



ANTI-DISCRIMINATION CODE GUIDANCE NOTES 2023

ECB Anti Discrimination Code – Guidance Notes for those adopting and implementing the Code – First Class Counties (FCCs) / Regional Partners / County Cricket Boards (CCBs) / National Cricket Counties (NCCs)

As part of the on going EDI work within cricket and alongside the recent Game wide commitments the ECB are publishing the following guidance to the Anti Discrimination Code.

Why was the ECB Anti Discrimination Code introduced?

- The Code aims to ensure that there are consistent appropriate regulations relating to discriminatory behaviour.
- The ECB is committed to making positive change to ensure cricket is a game for everyone. Anyone that wants to play, watch or be involved at any level of the game must feel welcome and safe. Cricket has the power to connect people and communities. It is our collective duty to ensure an inclusive environment that allows those connections with our game and its people to thrive.

Why was the ECB Anti Discrimination Code introduced?

- The Code sets out the behaviour which can lead to a breach of the regulations on discriminatory matters.
- In relation to the professional players and teams, the Code works alongside the existing set of ECB regulations. Where there was previously reference in the ECB Directives to discriminatory behaviour, before the 2021 season we replaced this with reference to the Anti Discrimination Code. This meant it became an offence under the ECB Directives to breach the Code and breaches can be sanctioned through the CDC disciplinary process in the same way as other breaches of the ECB Directives.
- Relevant cricket organisations in the professional game will also need to adopt the Code into their existing rules and deal with alleged breaches of the Code through their own disciplinary processes.
- In relation to the recreational game, breaches of the Code can be sanctioned through the relevant cricket organisation's disciplinary processes.
- Relevant cricket organisations need to adopt the Code into their own existing rules so they can deal with breaches through their own disciplinary processes.

What do we need to do?

- Implementing the Code is a requirement of the CPA and a key proactive step your organisation can take in supporting our game wide commitments to tackling discrimination in cricket.
- FCCs, Regional Partners, CCBs and NCCs need to ensure all individuals under their jurisdiction, including but not limited to all players, employees, directors, committee members, contractors, volunteers, members and spectators are also bound by the provisions of the Code.
- This will require FCCs, Regional Partners, CCBs and NCCs to include the Code in the documentation binding those separate individuals and ensure that their disciplinary processes allow them to deal with breaches.
- CCBs have the additional task of ensuring that the cricket organisations within their jurisdiction (such as leagues and clubs) enforce the Anti Discrimination Code appropriately.

How do we implement the Code?

- **Adopt the Code**
 - You will need to take steps to actively adopt the Code into your rules and ensure that it binds all the individuals and organisations under your jurisdiction.
 - The steps you need to take to ensure all these individuals and organisations are bound by the Code may vary across different categories of participant. For example, it may be that you bind an employee to the provisions of the Code by reference to the Code in that employee's employment contract whereas spectators may be bound under the terms of the ground regulations or their ticket purchase for a given event. A recreational club may be bound through the conditions of its membership to a league. This will be for you as the body with jurisdiction over those individuals and organisations to determine.
- **Make your participants aware of the Code**
 - Think about who within your organisation or your jurisdiction are bound by the Code. One of your obligations is to make sure that these individuals and organisations are aware of the Code and their responsibilities under it. Think about what steps you need to take to make sure that these individuals and organisations see, read and understand the Code and those responsibilities.
 - You might wish to look at multiple forms of communication – e.g. sending information about the Code in your regular or specific communications, uploading a copy to your website and also displaying relevant information within your building(s) or at ground(s).
 - Also consider whether the Code fits in with or supplements any existing club/team/league documents, policies and/or initiatives. It may be that communication regarding the Code also requires communication about those other documents, policies and/or initiatives.
- **Understand Discrimination**
 - Make sure participants understand discriminatory behaviour, what it includes and what behaviour might be captured as a breach of the Code. For example, breaches can include not only actively discriminatory actions and/or words but also making omissions and/or failing to act as required.
 - The ECB is providing anti discrimination training through its e learning portal, which can be accessed by all your staff and will be rolled out more widely during 2022.
 - Think about how you ensure that knowledge and awareness withstand personnel turnover – your whole organisation and those within your jurisdiction should understand the Code and not rely on one individual to keep on top of the requirements and obligations.
 - Some additional basic information can be found [here](#).
 - Further guidance can be found [here](#).
- **Understand Discrimination**
 - Check that you have sufficient procedures in place to ensure the Code is implemented effectively and breaches are disciplined accordingly.
 - Think about how people might report complaints or concerns they have and whether there are any barriers to them doing so.
 - Think about how you deal with complaints when they are received, taking into consideration any confidentiality requirements that may arise. Consider how your processes will work effectively and take into account the potential sensitive issues involved. Consider whether staff/personnel need further training in this area.
 - Think about whether you need to provide any support to individuals or organisations during the process.
 - Your internal disciplinary procedures should be fair and robust.

