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# DISCIPLINARY RULES

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### **FOREWORD**

Scottish Rugby has long recognised the need for effective disciplinary rules together with equitable procedures to ensure that those rules are applied in a fair manner. These rules and procedures are together known as the Scottish Rugby *Disciplinary Rules*. Whilst the *Disciplinary Rules* are approved by the Scottish Rugby Board they are administered independently on the game's behalf by a panel of legally qualified and other suitably experienced Discipline Panel members.

The underlying rationale behind Scottish Rugby's *Disciplinary Rules* is to:

- maintain and promote fair play;
- protect the health and welfare of the players and others involved in the game;
- ensure that any acts of foul play and misconduct are dealt with quickly and appropriately through an independent process; and
- to ensure that the image of the game is not adversely affected.

In accordance with these *Disciplinary Rules*, where a hearing is required it is to be conducted in a fair and just manner, and in accordance with the fundamental principles of natural justice. All those participating in the process are reminded that Scottish Rugby Disciplinary and Appeal Committees are sporting tribunals and not courts of law. In view of this, and in the interests of achieving a just and fair outcome, procedural and technical considerations are required to take second place to the overriding objective of the process being just and fair to the parties.

The Board reserves the right to amend the Disciplinary Rules from time to time in the light of guidance provided by World Rugby or otherwise.

**Graham A Ireland**

Head of Regulation

~~XX~~17<sup>th</sup> May 2019~~8~~

## Scottish Rugby Disciplinary Rules

### 1. INTRODUCTION

- 1.1 These Disciplinary Rules provide uniform procedures for the resolution of disciplinary issues in a fair, consistent and timely manner.
- 1.2 The Scottish Rugby Union is a member Union of World Rugby and is required to implement regulations in conformity with World Rugby's *Regulations Relating to the Game*. The provisions of World Rugby Regulation 17 (Discipline – Foul Play) shall apply other than where they conflict with the provisions of these *Disciplinary Rules*, in which case the provisions of these *Disciplinary Rules* shall apply.
- 1.3 These *Disciplinary Rules* shall apply to and bind each Club, Player and other Person. Clubs shall ensure that each of their Players and other Persons is aware of these *Disciplinary Rules* and agrees to be bound by them.
- 1.4 The participation of Players and other Persons in the game shall be deemed to constitute their acceptance of these *Disciplinary Rules* and their agreement to be bound and abide by them and all decisions made under them.
- 1.5 The *Disciplinary Rules* and any changes to them shall be subject to approval by the Board. The Board may amend the *Disciplinary Rules* from time to time. Any such amendments shall be effectively immediately unless the Board resolves to the contrary.
- 1.6 The Board shall have the power to rectify any error or omission in these *Disciplinary Rules* in such manner as it deems fit. Should any provision of the *Disciplinary Rules* be held by any court or other competent authority to be illegal, void or unenforceable (in whole or in part) the remainder of the *Disciplinary Rules* shall continue to be enforceable.
- 1.7 In the *Disciplinary Rules*, unless specified or the context otherwise requires, words importing any gender shall include all other genders, and importing singular shall, where appropriate, include plural.
- 1.8 Capitalised terms shall, unless defined elsewhere in these *Disciplinary Rules*, have the meanings given to them in Appendix 1.

### 2 RESPONSIBILITY AND ACCOUNTABILITY

- 2.1 Each Person is responsible and accountable for their own conduct and must conduct themselves at all times in accordance with the highest standards of disciplined and sporting behaviour. They must not commit any act of Foul Play or Misconduct.
- 2.2 Subject to the remainder of this clause 2, without prejudice to the personal responsibility of each Person for their own conduct, each Club is responsible and accountable for its own conduct and that of its Players, other Persons and supporters.
- 2.3 Each Club must ensure that the Club and each of its Players, other Persons and supporters:
  - 2.3.1 conducts themselves at all times in accordance with the highest standards of disciplined and sporting behaviour; and
  - 2.3.2 does not commit any act of Misconduct, including any Anti-Corruption Offence.
- 2.4 Clubs must use their best endeavours to control the behaviour of their Players, other Persons and supporters and to ensure that they conduct themselves in an orderly fashion in accordance with normally acceptable standards of behaviour whilst travelling to or from, or while attending, any Match or other Club activity.
- 2.5 Without limitation, Clubs shall take all reasonable steps to ensure that no spectator or other unauthorised person is permitted to encroach on the Playing Enclosure. The Club's responsibility pursuant to this clause shall apply before, during (including the half-time interval) and after a Match or Club activity and extends to all areas of the venue and its vicinity.

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### 3. DISCIPLINARY PROCEEDINGS

- 3.1 Disciplinary proceedings may arise in the following circumstances:
- 3.1.1 if a Player is shown a Red Card during a Match;
  - 3.1.2 if a Player is the subject of a Citing Complaint made by a Citing Commissioner, Citing Officer or the Discipline Manager for an incident of Foul Play committed during a Match;
  - 3.1.3 if the Discipline Manager considers that a Club, Player, other Person, spectator or supporter might have committed an act of Misconduct (including any Anti-Corruption Offence); and
  - 3.1.4 if a Player receives more than four Cautions in a season.
- 3.2 A matter arising under clause 3.1 shall be referred to a Disciplinary Committee for consideration, subject to the appellate authority of an Appeal Committee.

### 4. THE DISCIPLINE PANEL AND DISCIPLINARY COMMITTEES

- 4.1 The Board shall appoint individuals with appropriate skills and experience to a disciplinary panel ("**Discipline Panel**"), and shall designate one of those individuals to act as Chair of the Discipline Panel. No director, officer, Council member or employee of Scottish Rugby may be a member of the Discipline Panel.
- 4.2 Where appropriate or necessary, the Chair of the Discipline Panel may appoint a designee to undertake any aspect of his role under these *Disciplinary Rules*.
- 4.3 Where disciplinary proceedings are contemplated under clause 3.2, and subject to clause 4.6.3, the Chair of the Discipline Panel shall appoint at least three members of the Discipline Panel (which may include himself) to sit as a Disciplinary Committee to hear the matter, and will designate one of those members (who shall ordinarily be legally qualified) to act as Chair of that Disciplinary Committee.
- 4.4 No person with a close association with the:
- 4.4.1 Person or Club against whom disciplinary proceedings are being taken;
  - 4.4.2 the victim; or
  - 4.4.3 the complainant;
- or otherwise has a conflict of interest may sit on the Disciplinary Committee hearing that matter.
- 4.5 Any objection to a member of a Disciplinary Committee must be raised as a preliminary matter prior to the start of the relevant hearing. Failure to do so shall constitute a waiver of that objection. Where such an objection is made, the Chair of the Disciplinary Committee (or the Chair of the Discipline Panel where the objection concerns the Chair of the Disciplinary Committee) shall rule on the objection and make any appropriate orders that result from his ruling.
- 4.6 If one or more members of a Disciplinary Committee is unable or unwilling, for whatever reason, to hear the matter, the Chair of the Discipline Panel may at his absolute discretion:
- 4.6.1 appoint other member(s) of the Discipline Panel as replacement(s); or
  - 4.6.2 appoint a new Disciplinary Committee; or
  - 4.6.3 allow the remaining member(s) to hear the matter on his/their own.
- 4.7 Disciplinary Committees shall be entitled to appoint experts to provide specialist advice, including (without limitation) legal advice, medical advice and advice on rugby matters, without such experts sitting as members of the Disciplinary Committee. The Chair of the Discipline Panel shall also be entitled to appoint experts to advise a Disciplinary Committee. The costs of such experts shall be costs of the proceedings.

### 5. POWERS OF A DISCIPLINARY COMMITTEE

- 5.1 A Disciplinary Committee shall have the power to regulate its own procedure and to determine any matter arising under or in connection with these Disciplinary Rules (except in relation to Appeals when the Appeal Committee shall be entitled to exercise such powers). In so doing it may waive any requirement of and/or

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extend any time period provided for in these Rules where it is fair and reasonable and otherwise in the interests of justice to do so.

