

BRITISH ORIENTEERING SAFEGUARDING REGULATIONS



1. AIMS OF THESE BRITISH ORIENTEERING SAFEGUARDING REGULATIONS

- 1.1 British Orienteering is committed to ensuring the safety and welfare of Children and Adults at Risk within orienteering. British Orienteering expects all Persons to share this commitment and maintain appropriate standards and behaviour in their dealings with Children and Adults at Risk.
- 1.2 These British Orienteering Safeguarding Regulations, incorporating the NSP Rules (as defined below), establish a framework through which British Orienteering may consider and investigate matters relating to the harm of, or the possibility of harm to, Children and Adults at Risk, and British Orienteering's regulatory processes relating to such matters.
- 1.3 The core aim of these British Orienteering Safeguarding Regulations is to ensure the safety and welfare of Children and Adults at Risk. The procedures detailed in these British Orienteering Safeguarding Regulations are intended to be fair, straightforward and tailored to the needs of orienteering.
- 1.4 These British Orienteering Safeguarding Regulations are to be interpreted and applied by reference to their core aim of ensuring the safety and welfare of Children and Adults at Risk. Such interpretation and application shall take precedence over any strict legal or technical interpretations that may otherwise be proposed. The British Orienteering Safeguarding Policies and any related documents that may be published by British Orienteering from time to time may be referred to as interpretative aids.

2. JURISDICTION

- 2.1 These British Orienteering Safeguarding Regulations apply to all Persons.

3. DEFINITIONS

- 3.1 **Adult at Risk** means any person aged over 18 years engaged in orienteering and associated activities under the jurisdiction of British Orienteering who is, or may be, unable to take care of him/herself or who is unable to protect him/herself against significant harm or exploitation by reason of a mental health problem, a disability, a sensory impairment or some other form of illness or disease (or more than one of them) (and 'Adults at Risk' will be interpreted accordingly);
- 3.2 **Child** means any person engaged in orienteering activities under the jurisdiction of British Orienteering under the age of 18 years (and 'Children' will be interpreted accordingly);
- 3.3 **DBS** means the Disclosure and Barring Service;
- 3.4 **NSP** means the National Safeguarding Panel operated by Sport Resolutions (UK) (a trading name of The Sports Dispute Resolution Panel Ltd - Company No. 3351039);
- 3.5 **NSP Rules** means the Procedural Rules of the NSP;

- 3.6 **NSP Tribunal** means an Arbitral Tribunal and/or an Appeal Tribunal (as the context so requires) appointed pursuant to the NSP Rules;
- 3.7 **Person** means any natural or legal person (as the context so requires) who from time to time participates in any orienteering activities that take place under the jurisdiction of British Orienteering, and any other person who has agreed (by written agreement or otherwise) to be bound by these British Orienteering Safeguarding Regulations;
- 3.8 **Provisional Suspension** means a temporary bar from participating in activity sanctioned either directly or indirectly by British Orienteering pending determination of a charge, as set out more specifically in paragraph 8;
- 3.9 **Regulated Activity Person** means a Person engaged in “Regulated Activity” as defined by the Protection of Freedoms Act 2012 (as applicable in England, Wales, and Northern Ireland) in the context of orienteering activities;
- 3.10 **Regulated Work Person** means a Person engaged in “Regulated Work” as defined by the Protection of Vulnerable Groups (Scotland) Act 2007 in the context of orienteering activities; and
- 3.11 **Supervised Person** means a Person who would be engaged in “Regulated Activity” as defined by the Protection of Freedoms Act 2012 in the context of orienteering activities, but for the fact his/her duties are supervised.
4. **BRITISH ORIENTEERING CRIMINAL RECORDS CHECK PROCESS**
- 4.1 Regulated Activity Persons, Regulated Work Persons, Supervised Persons, and any Person employing, engaging, or otherwise instructing such a Person (e.g., Clubs and Affiliated Associations), must comply with the requirements of British Orienteering’s Criminal Records Check Process (as set out in this paragraph 4).
- 4.2 In each case prior to the relevant Regulated Activity Person, Regulated Work Person or Supervised Person undertaking orienteering activity that qualifies them as such (i.e., prior to undertaking relevant activities with Children or Adults at Risk):
- 4.2.1 In respect of a Regulated Activity Person, to obtain and to provide to British Orienteering a DBS Enhanced Criminal Records Check with Barred List.
- 4.2.2 In respect of a Regulated Work Person, to obtain and to provide to British Orienteering a Protecting Vulnerable Groups Scheme Record.
- 4.2.3 In respect of a Supervised Person, to obtain and to provide to British Orienteering a DBS Enhanced Criminal Records Check.

