

# RFU REGULATIONS

## **RFU REGULATION 19 – DISCIPLINE**

### **19.1 General Provisions**

#### **Jurisdiction and Overriding Objective**

- 19.1.1 RFU Regulation 19 applies to all disciplinary matters arising under the RFU Rules and RFU Regulations.
- 19.1.2 Separate regulations may be issued for the Premiership or any other league and/or match/competition/tournament where there is any variation of the following disciplinary procedures.
- 19.1.3 Disciplinary matters arising in Age Grade Rugby shall be dealt with in accordance with the procedures set out in Appendix 6.
- 19.1.4 All Clubs (including their players, officials, members and employees) are required to cooperate with an RFU (or Constituent Body) disciplinary investigation or disciplinary proceedings. All Clubs are further required to appoint an internal disciplinary panel responsible for investigating and, subject to Regulations 19.5.2 to 19.5.4, taking appropriate action in relation to disciplinary matters and the conduct of its players, officials, members and employees, and for generally maintaining discipline within that Club. Nothing in RFU Regulation 19 prevents the RFU from bringing disciplinary proceedings against Clubs for the actions of its players, officials, members, employees and/or its spectators including in relation to alleged Misconduct or breaches of Rule 5.12.
- 19.1.5 The overriding objective of RFU Regulation 19 is to maintain and promote fair play, protect the health and welfare of Players (and others involved in the Game), ensure that acts of Foul Play and Misconduct (on and off the field of play) are dealt with expeditiously and fairly by independent means within the Game and that the image and reputation of the Game is not adversely affected. Furthermore, to achieve consistency in the way in which discipline is administered and uniformity in the manner in which the assessment of seriousness of Foul Play is conducted and sanctions imposed.
- 19.1.6 Disciplinary hearings shall be conducted in a fair and just manner and in accordance with the fundamental principles of natural justice, whilst recognising that neither a Disciplinary Panel nor an Appeal Panel is a court of law and as such panellists or those appearing before panels may not be legally qualified. Therefore, in the interests of achieving a just and fair result, procedural and technical considerations shall take second place to the overriding objective of being just and fair to the parties thus being consistent with a duty to the Game.
- 19.1.7 Proceedings, findings or decisions of a Disciplinary Panel or Appeal Panel shall not be invalidated by reason of any defect, irregularity, omission or technicality unless such defect, irregularity, omission or technicality raises a material doubt as to the reliability of the proceedings, findings or decisions.
- 19.1.8 In the event that a particular incident takes place for which there is no provision in

RFU Regulation 19 including (but not limited to) procedure, jurisdiction or sanction then the Disciplinary Panel or Appeal Panel may take such action that it considers appropriate in the circumstances in accordance with general principles of natural justice and fairness.

## **RFU Discipline**

19.1.9 In accordance with these Regulations and Rule 5.12, the RFU shall have the power to investigate, conduct disciplinary hearings and impose sanctions upon any:

- (a) Member;
- (b) Rugby Body;
- (c) non-voting member of the Union;
- (d) player, official, member or employee of a Member or a Rugby Body; or
- (e) other person or body that submits to Union's jurisdiction to discipline them (for the avoidance of doubt this includes clubs and players from another Union playing in England in relation to both on and off field matters, where there is an agreement which specifies that disciplinary matters shall be dealt with by the RFU);

for any infringement of the RFU Rules, the RFU Regulations, the Laws of the Game or the World Rugby Regulations and/or for any conduct which is prejudicial to the interests of the Union or the Game or which amounts to cheating, irrespective of where the conduct is alleged to have occurred.

## **Constituent Body Discipline**

19.1.10 Subject to Regulations 19.1.13 – 19.1.15 a Constituent Body shall act in relation to Clubs in its membership and individuals who are members of those Clubs in relation to:

- (a) any infringement of any Law(s) of the Game;
- (b) any conduct which is, in the opinion of the Constituent Body, prejudicial to the interests of the Union or the Game or which amounts to cheating, contrary to Rule 5.12; or
- (c) any infringement of any of the RFU Regulations and/or World Rugby Regulations relating to the Game.

19.1.11 A Constituent Body may exercise its powers as delegated when all individuals and Clubs involved in a specific incident during or after a match are under its jurisdiction. In cases involving members from more than one Constituent Body the power shall be delegated to a joint committee of the Constituent Bodies of the individual Clubs involved to deal with or as otherwise directed by the RFU Head of Discipline.

19.1.12 No Constituent Body has the power or right to further delegate any of these powers.

19.1.13 A Constituent Body may, where necessary and appropriate, and with the consent of the RFU Head of Discipline surrender back to the RFU its delegated powers generally or in specific cases.

19.1.14 The RFU excludes from the delegation to Constituent Bodies the jurisdiction and authority to act in respect of the following, unless otherwise directed by the RFU Head of Discipline:

- (a) Players who are registered with or who are under a contract with Clubs playing in the Premiership, Championship National Leagues 1 and 2N and 2S or Women's Premier 15s (1st and 2nd XVs);
- (b) Players who, although not registered or under contract, represent a Premiership Club in the Premiership 'A' League, the BUCS Super Rugby Competition or in the Women's EPS or Sevens squads.
- (c) Players dismissed from the field of play or cited during County Championship matches;
- (d) breaches of World Rugby Regulations 6, 10 and 21 (Anti-Corruption and Betting, Medical and Anti-Doping) and breaches of RFU Regulations 17 and 20 (Anti-Corruption and Betting and Anti-Doping);
- (e) breaches of RFU Regulation 21 (Safeguarding);
- (f) all cases involving serious injury;
- (g) all cases under investigation by the Police;
- (h) all cases involving racially aggravated verbal or physical abuse;
- (i) complaints regarding a Referee Society admitted to membership of the Rugby Football Referees Union (or an individual member of such a Society).

19.1.15 The RFU Head of Discipline has the power to direct that the RFU, a Constituent Body, Club or Referee Society shall deal with any matter.

### **The Rugby Judiciary**

19.1.16 An RFU Head of Judiciary shall be appointed to provide an independent process of adjudication in rugby disciplinary matters. The RFU Head of Judiciary shall determine the criteria for appointment and the terms and conditions of the independent members of the Rugby Judiciary.

19.1.17 The RFU Head of Judiciary is authorised to issue practice notes and sanctions guidance.

### **Miscellaneous Provisions**

19.1.18 Where in these Regulations any notice or correspondence is required to be sent to the RFU then it shall be sent to the RFU Head of Discipline, Rugby House, Twickenham Stadium, 200 Whitton Road, Twickenham, TW2 7BA.

19.1.19 Where a disciplinary hearing or an appeal is being dealt with by a single Judicial Officer, that person shall carry out the role of Chairman of the Disciplinary Panel or Appeal Panel.

19.1.20 A Constituent Body Disciplinary Panel, a Disciplinary Panel and an Appeal Panel has

the power to deal with any matter on the papers and shall, if required, direct that a video link or a telephone conference shall be utilised.

- 19.1.21 Where the RFU receives a complaint or information regarding the conduct of a Club's players, officials, members or employees and the RFU Head of Discipline determines that the individuals in question would benefit from training in relation to the RFU's core values and expected standards of behaviour, then he/she may, irrespective of whether disciplinary action is taken by the RFU or CB or not, direct that to occur.