- 5.2 A Disciplinary Committee (and where applicable an Appeal Committee), may at any point amend the offence for which the Club, Player or other Person was shown a Red Card, Cited or made the subject of a Misconduct complaint unless, having regard to the circumstances of the case, such amendment cannot be made without causing injustice.
- 5.3 A Discipline Hearing shall not be unduly delayed or adjourned by reason only that the Person or Club appearing before it is, or is likely to be, subject to civil or criminal proceedings arising from the circumstances which are the subject of the proceedings.
- 5.4 The Disciplinary Committee may require a Person or Club against whom disciplinary proceedings are being taken to supply it, prior to the hearing, with full particulars of the case that will be presented on his/its behalf.
- 5.5 Guidelines for the conduct of particular types of proceedings and related information is provided as follows:
- 5.5.1 Section 6 : Player Red Card Cases;
  - 5.5.2 Section 7 : Citing for Foul Play;
  - 5.5.3 Section 8 : Misconduct from the abuse of Match Officials;
  - 5.5.4 Section 9 : General Misconduct cases (including Anti-Corruption Offences);
  - 5.5.5 Section 10 : 'Totting Up' cases (i.e. where a Player has accumulated more than four Cautions);
  - 5.5.6 Section 11 : Procedures at Disciplinary Hearings;
  - 5.5.7 Section 12 : Sanctioning;
  - 5.5.8 Section 13 : Appeal Procedures; and
  - 5.5.9 Section 14 : Further provisions of general application.
- 5.6 In each case, the Disciplinary Committee shall be entitled to depart from these guidelines as it sees fit in the circumstances, provided that each party is given the opportunity to state its case in full and to challenge or respond to all evidence offered against it. Any such departure shall not invalidate any finding or decision of the Disciplinary Committee unless it is shown to render such finding or decision unreliable.

## 6. RED CARD CASES

- 6.1 Clause 6 sets out procedural guidelines for cases arising out of a Player being shown a Red Card. In such cases the function of the Disciplinary Committee shall be to review the showing of the Red Card in order to determine what further action (if any) should be taken.
- 6.2 From the date of his sending off the Player may not play rugby union anywhere (nor may he enter the Playing Enclosure in any capacity - including as a water carrier or tee carrier – at any time on the day of a Match), pending resolution of the case by the Disciplinary Committee.
- 6.3 Where a Player does not accept that he should have been shown a Red Card the Player may seek to show that the referee's decision to show him the Red Card was wrong (for example, because no act of Foul Play was committed, because the act of Foul Play did not warrant a Red Card or because another Player committed the act of Foul Play).
- 6.4 The burden shall be on the Player to prove, on the balance of probabilities, that the referee's decision to show him a Red Card was wrong.
- 6.5 The Match referee (and, where relevant, the other Match Officials) shall provide a report of the Red Card incident, together the "**Official Reports**". These reports may be in any format including, without limitation, the online format provided by Scottish Rugby or the forms set out in Appendix Seven.
- 6.6 The Official Reports should ordinarily contain the following information (but any omissions will not, of themselves, invalidate the proceedings):
- 6.6.1 the name, number and Club of the Player shown the Red Card;
  - 6.6.2 the date of the Match, the venue and the Clubs participating;

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- 6.6.3 the reason(s) for the Player being shown a Red Card; and
- 6.6.4 any other information that the Match Official in question considers relevant.
- 6.7 As soon as reasonably practicable following receipt of the Official Reports, the Discipline Manager shall send a copy of them to the Player.
- 6.8 On receipt of the Official Reports the Player shall select one of the following options:-
- 6.8.1 the case may be dealt with in terms of the Official Reports and, where appropriate, the Player's own written explanation of the incident; or
- 6.8.2 the Player elects to appear and be heard at a hearing before a Disciplinary Committee.
- The Player may use Form 7 in Appendix Seven for this purpose.
- 6.9 The Player shall notify the Discipline Manager within seven days of receipt of the Official Reports as to which of the options specified in clause 6.8 he has selected. If the Player does not make such an election, the case shall be dealt with in terms of the Official Reports, the Player's disciplinary record and any other relevant information that may be before the Disciplinary Committee.
- 6.10 Irrespective of the Player's election under 6.8 (or lack thereof), where the Chair of the Disciplinary Committee considers it appropriate, the Player shall be obliged to attend a hearing. Failure to attend may be grounds for a Misconduct complaint.
- 6.11 If a hearing is requested (or is required in accordance with 6.10) it shall normally take place within fourteen days of the Player responding to the charge. Prior to the hearing the Discipline Manager shall send the Player (via email to an appropriate Club official) written notice confirming:
- 6.11.1 the date, time and place at which the Disciplinary Committee will hear the matter;
- 6.11.2 that he is required to attend the hearing in person; and
- 6.11.3 that he is entitled to be represented at the hearing by a Club official or other representative (including a legal adviser), to assist him in presenting his case.
- 6.12 The Chair of the Disciplinary Committee may send the parties written directions governing the conduct of the proceedings. If he does not send such directions the standing directions set out at Section A of Appendix Six shall be deemed to apply.
- 6.13 Where the referee's decision to issue the Red Card was based on his conclusions about certain matters (for example, the specific point of contact between the Player and an opponent), and some or all of those conclusions subsequently turn out to have been mistaken (for example, because the Player made contact with a different part of his body), the Disciplinary Committee may still determine that the referee was correct to issue the Red Card where it believes that the Player committed an act of Foul Play that warranted a Red Card.

## 7. CITING CASES

- 7.1 Clause 7 sets out procedural guidelines for cases arising out of a Player being cited for Foul Play. In such cases the function of the Disciplinary Committee shall be to review the citing in order to determine what further action (if any) should be taken.
- 7.2 If the Player does not accept the Citing Complaint, the onus shall be on the Discipline Manager to prove that, on the balance of probabilities, the act of Foul Play complained about took place and that it would have warranted the Player being shown a Red Card.
- 7.3 A Player may be cited for more than one incident in a Match, ~~and~~ more than one Player may be cited in relation to any incident and more than one Player may be cited in any Match.

### Appointment of a Citing Commissioner

- 7.4 Scottish Rugby may, in its absolute discretion, elect to appoint a Citing Commissioner for any Match. Scottish Rugby may also agree to the appointment of a Citing Commissioner to any Match by a tournament / match organiser.
- 7.5 Citing Commissioners shall act independently of the Match Officials, the Discipline Manager and any

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Disciplinary Committee thereafter appointed in respect of any incident arising from the Match.

- 7.6 A Citing Commissioner may attend the Match in person or view the Match on video at the discretion of Scottish Rugby or other tournament / match organiser.
- 7.7 All Clubs, Players and other Persons must co-operate fully with, and provide full assistance to, a Citing Commissioner in connection with his duties (including, without limitation, attending and participating fully in meetings, providing comprehensive, honest and accurate responses to questions (including in writing if requested), providing written statements and copies of all documents, photographs, video footage and similar that may be requested).

### **Procedures where a Citing Commissioner has been appointed**

- 7.8 A Citing Commissioner shall be entitled to cite a Player for any act of Foul Play which in his opinion warranted the Player being shown a Red Card, even if the act was detected by the Match Officials and was the subject of action taken by them.
- 7.9 A Citing Commissioner may cite a Player in respect of an incident for which a Player was shown a Yellow Card but he may not cite a Player an incident for which the Player was shown a Red Card. For the avoidance of doubt where a Player receives two Yellow Cards, and is therefore shown a Red Card, he may be cited for either or both of the Yellow Cards.
- 7.10 A Club shall not have the power to cite Players in any Match for which a Citing Commissioner is appointed. However the Club may, within 24 hours of completion of the Match, refer any incident of suspected Foul Play to the Citing Commissioner for consideration. Where such a referral is made after the 24 hour deadline the Citing Commissioner shall be under no obligation to consider the incident (but may choose to do so or may refer the matter to the Discipline Manager for consideration of a Misconduct complaint).
- 7.11 Subject to clause 7.12, where the Citing Commissioner decides to cite a Player he shall generally submit a written Citing Complaint (including relevant supporting material) to the Discipline Manager no later than 48 hours after the completion of the Match. A Citing Commissioner's decision to cite a Player shall be final and binding on all parties.
- 7.12 Should a Citing Complaint be submitted after the 48 hours deadline, the Chair of the Discipline Panel shall determine (based on submissions from relevant parties, including the Discipline Manager) whether the Citing Complaint should proceed.
- 7.13 The Discipline Manager, at his discretion, may elect either to:
- 7.13.1 bring the Citing Complaint before a Disciplinary Committee; or
  - 7.13.2 refer the Citing Complaint to a Citing Officer to determine (as a so-called 'gatekeeper') whether the Citing Complaint should proceed.
- 7.14 Where the Discipline Manager elects to refer a Citing Complaint to a Citing Officer, the Citing Officer shall determine whether or not the evidence presents a case for the Player to answer (as to whether the Player committed an act of Foul Play that warranted a Red Card) and accordingly whether or not the Citing Complaint should proceed. If the Citing Officer decides that the Citing Complaint should proceed, the Discipline Manager shall bring the Citing Complaint before a Disciplinary Committee.
- 7.15 Where the Citing Officer decides that the Citing Complaint should not proceed, the Discipline Manager shall not bring the Citing Complaint, but may (at his discretion) refer the matter back to the Citing Commissioner and it will be open to the Citing Commissioner to issue a Citing Commissioner Warning in respect of the incident.
- 7.16 A Citing Officer's decision as to whether or not a Citing Complaint that is referred to him should proceed shall be final and binding on all parties.
- 7.17 Where it is decided that a Citing Complaint should proceed, then that complaint shall be brought before a Disciplinary Committee by the Discipline Manager on behalf of Scottish Rugby. No Club shall be entitled to bring a Citing Complaint before the Disciplinary Committee itself, but Clubs, Players and other Persons shall be obliged to provide such assistance as the Discipline Manager may request to support any complaint that he brings before a Disciplinary Committee.