- 4.3 To provide any such further detail, explanation or clarification of any part of any matters disclosed pursuant to paragraph 4.2 above, as may be required by British Orienteering.
- 4.4 To comply with any other request or requirement that may assist British Orienteering in progressing or completing any investigation, risk assessment or other enquiry in respect of a criminal record check.
- 4.5 To comply with each of the requirements set out in paragraphs 4.2-4.4 within any such time limit as British Orienteering may stipulate.

5. PROHIBITED CONDUCT AND THE PROTECTION OF CHILDREN AND ADULTS AT RISK

- 5.1 No Person may (i) engage, or attempt or threaten to engage, in conduct that directly or indirectly harms the welfare of one or more Child or Adult at Risk, and/or (ii) pose a risk of harm to one or more Child or Adult at Risk.

NOTE:

- (a) *'Harm' is not a narrow concept and can mean different things in different contexts. Reference should be made to the British Orienteering Safeguarding Policies.*
- (b) *It is not necessary for conduct (or attempted or threatened conduct) to take place in the context of orienteering activities. For example (and without limitation), in the event that a Person has been convicted or cautioned for, or charged with, any offence that concerns harm to children or adults at risk (whether or not those children or adults at risk participate in orienteering), that may form the basis of action under these British Orienteering Safeguarding Regulations as a result of that Person posing a risk of harm (regardless of whether or not the relevant offence, or alleged offence, took place in the context of orienteering activities).*

- 5.2 No Person may (i) refuse or fail to follow the requirements of the British Orienteering Criminal Records Check process, or (ii) knowingly employ, engage or otherwise instruct any individual who, in undertaking the orienteering activities for which they are employed, engaged or instructed, poses a foreseeable risk of harm to any Children or Adults at Risk.

6. BRITISH ORIENTEERING'S POWERS OF INVESTIGATION

- 6.1 Upon the receipt of information that gives British Orienteering reasonable ground(s) to suspect that a Person has engaged, or attempted or threatens/threatened to engage, in conduct of the kind detailed at paragraph 5, British Orienteering will be entitled to investigate the matter.
- 6.2 In relation to any investigation commenced under these British Orienteering Safeguarding Regulations, British Orienteering may:
 - 6.2.1 investigate the matter itself; and/or

- 6.2.2 appoint others, including an independent safeguarding expert (or experts), to assist British Orienteering in relation to its investigation or investigate the matter on British Orienteering's behalf.
- 6.3 In relation to any investigation commenced under these British Orienteering Safeguarding Regulations, British Orienteering (or its appointee) may require any Person (and request any other persons) to:
 - 6.3.1 attend to answer and provide information and/or answer questions by way of interview;
 - 6.3.2 produce documents, information or other material in whatever form held;
 - 6.3.3 undertake a risk assessment by a suitably qualified person appointed by British Orienteering in such form as British Orienteering, at its discretion, considers appropriate; and/or
 - 6.3.4 co-operate in any other manner that might be necessary or desirable for the purpose of the investigation.

7. SUPPORTING PROVISIONS

- 7.1 All Persons subject to investigation under these British Orienteering Safeguarding Regulations, or who may otherwise be asked to assist with any such investigation, must co-operate with British Orienteering's (or its appointee's/appointees') investigation.
- 7.2 No Person may subject any other Person or other party to any detriment on the ground or belief that that Person or other party has reported a safeguarding concern to British Orienteering and/or assisted British Orienteering in any manner in relation to investigations or proceedings brought under these British Orienteering Safeguarding Regulations.
- 7.3 No Person may make a malicious safeguarding report to British Orienteering, or otherwise act in bad faith in relation to matters covered by these British Orienteering Safeguarding Regulations.
- 7.4 If any Person breaches any of the above provisions of this paragraph 7, British Orienteering may take disciplinary action against them under these British Orienteering Safeguarding Regulations or any other applicable rules or regulations of British Orienteering (whatever is most appropriate in the circumstances).

NOTE:

British Orienteering wants to be presented with any information, from any source, where there is reason to consider that any Person has presented or presents a risk of harm to Children or Adults at Risk, so that appropriate action may be taken. In order for British Orienteering's work under these British Orienteering Safeguarding Regulations to be effective, the co-operation of all Persons is necessary when

requested by British Orienteering (or those acting on its behalf). British Orienteering may therefore view a failure to co-operate, or conduct designed at preventing or dissuading others from reporting concerns or co-operating, as a serious disciplinary matter. British Orienteering will also view malicious reporting or acts of bad faith in relation to safeguarding matters seriously (e.g. where a false report is made to pursue a personal vendetta or false information is deliberately provided to an investigation).

