consideration to the factors set out in Regulation 4.1, the Case Manager considers that an interim order should be imposed immediately.

4.3 All interim orders will be reviewed at the next meeting of the Safeguarding Review Panel. The Panel may ratify, modify or remove any interim order, or make any other order as it considers appropriate.

5. The total period of an interim order under Regulation 3 shall not last beyond the final determination of any related case under the Rules of The Association. An interim order will be reviewed by the Panel at the first opportunity following the expiry of 6 months from the date of the order being imposed, and at the same interval thereafter.

6. Any individual subject to an interim order under Regulation 3 may appeal against it as follows:

6.1 In the event that the interim order was imposed without notice pursuant to Regulation 4.2, the individual shall have an immediate right of appeal; or

6.2 In the event that the interim order was imposed following the individual having been given an opportunity to make written representations as to why the order should not be imposed, the individual shall have a right of appeal once the period of three months from the imposition of the interim order by the Case Manager has elapsed. The opportunity to make written representations shall be in accordance with the deadline set by the Case Manager for such written representations to be made.

7. Appeals under Regulation 6 shall be considered by the Safeguarding Review Panel. None of the members of the Safeguarding Review Panel hearing the appeal shall have been a member of the Safeguarding Review Panel which conducted the initial review under Regulation 4.3.

8. To bring an appeal under Regulation 6, the individual must give notice in writing to the Case Manager requesting an appeal and stating the grounds for that appeal. The individual may submit any written material in support of the appeal. Such material must be submitted within 14 days of giving such notice or it may not be considered by the Safeguarding Review Panel.

9. The Safeguarding Review Panel shall determine all procedural matters for the conduct of the appeal, including requiring more information from either the individual or the Case Manager. Unless the Safeguarding Review Panel in its discretion exceptionally allows the individual and the Case Manager to address it in person, the Safeguarding Review Panel

shall only consider the written material submitted by the individual in support of the appeal, together with any written material submitted by the Case Manager.

10. In determining an appeal, the Safeguarding Review Panel shall have the power to make any order in relation to the interim order as it considers appropriate, including ratifying, modifying or removing it.

11. Any appeal under Regulation 6 shall be determined by the Safeguarding Review Panel at the earliest opportunity, following the receipt of notice in writing and any written material in support of the appeal from the individual and written material submitted by the Case Manager.

12. Where an interim order is imposed on an individual under Regulation 3 above, The Association shall bring and conclude any proceedings under the Rules of The Association against the person relating to the matters as soon as reasonably practicable.

DETERMINATION FOLLOWING ANY ORDER MADE PURSUANT TO STATUTE BARRING OR RESTRICTING INVOLVEMENT WITH CHILDREN

13.1 Where any individual is:

13.1.1 Barred from regulated activity relating to children in accordance with section 3 of the Safeguarding Vulnerable Groups Act 2006 (as may be amended);

13.1.2 Disqualified from working with children in accordance with section 35 of the Criminal Justice and Court Services Act 2000; and/or

13.1.3 Subject to any other order, not within Regulations 13.1.1 or 13.1.2, issued pursuant to statute restricting their involvement with children,

The Association shall have the power to make any order, including but not limited to an order that any individual be suspended from all or any specific football activity for such period and on such terms and conditions as it considers appropriate. Any such order shall be issued by the Case Manager.

13.2 The Case Manager shall notify the individual in writing of the order and shall invite the individual to make any written representations within 14 days as to why the order should not be ratified by the Safeguarding Review Panel.

13.3 All such orders shall be reviewed at the next meeting of the Safeguarding Review Panel. In reviewing the order the Safeguarding Review Panel shall consider any written material submitted by the individual in accordance with Regulation 13.2, together with all written material submitted by the Case Manager. The Safeguarding Review Panel may ratify, modify or remove any such order, or make any other order as it considers appropriate.