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- 7.18 From the date the Citing Complaint is issued to the Player he may not play rugby union anywhere (nor may he enter the Playing Enclosure in any capacity - including as a water carrier or tee carrier – at any time on the day of a Match), pending resolution of the case by the Disciplinary Committee.

### Procedures where no Citing Commissioner has been appointed

- 7.19 In respect of any Match for which a Citing Commissioner has not been appointed, a Club participating in the Match or Scottish Rugby may bring to the Discipline Manager's attention any act of Foul Play committed during the Match, provided always that:

- 7.19.1 the act was not detected by the Match Officials; and
- 7.19.2 the matter is reported to the Discipline Manager within 7 days of the completion of the Match.

- 7.20 Any such report must be signed by a duly authorised representative of the citing Club / Scottish Rugby and should ordinarily contain the following information (but any omissions will not, of themselves, invalidate the proceedings):

- 7.20.1 the name, number and Club of the Player concerned;
- 7.20.2 the date of the Match, the venue and the Clubs participating;
- 7.20.3 the names of the Match referee and any assistant referees;
- 7.20.4 the reason(s) for the Player being cited; and
- 7.20.5 any other information that is considered to be relevant (where available, video footage of the incident should be supplied).

Form 6 in Appendix Seven may be used for this purpose.

- 7.21 On receipt of the report the Discipline Manager shall establish if the act had been detected by the Match Officials. Providing it had not, he may then, at his discretion, elect either to:

- 7.21.1 reject the complaint (if he considers that it has no reasonable prospects of succeeding or that there is no case to answer); or
- 7.21.2 refer the complaint to a Citing Officer to determine whether it should proceed; or
- 7.21.3 refer the matter as a Citing Complaint to a Disciplinary Committee.

- 7.22 Where the Discipline Manager elects to reject the complaint he shall promptly notify the person submitting the report. If that person still wishes to proceed with the complaint he shall be entitled (by written notice to be served within 48 hours of receipt of the Discipline Manager's decision), to require that the report be referred to a Citing Officer.

- 7.23 Where the Discipline Manager requests a Citing Officer to consider a report (or where he is required so to do in consequence of clause 7.22) the Citing Officer he shall determine whether the evidence presents a case for the Player (or any other Player) to answer, and accordingly whether the report should proceed as a Citing Complaint. In doing so he shall only find that a Citing Complaint should be brought where he considers that the Player committed an act of Foul Play that was not detected by the Match Officials that would have warranted a Red Card.

- 7.24 The Citing Officer's decision as to whether any report should proceed as a Citing Complaint shall be final and binding on all parties (save that nothing shall preclude the Discipline Manager from raising a Misconduct complaint in relation to the matter).

- 7.25 Where it is determined that a Citing Complaint should proceed it shall be brought before a Disciplinary Committee by the Discipline Manager on behalf of Scottish Rugby. Where it is determined that it should not proceed the Discipline Manager shall inform the parties accordingly.

- 7.26 In the case of a citing by a Club or Scottish Rugby pursuant to clause 7.19 above, nothing in these Disciplinary Rules shall prevent the Player from participating in rugby union pending the hearing of the Disciplinary Committee, save that the Chair of the Discipline Panel and/or the Chair of the Disciplinary Committee (once appointed) shall have the discretion to impose an interim suspension (by way of an Interim Order) on the Player where he is satisfied that the circumstances warrant it.

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### Effect of Citing Commissioner Warnings

- 7.27 Where in respect of a Match a Player receives two Citing Commissioner Warnings, or one Citing Commissioner Warning and one Yellow Card, he shall be treated as if he had been cited and the provisions for dealing with a hearing of a Citing Complaint before a Disciplinary Committee shall be adapted accordingly.

### Bringing a citing complaint

- 7.28 As soon as reasonably practicable following the decision to proceed with the Citing Complaint, the Discipline Manager shall send a copy of Citing Complaint to the Player together with such other materials (including, where appropriate, the written determination of the Citing Officer and the comments of the Match Officials) as the Discipline Manager deems appropriate.

- 7.29 On receipt of the Citing Complaint the Player shall select one of the following options:-

7.29.1 the case may be dealt with in terms of the Citing Complaint and, where appropriate, the Player's own written explanation of the incident; or

~~7.29.1 the Player accepts the Citing Complaint and agrees that the case may be dealt with in terms of the Citing Complaint and, where appropriate, the Player's own written explanation of the incident; or~~

7.29.2 the Player elects to appear and be heard at a hearing before a Disciplinary Committee.

The Player may use Form 8 in Appendix Seven for this purpose.

- 7.30 The Player shall notify the Discipline Manager within seven days of receipt of the Citing Complaint as to which of the options specified in clause 7.29 he has selected. If the Player does not make such an election, the case shall be dealt with in terms of the Citing Complaint, the Player's disciplinary record and any other relevant information that may be before the Disciplinary Committee.

- 7.31 Irrespective of the Player's election under clause 7.29 (or lack thereof), where the Chair of the Disciplinary Committee considers it appropriate, the Player shall be obliged to attend a hearing. Failure to attend may be grounds for a Misconduct complaint.

- 7.32 Where a hearing is requested (or is required in accordance with clause 7.31) it shall normally take place within 14 days of the Player responding to the complaint charge. Prior to the hearing the Discipline Manager shall send the Player (via email to an appropriate Club official) written notice confirming:

7.32.1 the date, time and place at which the Disciplinary Committee will hear the matter;

7.32.2 that he is required to attend the hearing in person;

7.32.3 that he is entitled to be represented at the hearing by a Club official or other representative (including a legal adviser), to assist him in challenging the case made against him; and

7.32.4 in the case of a Citing Complaint made by a Citing Commissioner or where an Interim Order has been granted to that effect, ~~confirming~~ that he may not play rugby union anywhere (nor may he enter the Playing Enclosure in any capacity – including as water carrier or tee carrier – at any time on the day of a Match), pending resolution of the case by the Disciplinary Committee.

- 7.33 The Chair of the Disciplinary Committee may send the parties written directions governing the conduct of the proceedings. In the event that he does not send such written directions the standing directions set out at Section B of Appendix Six shall be deemed to apply.

## 8. MATCH OFFICIAL ABUSE

- 8.1 Clause 8 sets out procedural guidelines for cases where a Person is accused of an abusing a Match Official (other than cases involving Players in receipt of a Red Card for this offence, who shall be dealt with in accordance with Section 6 above). In such cases the function of the Disciplinary Committee shall be to review the Match Official Abuse Complaint in order to determine what further action (if any) should be taken.

- 8.2 Where the Person does not accept the Match Official Abuse Complaint, the burden shall be on the Discipline Manager to prove, on the balance of probabilities, that the Person named in the complaint committed the act of Misconduct specified.