8. PROVISIONAL SUSPENSIONS

- 8.1 At any point in time where British Orienteering has reasonable ground(s) to suspect that a Person has engaged, or attempted or threatens/threatened to engage, in conduct of the kind detailed at paragraph 5, British Orienteering may (in its absolute discretion):
 - 8.1.1 impose a Provisional Suspension directly on that Person; or
 - 8.1.2 make an application to the NSP (in accordance with the procedure prescribed by the NSP Rules or as otherwise directed by the NSP) for the imposition of a Provisional Suspension on that Person.
- 8.2 A Provisional Suspension may bar a Person from all or any specific orienteering activities under the auspices of British Orienteering, on such terms and conditions as may be appropriate in the circumstances. risk
- 8.3 British Orienteering will impose or seek the imposition of a Provisional Suspension only (i) in cases where a Provisional Suspension is reasonable and proportionate, with reference to the considerations set out at paragraph 8.4, and (ii) once such a course of action has been approved by the British Orienteering Case Management Group.
- 8.4 When considering whether or not to impose or apply for the imposition of a Provisional Suspension under paragraph 8.1, British Orienteering will give consideration to the following:
 - 8.4.1 the aims of these British Orienteering Safeguarding Regulations;
 - 8.4.2 the prospect of any existing or contemplated charge(s) being upheld (i.e., the stronger the merits of the charge(s), the stronger the justification for a Provisional Suspension);
 - 8.4.3 the seriousness of the individual case (i.e., the more serious a case is, the stronger the justification for a Provisional Suspension);
 - 8.4.4 whether a Provisional Suspension is necessary or desirable to allow the conduct of any investigation by British Orienteering or the police or other public authority (or analogous body) to proceed unimpeded; and

- 8.4.5 any other circumstances that might be relevant to the individual case.
- 8.5 Once a Provisional Suspension has been imposed, whether by British Orienteering or the NSP, British Orienteering shall ensure that the Person upon whom the Provisional Suspension has been imposed will be promptly notified of the following matters:
 - 8.5.1 the reasons why the Provisional Suspension has been imposed;
 - 8.5.2 the scope of the Provisional Suspension, i.e., which orienteering activities the Person is prohibited from undertaking;
 - 8.5.3 such other terms and conditions as have been imposed; and
 - 8.5.4 the Person's right to appeal to the President of the NSP in respect of the Provisional Suspension.
- 8.6 British Orienteering may vary, or apply to vary, the scope, terms, and/or conditions of a Provisional Suspension in the same manner as the Provisional Suspension was originally imposed under paragraph 8.1, i.e., by doing so itself or by way of an application to the NSP.
- 8.7 Any Person subject to a Provisional Suspension may appeal to the President of the NSP to have it lifted or varied in accordance with the NSP Rules.
- 8.8 Unless otherwise specified, a Provisional Suspension shall come into force as soon as it is imposed. Unless lifted, a Provisional Suspension will remain in force until the matter has been finally determined.
- 8.9 British Orienteering may publish and/or share information relating to Provisional Suspensions on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance.
- 9. **NOTICE OF CHARGE**
 - 9.1 If, at the conclusion of an investigation commenced under these British Orienteering Safeguarding Regulations, British Orienteering concludes that the Person under investigation has a case to answer, British Orienteering will send written notice to that Person:
 - 9.1.1 confirming that a charge is being issued against them under these British Orienteering Safeguarding Regulations;
 - 9.1.2 detailing the facts and evidence on which the charge is based; and
 - 9.1.3 requiring his or her written response to the charge within 14 days.

- 9.2 In the event that a written notice of charge is sent to a Person who was under the age of 18 years when the relevant conduct is alleged to have occurred, British Orienteering may, if it considers it appropriate, address or copy the notice to the Person's parent(s) or carer(s).

10. REFERRALS OF SAFEGUARDING CASES TO THE NSP

- 10.1 Following receipt of the Person's response to a written notice of charge, or in the event no such response is received within 14 days, British Orienteering may (in its absolute discretion) refer the matter for a hearing before the NSP to determine appropriate disciplinary orders and/or risk management measures (if any).

- 10.2 If British Orienteering refers a Person to the NSP under these British Orienteering Safeguarding Regulations it shall prepare and send a written notice of referral in the name of British Orienteering to the Person, which shall contain the following information:

10.2.1 the facts alleged in support of the referral;

10.2.2 an outline of the process to be followed in relation to the referral; and

10.2.3 contact details for the NSP.

- 10.3 The following matters arising under these British Orienteering Safeguarding Regulations may be determined by the NSP in accordance with the NSP Rules, as amended from time to time, which are deemed to be incorporated by reference to this paragraph:

10.3.1 any referral to the NSP by British Orienteering on the basis that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 5;

10.3.2 an application that a Provisional Suspension should be imposed, lifted or varied pursuant to paragraph 8; and

10.3.3 any other matter that British Orienteering may reasonably refer to the NSP for determination in accordance with the NSP Rules.