## **19.2 Composition of Disciplinary Panels and Appeal Panels**

### **Constituent Body Disciplinary Panel**

- 19.2.1 A Constituent Body Disciplinary Panel shall be chaired by a person who has been accredited to sit by the RFU.
- 19.2.2 A Constituent Body Disciplinary Panel shall consist of no more than three members, and exceptionally the hearing may proceed with a panel of two if directed by the Chairman. A Constituent Body Disciplinary Secretary shall also be appointed, who is not a member of the Disciplinary Panel and shall not take part in the deliberations of the panel.
- 19.2.3 No person with an interest in the proceedings shall be permitted to sit on a Constituent Body Disciplinary Panel.

### **RFU Disciplinary Panel**

- 19.2.4 The RFU Head of Judiciary shall appoint a Disciplinary Panel. No person with an interest in the proceedings shall be permitted to sit on a Disciplinary Panel.
- 19.2.5 A Disciplinary Panel, unless comprised of a single Judicial Officer, shall where practicable consist of three persons, including a legally qualified Chairman, but may proceed with a panel of two if directed by the Chairman.

### **Appeal Panel**

- 19.2.6 The RFU Head of Judiciary shall appoint an Appeal Panel to hear any appeal, which shall be made up as either:
- (a) a single Judicial Officer; or
  - (b) a panel chaired by a legally qualified person and two others
- 19.2.7 No person with an interest in the proceedings shall be permitted to sit on an Appeal Panel.
- 19.2.8 If the RFU Head of Judiciary has sat on the Disciplinary Panel at first instance then the appointment of an Appeal Panel to deal with the appeal shall be undertaken by the RFU Disciplinary Hearings Manager.

## **19.3 Bad Disciplinary Record and Recognition of Sanctions**

### **Bad disciplinary record**

19.3.1 Where Players or members of a Club appear before a Disciplinary Panel on five or more separate occasions in any one season, that Club may be charged by the RFU Head of Discipline or Constituent Body Disciplinary Secretary and summoned to attend before a Disciplinary Panel on the basis that it has a bad disciplinary record. When dealing with a Club under this provision, the Disciplinary Panel has the power to impose sanctions as set out in Appendix 2.

### **Recognition of Sanctions**

19.3.2 The RFU may recognise the sanctions, suspensions (including an interim suspension), bars or equivalent of any other sporting body. Any person suspended or banned by any other sporting body may be suspended or banned concurrently by the RFU Head of Discipline from playing or from any other involvement in the Game. Any person aggrieved by a decision of the RFU Head of Discipline may appeal to a Disciplinary Panel within 14 days beginning with the date on which the written decision was sent.

## **19.4 Interim Suspension Orders and Criminal Convictions/Cautions**

### **Interim Suspension Orders**

19.4.1 The RFU Head of Discipline shall have the power to issue an interim suspension order (ISO) against any person against whom an allegation of breach of the World Rugby Regulations, RFU Rules (including Rule 5.12), RFU Regulations or Misconduct has been made and is being investigated or, without prejudice to the power under RFU Regulation 19.4.4, against someone who is under police investigation or has been charged with or cautioned or convicted of a criminal offence. The ISO shall be in writing and signed by the RFU Head of Discipline. The ISO shall be issued without a hearing and may order that the person shall not participate in any specified activity, attend any specified location or communicate with any specified person(s) within the Game.

19.4.2 Following the imposition of the ISO, the person suspended shall have the right of appeal within 14 days beginning with the date on which the written decision was sent, to an Appeal Panel to be convened as soon as is reasonably practicable. The procedure for the hearing shall be determined by the Chairman of the Appeal Panel. The suspended person may appeal on the grounds that the decision by the RFU Head of Discipline to impose an ISO was irrational, illegal or procedurally improper in all of the circumstances.

19.4.3 The ISO shall automatically cease:

- (a) When the matter has been dealt with at a disciplinary hearing;
- (b) When the allegation is withdrawn and no further disciplinary action is taken; or
- (c) After 120 days from its issue, unless the RFU Head of Discipline determines that it is in the interests of the Union or the Game that it should be extended for a further period or periods of not more than 120 days.

## **Criminal Convictions/Cautions**

- 19.4.4 Where an individual has been cautioned or convicted of a criminal offence which directly or indirectly relates to the playing, administration or image of the Game, the RFU Head of Judiciary shall have the power to sanction the individual and have the discretion to determine whether or not to hold a hearing. A person so sanctioned shall have the right of appeal within 14 days, beginning with the date on which the written decision was sent, to an Appeal Panel which shall be convened as soon as reasonably practicable. The procedure for the hearing shall be determined by the Chairman of the Appeal Panel.

## **19.5 Referees, Provisional Suspension, Standard of Proof and Rules of Evidence etc.**

### **Referees**

- 19.5.1 The integrity of the Laws of the Game and the Referee's position as sole judge of fact and law during a match is unassailable. With the sole exception of Regulation 19.11.1 and 19.11.4 (and/or in appropriate circumstances under Regulation 17 and/or Regulation 19.13 and/or Regulation 20) the Referee's decisions on the field of play and their sporting consequences shall not be altered or overturned by a ruling of a Disciplinary Panel. The purpose of a subsequent review of an incident that occurred during a match by a Disciplinary Panel is to determine whether there should be any disciplinary sanctions applied for an act of Foul Play as provided for in World Rugby Law 9.

### **Provisional Suspension**

- 19.5.2 A Player ordered off or cited by a Citing Commissioner may not take part or be selected for any match until his case has been dealt with by an RFU or Constituent Body Disciplinary Panel.
- 19.5.3 Without in any way limiting the effect of Regulation 19.11.16, a Player that is subject to an ordering off or citing by a Citing Commissioner in a domestic or any other match is not entitled to play the Game (or any form thereof) or be involved in any on-field match day activities anywhere in the world until his/her case has been finally resolved. For the avoidance of doubt a player cited by an opposition team in matches at National 1 level and below and all Women's matches (save for Women's Premier 15s 1st XV) may play the Game pending the resolution of his/her case.
- 19.5.4 A suspended Player who elects to appeal may not take part or be selected for any further match until his case has been dealt with by an Appeal Panel and the Appeal Panel has directed that he/she may play again, unless his/her suspension has already expired.
- 19.5.5 Where the RFU Head of Discipline appeals, a Player may play pending the hearing of the appeal if the period of suspension has expired or if no suspension was imposed by the original Disciplinary Panel.

### **Standard of Proof**

- 19.5.6 The standard of proof in all disciplinary cases (including before Appeal Panels) is the balance of probabilities. For the avoidance of doubt there is no sliding scale.

## **Attendance at Hearings and Representation**

- 19.5.7 The RFU Head of Discipline or the Constituent Body Disciplinary Secretary may appoint a person to assist with the presentation of any case or appeal where he/she takes the view that it is in the interests of the Union or the Game for this to occur.
- 19.5.8 A person, Player, or Club whose conduct is the subject of inquiry is entitled to be represented or assisted by a person(s) of his/her choice (any costs incurred shall be borne by him/her/itself) and is entitled to be present throughout the proceedings except during the deliberations of the Disciplinary Panel or Appeal Panel.
- 19.5.9 Subject to paragraph 19.5.7, in the case of a team citing the Club or Union responsible for making the complaint shall be required to present the case and may be represented or assisted by a person(s) of its choice and will be required to bear its own costs.