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- 8.3 Where a referee or other Match Official believes that they have been abused, and that equivalent on-field abuse would have resulted in a Red Card, the Match Official shall complete a Match Official Abuse Form (“MOAF”). The MOAF may be in any format including, without limitation, the online format provided by Scottish Rugby or the forms set out in Appendix 7.
- 8.4 The MOAF should ordinarily contain the following information (but any omissions will not, of themselves, invalidate the proceedings):
- 8.4.1 the name, role and Club of the Person who is the subject of the complaint;
  - 8.4.2 the date of the Match, the venue and the Clubs participating;
  - 8.4.3 the name of the referee and any assistant referees;
  - 8.4.4 the nature of the abuse;
  - 8.4.5 confirmation that the official is of the belief that had the abuse occurred on the field of play during a Match it would have warranted a Red Card; and
  - 8.4.6 any other information that the Match Official in question considers relevant.
- 8.5 As soon as reasonably practicable following receipt of the MOAF, the Discipline Manager shall send a copy to the person named in the complaint.
- 8.6 On receipt of the MOAF the Person shall select one of the following options:-
- 8.6.1 the case may be dealt with in terms of the MOAF and, where appropriate, the Person’s own written explanation of the incident; or
  - 8.6.2 the Person elects to appear and be heard at a hearing before a Disciplinary Committee.
- The Person may use Form 9 in Appendix Seven for this purpose.
- 8.7 The Person shall notify the Discipline Manager within seven days of receipt of the MOAF as to which of the options specified in clause 8.6 he has selected. If the Person does not make such an election, the case shall be dealt with in terms of the MOAF, the Person’s disciplinary record and any other relevant information that may be before the Disciplinary Committee.
- 8.8 Irrespective of the Person’s election under clause 8.6 (or lack thereof), where the Chair of the Disciplinary Committee considers it appropriate, the Person shall be obliged to attend a hearing. Failure to attend may be grounds for a Misconduct complaint.
- 8.9 Where a hearing is requested (or is required in accordance with clause 8.8) it shall normally take place within fourteen days of the Person responding to the charge. Prior to the hearing the Discipline Manager shall send the Person (via email to an appropriate Club official) written notice confirming:
- 8.9.1 the date, time and place at which the Disciplinary Committee will hear the matter;
  - 8.9.2 that he is required to attend the hearing in person; and
  - 8.9.3 that he is entitled to be represented at the hearing by a Club official or other representative (including a legal adviser), to assist him in presenting his case.
- 8.10 The Chair of the Disciplinary Committee may send the parties written directions governing the conduct of the proceedings. In the event that he does not send such directions the standing directions set out at Section C of Appendix Six shall be deemed to apply.
- 8.11 Nothing in these Disciplinary Rules shall prevent a Person subject to Match Official Abuse Misconduct proceedings from participating in rugby union pending the hearing of the Disciplinary Committee, save that the Chair of the Discipline Panel and/or the Chair of the Disciplinary Committee (once appointed) shall have the discretion to impose an interim suspension (by way of an Interim Order) on them where he is satisfied that the circumstances warrant it.

## 9. GENERAL MISCONDUCT CASES

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- 9.1 Clause 9 sets out procedural guidelines for cases where a Club or Person is accused of an act of Misconduct. In such cases the function of the Disciplinary Committee shall be to review the Misconduct Complaint in order to determine what further action (if any) should be taken.
- 9.2 Where the Club or Person does not accept the Misconduct Complaint, the onus shall be on the Discipline Manager to prove, on the balance of probabilities, that the Club or Person named in the Misconduct Complaint committed the act of Misconduct specified.
- 9.3 Any act of Misconduct may result in disciplinary proceedings being brought and (where appropriate) sanctions being imposed any Person or Club. While it is not possible to draw up a definitive and exhaustive list of types of conduct that may amount to Misconduct, each of the following types of behaviour by a Club, its Players, other Persons or supporters is an example of (and constitutes) Misconduct under these Disciplinary Rules:
- 9.3.1 acts of violence or intimidation, including threats of same and threatening behaviour, travelling to or from or within the venue in which a Match is being played or Club activity being held including (without limitation) the tunnel, changing rooms and/or warm-up areas;
- 9.3.2 failure or refusal by a Club to exercise reasonable and proper control over its Players, other Persons or supporters, on or off the Playing Enclosure, including, but not limited to when the Club is travelling to or from a Match and at all times when its Players, other Persons or supporters are present at the Match venue;
- 9.3.3 acting in an abusive, insulting, intimidating or offensive manner towards any Match Official, other Person, spectator or otherwise in attendance at the Match in any capacity;
- 9.3.4 acts, statements or conduct that is discriminatory by reason of sex, sexual orientation, race, nationality, ethnic origin, colour, religion or disability;
- 9.3.5 seeking or accepting any bribe or other benefit to fix a Match or series of Matches or to achieve or attempting to achieve a contrived outcome to a Match or series of Matches or to otherwise improperly influence the outcome of any dimension or aspect of any Match or series of Matches;
- 9.3.6 entering into any wager, bet or form of financial speculation, directly or indirectly as to the result of any other dimension or aspect of any Match or series of Matches in which the person is directly or indirectly involved and/or connected with;
- 9.3.7 failure or refusal:
- (a) by a Person or Club to cooperate fully with any investigation conducted by any person with authority to undertake anti-doping investigations pursuant to Scottish Rugby's anti-doping programme; and
- (b) by or on behalf of a Club to ensure that a Player has been properly informed of the contents of Scottish Rugby's anti-doping programme and properly advised and assisted in fulfilling the pre-conditions for claiming a therapeutic use exemption for certain Prohibited Substances (where applicable) under that anti-doping programme;
- 9.3.8 any breach of Scottish Rugby's Child Protection or other Safeguarding Policies;
- 9.3.9 failure by a Club to suspend or terminate a Person's membership of that Club in circumstances where:
- (a) the Person has been suspended on a precautionary basis from participation in the game as a result of the application of the Scottish Rugby Code of Conduct for Safeguarding Children in Rugby or the Club's own child protection policy; or
- (b) the Person has been suspended on a precautionary basis from participation in the Club or the game as a result of the application of any rules or guidance issued by Scottish Rugby and safeguarding of vulnerable adults or the Club's own policy on the protection of vulnerable adults; or
- (c) the Person has been charged with committing a serious child protection offence, a sexual offence or other serious offence; or
- (d) it may reasonably be considered that the Person's continuing active membership otherwise creates

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- ~~or~~ may create a material risk to the health, safety, welfare or well-being (emotional or physical) of any other member of that Club; or
- (e) it may reasonably be considered that the Person's continuing active Club involvement and/or membership otherwise is or could be considered to be damaging to the interests of the game.
- 9.3.10 failure to notify Scottish Rugby where a Person in membership of the Club (or otherwise associated with it) has been charged with a serious child protection offence, a sexual offence or other serious offence or has been suspended by the Club in consequence of any of the items noted in 9.3.9;
- 9.3.11 failure by a Club to ensure the Laws of the Game are observed and upheld through the persistent offending of its Players or other Persons (irrespective of whether discipline proceedings have been taken against those Players or other Persons individually);
- 9.3.12 any breach of the Code of Conduct;
- 9.3.13 any breach of the Bye-Laws, policies, rules, domestic regulations or minimum operating standards of Scottish Rugby (including, without limitation, the *Dual Participation Protocol* and the *player payment provisions set out in SDR 4.1 Player Status and Player Payments*) and/or the World Rugby *Regulations Relating to the Game*;
- 9.3.14 seeking to mislead the Board / Scottish Rugby in relation to the contents of any required application or return and/ or making a false or misleading response to an enquiry from the Board / Scottish Rugby;
- 9.3.15 making a Citing Complaint pursuant to clause 7.19, frivolously or in bad faith (such as in retaliation for a Citing Complaint made by another Club);
- 9.3.16 failure, delay or refusal to comply with an Interim Order made under these Disciplinary Rules;
- 9.3.17 failure, delay or refusal to provide assistance to the Discipline Manager in connection with a complaint brought or which may be brought before a Disciplinary Committee or Appeals Committee;
- 9.3.18 comments or conduct in connection with current or anticipated disciplinary proceedings, match officiating (any aspect thereof) or otherwise which are prejudicial to the interests of the game or any person connected with the game;
- 9.3.19 providing inaccurate or misleading information about a Player's previous disciplinary record or future playing intentions.
- 9.4 For the avoidance of doubt, a Club, Player or other Person may be sanctioned for Misconduct which relates to conduct during a Match even if the Match referee has already penalised one or more Players for that conduct or the conduct has been the subject of a Citing Complaint or Citing Commissioner Warning.
- 9.5 Scottish Rugby, the Board, a Disciplinary or Appeal Committee or any Club, Match Official or Citing Officer may bring to the Discipline Manager's attention any potential act of Misconduct. The Discipline Manager shall have sole discretion to determine whether to investigate the matter, bring a Misconduct complaint or take any other action under these Disciplinary Rules and his decision on this shall be final and shall not be subject to appeal by any party.
- 9.6 In carrying out his functions under clause 9.5, the Discipline Manager shall be entitled to undertake such investigations as he may deem necessary, and every Club and Person shall be obliged to co-operate with such investigations.
- 9.7 As part of such investigations, the Discipline Manager may (among other things) require any Club or Person to provide written statements, written answers to questions, attend meetings to answer questions in person, provide such documentation or other material that the Discipline Manager considers relevant, provide passwords and otherwise facilitate access to computer records, phone records, social media and email accounts, and (in respect of investigations into Anti-Corruption Offences) bank and building society accounts and similar.
- 9.8 Failure or refusal to cooperate with such investigations may itself constitute Misconduct and the Disciplinary Committee and/or Appeal Committee may draw adverse inferences from such failure or refusal. For the

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avoidance of doubt it will not be a valid excuse for a Club or Person that has failed or refused to co-operate to rely on any privilege against self-incrimination: any such privilege shall be deemed to have been waived by each Club and its Persons.

