

COVID Disciplinary Framework

1. Background

The purpose of this document is to provide details for a disciplinary framework that will be used to assess any potential breaches of the minimum operating standards (MOS) or any other COVID protocol, as agreed by the Professional Game Board (PGB) or the RFU.

This framework applies to any team or match that is under the jurisdiction of the RFU and will cover breaches by any Club, Official, Coach, Medics Player or any other party that are covered in the MOS or any agreed COVID protocol.

Any Disciplinary process that forms part of this framework will be considered in accordance with RFU Regulation 19.

For avoidance of doubt, this framework does not prevent any matter being considered as a breach of RFU Rule 5.12, or any other RFU Regulation, and therefore being dealt with as normal under Regulation 19.

2. Determination of Seriousness

Any potential breach of MOS must be reported to the RFU Head of Discipline who will be responsible for assessing the matter and determining how it should be dealt with.

Any decisions will be based on an assessment of 2 factors;

- i) Was the conduct Intentional, Reckless or Careless
- ii) Was the consequence of the breach; low, medium or high impact

3. Determination of Conduct

The RFU Head of Discipline will determine whether the person's conduct was Intentional, Reckless or Careless. If it is determined that the conduct falls below that of Careless then there will be no case to answer.

- i) Intentional – The person engages in the conduct that constitutes the breach with the intention of committing that breach.
- ii) Reckless – An individual, knew (or should have known) that there was a risk of breaching MOS protocols.
- iii) Careless – An individual's behaviour was not intentional or reckless but did result in a breach of the MOS.

4. Consequence of Breach

Any breach will be assessed to determine if its consequence was of a low, medium or high impact. Any mitigating and/or aggravating factors will also be taken into account.

When determining the level of consequence, factors that will be considered can include;

- i) Harm to any individual, including, Players, Officials, Staff and member(s) of the public
- ii) Impact on the competition, either as a whole, as a part or on a participating club

iii) Reputational damage to the game

In determining the likely consequence of the breach, the RFU Head of Discipline may obtain an expert opinion from any relevant member(s) of the PGB Restart Group in order to better assess the potential consequence of the breach. This expert opinion will not be binding on the RFU Head of Discipline. The expert opinion shall not include any recommendation for how the matter shall be dealt with, that decision sits solely with the RFU Head of Discipline.

5. Disciplinary Action

After determination of the conduct and the consequence of the breach and considering any aggravating or mitigating factors, the RFU Head of Discipline will determine how any matter should be dealt with.

The RFU Head of Discipline can determine that the matter be dealt with by an official warning and further education or direct that the matter be considered by an RFU Disciplinary panel.

If it is determined that the matter should not be sent to an RFU Disciplinary Panel, the RFU Head of Discipline may consult with member(s) of the PGB Restart Group prior to recommending any future breach mitigation strategy to the offending party.

| | High consequence | Medium consequence | Low consequence |
|----------------------------|---|---|---|
| Intentional Conduct | Matter sent to RFU Disciplinary Panel | Matter sent to RFU Disciplinary Panel | Matter can be sent to a Disciplinary Panel or Education and Feedback directed |
| Reckless Conduct | Matter sent to RFU Disciplinary Panel | Matter can be sent to a Disciplinary Panel or Education and Feedback directed | Education and Feedback directed |
| Careless Conduct | Matter can be sent to a Disciplinary Panel or Education and Feedback directed | Education and Feedback directed | Education and Feedback directed |

To assist with the sanctioning for any breaches, entry points for each level of offence have been laid out in Appendix 1.

6. COVID Warning

For any breach of the MOS, or any other agreed COVID protocol, that is not sent to an RFU Disciplinary Panel, the RFU Head of Discipline may issue a COVID Warning. For the avoidance of doubt a COVID Warning can be issued even if education or any other feedback has been directed.

A COVID Warning can only be issued to an individual and will be issued at the discretion of the RFU Head of Discipline. There is no requirement for any investigation or representations to be obtained in advance of its issue.

Any COVID Warning may be issued directly to the individual or through a club representative. Notification of a COVID Warning shall include any evidence of the breach concerned.

The following administration fee for a COVID Warning will be payable in accordance with the relevant provision within Regulation 19.

| | |
|-------------------------------|------|
| Premiership / Premiership Cup | £100 |
| Championship | £70 |
| Allianz Premier XV's | £70 |
| Any other Competition | £50 |

The only grounds for appeal for any COVID Warning are that there has been a case of mistaken identity or that no breach occurred.

Any appeal must be lodged in writing to the RFU Head of Discipline within 7 days of notification and any appeal will be heard as part of any subsequent hearing if the individual receives three COVID Warnings within any season.