## **Rules of Evidence**

- 19.5.10 Disciplinary Panels shall not be obliged to follow strict rules of evidence. They may admit such evidence as they think fit and accord such evidence such weight as they think appropriate in all the circumstances. Where the subject matter of a complaint or matter before a Disciplinary Panel or Appeal Panel has been the subject of previous civil or criminal proceedings, the result of such proceedings and the facts and matters upon which such result is based shall be presumed to be correct and the facts presumed to be true unless it is shown by clear and convincing evidence that this is not the case.

## **Time Limits**

- 19.5.11 In general, a failure to observe the time limits specified in these Regulations shall not nullify any proceedings, but such failure may be a cause for a hearing to be adjourned.
- 19.5.12 However in the following cases compliance with the specified time limit is mandatory, and failure to comply will render any proceedings, application or appeal void:
- (a) subject to Appendix 4, a citing must be made within the time limit specified in these Regulations;
  - (b) an appeal must be made within the time limit specified in these Regulations.

## **Audio Recordings**

- 19.5.13 The Chairman of a Disciplinary Panel or Appeal Panel and the RFU Head of Discipline shall have the power to direct that a hearing shall be audio recorded.

## **19.6 Referral to the Disciplinary Panel**

### **Ordering Off**

- 19.6.1 Where the Referee has ordered off a Player he/she shall as soon as practicable, and in any event by 9am the following Monday morning (for matches played at Levels 1 to 4 and Women's Premier 15s 1st and 2nd XVs) or within 48 hours from the conclusion of the match (Level 5 and below and all other women's matches), provide a completed

copy of the report to:

- (a) the Disciplinary Secretary of the Constituent Body to which the Player's Club is affiliated or allocated, or to the RFU Head of Discipline; and
- (b) the Referee's Society or, if he is not a member of a Referee Society, to the Constituent Body in whose area the match was played.

19.6.2 Where a Player is ordered off following Foul Play drawn to the Referee's attention by an Assistant Referee, that official shall also comply with the obligations under Regulation 19.6.1.

19.6.3 In all cases Club secretaries must report to their Constituent Bodies or the RFU Head of Discipline within 48 hours after the match all relevant details relating to any on or off field disciplinary matters and/or alleged breaches of any Regulations arising out of or in relation to the match.

### **Misconduct**

19.6.4 The RFU Head of Discipline shall have the power to investigate and institute disciplinary proceedings against any:

- (a) Member;
- (b) Rugby Body;
- (c) non-voting member of the RFU;
- (d) any Player, official, member or employee of a Member or a Rugby Body or person retained under a contract for services by a Member or a Rugby Body; or
- (e) any other person or body that submits to RFU's jurisdiction to discipline them;

for any alleged Misconduct and an RFU Disciplinary Panel may terminate or suspend membership of the Union or impose any other appropriate punishment for any such offence, as per Regulation 19.11.7.

### **Match Official Abuse**

19.6.5 A Match Official reporting abuse shall comply with the requirements set out in Regulations 19.6.1 – 19.6.3, save that where the Player has not been ordered off in relation to the alleged abuse a report shall be completed and submitted within 7 days.

19.6.6 The Match Official shall set out in the report full details of the alleged physical and/or verbal abuse, including, in the case of verbal abuse, his/her recollection of the actual abusive words spoken. The Match Official should also list on the form any witnesses to the abuse.

### **Rule 5.12 Cases, Citings and Warnings**

19.6.7 Subject to Regulation 19.6.9, the RFU Head of Discipline and a Constituent Body Disciplinary Secretary are each authorised to investigate and institute disciplinary proceedings where there is an alleged breach of Rule 5.12 and may require the person, Player or Club to whom the allegations relate to attend before a Disciplinary Panel to answer the allegation(s).

- 19.6.8 Investigations in relation to Council Members (whether arising from an allegation of Misconduct, breach of Rule 5.12 or of any policy approved by Council or otherwise applicable to Council Members) may only be commenced by the RFU Head of Discipline but before doing so he/she must have authority from two out of the RFU President, the RFU Chief Executive Officer and the Chairman of the RFU Board. On receipt of such an allegation the RFU Head of Discipline will seek that authority and, if provided, proceed.
- 19.6.9 If, after investigation, the RFU Head of Discipline considers there to be a prima facie case against a Council Member he/she will seek further approval from two out of the RFU President, the RFU Chief Executive Officer and the Chairman of the RFU Board to proceed to institute proceedings.
- 19.6.10 The RFU Head of Discipline and a Constituent Body Disciplinary Secretary may each require a person, Player, Club or body to provide information or to make written representations before deciding whether that person, Player, Club or body has a case to answer.
- 19.6.11 The RFU Head of Discipline has the power to take over any citing made by a Club. The procedures set out in Appendix 4 to these Regulations shall be followed in respect of citings.
- 19.6.12 Where a dispute arises between two or more Clubs, the RFU Head of Discipline may direct that the Clubs attempt to settle their dispute before the RFU Head of Discipline considers instituting proceedings for breach of RFU Rules or Regulations.
- 19.6.13 The RFU Head of Discipline has the power to issue a formal written warning to any person, Player or Club for any alleged Misconduct or breach of World Rugby or RFU Rules or Regulations. Before doing so however the person, Player or Club should be given the opportunity of making representations to the allegation(s). Any warning given will be retained on the disciplinary record of the person, Player or Club for a period of five years (or such other time as may be specified in the warning) and may be relied upon in future disciplinary proceedings as follows:
- (a) to establish a course of conduct of the person, Player or Club concerned; and/or
  - (b) for the purposes of consideration of sanction in the current disciplinary proceedings.

## **19.7 Notice of Hearing**

- 19.7.1 A Notice of Hearing shall be sent to the person, Player or Club charged or cited and, where appropriate, to the relevant Referees' society.
- 19.7.2 The Notice of Hearing shall include the following:
- (a) details of the specific charge or, where appropriate, a copy of the citing or complaint being investigated; and
  - (b) in applicable cases, the Referee's ordering off or abuse report.
- 19.7.3 Where a Player has been ordered off, cited or reported for abuse of a Match Official, the Notice of Hearing shall be provided as soon as reasonably practicable.

## **19.8 Case Management**

### **Response to Notice of Hearing: World Rugby Law 9 Foul Play Offences**

19.8.1 The Player shall within such period as set out in the Notice of Hearing confirm in writing:

- (a) whether he/she admits the offence(s) specified in the Match Official's ordering off report or abuse report and wishes to plead guilty and, if so, whether he/she wishes the case dealt with on the papers in his/her absence (provided that the Notice of Hearing has not indicated that he/she must attend a hearing); or
- (b) whether he/she disputes the allegations and, if so, whether he/she wishes the Match Official(s) to be available to give evidence to the disciplinary hearing. A failure by the person, Player or Club to give such notification may prevent the person, Player or Club from being permitted to challenge the evidence of the Match Official at the disciplinary hearing.

