

BASI Statement on Child Protection and Criminal Record Disclosures

The Directors of BASI made the decision on behalf of the membership of BASI that Enhanced Criminal Record Disclosures were necessary before issuing an Instructor licence. This decision was based on the fact that holders of a BASI Instructors Licence may work as a self employed person and be able to work with children and avoid the normal employer check. This is the reason that most Sport Governing bodies have now chosen to implement Disclosures as a requirement before issuing a licence. It was also pointed out to BASI during the Modernisation of Snowsport GB project, that this was a significant weakness in BASI practices that we did not require a Disclosure.

BASI is an internationally recognised organisation which provides qualifications in snow sports instruction and coaching.

Sport in Britain is funded through sports national governing bodies, via such organisations as SportScotland and SportEngland. Although BASI is not a national governing body as such, its qualifications are recognised world-wide, and as such, BASI needs to ensure that they are following the best practice advice in terms of safer recruitment of coaches and instructors.

Sports national governing bodies are in a similar position to BASI in that, for the main part, they do not “employ” coaches directly, but like BASI, provide courses to ensure that coaches in their sport are suitably trained and qualified.

Sport Scotland and Sport England have, over the last 5 years, developed guidance for national governing bodies in terms of Child and Vulnerable Adult Protection. The best practice guidance contained in these documents is very clear with regard to safer recruitment, and it is now accepted practice, because of this guidance, that if a coach or instructor is going to be working with children or vulnerable adults, then the national governing body should carry out an EDS check. The majority of national governing bodies have chosen to make this a condition of the member’s licence to practise as a coach or instructor.

BASI has taken steps to implement this as well, as otherwise, snowsports instructors and coaches would be the exception rather than the rule. This would leave BASI in a vulnerable position.

Abusers target situations and employment where they can have access to children or opportunities to meet them. If BASI doesn’t follow safer recruitment procedures, as outlined above, the organisation could become a target for abusers.

Some coaches and instructors say that they have no intention of coaching or instructing children or vulnerable adults. However, along with all other national governing bodies, BASI does not have mechanisms in place to monitor where its members work and who they work with. Therefore, it is assumed that the qualification awarded allows the coach/instructor to work with children and/or vulnerable adults, so it is important that safer recruitment procedures are followed.

Abusers come from all walks of life. Sports organisations are a prime target for them, because sports work with children. There have been a number of high profile cases in the press, which have highlighted this, as the abusers have been well respected coaches. BASI's consultant child protection group work with other sports, and from personal knowledge can confirm that BASI, along with a number of other governing bodies, has had to deal with situations where allegations of abuse have been made, or where coaches and instructors were found to be unfit to work with children and/or vulnerable adults because of past abuse that they had carried out.

Carrying out EDS checks is the easiest and safest way for BASI as a world renowned training organisation to ensure the fitness of its coaches and instructors to work with children and vulnerable adults.

BASI is committed to the highest standards of training and qualifications for all members. Child protection training, again, following the guidance of sportScotland and sportEngland, has been an integral part of BASI courses for the past five years. The child protection courses raise awareness of child protection issues and best practice for instructors and coaches, providing them with the necessary knowledge to ensure that they do not put themselves in vulnerable positions. **Protecting children is everyone's responsibility** and with training, education and EDS checks, BASI will ensure that its coaches and instructors are of the highest calibre, and safe to work with children and vulnerable adults.

Quote from Alistair Dempster, Chairman, sportScotland, 2002

"The reality is that abuse does take place in sport and in some cases coaches and other trusted adults in sport have been convicted of abusing children and vulnerable adults.

Everyone has a duty of care towards children and vulnerable adults to help to protect them from abuse"

Legally the PoC(S)A 2003 is clear that it is the responsibility of the organisation who is "employing" the coach/instructor to carry out an EDS check. However the definition they use of "employing" implies that this would also be the case where the person is a volunteer or "member" of a national governing body, or organisation like BASI. Under this act:

- **A child care position is a position whose normal duties include caring for, training, supervision or being in sole charge of children**
- **All organisations commit a criminal offence if they take on an individual who is on the list*, either in a paid employed capacity or as a volunteer, whether paid or unpaid subject to the limited defence that they did not know or could not reasonably be expected to know that the individual was on the list**
- **A failure to carry out a check (via a Disclosure check) which would have revealed that an individual was on the list before appointing an individual to work in a child care position would negate any defence**

* List of persons deemed unsuitable to work with children and/or vulnerable adults, held by Scottish ministers in Scotland and similarly by English ministers in England. Organisations can only check this list by carrying out an EDS check

In addition to criminal liability under the Protection of Children (Scotland) Act 2003, BASI would also be at risk to civil claims for significant damages if it failed to carry out a Disclosure check and engaged an individual who subsequently harmed a child. There is a significant doubt that BASI's insurance cover would provide indemnity in such a situation where a check had not been carried out.