Should any individual receive 3 COVID Warning's within a season then they will have their case heard by a disciplinary hearing.

Upon receiving a third COVID Warning, the individual will be provisionally suspended from all match day activity. For the avoidance of doubt they will not be able to attend any ground where a match is being played whilst provisionally suspended.

Where an individual receives 3 COVID Warning's during a season a disciplinary panel will be required to apply a sanction for the offence of persistent breaches of the COVID MOS or any agreed COVID protocols and not the substantive offences relating to each offence.

The appropriate entry point for sanction is a suspension of one - three weeks. Sanctioning in these circumstances should be determined by reference to the methodology in RFU Regulation 19.

7. Self-reporting of any breaches

The aim of the MOS is to ensure that the welfare of all involved is a key priority. As the situation continues to evolve it is essential that all clubs are able to learn from the experiences of others and share models of best practice.

To support transparency and learning, while also protecting the welfare of all, if any breach that is considered to be reckless or careless is self-reported to the RFU Head of Discipline or RFU Medical Director prior to the commencement of any investigation, the individual could be directed to undertake further education and be exempt from any sanction.

For the avoidance of doubt, no exemption will be considered where;

- i) The RFU Head of Discipline is already aware that a breach has occurred

- ii) The individual has previously self-reported a breach and it could be concluded that the repeated behaviour is contrary to the MOS.

8. Government Advice

Where a person breaches any Public Health England (PHE) guidance or protocols in relation to COVID-19, and such breach would not otherwise be a breach of the MOS, the person will be deemed to have breached the MOS and the RFU Head of Discipline will decide on what disciplinary action is necessary.

9. Matters before a competition Disputes Committee

There is no obligation for any competition Disputes Committee to follow this framework when deciding matters under their jurisdiction.

Appendix 1 - Sanction Table

| | High consequence | Medium consequence | Low consequence |
|----------------------------|--|---|---|
| Intentional Conduct | <p>Not limited to; Player/ Coach – 8 Match/ Week ban</p> <p>And/Or</p> <p>Fine</p> <p>And/Or</p> <p>Points deduction = 2 matches</p> | <p>Not limited to; Player/ Coach – 4 Match/ Week ban</p> <p>And/Or</p> <p>Fine</p> <p>And/Or</p> <p>Points deduction = 1 match</p> | <p>Not limited to; Player/ Coach – 2 Match/ Week ban</p> <p>And/Or</p> <p>Fine</p> <p>And/Or</p> <p>Points deduction = 1 match (possibly suspended)</p> |
| Reckless Conduct | <p>Not limited to; Player/ Coach – 4 Match/ Week ban And/Or</p> <p>Fine And/Or</p> <p>Points deduction = 1 match</p> | <p>Not limited to; Player/ Coach – 2 Match/ Week ban</p> <p>And/Or</p> <p>Fine</p> <p>And/Or</p> <p>Points deduction = 1 match (possibly suspended)</p> | <p>Education and Feedback directed</p> <p>Incident Recorded</p> |
| Careless Conduct | <p>Not limited to; Player/ Coach – 2 Match/ Week ban And/Or</p> <p>Fine</p> <p>And/Or</p> <p>Points deduction = 1 match (possibly suspended)</p> | <p>Education and Feedback directed</p> <p>Incident Recorded</p> | <p>Education and Feedback directed</p> <p>Incident Recorded</p> |

These are the sanction entry points as agreed by the PGB. The normal application of Regulation 19, in relation to mitigating and aggravating factors, apply.

Guidance notes for sanctions

The purpose of the sanction table is to provide a sanctioning framework for any breaches of the MOS. Currently any breaches would be considered under Rule 5.12 meaning that the panel can consider any sanctions. This table has been created to provide structure and guidance to all parties.

The sanction table includes entry points for each level of offence. It is for an independent panel to decide what level of sanction is appropriate and full consideration, as laid out in Regulation 19, will be given to any mitigation or aggravation.

Under this policy all incidents that are presented to a panel or are dealt with by warning and/or education will be recorded. A panel will be able to consider any previous offences that have occurred under this policy and give them the appropriate weight when considering if they are an aggravating factor in any sanction.

The sanction table has been created to cover all eventualities, it is for a panel to decide what is fair and proportionate in each case. For avoidance of doubt, a panel does not have to include all elements listed (e.g. ban, fine, points) when deciding what is appropriate.

Any sanctioning under this framework will be consistent with Regulation 19 and must be fair and proportionate. For example, where an individual player is found to have breached the MOS, there is no requirement for a panel to consider a sanction against the club in addition to the sanction on the player.

Any sanction must be meaningful, however, given the exceptional circumstances that require more than 1 match a week, the panel will be able to consider sanctions in matches as opposed to weeks.