19.8.2 Except in cases where the Notice of Hearing has required his/her attendance, if a Player admits the offence and requests that the case be dealt with in his/her absence he may provide a written statement of mitigation including representations as to the appropriate entry point for the relevant sanction in Appendix 2 to these Regulations. In determining the appropriate sanction, the Disciplinary Panel shall take into account the fact that the Player pleaded guilty as an off-field mitigating factor.

### **Response to Notice of Hearing: Rule 5.12, Misconduct and Citing Cases**

19.8.3 A person, Player, Club or other body that has been cited or charged with Misconduct or a breach of Rule 5.12 shall within such period as set out in the Notice of Hearing confirm in writing:

- (a) whether he/she/it admits the offence specified in the Notice of Hearing and wishes to plead guilty; or
- (b) whether he/she/it disputes the allegations.

### **Directions**

19.8.4 A Disciplinary Panel or Appeal Panel may give any directions necessary for the proper conduct of proceedings including, but not limited to:

- (a) ordering a preliminary hearing;
- (b) requiring that parties make written submissions or submit skeleton arguments in advance of the hearing;
- (c) except in relation to Regulation 19.5.12, extending or abridging time limits;
- (d) requiring disclosure of relevant documents in possession of the parties;
- (e) setting time limits for the exchange of evidence;
- (f) granting an adjournment; and/or
- (g) establishing the date, time and place of the hearing.

19.8.5 A Disciplinary Panel or Appeal Panel may change any reference to any Law of the Game, World Rugby/RFU Regulations or particulars of offence contained in a report or charge sheet before or during a hearing provided it is satisfied, if necessary after hearing submissions, that to do so is not unduly prejudicial.

### **Attendance of Witnesses**

19.8.6 It shall be the duty of the RFU Disciplinary Hearings Manager or the Constituent Body Disciplinary Secretary (as appropriate):

- (a) to notify the Match Official(s) and/or any match assessor of the date, time and place of the hearing if his/her attendance is required;
- (b) in a case of a citing, Misconduct or Rule 5.12 complaint, to notify any person, Player, Club, Union or Affiliated Organisation making the complaint of the date, time and place of the hearing and provide a copy of the Notice of Hearing and any representations made by the person, Player or Club against whom the citing or complaint is made.

19.8.7 It shall be the duty of any person, Player, Club, Union or Affiliated Organisation involved in disciplinary proceedings to notify and secure the attendance of any witnesses he/she/it may wish to call.

## **19.9 Procedure at the Hearing**

### **Failure to Attend and Parallel Criminal/Civil Proceedings**

19.9.1 Where a person, Player or Club, to whom a Notice of Hearing has been sent, fails to attend a hearing the Disciplinary Panel or Appeal Panel has the discretion to adjourn the hearing or, where it is satisfied that there are no reasonable grounds for the failure to attend, proceed to hear the case against the person, Player or Club.

19.9.2 In the event that the Disciplinary Panel or Appeal Panel adjourns a hearing following a person, Player or Club failing to attend a hearing, it shall have the power to suspend the person, Player or Club from any specified activity within the Game until such time as he/she/it appears.

19.9.3 Where there is evidence to suggest that the person, Player or Club appearing before a Disciplinary Panel is, or is likely to be, subject to civil or criminal proceedings arising from the circumstances which are the subject of the case, the Disciplinary Panel shall decide whether it is in the interests of the Game to proceed. If it adjourns the matter until the conclusion of the civil or criminal proceedings, it may impose an interim suspension order on the person or Player against whom the allegations are made. Before so doing, the Disciplinary Panel shall give the person or Player the opportunity to make representations. There is no right of appeal from a decision of the panel to impose an interim suspension order in such circumstances.

### **Conduct of the Hearing**

19.9.4 The procedure for the hearing shall be determined by the Chairman of the Disciplinary Panel or Appeal Panel who shall have regard to, but shall be entitled to depart from, the guidance set out in Appendix 7.

19.9.5 All parties shall be given a proper opportunity to state their case and to challenge or

respond to any evidence given.

- 19.9.6 Where disciplinary cases against more than one person, Player or Club arise out of the same incident and/or set of facts, the Chairman of the Disciplinary Panel or Appeal Panel has discretion to hear them together if considered appropriate to do so.

## **19.10 Evidence**

### **Match Officials**

- 19.10.1 The provisions of this Regulation shall apply equally to the evidence of an Assistant Referee who has been appointed by the RFU or by a Referee Society, as they do to the Referee.
- 19.10.2 Match Officials appointed by the RFU or a Referee Society are independent eye-witnesses of what has occurred and their evidence shall be treated as such.
- 19.10.3 If a person, Player or Club appearing before a Disciplinary Panel wishes to challenge any aspect of a Match Official's report, he/she must request the Match Official's attendance at the hearing or that he/she is available to give evidence via telephone conference or video link. Once the Match Official's attendance has been requested, the person or Player or Club may challenge the report irrespective of whether the Match Official is able to attend the hearing or give evidence via telephone conference or video link.

### **Other Eye-Witnesses**

- 19.10.4 Witnesses shall attend the hearing in person to give oral evidence. If this is not reasonably practicable, then witnesses can seek permission from the panel Chairman in order to give evidence via telephone conference or video link.
- 19.10.5 Written evidence from witnesses may be received. If the written evidence is unchallenged then it shall carry the same weight as oral testimony but if that written evidence is challenged, it may carry less weight than oral testimony.
- 19.10.6 Hearsay evidence may be admitted but should be treated with caution as its reliability cannot be tested by cross-examination.
- 19.10.7 Any person, Player or Club who is alleged to have provided false or misleading information to a Disciplinary Panel or Appeal Panel shall be liable to disciplinary action.

### **Match Footage**

- 19.10.8 Where a person, Player or Club is sent off, cited or is the subject of a Misconduct or Rule 5.12 complaint, and footage has been taken of the match in which the incident in question occurred, any Club which took or commissioned the match footage shall forward a copy of it as soon as possible to either the RFU Head of Discipline or the Constituent Body Disciplinary Secretary with jurisdiction of the case.
- 19.10.9 Where there is match footage of an incident, and the RFU Disciplinary Hearings Manager or CB Disciplinary Secretary has advised a person, Player or Club appearing before the Disciplinary Panel, Appeal Panel or Judicial Officer that it does not have the required equipment for the screening of the footage, it is the responsibility of that person, Player or Club to provide and install the required equipment.

- 19.10.10 Where match footage is in the possession or control of the Club of which the person, Player or Club appearing before the hearing is a member and, without reasonable excuse, the footage is not produced to the Disciplinary Panel or Appeal Panel the panel shall be entitled to infer that it is unfavourable to the person, Player or Club.
- 19.10.11 A Disciplinary Panel or Appeal Panel shall be entitled to consider footage from any source, including (but not limited to) footage commissioned or obtained by a Referee Society, Referee Group, Match Official or any other person.
- 19.10.12 Where the authenticity of match footage or other visual evidence is challenged, it is for whoever produces that footage or other visual evidence to satisfy the Disciplinary Panel or Appeal Panel that the footage of the incident being investigated has not been edited or altered in any way.