- 9.9 Each Person consents (and will provide immediate written consent where requested to do so by Scottish Rugby) to the collection, processing, disclosure (including to other rugby bodies and law enforcement agencies) and use by Scottish Rugby of information (including personal information) on himself and his activities where it relates to acts or potential acts of Misconduct including acts that might constitute an Anti-Corruption Offence.
- 9.10 As soon as reasonably practicable following his decision to proceed with the Misconduct Complaint, the Discipline Manager shall send a copy of the Misconduct Complaint to the Person or Club that is the subject of the complaint. The Misconduct Complaint shall ordinarily contain the following information (but any omissions shall not, of themselves, invalidate proceedings):
- 9.10.1 the name of the Person or Club that is the subject of the Misconduct complaint;
- 9.10.2 details of the alleged Misconduct, including the date and place thereof; and
- 9.10.3 where the alleged Misconduct is said to have taken place in connection with a Match, and if relevant, the names of the Match Officials.
- 9.11 On receipt of the Misconduct Complaint the Person or Club shall select one of the following options:-
- 9.11.1 the Person / Club accepts the Misconduct Complaint and agrees that the case may be dealt with in terms of the Misconduct Complaint and, where appropriate, their own written explanation of the matter; or
- 9.11.2 the Person / Club elects to appear and be heard at a hearing before a Disciplinary Committee.
- The Person may use Form 10 in Appendix Seven for this purpose. A Club may use Form 11.
- 9.12 The Person / Club shall notify the Discipline Manager within seven days of receipt of the Misconduct Complaint as to which of the options specified in clause 9.11 it has selected. If the Person / Club does not make such an election, the case shall be dealt with in terms of the Misconduct Complaint, the Person's / Club's disciplinary record and any other relevant information that may be before the Disciplinary Committee.
- 9.13 Irrespective of the Person's / Club's election under clause 9.11 (or lack thereof), where the Chair of the Disciplinary Committee considers it appropriate, they shall be obliged to attend a hearing. Failure to attend may be grounds for a further Misconduct complaint.
- 9.14 Where a hearing is requested (or is required in accordance with clause 9.13) the Chair of the Disciplinary Committee shall determine when the hearing will take place. Prior to the hearing the Discipline Manager shall send the Person / Club (via email to an appropriate Club official) written notice confirming:
- 9.14.1 the date, time and place at which the Disciplinary Committee will hear the matter;
- 9.14.2 that they are required to attend the hearing in person;
- 9.14.3 that they are entitled to be represented at the hearing by a Club official or other representative (including a legal adviser), to assist them in challenging the case made against them.
- 9.15 The Chair of the Disciplinary Committee may send the parties written directions governing the conduct of the proceedings. If he does not send such written directions the standing directions set out at Section D of Appendix Six shall be deemed to apply.
- 9.16 Nothing in these Disciplinary Rules shall prevent a Person or Club subject to Misconduct proceedings from participating in rugby union pending the hearing of the Disciplinary Committee, save that the Chair of the Discipline Panel and/or the Chair of the Disciplinary Committee (once appointed) shall have the discretion to impose an interim suspension (by way of an Interim Order) on them where he is satisfied that the circumstances warrant it.

## Scottish Rugby Disciplinary Rules

### 10. MULTIPLE CAUTIONS

- 10.1 Clause 10 sets out procedural guidelines for cases arising out of a Player Receiving more than four Cautions in a season. In such cases the function of the Disciplinary Committee shall be to review the Cautions in order to determine what further action (if any) should be taken.
- 10.2 Where a Player does not accept that he should have been shown one or more of the Yellow Cards or Citing Commissioner Warnings being "totting up", and providing that Yellow Card or Citing Commissioner Warning was timeously challenged as provided in clauses 10.76 and 10.132 respectively, the Player may seek to show that the decision to show him the Yellow Card / award him a Citing Commissioner Warning was wrong. The onus shall be on the Player to prove, on the balance of probabilities, that the decision to show him a Yellow Card / award him a Citing Commissioner Warning was wrong.

#### Yellow Cards

- 10.3 Where a Player receives a Yellow Card in the course of a Match the referee shall submit a written report of the incident as soon as reasonably practicable after the conclusion of the Match. If the Player received the Yellow Card as a result of consultation with another Match Official that other official shall also submit a written report as soon as reasonably practicable.
- 10.4 The reports may be in any format including, without limitation, the online format provided by Scottish Rugby or the forms set out in Appendix 7.
- 10.5 The Yellow Card reports should ordinarily contain the following information (but any omissions will not, of themselves, invalidate the proceedings):
- 10.5.1 the name, number and Club of the Player shown the Yellow Card;
  - 10.5.2 the date of the Match, the venue and the Clubs participating;
  - 10.5.3 the reason(s) for the Player being shown a Yellow Card; and
  - 10.5.4 any other information that the Match Official in question considers relevant.

10.6 A Player in receipt of a Yellow Card during a Match may, within seven days of that Match, request a copy of the Yellow Card report(s) from the Discipline Manager.

~~10.6~~10.7 If the Yellow Card was ordered for Foul Play and the Player considers that the Yellow Card was wrongly issued to him (for whatever reason), the Player must give written notice to this effect, with details of evidence in support thereof, to the Discipline Manager within seven days of receiving the Yellow Card report(s)the Match. Unless the Discipline Manager is notified as specified in accordance with the time limits set out in clauses 10.6 and 10.7this clause 10.6, the Player shall not be entitled to argue, during the course of any subsequent disciplinary proceedings, that the Yellow Card was wrongly issued to him.

10.8 The Yellow Card report, the Player's notification in accordance with clause 10.76 and any comments provided by him shall be kept on file by the Discipline Manager and considered (if appropriate) under clause 10.154, below.

~~10.7~~10.9 There is no right of challenge against the awarding of a Yellow Card, whether in relation to the award of two Yellow Cards in a Match (resulting in a Red Card) or in respect of the accumulation of five or more Cautions in a season ("totting-up"), other than in respect of those Yellow Cards awarded in consequence of the "Dangerous Play" provisions of Law 9.

#### Citing Commissioner Warnings

~~10.8~~10.10 The Citing Commissioner (in addition to his power to make Citing complaints pursuant to clause 7) shall be entitled to issue a Citing Commissioner Warning to any Player who has, in his opinion, committed an act of Foul Play that (in the words of World Rugby) "*falls just short of*" warranting a Red Card (where such act did not result in a Yellow Card or Red Card). For the avoidance of doubt, the Citing Commissioner is not limited in the number of Citing Commissioner Warnings he may issue to a Player in respect of a Match.

~~10.9~~10.11 Where a Citing Commissioner decides to issue a Citing Commissioner Warning, he shall do that in writing so as to be received by the Discipline Manager normally no later than 7 days after the completion of the Match in question. Where the Citing Commissioner Warning is received after the 7 day deadline, it shall

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be for the Chair of the Discipline Panel to determine whether the Citing Commissioner Warning should stand.

~~10.10~~10.12 The Citing Commissioner may (but is not obliged to) make the Citing Commissioner Warning in the form set out in Form 5 of Appendix Seven.

~~10.11~~10.13 As soon as is reasonably practicable the Discipline Manager shall send a copy of the Citing Commissioner Warning to the Player.

~~10.12~~10.14 If the Player considers that the Citing Commissioner Warning was wrongly issued to him (for whatever reason), the Player must give written notice to this effect, with details of evidence in support thereof, to the Discipline Manager within seven days of receipt. Unless the Discipline Manager is notified as specified in this clause ~~10.13~~2, the Player shall not be entitled to argue, during the course of any subsequent disciplinary proceedings, that the Citing Commissioner Warning was wrongly issued to him.