It is clear to the Directors that the risk is real and that the BASI licence represented a pathway which unscrupulous people who had a record of harming children or vulnerable adults, may choose to take in order to access Children and vulnerable adults. With this information The Directors of BASI recognised their responsibility to both members of the public and to the membership of BASI to minimise this risk. This decision was made two years ago and was highlighted in Newsletters and on the website to the membership since last summer. Newsletter No. 87 Summer 07

In order to ensure the process is effective we need to consider what a person who had a criminal record for abusing children might do to avoid detection therefore the process for every member has to be robust enough to cope with an unscrupulous approach.

BASI set up a Child Protection Panel with expertise from Social services, police forces and Child protection agencies, to provide the procedures and processes which followed best practice and Government legislation to minimise the risk. BASI also considered the most practicable way of achieving Disclosures and in October 2007 provided each BASI Trainer with an application form and guidelines to complete the application to become a Counter Signatory. This was to minimise the need for members to put original documents in the post and we currently have 50 Counter signatories.

BASI has also become a registered umbrella body which means if a Snowsport School is an affiliate member of BASI then a Disclosure will be portable to that Snowsport School.

Frequently asked Questions:

Why is my Disclosure not portable from one organisation to another?

The answer to this is within the following comments from the BASI Child Protection Panel and an extract from Disclosure Scotland.

Child Protection panel – "As an 'employer' you can accept other EDS checks, but you would not be following the latest best practice for safer recruitment, where an EDS carried out by your own organisation is part of a raft of recruitment. For me that puts BASI in an even more precarious position, because of the nature of the courses and the membership, you are not at this time able to have any of the other 'safer' recruitment checks in place, like references, application form, interview etc. At least with EDS you are checking ID and previous criminal records and soft info.

all the sporting governing bodies which don't 'employ' coaches, are currently putting or already have EDS checks in place - the majority of them you can't renew your coaching certificate unless your EDS

is current (ie not more than 2 yrs old). BASI would be the exception rather than the rule, if they gave way on this one.

I attach what the Disclosure website says about it - and it still makes it clear that EDS should not be 'portable'"

Disclosure Scotland - Are Disclosures portable (the idea of "portability")?

(Taken from frequently asked questions on the Disclosure Scotland website.)

Portability refers to the re-use of a Disclosure, possibly involving someone applying for different positions within a single Registered Body or between different organisations. In effect, Disclosure Scotland would caution Registered Bodies against the use of portability as an individual within a Registered Body could be committing an offence* if he or she discloses information provided to them following an application.

An individual who has applied for the Disclosure (i.e. the applicant) has the right to show his or her copy of the Disclosure Certificate to any person he or she wishes.

Other points to consider include the following factors:-

- Disclosures carry no formal period of validity;
- The information contained on a Disclosure reflects the information available as of the date of its issue;
- Using portability does not constitute a fresh check;
- A person's criminal record or other relevant information may have changed since the issue of the previous Disclosure;
- You may be required by law to carry out a fresh check; such as to comply with the Protection of Children (Scotland) Act 2003; and
- With regard to Enhanced checks, additional information may be sought from police forces. Such "other relevant information" is provided for the position applied for and this information is dependent on the relevancy to the post applied for.

* Note

[Section 124](#) of [Part V](#) of the Police Act 1997 outlines offences which could be committed by inappropriate disclosure of Disclosure information.

Why do we have to provide original ID Documents?

It is the individual Counter signatories responsibility to ensure that the applicant is who they say they are.

- A photocopy is easily forged
- A 'verified by a responsible person' may also be forged and then we have the issue of verifying the responsible person.

For BASI in most cases the Counter Signatory does not know the person they are countersigning for at all and have virtually no information to help them verify the person's identity therefore in order to provide a robust process original identity documents are the policy for BASI Counter Signatories.

In summary

Whilst BASI is not legally obliged to require a Disclosure from members the Directors of BASI decided that to minimise the risks to members and the public that a disclosure would be required before issuing a BASI licence. The choice is not do we have to do it, rather recognising the responsibility we have to children, the general public and our membership. The procedure which BASI has put in place is based on Government legislation, best practice and a practical solution considering the geographical spread of the members.