## **19.11 Finding, Sanction and Costs**

### **Finding and Sanction**

- 19.11.1 In the case of an ordering off, the function of the Disciplinary Panel is to consider the circumstances of the case and determine its factual findings and what further sanction, if any, should be imposed on the Player. The Player Ordered Off may seek to show that the Referee's decision was wrong (i.e. because of mistaken identity and/or where no act of Foul Play occurred) and the Disciplinary Panel may, subject to Regulation 19.5.1, review the Referee's decision and the circumstances surrounding it. In any such case, the Disciplinary Panel shall not make a finding contrary to the Referee's decision unless it is satisfied, on the balance of probabilities, that the Referee's decision was wrong. In such a case, the Disciplinary Panel shall direct that the red card be removed from the Player's record (see Regulation 19.11.4 with regards to the Disciplinary Panel determining that a Player should have a yellow card noted on his/her disciplinary record where the red card test has not been met).
- 19.11.2 Where an alleged offence is not admitted, the Disciplinary Panel or single Judicial Officer shall consider their decision in private and shall determine whether the alleged offence has been proven.
- 19.11.3 A decision of the Disciplinary Panel shall (save for when the case is heard by a single Judicial Officer) be determined by a majority. Each member of the panel shall have one vote. In the event of a deadlock the Chairman shall have the casting vote.
- 19.11.4 If the offence has not been proven, the Chairman shall so state and the finding shall, subject to Regulation 19.10.7 and an appeal brought under these Regulations, be a bar to further disciplinary proceedings arising from the issues then before the panel. If the Disciplinary Panel determines that there was Foul Play albeit that the act in question did not meet the red card test, then the Disciplinary Panel may, following a decision to rescind the red card or dismiss the citing, determine that an on-field yellow card be recorded on the Player's disciplinary record. This will be taken into consideration for totting-up purposes in the relevant season. There is no appeal against the decision of the Disciplinary Panel to record a Foul Play yellow card on the Player's disciplinary record.
- 19.11.5 Where the offence is admitted or proven, the Disciplinary Panel or single Judicial Officer shall proceed to hear submissions regarding sanction and:
- (a) the person, Player or Club facing the allegations may call evidence as to

character and address the Disciplinary Panel in mitigation;

- (b) the party that brought the charge or made the citing may make representations as to any aggravating factors; and
- (c) the previous disciplinary record of the person, Player or Club should be ascertained.

No other person may address the Disciplinary Panel as of right, but the Disciplinary Panel may seek such further information as required from any party.

19.11.6 Where the alleged offence is admitted or proven the Disciplinary Panel shall have power to impose the sanctions set out in Appendix 2 to these Regulations.

19.11.7 “Appropriate punishment” referred to in Rule 5.12 and Regulation 19.6.5 shall include, but shall not be limited to:

- (a) for a person, a reprimand, a financial penalty or suspension from playing, coaching and/or administration.
- (b) for a Club, in addition to the sanction set out in RFU Regulation 19.11.7(a), financial or other compensation, deduction of league points or relegation, exclusion or disqualification from any competition. Where a competition does not fall within the jurisdiction of the RFU a Club may be required to withdraw from that competition.

19.11.8A Disciplinary Panel shall undertake an assessment of the seriousness of the Player’s conduct which constitutes the offending and shall categorise the offence as being at the lower end, mid-range or top end of the scale of seriousness in order to identify the appropriate entry point for consideration of a particular incident(s) of Foul Play, where such incident(s) is expressly covered in Appendix 2. Such assessment of the seriousness of the Player’s conduct shall be determined by reference to the following features:

- (a) whether the offending was intentional or deliberate;
- (b) whether the offending was reckless, that is the Player knew (or should have known) there was a risk of committing an act of Foul Play;
- (c) the gravity of the Player’s actions in relation to the offending;
- (d) the nature of actions, manner in which the offence was committed including part of body used (for example, fist, elbow, knee or boot);
- (e) the existence of provocation;
- (f) whether the Player acted in retaliation and the timing of such;
- (g) whether the Player acted in self-defence (that is whether he used a reasonable degree of force in defending himself);
- (h) the effect of the Player’s actions on the victim (for example, extent of injury, removal of victim Player from game);
- (i) the effect of the Player’s actions on the match;

- (j) the vulnerability of the victim Player including part of the victim's body involved/affected, position of the victim Player, and the ability to defend himself;
- (k) the level of participation in the offending and the level of premeditation;
- (l) whether the conduct of the offending Player was completed or amounted to an attempt; and
- (m) any other features of the Player's conduct in relation to or connected with the offending.

Based on the assessment of the offence(s) under consideration against the above features of offending, the Disciplinary Panel shall categorise the act of Foul Play as being at the lower end, mid-range or top end of the scale of seriousness of offending and identify the applicable entry point as set out in Appendix 2.

19.11.9 For offences categorised at the top end of the scale of seriousness of offending, the Disciplinary Panel shall identify an entry point between the period shown as the top end for the particular offence and the maximum sanction in Appendix 2.

19.11.10 Having identified the applicable entry point for consideration of a particular incident, the Disciplinary Panel shall identify any relevant off-field aggravating factors and determine what additional period of suspension, if any, above the applicable entry point for the offence should apply to the case in question. Aggravating features include:

- (a) the Player's status as an offender of the laws of the game;
- (b) the need for a deterrent to combat a pattern of offending; and
- (c) any other off-field aggravating factor that the Disciplinary Panel considers relevant and appropriate.

19.11.11 Thereafter, a Disciplinary Panel shall identify all relevant off-field mitigating factors and determine if there are grounds for reducing the period of suspension and subject to Regulations 19.11.12 and 19.11.13 the extent, if at all, by which the period of suspension should be reduced. Mitigating factors include the following:

- (a) the presence and timing of an acknowledgment of culpability/guilt by the offending Player;
- (b) the Player's disciplinary record and/or good character;
- (c) the youth and inexperience of the Player;
- (d) the Player's conduct prior to and at the hearing;
- (e) the Player having demonstrated remorse for the Player's conduct to the victim Player including the timing of such remorse; and
- (f) any other off-field mitigating factor(s) that the Disciplinary Panel considers relevant and appropriate.

19.11.12 Subject to Regulations 19.11.13 and 19.11.14 for acts of Foul Play the Disciplinary Panel cannot apply a greater reduction than 50% of the relevant entry point. In

assessing the reduction applicable for mitigating factors, the Disciplinary Panel shall start at 0% reduction and apply the amount, if any, to be allowed as mitigation up to the maximum 50% reduction.

19.11.13 In cases involving offending that has been classified pursuant to Regulation 19.11.8 as lower end offending, where:

- (a) there are off-field mitigating factors; and
- (b) where the Disciplinary Panel considers that the sanction would be wholly disproportionate to the level and type of offending involved;

the Disciplinary Panel may apply a greater reduction than 50% of the low-end entry point specified in Appendix 2, including in appropriate cases no sanction.

19.11.14 In cases of multiple offending, a Disciplinary Panel may impose sanctions to run either on a concurrent or a consecutive basis, provided that the total sanction is in all the circumstances proportionate to the level of the overall offending.