~~10.13~~10.15 The Citing Commissioner Warning and, where applicable, the Player's notification in accordance with clause ~~10.13~~2 and any comments provided by him shall be kept on file by the Discipline Manager and considered (if appropriate) under clause ~~10.15~~4 below.

### Totting Up

~~10.14~~10.16 When a Player receives more than four Cautions in a season, that accumulation of Cautions will give rise to a 'Totting Up' case and Discipline Manager shall refer the matter to the Disciplinary Committee.

~~10.15~~10.17 As soon as reasonably practicable, the Discipline Manager shall send a Totting Up Complaint to the Player.

~~10.16~~10.18 On receipt of the Totting Up Complaint the Player shall select one of the following options:-

~~10.16.1~~10.18.1 the case may be dealt with in terms of the Totting Up Complaint and, where appropriate, the Player's own written explanation; or

~~10.16.2~~10.18.2 the Player elects to appear and be heard at a hearing before a Disciplinary Committee.

The Player may use Form 12 in Appendix Seven for this purpose.

~~10.17~~10.19 The Player shall notify the Discipline Manager within seven days of receipt of the Totting Up Complaint as to which of the options specified in clause ~~10.17~~6 he has selected. If the Player does not make such an election, the case shall be dealt with in terms of the Totting Up Complaint, the Player's disciplinary record and any other relevant information that may be before the Disciplinary Committee.

~~10.18~~10.20 Irrespective of the Person's election under clause ~~10.17~~6 (or lack thereof), where the Chair of the Disciplinary Committee considers it appropriate, the Player shall be obliged to attend a hearing. Failure to attend may be grounds for a Misconduct complaint.

~~10.19~~10.21 Where a hearing is requested (or is required in accordance with clause ~~10.19~~8) it shall normally take place within fourteen days of the Player responding to the charge. Prior to the hearing the Discipline Manager shall send the Person (via email to an appropriate Club official) written notice confirming:

~~10.19.1~~10.21.1 the date, time and place at which the Disciplinary Committee will hear the matter;

~~10.19.2~~10.21.2 that he is required to attend the hearing in person; and

~~10.19.3~~10.21.3 that he is entitled to be represented at the hearing by a Club official or other representative (including a legal adviser), to assist him in presenting his case.

~~10.20~~10.22 The Chair of the Disciplinary Committee may send to the parties written directions governing the conduct of the proceedings. ~~In the event that~~ ~~if~~ he does not send such written directions the standing directions set out at Section E of Appendix Six will be deemed to apply.

~~10.21~~10.23 For the avoidance of doubt:

~~10.21.1~~10.23.1 Proceedings under this clause 10 can be brought against a Player more than once per season, but once Cautions have been acted upon they shall not be totted up in relation to subsequent Cautions.

~~10.21.2~~10.23.2 If a Player receives two Cautions in the same Match (and these are therefore dealt with under the Red Card or Citing provisions), those incidents shall not be totted up under this clause 10.



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~~10.21.3~~10.23.3 If a Player receives two Cautions in the same Match and the Disciplinary Committee (or Appeal Committee) determines that the decision to show the Player a Red Card (or bring a Citing Complaint) was wrong because it determines that the decision to Caution the Player on one (but only one) of the occasions was wrong, then for the purposes of this clause 10, the Player will be treated as if he had been Cautioned once in that Match.

~~10.21.4~~10.23.4 Cautions shall not carry over into the next season for the purposes of Totting Up.

### 11. PROCEDURE AT DISCIPLINARY HEARINGS

- 11.1 The Chair of the Disciplinary Committee shall be entitled to determine any pre-hearing procedural or evidential issues or disputes (and shall not have to have recourse to any other members of the Disciplinary Committee when doing so).
- 11.2 Save where contrary directions have been made (or deemed made), copies of all relevant evidence and lists of any witnesses to be called shall be provided to the Disciplinary Committee and exchanged in advance of the hearing. Evidence not so submitted in advance of the hearing may only be considered (and witnesses not listed heard) with the consent of the Chair of the Disciplinary Committee where it is fair and reasonable and otherwise in the interests of justice to do so.
- 11.3 The Person or Club subject to a Discipline Hearing and their representative shall be entitled to be present throughout the hearing save for the deliberations of the Disciplinary Committee (which shall be conducted in private).

#### Procedure at Hearings

- 11.4 Unless in its sole discretion the Disciplinary Committee decides otherwise, the procedure for a Discipline Hearing shall be as follows:-
- The Chair of the Disciplinary Committee shall:
- 11.4.1 introduce the Disciplinary Committee members and establish the identities and purposes of all others who are present;
  - 11.4.2 establish that the Person present is the person who is the subject of the Red Card, Cautions, Citing or Misconduct Complaint (or in the case of a Club, establish that the Club representative is duly authorised to represent the Club);
  - 11.4.3 outline the procedure to be followed;
  - 11.4.4 establish where applicable and where the referee is present, that the referee has no doubt regarding the identity of the Player ordered off by him;
  - 11.4.5 read out the Official Reports, Citing or Misconduct Complaint (unless the Person / Club representative confirms that they do not require this step to be undertaken);
  - 11.4.6 establish the extent to which the Person / Club accepts the reports or complaints and what specific parts (if any) they do not accept;
  - 11.4.7 direct that the video footage of the incident (if any) be shown;
  - 11.4.8 provide the referee and other Match Officials (if present) with the opportunity to supplement their respective reports;
  - 11.4.9 invite the Discipline Manager to present any other witnesses or evidence he wishes to put forward;
  - 11.4.10 invite the Person / Club to give evidence (if they elect to do so) and to put forward any other witness or evidence that they wish to be heard.
- 11.5 Once the Disciplinary Committee is satisfied that it has heard all the relevant evidence in relation to the Red Card, Cautions, Citing or Misconduct Complaint, each of the parties shall be given the opportunity to make concluding submissions. The Person or Club that is the subject of the Red Card or Complaint shall ordinarily be given the final opportunity to address the Disciplinary Committee.
- 11.6 The Chair shall then invite all persons other than members of the Disciplinary Committee to retire whilst the committee deliberates as to whether the Red Card or Complaint has been upheld.

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- 11.7 Once the Disciplinary Committee has reached its decision as to whether the Red Card or Complaint has been upheld, it shall recall the parties and announce such decision to them. Where the Complaint is upheld (or, in a case arising out of a Player being shown a Red Card, where the Player has not been able to show that the referee's decision was wrong; or, in a 'totting up' case where the Player has not been able to demonstrate that the Cautions were wrongly issued), the Chair shall invite the parties to make submissions regarding what sanctions, if any, should be imposed.
- 11.8 Following such submissions, the Disciplinary Committee shall again deliberate in private to determine what sanctions (if any) should be imposed. Any sanction imposed shall be determined in accordance with the provisions of Section 12 below.

### Decision Making

- 11.9 A decision of a Disciplinary Committee shall be made by at least a simple majority of the members.
- 11.10 Where a Disciplinary Committee has an even number of members, and the members are unable to come to a unanimous or majority decision, then the Chair shall have a casting vote.
- 11.11 No member of a Disciplinary Committee may abstain from any decision.