Examples

The below does not amount to legal advice but contains examples that may be relevant.

- **Think about both direct and indirect discrimination and obtain advice as required since both are captured as an offence under the Code.**
 - Direct discrimination occurs where individuals are treated unfairly because of their protected characteristic (e.g. a derogatory comment is made to someone relating to their race).
 - Indirect discrimination occurs where all individuals are treated the same but the impact is worse on some people than others (e.g. a team requires players to undertake promotional activities for a sponsor who is a brewery but does not make provision for players who have a religious objection to being involved in promoting alcohol).
- **Discrimination may also occur based on someone's perceived protected characteristic(s). Even if a person does not hold the relevant characteristic, an act or omission against that person relating to the characteristic can still be discriminatory.**
 - For example, if person A makes a homophobic comment directed at person B, regardless of whether person B is homosexual or not, person A would be in breach of the Anti Discrimination Code having made the homophobic comment, because sexual orientation is a protected characteristic.
- **Discrimination may also occur based on the protected characteristic of someone else.**
 - For example, if person A makes a derogatory comment to person B referencing the disability of person B's friend, person A would be in breach of the Anti Discrimination Code because disability is a protected characteristic.
- **Discrimination does not need to include specific words - it can be by broad reference to someone's protected characteristics.**
- **A breach can take place because of actions or omission/inaction.**
 - For example, it is a breach of the Code to make a discriminatory comment and it is also a breach to fail to take appropriate action following an allegation of discriminatory behaviour.

FAQs

Do we need to amend all employment contracts to explicitly refer to the Code?

- Whether you will need to amend your employment contracts will depend on the contents of the contracts that you already have in place. By way of example, an employment contract may refer to an employee being bound by all of the employer's policies as communicated to them, which could mean that the Code could be communicated to the employee as a policy which is applicable under the terms of their employment contract without requiring the contract itself to be amended. Alternatively, the contract may refer to the employee being bound by the terms of the Staff Handbook, which may merely require the Handbook to be updated rather than the contract itself. You should consider the contracts you have in place with your personnel and how best to ensure that they are all bound by the Code.

We already have Anti Discrimination policies and processes in place. Do we also need to adopt the Code?

- It is important that all participants within cricket are bound by the Code so that there are consistent rules in place.
- The Code does not contain its own separate processes for dealing with complaints - any complaints raised under this policy should be addressed through your own internal policies, as you would with any other disciplinary matter. Some groups, such as registered players, may also be subject to ECB direct disciplinary processes if they are alleged to have breached the Code.

Do we need to have our personnel sign a Deed of Undertaking adopting the Code?

- You do not need to do this from an ECB perspective. As above you will need to take appropriate action to ensure that individuals who you want to be under your jurisdiction are bound by the Code. The ECB has jurisdiction over Participants within professional cricket in accordance with the CDC Regulations, or any other specific Regulations which relate to the CDC's jurisdiction, and by introducing the Code is not intending to widen their scope to cover individuals who do not currently fall within the ECB's direct jurisdiction. It is not therefore necessary for any individuals who do not currently sign an ECB Deed of Undertaking to do so processes allow them to deal with breaches.