19.11.15 A Disciplinary Panel shall ordinarily in their written decisions set out the reasoning for their findings, including the finding on culpability, how they have categorised the seriousness of the offence by reference to the features set out in Regulation 19.11.8, how they identified and applied any aggravating and mitigating factors and conclude with the resultant sanction, if any, imposed.

19.11.16 Decisions on sanctions and suspensions imposed under these Regulations shall:

- (a) be applied universally by all Clubs and Constituent Bodies such that the suspended person may not play the game (or any form thereof) or be involved in any on-field match day activities anywhere from the time they are Ordered Off, cited or where Appendix 1 to RFU Regulation 19 applies (totting-up of yellow cards and/or Citing Commissioner Warnings) until their suspension expires or their case is dismissed;
- (b) not allow the suspended person to avoid the full consequences of their actions by, for example, playing in matches prior to the commencement of their suspension, or playing in matches during a break in the suspension and/or serving their suspension during a period of inconsequential pre-season and/or so-called friendly matches;
- (c) apply and be served when the Player is scheduled to play and/or have a match day involvement;
- (d) be imposed until a stated date which should be fixed after taking into consideration all consequences of such suspension; and
- (e) be effective immediately (subject to 19.11.17(b)).

19.11.17 When imposing suspensions a Disciplinary Panel shall comply with the requirements set out in Regulation 19.11.16 above. In doing so a Disciplinary Panel:

- (a) must not suspend the effect of any sanction imposed;

- (b) may defer the commencement of a suspension provided that the Player/person is not scheduled to play (and will not be permitted to play) or have any match day involvement prior to the commencement of the suspension;
- (c) shall, in respect of meaningful off-season application of sanctions, set out the reasons why it considers those matches to be meaningful;
- (d) shall ensure that any suspensions applied to matches are those played between two teams in compliance with all of the World Rugby Laws of the Game;
- (e) may, at its discretion in assessing the consequences of a sanction apply the suspension to scheduled pre-season and/or so-called friendly matches and/or other matches, provided such matches have, in the opinion of the Disciplinary Panel concerned, a meaningful consequence for the Player/person (the burden resting with the Player/person to prove that he/she was scheduled to play). In making their assessment the Disciplinary Panel may, in their discretion, take account of such factors as they consider relevant including, for example, the proximity of the match to the commencement of the season, the identity and stature of the opponents, likely quality of teams to be selected, and the general match profile;
- (f) must, if a Player/person's suspension has not terminated by the end of the current playing season, continue the suspension until a stated date in the next playing season, unless the Player/person has been selected for a closed season tour, or has made plans to play during the close of season in another Union. In this event (and subject to the Disciplinary Panel receiving satisfactory verification of such tour or playing arrangements), the period of the tour or the fact that the Player/person intends to play in another Union shall be taken into account in determining when the suspension shall come to an end;
- (g) may divide the suspension into two separate periods in order to exclude the whole or part of the closed season provided that the Player/person is not due to have any match day involvement in the closed season; and
- (h) shall, with the exception of tours or tournaments that have a specific agreement dealing with the application of sanctions in matches, apply a sanction in weeks irrespective of whether the Player is scheduled to play in more than one match in that week; and
- (i) Shall, where the Player/person is scheduled to play in a different form of the game to that from which the sanction arises, take in to account those other matches provided they:-
  - a) fall within the period of suspension
  - b) in the opinion of the Disciplinary Panel, have a meaningful consequence for the Player concerned

In all cases the burden rests upon the Player/person to prove that he/she was scheduled to play

19.11.18 In respect of offences not referred to in the recommended sanctions in Appendix 2, appropriate sanctions may be imposed at the discretion of the relevant Disciplinary Panel.

- 19.11.19 Notwithstanding the sanctions in Appendix 2 and/or the provisions of RFU Regulation 19, in cases where the Player/person's actions constitute mid-range or top end offending for any offence which had the potential to result in, or did result in, serious/gross consequences to the health and safety of the victim, the Disciplinary Panel may impose any period of suspension including, in the most serious cases, a suspension for life.
- 19.11.20 In Misconduct and Rule 5.12 cases, a Disciplinary Panel may suspend the effect of any sanction to be imposed.
- 19.11.21 Where a Disciplinary Panel imposes a period of suspension it shall:
- (a) make it clear whether the period of suspension is from playing, administration, coaching, officiating, attending a Club or from any other specified activity in relation to the Game; and
  - (b) specify the precise dates of the period of the suspension and a list of the matches (or match weekends, rounds or dates where specific fixtures have not yet been scheduled) for which the Player/person is suspended.
- 19.11.22 The Player/person or Club shall furnish the Disciplinary Panel with an accurate list of the Club's competitive matches relevant to a suspension at the disciplinary hearing in question. If the Player/person is not able to provide a list of the Club's competitive matches then the Chair of that Disciplinary Panel shall issue directions stipulating when such information should be filed.
- 19.11.23 Following receipt of the list of the Club's competitive matches and the Disciplinary Panel's determination in relation to the applicable matches that are judged to be meaningful to the Player/person, it shall be the responsibility of the Player/person, Club and/or the RFU to ensure that the terms and duration of the suspension are adhered to.
- 19.11.24 Should the list of the Club's competitive matches change following the Disciplinary Panel's determination then the Club and/or Player/person must notify the RFU Disciplinary Hearings Manager. In these circumstances, the Player/person and/or the Club and/or the RFU can request that the RFU Disciplinary Hearings Manager refers the matter back to a Disciplinary Panel to consider the dates of the period of the suspension. Any Disciplinary Panel will only consider the dates of the period of suspension to ensure that it is meaningful and will not review the duration or terms of the suspension.

### **Costs**

- 19.11.25 In the event that a charge is proven, the usual administration fees in Appendix 3 will be payable by the person, Player or Club that is the subject of the proceedings.
- 19.11.26 Subject to Regulation 19.11.26, no party shall be required by a Disciplinary Panel to pay or contribute towards the costs incurred by the other party in an ordering-off, citing or totting-up case.
- 19.11.27 No party shall be required by a Disciplinary Panel to pay or contribute towards the costs incurred by the other party in any matter brought under RFU Regulation 19 (including Misconduct, breach of RFU Rule 5.12 and breach of regulations cases) and costs will lie where they fall, save that the Disciplinary Panel shall have the power to award reasonable costs against a party where it is satisfied that the party has acted

improperly, unreasonably or negligently in the preparation or presentation of their case.

19.11.28 Citing cases (below Levels 1 and 2 only and all women's matches (save for Women's Premier 15s 1st XV)

(a) where the citing complaint is not proven, the Disciplinary Panel shall have the power to order the party making the complaint to forfeit the citing administration fee; and

(b) where the citing is upheld, the Disciplinary Panel shall have the power to order the party against whom the complaint has been proven to pay the relevant disciplinary administration fee as set out in Appendix 3. The administration fee paid by the citing Club shall be refunded unless the Disciplinary Panel takes the view that the sum should be forfeited, the reasons for which shall be explained in the written decision.

19.11.29 Where a person, Player or Club is ordered to pay costs, then, unless the Disciplinary Panel grants a longer period for payment, they shall be paid within 21 days of receipt of the invoice by the person, Player or Club against whom the demand for payment has been made.