### General Guidance in respect of Hearings

- 11.12 The absence of any party at any hearing shall not, in itself, prevent the Disciplinary Committee from proceeding to a decision in the matter, provided that it is satisfied that the party received notice of the hearing. The Disciplinary Committee shall be entitled at any point to adjourn or postpone proceedings.
- 11.13 Where a party fails or refuses to act in accordance with the directions applicable to the proceedings, the Disciplinary Committee will first give that party the opportunity to make submissions in relation to that failure or refusal. The Disciplinary Committee shall then determine, in its discretion, what will be the consequences of that failure or refusal. The consequences may include (amongst other things) a fine, an order relating to costs, a refusal to allow evidence to be adduced and/or submissions made, an order that a response or submission struck out or a recommendation that a Misconduct complaint be brought against that party.
- 11.14 The Disciplinary Committee shall not be bound to apply formal rules of evidence, but instead shall have the discretion to receive such evidence as it thinks fit, and to attach such weight to that evidence as it sees fit. All evidence must be provided in English. Video evidence shall ordinarily be viewed with any sound commentary (but not any comments of the Match Officials) turned down so that it cannot be heard.
- 11.15 The Disciplinary Committee may require the attendance of any Person under the jurisdiction of Scottish Rugby. Where a witness required by the Disciplinary Committee refuses or fails to attend a hearing, the committee may, in its discretion, allow or refuse to allow the evidence of that witness to be given in any other form.
- 11.16 Ordinarily no witness shall be present at any time until called to give evidence and thereafter must retire from the room. The Disciplinary Committee may recall witnesses at any point to ask them such further questions as it considers appropriate.
- 11.17 There shall be no cross examination of any Person, Club representative, Match Official or other witness save by members of the Disciplinary Committee. The parties may address questions to such persons, but only with the permission of, and through, the Chair.
- 11.18 The Disciplinary Committee shall be entitled to draw adverse inferences from any failure or refusal to answer questions by the Person / Club that is the subject of the proceedings, and it will not be a valid excuse to rely on any privilege against self-incrimination. Any such privilege is deemed to have been waived by the Club and its Persons.
- 11.19 Hearings shall be held in private, unless otherwise ordered by the Disciplinary Committee. The proceedings may be recorded at the request of either the Disciplinary Committee or the Discipline Manager.
- 11.20 The Discipline Manager shall have the right to be assisted by legal representatives at the hearing and may be accompanied by other representatives of Scottish Rugby.

## 12. SANCTIONING

## Scottish Rugby Disciplinary Rules

### Sanctioning Foul Play

- 12.1 In exercising its sanctioning authority against a Player in a case of Foul Play (in particular a Red Card case or a Citing Complaint), the Disciplinary Committee shall apply World Rugby's sanctions for Foul Play as set out in Appendix One to World Rugby Regulation 17 (and copied herewith as Appendix 2). Any amendments made by World Rugby to its sanctions shall take immediate effect. For the avoidance of doubt, the sanctions to be applied shall be the version that was in force at the time that the act of Foul Play was committed.
- 12.2 In determining the sanction to be applied the Disciplinary Committee shall assess the seriousness of the Player's offending by reference to the following features:
- 12.2.1 whether the offending was intentional or deliberate;
  - 12.2.2 whether the offending was reckless, that is the Player knew (or should have known) that there was a risk of committing an act of Foul Play;
  - 12.2.3 the gravity of the Player's actions in relation to the offending;
  - 12.2.4 the nature of the actions, the manner in which the offence was committed including the part of the body used (for example, fist, elbow, knee or boot);
  - 12.2.5 the existence of provocation;
  - 12.2.6 whether the Player acted in retaliation and the timing of such;
  - 12.2.7 whether the Player acted in self-defence (that is whether he used a reasonable degree of force in defending himself);
  - 12.2.8 the effect of the Player's actions on the victim (for example, the extent of the victim's injury and whether he was removed from the Match);
  - 12.2.9 the effect of the Player's actions on the Match;
  - 12.2.10 the vulnerability of the victim, including the part of the victim's body involved/affected, the position of the victim and his ability to defend himself;
  - 12.2.11 the level of participation in the offending and the level of premeditation;
  - 12.2.12 whether the conduct of the Player was completed or amounted to an attempt; and
  - 12.2.13 any other feature of the Player's conduct in relation to or connected with the offending.
- 12.3 Based on its assessment of the seriousness of the Player's conduct, the Disciplinary Committee 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 on the World Rugby sanctions table (except where World Rugby's sanctions table expressly provide for a particular entry point for certain offending, in which case the Disciplinary Committee shall apply such entry point).
- 12.4 For acts of Foul Play that are categorised as at the top end of the scale of seriousness, the Disciplinary Committee shall also identify, based on its assessment of the seriousness of the Player's conduct, an entry point between the period shown as the top end and the maximum sanction shown in the World Rugby sanctions table.
- 12.5 Having identified the appropriate entry point, the Disciplinary Committee shall identify all relevant off-field aggravating factors and determine what additional period of suspension, if any, above the applicable entry point for the offence should be applied in light of such aggravating factors. Aggravating factors may include:
- 12.5.1 the Player's status generally as an offender against the Laws of the Game (the Disciplinary Committee must take into account the Player's disciplinary record – including acts of Misconduct - in all competitions and, as appropriate, in other sports, since the age of 18 and determine whether the previous findings of tribunals should be treated as aggravating factors, and it will be the Player's obligation to provide the Disciplinary Committee - at that stage of the hearing - with a comprehensive, accurate and up-to-date written statement of his disciplinary record);
  - 12.5.2 the need for a deterrent to combat a pattern of offending in the game; and
  - 12.5.3 any other off-field aggravating factors that the Disciplinary Committee considers relevant and appropriate.

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- 12.6 Thereafter, the Disciplinary Committee shall identify all relevant off-field mitigating factors and determine if there are grounds for reducing the period of suspension. Mitigating factors may include:
- 12.6.1 the presence and timing of an acknowledgement of culpability/wrong-doing by the Player;
  - 12.6.2 the Player's disciplinary record and/or good character;
  - 12.6.3 the youth and inexperience of the Player;
  - 12.6.4 the Player's conduct prior to and at the hearing;
  - 12.6.5 the Player having demonstrated remorse for his conduct to the victim player, including the timing of such remorse; and
  - 12.6.6 any other off-field mitigating factor(s) that the Disciplinary Committee considers relevant and appropriate.
- 12.7 In assessing the level of any reduction the Disciplinary Committee shall start at 0% and work up to a maximum 50% of the entry point suspension (i.e. the suspension prior to any additional period of suspension as a result of any aggravating factors).
- 12.8 For acts of Foul Play categorised as at the lower end of the scale of seriousness only, the Disciplinary Committee may apply a reduction greater than 50% from the entry point suspension, but only where it makes each of the following findings:
- 12.8.1 there are off-field mitigating factors; and
  - 12.8.2 without such a reduction, the sanction would be wholly disproportionate to the level and type of offending.
- If the Disciplinary Committee makes each of these findings, it may apply a reduction greater than 50% from the entry point suspension (and may even reduce the sanction to the extent that it imposes no suspension).
- 12.9 Where a Player receives two Cautions in a Match or in Totting Up the case shall be sanctioned in accordance with the provisions of Appendix 4 to World Rugby Regulation 17 (copied herewith as Appendix 3).
- 12.10 In respect of offences not referred to in the World Rugby sanctions table the Disciplinary Committee shall impose an appropriate sanction at its discretion.
- 12.11 Notwithstanding the foregoing, in cases where the Player's actions constitute the mid-range or top end of offending for any type of offence and had the potential to result in, or in fact did result in, serious/gross consequences to the health of the victim, the Disciplinary Committee may impose any period of suspension, including a suspension for life.
- 12.12 The Disciplinary Committee may use the *Scottish Rugby Sanctioning Process Guide* (Appendix 5) as an aide memoire during the determination of sanction.
- 12.13 In a cases where the Disciplinary Committee finds that the referee's decision to issue a Red Card was wrong, then unless the circumstances otherwise warrant, the Disciplinary Committee shall take no further action (i.e. impose no suspension on the Player) and the Red Card shall thereafter be disregarded for the purposes of the Player's disciplinary record.
- 12.14 If, in a Citing case or a case arising out of a Player being shown a Red Card, the Disciplinary Committee does not impose a sanction because it found that whilst the Player had committed an act of Foul Play it did not warrant a Red Card, the Discipline Manager shall have a discretion to refer the matter back to the Citing Commissioner (where appointed) and, where appropriate, it will be open to the Citing Commissioner to issue a Citing Commissioner Warning in respect of the incident (which, if he elects to do so, must be issued within 72 hours of receiving the referral from the Discipline Manager).

### Meaningful Sanctions

- 12.15 The World Rugby sanctions for Foul Play are drafted on the basis that a one-week period of suspension shall ordinarily result in a Player missing one match. When imposing a suspension, the Disciplinary Committee shall ordinarily determine the period of suspension on this basis.
- 12.16 The Disciplinary Committee shall specify a period of suspension of a whole number of weeks, with the period of suspension rounded up to the next whole number of weeks where necessary.

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- 12.17 In determining the length of any period of suspension, the Disciplinary Committee shall take into consideration all playing consequences of such a suspension and shall exclude:
- 12.17.1 any close season periods of inactivity for the Player;
  - 12.17.2 any periods in which the Player is:
    - (a) not fit to play;
    - (b) not available to play;
    - (c) not expected to play;
  - 12.17.3 and any periods in which only inconsequential pre-season or so-called 'friendly' matches are played (in determining whether or not a pre-season or 'friendly' match is inconsequential, the Disciplinary Committee must consider all relevant matters including the proximity of the match to the start of the competitive season, the identity and stature of the opposition team, the likely quality of the selected teams, and the profile of the match).