ORDER FOLLOWING CONVICTION OR CAUTION

14.1 The Association's Safeguarding Review Panel shall have the power to make any order in respect of any individual convicted of, or made the subject of a caution in respect of, an Offence, including but not limited to a suspension from all or any specific football activity for such period and on such terms and conditions as it considers appropriate.

14.2 Where a case is to be considered by the Safeguarding Review Panel under Regulation 14.1, the Case Manager shall notify the individual in writing and shall invite the individual to make any written representations within 14 days.

14.3 Before making any order under Regulation 14.1, the Panel shall consider all information gathered in respect of an individual including, where applicable, information gathered pursuant to The Association's CRC process under Regulation 2, any written representations made by the individual under Regulation 14.2, together with all written material submitted by the Case Manager.

ORDER FOLLOWING RISK ASSESSMENT

15. In addition to The Association's powers under Regulations 3, 13 and 14 the Safeguarding Review Panel shall have the power to make any order that it considers appropriate, including but not limited to an order that any individual be suspended from all or any specific football activity for such period and on such terms and conditions as it considers appropriate, if it is satisfied that the individual poses or may pose a risk of harm to a child or children.

16. Cases may be referred to the Safeguarding Review Panel in order to seek an order under Regulation 15 by the Case Manager where the Case Manager has reasonable cause to suspect that there are grounds for concern about an individual's continued participation in football activity involving a child or children.

17. The Case Manager shall reach this decision on the basis of a risk assessment of that individual's suitability for such participation. This risk assessment may be in such form and prepared by any person, as the Case Manager, at his/her discretion, considers appropriate.

18. Before a referral is made under Regulation 16, the individual must be notified in writing. Such written notification must explain the order sought and the reason for it, and include a copy of the risk assessment and all other written material that the Case Manager intends to rely upon in seeking the order, save for any exceptional material dealt with under Regulation 24.

19. The individual shall have 14 days to reply to this notification and to provide any written material that he/she wishes the Safeguarding Review Panel to take into account in considering whether or not to impose any order under Regulation 15.

20. Following the receipt of the reply and/or other written material from the individual, or the expiry of the 14 day period if no reply is received, the Case Manager may:

    20.1 Decide that no further action is currently required as there are no longer grounds for a referral under Regulation 16;

    20.2 Make any such further inquiries as he or she considers appropriate in light of any matters raised by the individual in response to the written notification; or

    20.3 Refer the case to the Safeguarding Review Panel under Regulation 16.

21. Where further inquiries are made by the Case Manager, any written material arising from those inquiries may only be relied on by the Case Manager in applying for any order under Regulation 15 if that written material has been sent to the individual and he or she has had 14 days to reply to it, save for any exceptional material dealt with under Regulation 24. If the written material is relied upon, any response by the individual must also be considered by the Safeguarding Review Panel.

22. The Safeguarding Review Panel shall determine all procedural matters for the conduct of a case referred to it under Regulation 16. Unless the Safeguarding Review Panel in its discretion exceptionally allows the individual and the Case Manager to address it in person, the case shall be considered on the basis of the following written material only:

    22.1 The written notification and all written material provided with it by the Case Manager to the individual;

    22.2 The reply, if any, and all other written material submitted by the individual in response to the written notification;

    22.3 Any further written material provided by the Case Manager to the individual subsequently to the written notification; and

    22.4 Any response from the individual to such further written material and all other written material submitted with that response.

23. In exercising its discretion as to whether exceptionally to allow the individual and the Case Manager to address it in person, whether that be as a result of an application made by either party or otherwise, the Safeguarding Review Panel shall give consideration, inter alia, to the following factors:

23.1 Whether the terms of any order under consideration would affect the individual's paid employment within football;

23.2 Whether exceptional material is to be put before the Safeguarding Review Panel; and/or

23.3 Whether an oral hearing has previously been conducted pursuant to Regulation 9 in relation to the same matter.

EXCEPTIONAL MATERIAL

24.1 In considering an interim order under Regulation 4.3, an appeal against an interim order under Regulation 6 or whether or not to make any order under Regulation 15, as a general rule the Safeguarding Review Panel may not consider any material provided by either the Case Manager or the individual which the other party has not seen and had a reasonable opportunity to reply to.