19.11.30 If such costs are not paid by the required date, a Disciplinary Panel may impose further sanctions for breach of the order on a person, Player or Club (including, in relation to Players, suspending the Player from playing) until they are paid.

### **Notification of Decision**

19.11.31 A Disciplinary Panel, shall within 24 hours of the conclusion of the case (in ordering-off cases in Levels 1-4 and Women's Premier 15s 1st and 2nd XVs and citing cases in Levels 1-2 and Women's Premier 15s 1st XV only and BUCS Super Rugby Matches) and within 7 days of the conclusion of the case (in all other matters), deliver written reasons to the person, Player or Club that was the subject of the charge and any party to the disciplinary proceedings. Where that party is a Player the decision and the reasons shall also be delivered to the Player's Club and if appropriate to the League Organising Committee and the Referee's Society. This period may be extended by the Disciplinary Panel in exceptional circumstances. The written reasons shall be sufficiently detailed to identify the material facts established by the Disciplinary Panel, how it resolved material conflicts, how it categorised the seriousness of the offence by reference to the standard features of offending and how it applied aggravating and mitigating factors. A failure to comply with these requirements will not however invalidate the decision and/or any sanction awarded.

19.11.32 In all cases dealt with by the RFU, the RFU Disciplinary Hearings Manager will inform all relevant parties of the decision which shall, subject to the discretion of the RFU Head of Discipline, be published on the England Rugby website in accordance with Regulation 19.17.3.

19.11.33 In all cases considered by a Constituent Body Disciplinary Panel, a short form written decision shall be produced and a copy provided to the person, Player or Club that is the subject of the proceedings at the conclusion of the hearing or, in any event, within 72 hours. In addition, the Constituent Body Disciplinary Secretary shall report the decision of the Disciplinary Panel to their Constituent Body. In addition, the decision shall be reported to the RFU Discipline department and uploaded to the RFU game management system. If the decision is appealed against the Chairman

shall, within 7 days of the appeal being lodged, produce a full written decision in accordance with RFU Regulation 19.11.29.

19.11.34 Any sanction imposed by a Disciplinary Panel shall take effect immediately (or as directed by the Panel) irrespective of whether or not an appeal is subsequently lodged, save where the RFU Head of Judiciary determines otherwise in the interests of justice.

## **19.12 Appeals against a Decision of an RFU or Constituent Body Disciplinary Panel**

### **Appeals against a Decision of an RFU Disciplinary Panel**

19.12.1 A person, Player or Club that has been found guilty of an offence may commence an appeal against a decision of a Disciplinary Panel on the grounds that the panel:

- (a) came to a decision to which no reasonable body could have come; or
- (b) made an error of law in reaching its decision; or
- (c) failed to act fairly in a procedural sense.
- (d) the sanction imposed was so excessive as to be unreasonable

19.12.2 Where a person, Player or Club has been cleared of a charge the RFU Head of Discipline may commence an appeal against a decision of a Disciplinary Panel on the grounds that the Disciplinary Panel:

- (a) came to a decision to which no reasonable body could have come; or
- (b) made an error of law in reaching its decision: or
- (c) failed to act fairly in a procedural sense.

19.12.3 In addition:

- (a) a person, Player or Club which has been found guilty of an offence, (and the RFU Head of Discipline) may commence an appeal where, he/she/it can demonstrate to the requisite standard, that there is new evidence available for the appeal which was not reasonably available at the original hearing and that, had it been available, would have caused the Disciplinary Panel to reach a materially different decision;
- (b) the RFU Head of Discipline may appeal on the grounds that the sanction imposed was so unduly lenient as to be unreasonable.

19.12.4 Ordinarily the parties to an appeal shall be entitled to make oral submissions to the Appeal Panel but an appeal shall be way of a review of documents (and any video footage) only.

19.12.5 A de novo hearing (hearing a case afresh) against the decision of a Disciplinary Panel shall only be permitted by an Appeal Panel if it is demonstrated to the requisite standard by the appellant that the circumstances are exceptional and there are compelling reasons why the decision of the Disciplinary Panel should be set aside and the Appeal Panel should hear the case de novo.

## **Appeals against a Decision of a Constituent Body Disciplinary Panel**

19.12.6 A person, Player or Club that is the subject of the charge is dissatisfied with the decision of a Constituent Body Disciplinary Panel he/she/it shall have a right of appeal to an Appeal Panel on the grounds that the panel:

- (a) came to a decision to which no reasonable body could have come; or
- (b) made an error of law in reaching its decision; or
- (c) failed to act fairly in a procedural sense; or
- (d) imposed a sanction that was so unduly lenient or excessive as to be unreasonable.

19.12.7 The RFU Head of Discipline has the right of appeal against a decision of a Constituent Body Disciplinary Panel to an Appeal Panel on the grounds set out in 19.12.6.

19.12.8 A de novo hearing shall only be permitted if the Appeal Panel considers it to be in the interests of justice.

### **Notice of Appeal (where appeal is lodged in accordance with Regulation 19.12.1 to 19.12.8 or 19.4.4)**

19.12.9 The appellant shall serve a Notice of Appeal in writing upon the RFU Head of Discipline within 14 days beginning with the date on which the written decision was sent, save in a citing case in Levels 1-2 and Women's Premier 15s 1st XV only or an ordering off in Levels 1-4 or BUCS Super Rugby or Women's Premier 15s 1st and 2nd XV where an appeal must (unless the RFU Head of Judiciary in his/her discretion determines otherwise) be lodged within 24 hours from the time the written decision was sent.

19.12.10 The Notice of Appeal shall:

- (a) state the date and decision against which the appeal is lodged;
- (b) state the grounds of appeal relied upon;
- (c) set out the statement of facts upon which the appeal is based, specifying whether the appeal is against finding and/or sanction and include any supporting documentation upon which the appellant seeks to rely;
- (d) state whether the appellant wishes to seek a de novo hearing and, if so, the grounds for that request; and
- (e) be accompanied by a cheque for the relevant sum as specified in Appendix 3;
- (f) not be valid unless (a)-(e) above have been complied with and may be struck out by the Chairman of an Appeal Panel.

19.12.11 An appeal, once validly lodged, may be withdrawn with the consent of the RFU Head of Judiciary. In exercising this power the RFU Head of Judiciary shall have the right to require that the appellant pay the costs of the appeal.

## **Powers of an Appeal Panel (where appeal is lodged in accordance with Regulation 19.12.1 to 19.12.8 or 19.4.4)**

19.12.12 An Appeal Panel has the power to:

- (a) dismiss the appeal;
- (b) quash a finding and any sanction imposed;
- (c) remit the matter for a re-hearing;
- (d) substitute an alternative finding and/or sanction;
- (e) reduce or increase the original sanction; and/or
- (f) make such further orders as it considers appropriate.

19.12.13 The Match Official(s) may be invited to attend an appeal hearing where the Chairman of the Appeal Panel considers it desirable. A member of a Disciplinary Panel that heard a case at first instance may attend any subsequent appeal hearing as an observer. He/she may (with the leave of the Chairman) give evidence or information at the appeal hearing about the first instance hearing, such as where it becomes apparent that the appellant or any witness may have altered their account of what had occurred.