11. DISCIPLINARY ORDERS AND RISK MANAGEMENT MEASURES

- 11.1 NSP Tribunals may impose such disciplinary orders and/or risk management measures as they see fit. However, British Orienteering envisages that the following range of disciplinary orders and risk management measures are appropriate where, on the balance of probabilities, an NSP Tribunal concludes that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 5:

11.1.1 a reprimand/warning;

11.1.2 an order to undertake specified training;

- 11.1.3 an order requiring a Person to be monitored in specific matters;
 - 11.1.4 suspension for a specific period of time from involvement in orienteering activities under the jurisdiction of British Orienteering on such terms and conditions as the NSP Tribunal considers appropriate; and
 - 11.1.5 permanent exclusion from involvement in orienteering activities under the jurisdiction of British Orienteering on such terms and conditions as it considers appropriate.
- 11.2 British Orienteering may publish and/or share details of disciplinary orders and risk management measures on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance. British Orienteering may also take such administrative steps as it deems necessary or appropriate in order to give effect to disciplinary orders and/or risk management measures imposed by NSP Tribunals (i.e. such disciplinary orders and/or risk management measures will not require any further act of ratification by any other body).
- 12. CONCLUSION OF CASES WITHOUT REFERRAL**
- If, at any stage prior to a referral under paragraph 10, British Orienteering concludes that (i) there is insufficient evidence to support a charge, and/or (ii) a referral would not further the aims of these British Orienteering Safeguarding Regulations, and/or (iii) there is any other bona fide reason for British Orienteering not to refer the matter, then British Orienteering may take such other action as it considers appropriate in all the circumstances of the case. For example, without limitation, British Orienteering may inform a Person that they have no case to answer, provide a Person with guidance as to their future conduct, or refer the matter to another body (where British Orienteering is satisfied that other body will deal with the matter effectively).
- 13. MISCELLANEOUS**
- 13.1 In the event that any incident or other matter occurs that is not provided for in these British Orienteering Safeguarding Regulations (whether it relates to conduct, jurisdiction, investigation, procedure, sanction or otherwise), then British Orienteering, the NSP President or any appointed NSP Tribunal may take such action as considered appropriate in the circumstances, taking into account the specific circumstances of the individual case and the principles of natural justice and fairness.
- 13.2 Minor practical or technical points will not serve to invalidate the procedure or any decisions or findings made under these British Orienteering Safeguarding Regulations, so long as the principles of natural justice and fairness are not infringed.
- 13.3 These British Orienteering Safeguarding Regulations are, save where otherwise stated, intended to operate on a standalone basis. However, in the event that any matter or conduct falling under these British Orienteering Safeguarding Regulations also falls under

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any other British Orienteering rules, regulations or procedures (as may from time to time be in force), or is subject to investigation by the police or other public authority (or relevant body, such as another sports governing body), or is subject to any other legal/regulatory/disciplinary process, then British Orienteering, the NSP President or any appointed NSP Tribunal, may at any point temporarily suspend the procedure under these British Orienteering Safeguarding Regulations. For the avoidance of doubt, in the event that any matter or conduct falling under these British Orienteering Safeguarding Regulations also falls under any other British Orienteering rules or regulations, British Orienteering expressly reserves its right to bring proceedings under those other rules or regulations (regardless of whether proceedings are also brought under these British Orienteering Safeguarding Regulations).

- 13.4 Save to the extent that disclosure and/or publication is provided for in these British Orienteering Safeguarding Regulations, or is otherwise in accordance with the law, all matters considered under these British Orienteering Safeguarding Regulations, will, so far as practicable, be regarded as confidential and used only for the purposes of these British Orienteering Safeguarding Regulations.
- 13.5 These British Orienteering Safeguarding Regulations are governed by English law.
- 13.6 In the case of any conflict between these British Orienteering Safeguarding Regulations and the NSP Rules, the latter shall take precedence in relation to matters that have been referred to the NSP.
- 13.7 If any part of these British Orienteering Safeguarding Regulations (including the NSP Rules) is ruled to be invalid, unenforceable or illegal for any reason, that part will be deemed deleted, and the rest of these British Orienteering Safeguarding Regulations will remain in full force and effect.
- 13.8 Neither British Orienteering, nor any person employed by or appointed to assist British Orienteering, will be liable to any party for any act or omission unless it is actuated by malice or bad faith.
- 13.9 These British Orienteering Safeguarding Regulations will come into effect on 5th February 2021. British Orienteering may amend these British Orienteering Safeguarding Regulations from time to time. Such amendments will come into effect on the date specified by British Orienteering.