24.2 Exceptionally, in respect of any of the matters set out at Regulation 24.1, the Case Manager may make an application to an Exceptional Material Panel for permission to submit material to the Safeguarding Review Panel that has not been sent to the individual ("exceptional material"), where the Case Manager considers that the exceptional material concerned should not be sent to the individual for any one or more of the following reasons:–

24.2.1 Revealing it to the individual may create a risk of harm to any person or persons, and/or

24.2.2 Revealing it to the individual may amount to a criminal offence or otherwise be unlawful.

24.3 Where the Case Manager makes an application to an Exceptional Material Panel for permission to submit exceptional material to the Safeguarding Review Panel under Regulation 24.2 above, the Case Manager shall give notice of the application to the individual in writing at least fourteen days before the Exceptional Material Panel considers the application, unless the Case Manager considers that such written notice should not be given, as to give such notice may in itself:

24.3.1 Create a risk of harm to any person or persons; and/or

24.3.2 Amount to a criminal offence or otherwise be unlawful.

24.4 Any reply by an individual to a notice referred to in Regulation 24.3 must be passed to the Exceptional Material Panel for consideration.

24.5 The Exceptional Material Panel may, at its discretion, allow or reject the application in whole or in part.

24.6 In the event that the Exceptional Material Panel grants an order allowing the exceptional material to be submitted to the Safeguarding Review Panel, the Exceptional Material Panel shall give consideration as to whether either or both of the following may be provided to the individual:

24.6.1 A redacted version of the exceptional material; and/or

24.6.2 A summary of the exceptional material.

24.7 An Exceptional Material Panel shall be made up of one or more of the members of the Safeguarding Review Panel. A person that sits on an Exceptional Material Panel determining an application under Regulation 24.2 in relation to a particular individual may not be a member of the Safeguarding Review Panel that will have conduct of the case referred under Regulation 16 in relation to that individual.

OTHER ORDERS AVAILABLE FOLLOWING RISK ASSESSMENT

25. Following a referral under Regulation 16, in addition to its ability to make an order under Regulation 15, the Safeguarding Review Panel may make any other order consistent

with the aims of the Safeguarding Children Policy that it considers appropriate in the circumstances.

SUPERVISION ORDERS

26. Unless otherwise discharged, a Supervision Order will last for the length of time ordered by the Panel. Before its expiry, The Association may apply for an extension, or further extensions, for a period not exceeding 3 years from the date of the first order

RIGHT OF APPEAL

27.1 A Participant or The Association may appeal to an Appeal Board any decision of the Safeguarding Review Panel made under Regulations 13.1.3, 14 or 15. Subject to Regulation 26.2, such appeals shall be conducted in accordance with the Regulations for Football Association Appeals. Subject to this right of appeal, decisions of the Safeguarding Review Panel shall be final and binding.

27.2 Notwithstanding paragraph 2.5 of the Regulations for Football Association Appeals, an Appeal Board convened to hear an appeal pursuant to Regulation 26.1 may in exceptional circumstances order that the appeal takes place as a full rehearing of the case. In exercising this discretion the Appeal Board shall give consideration, inter alia, to the following factors:

26.2.1 Whether the terms of any order imposed affect the individual's paid employment within football;

26.2.2 Whether exceptional material was put before the Safeguarding Review Panel; and/or

26.2.3 Whether an oral hearing was conducted by the Safeguarding Review Panel in making its decision.

26.3 The decision of the Appeal Board as to whether to grant a full rehearing of the case shall be final and binding.

WRITTEN MATERIAL

28. For the purposes of these Regulations, "written material" may include photographic, video, electronic and/or audio evidence.