19.12.14 Where an appeal is against a decision which followed a Club citing, a Rule 5.12 or Misconduct case not arising from a Player being ordered off, the person, Player or Club who initiated the complaint shall be entitled to a copy of the documents to be referred to at the appeal and may (with the leave of the Chairman) attend the appeal and be present throughout the hearing.

## **19.13 Appeals under RFU Regulation 13 (Adult Competitions)**

19.13.1 A Club, or other party to a complaint or dispute, may appeal against a decision of the Divisional Organising Committee, Constituent Body, or NCA executive, within 14 days beginning with the date on which the written decision was sent (or such other period as may be specified in the decision). Such appeal must be put in writing to the RFU Head of Discipline. The notice of appeal shall:

- (i) set out in full details of the matter appealed against and, if the whole of the decision is not appealed against, specify that part of it which is appealed against;
- (ii) set out in full which of the following ground(s) of appeal it is relying upon:
  - (a) came to a decision to which no reasonable body could have come; or
  - (b) made an error of law in reaching its decision; or
  - (c) failed to act fairly in a procedural sense; or
  - (d) the sanction imposed was so excessive/lenient as to be unreasonable

and

- (iii) be accompanied by the administrative fee set out in Appendix 3, which is refundable in the event that the appeal is upheld unless the Appeal Panel determines otherwise.

19.13.2 The RFU Head of Discipline shall refer the appeal to an Appeal Panel for determination.

19.13.3 The Appeal Panel shall only depart from the application of RFU Regulation 13 in exceptional circumstances where the Appeal Panel is of the opinion that the application of RFU Regulation 13 has resulted or would result in a perverse and/or unfair outcome.

19.13.4 An Appeal Panel shall (in addition to the power to give any directions necessary for the proper conduct of the appeal as set out in Regulation 19.8.4) have the power to:

- (i) allow or dismiss the appeal;
- (ii) vary the decision appealed against in such manner as it shall think fit including the power to increase, decrease or remit any penalty imposed;
- (iii) remit the matter, with such directions as it thinks fit, for reconsideration;
- (iv) make such further orders as it considers appropriate.

19.13.5 Subject to RFU Regulation 19.15.3 the decision of the Appeal Panel shall be final and binding.

19.13.6 No sanction will be applied until any competition appeals procedure has ended.

## **19.14 Other Appeals**

### **(a) Required to be determined in accordance with Regulation 19**

19.14.1 All other appeals that are required to be dealt with under Regulation 19 must (unless otherwise stated in the specific policy, scheme, regulation, agreement or other document) be commenced by the appellant within 14 days, beginning with the date on which the written decision was sent, in writing to the RFU Head of Discipline. The notice of appeal shall:

- (i) set out in full details of the decision or matter appealed against;
- (ii) set out in full the grounds of appeal and an appellant shall not be entitled to rely on any ground of appeal not set out in the notice of appeal; and
- (iii) be accompanied by the relevant fee.

19.14.2 The RFU Head of Discipline shall refer the appeal to an Appeal Panel for determination.

19.14.3 An Appeal Panel shall (in addition to power to give any directions necessary for the proper conduct of the appeal as set out in Regulation 19.8.4) (and unless otherwise stated in the specific policy, scheme, regulation, agreement or other document) have the power to:

- (i) allow or dismiss the appeal;

- (ii) vary the decision appealed against in such manner as it shall think fit including (except in the case of a fixed penalty) the power to increase, decrease or remit any penalty imposed;
- (iii) remit the matter, with such directions as it thinks fit, for reconsideration;
- (iv) make such further orders as it considers appropriate.

19.14.4 Subject to RFU Regulation 19.15.3 the decision of the Appeal Panel shall be final and binding.

19.14.5 No sanction will be applied until any appeals procedure has ended.

**(b) Appeals in relation to an Anti-Doping Rule Violation**

19.14.6 Decisions made under World Rugby Anti-Doping Regulations may be appealed as set out in RFU Regulation 20 and World Rugby Regulation 21.

**19.15 Appeal Panel Decision**

19.15.1 The decision of the Appeal Panel will ordinarily be communicated orally at the hearing or, where practicable, within 24 hours of the conclusion of the hearing.

19.15.2 The Chairman of the Appeal Panel shall as soon as practicable after the conclusion of the hearing deliver a written decision to the RFU Disciplinary Hearings Manager who will distribute it to the parties and may publish it on the England Rugby website in accordance with Regulation 19.17.3

19.15.3 The procedures in Regulation 19 relating to RFU Disciplinary Panel hearings and appeals before an Appeal Panel shall be governed by the Arbitration Act 1996 (“the Act”) and amount to a binding arbitration agreement for the purposes of section 6 of that Act. Subject to the provisions of sections 67 to 71 of the Act, the decision of the Appeal Panel shall be final and binding on the parties and there shall be no right of appeal. The parties are deemed to have agreed that there shall be no right of appeal on a point of law under section 69 of the Act. The seat of arbitration shall be England and the governing law of the RFU Regulations and the proceedings under RFU Regulation 19 shall be English Law.

**19.16 Costs in Appeals**

19.16.1 Whilst an Appeal Panel shall have discretion in this regard, an unsuccessful appellant shall normally be required to forfeit any administration fee paid (as set out in Appendix 3).

19.16.2 No party shall:

- (a) be required by an Appeal Panel to pay or contribute towards the costs incurred by the other party in relation to an appeal involving an ordering-off, citing or totting-up case.
- (b) be required by an Appeal Panel to pay or contribute towards the costs incurred by the other party in any other appeal to be determined under Regulation 19 and costs will lie where they fall, save that the Appeal Panel shall have the power to award reasonable costs against a party where it is satisfied that the party has acted improperly, unreasonably or negligently in the preparation or

presentation of their case.

### **19.17 Confidentiality and Publication**

- 19.17.1 All disciplinary and appeal proceedings that take place under RFU Regulation 19 are confidential and shall take place in private.
- 19.17.2 Subject to RFU Regulation 19.17.3 and 19.17.4 all documents are confidential between the parties to the proceedings and the RFU. All evidence, representations and submissions shall be privileged. Any audio or other recording made under these Regulations shall be the property of the RFU.
- 19.17.3 Without prejudice in any event to any form of privilege available in respect of any such publication, whether pursuant to the Defamation Act 1996 or otherwise, the RFU shall be entitled to publish (including on its website or other media) as it shall think fit reports of its proceedings or any written decision of a Disciplinary Panel or Appeal Panel (in full or in a redacted form) and any supporting evidence, whether or not they reflect adversely on the character or conduct of any person, Player or Club or other body and any person, Player or Club or other body bound by the RFU Rules and Regulations shall be deemed to have provided their full and irrevocable consent to such publication.
- 19.17.4 The RFU may at any time during a disciplinary investigation or proceedings notify any person, Player or Club, UK Sport, UK Anti-Doping (UKAD), police force or any other relevant authority/body of any details relating to the matter as such authority may need to know for the proper exercise of its functions.
- 19.17.5 These provisions as to confidentiality shall not prevent the RFU from using material received for the purpose of implementing compliance with its Rules and Regulations.