12.18 Further guidance is provided in Appendix 4.

### Sanction Start Date

- 12.19 A suspension imposed solely as a result of a Red Card, Citing or Toting Up may not be on a suspended basis.
- 12.20 Where the Disciplinary Committee decides to suspend a Player, the suspension shall be effective immediately, subject to the Disciplinary Committee's discretion to commence the suspension on another date, for example, on the date on which:
- 12.20.1 an interim suspension was imposed;
  - 12.20.2 a suspension was imposed by the Player's Club, another Union or other competent sporting body; or
  - 12.20.3 a voluntary withdrawal from participation in the game was exercised by the Player.
- 12.21 If the Disciplinary Committee is asked to commence the suspension on the date on which a suspension was imposed by the Player's Club, another Union or other competent sporting body or a voluntary withdrawal was exercised, the Disciplinary Committee shall be entitled to enquire (and base its determination on) whether the Player had confirmed the position to the Discipline Manager prior to the proceedings, and whether the Player was otherwise fit, available and expected to play in the period covered by the suspension or voluntary withdrawal.
- 12.22 If a Disciplinary Committee elects to commence the suspension on a date after the date on which the parties are advised of the decision (for example, in consequence of an injury to the Player), the Player shall not be allowed to play rugby union (or enter the Playing Enclosure in any capacity at any time on the day of a Match) in the period prior to the commencement of the period of suspension, and in any event the Player shall not be allowed to play rugby union (or enter the Playing Enclosure in any capacity) during any break in the period of suspension.

### Multiple Offending

- 12.23 In any case where there has been multiple offending, the Disciplinary Committee may order that sanctions run either concurrently or consecutively, provided that the overall sanction is proportionate to the level of overall offending in all the circumstances.

### Misconduct Proceedings (including Match Official Abuse and Anti-Corruption Offences)

- 12.24 If a Misconduct complaint (including a Match Official Abuse or Anti-Corruption Offence) is upheld the Disciplinary Committee shall be entitled to impose any one or more of the following sanctions as it shall deem appropriate having regard to all of the circumstances of the case:
- 12.24.1 caution, reprimand, or warning as to future conduct;
  - 12.24.2 fine;
  - 12.24.3 deduction of points earned in a National Competition Match;
  - 12.24.4 awarding of a Match or Matches by default;

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- 12.24.5 voiding of the result of a Match and ordering of a replay at a venue of the Disciplinary Committee's choice;
  - 12.24.6 compensation payments to any person or entity affected by the Misconduct;
  - 12.24.7 expulsion from any National Competition and/or a ban from participation in future National Competitions;
  - 12.24.8 suspension from playing (and entering the Playing Enclosure in any capacity - including as a water carrier or tee carrier - at any time on the day of the Match);
  - 12.24.9 a ban from attending matches or any Match venue;
  - 12.24.10 suspension from any role or other activity within the game;
  - 12.24.11 such other penalty or sanction as may be deemed appropriate, including in the case of a Club suspension of membership of the Scottish Rugby Union, or the taking any step which in the exercise of its discretion it considers would be appropriate to deal justly with the matter.
- 12.25 Any sanction imposed in respect of a Misconduct complaint, including a playing suspension, may be on a suspended basis.

### Award of Costs

- 12.26 In Citing cases, Red Card cases and Totting Up cases, the presumption shall be against the Disciplinary Committee making any award of costs and instead each party shall bear its own costs (including legal costs) and Scottish Rugby shall pay the costs of holding the hearings and the expenses of the Disciplinary Committee.
- 12.27 In Misconduct cases, Disciplinary Committees shall have the discretion to order any party or parties to pay some or all of the costs of proceedings before them, including:
- 12.27.1 the costs of holding the hearings (except the costs of any interpreter(s) that were reasonably required for a hearing);
  - 12.27.2 the legal, travel, accommodation or similar costs of the members of the Disciplinary Committee;
  - 12.27.3 the legal costs of the parties.

In such cases, Disciplinary Committees shall not ordinarily make an order as to costs without first hearing or reading submissions from the relevant parties on the question of costs.

- 12.28 In Misconduct cases, the Disciplinary Committee may also order some or all of such costs to be paid by some other person or entity that is considered to have acted frivolously or in bad faith in the matter, provided that such other person or entity shall first be given an opportunity to make submissions (which may be limited to written submissions) as to why such an order should not be made. This discretion is without prejudice to the right of the Discipline Manager to bring a Misconduct complaint in relation to such frivolous or bad faith conduct.
- 12.29 In all cases in which a Disciplinary Committee is asked to make a costs award (including determinations as to the specific sums payable), the Disciplinary Committee shall be entitled to take into account the parties' conduct at all relevant times.

### Notification

- 12.30 The Disciplinary Committee shall advise the parties of its decision as soon as reasonably practicable. The decision shall take effect at that point. Where so requested by one of the parties, the Disciplinary Committee shall confirm its decision in a written judgment, issued as soon as reasonably practicable following the hearing. Any written judgment shall be served on each of the parties.
- 12.31 If no appeal is filed in accordance with clause 13 below, then the decision shall be final.

## 13. Appeal Procedures

- 13.1 Clause 13 sets out procedural guidelines for cases where a decision of a Disciplinary Committee is to be appealed.
- 13.2 Except where an appeal proceeds as a *de novo* hearing, the Appellant shall have the burden of proving that the decision being challenged was both in error and should be overturned or varied.

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- 13.3 An Appellant may make a request for a *de novo* hearing, but an Appeal Committee may only determine to proceed on this basis if it is shown that the circumstances are exceptional and that there are compelling reasons why the case should be heard *de novo*. In the case of a *de novo* hearing, the same burdens as applied before the original Disciplinary Committee shall apply.

### Right of appeal

- 13.4 The decision of a Disciplinary Committee may be appealed by the Person or Club that was the subject of the proceedings, the Discipline Manager, Scottish Rugby or by World Rugby.
- 13.5 Unless otherwise stated elsewhere in these Disciplinary Rules, an appeal may be against the whole of the decision or against a particular aspect or aspects of the decision.
- 13.6 The decisions of Disciplinary Committees that may be appealed are those final, substantive decisions that are reached after the case has been heard, including any decision taken to dismiss or strike out a complaint by the Discipline Manager (as opposed to any decisions, directions, orders or determinations made in respect of preliminary or procedural matters raised during the course of proceedings).

### Notice of Appeal and the effect on sanctions imposed below

- 13.7 For an appeal to be valid, the party making the appeal (the “Appellant”) must comply with the following conditions:
- 13.7.1 the Appellant must file a notice of appeal (the “Notice of Appeal”) complying in all respects with clause 13.7.2 below, with the Discipline Manager no later than 7 days after receipt of the written notice of the decision being appealed against. (In the case of an appeal by World Rugby the deadline for filing the Notice of Appeal shall be seven days following receipt of a copy of the written notice of the decision by World Rugby); and
- 13.7.2 the Notice of Appeal must be signed by or on behalf of the Appellant and must specify:
- (a) the decision appealed against;
  - (b) the date of the decision appealed against;
  - (c) the time and date that the Appellant received written notice of the decision;
  - (d) the specific aspect(s) of the decision being challenged on appeal; and
  - (e) the specific grounds of such challenge.
- 13.8 Where the conditions set out in clause 13.7 are not complied with, the appeal is prima facie invalid and shall be summarily dismissed by the Chair of the Discipline Panel, unless the Appellant demonstrates sufficient excuse to persuade the Chair to exercise his discretion to allow the appeal to proceed. If the appeal is dismissed pursuant to this clause, this decision shall be deemed to be final and binding.
- 13.9 If an appeal is validly made (or is otherwise allowed to proceed pursuant to clause 13.8):
- 13.9.1 any fine, compensation or costs award made by the Disciplinary Committee shall be postponed pending the outcome of the appeal hearing; and
- 13.9.2 subject to any Interim Order made by the Chair of the Discipline Panel or Chair of the Appeal Committee (once appointed), any other sanction imposed by the Disciplinary Committee, including any suspension, shall remain in place and have effect pending the outcome of the appeal hearing.

### Appointment of the Appeal Committee

- 13.10 The Chair of the Discipline Panel shall appoint three members of the Disciplinary Panel (which may include himself) to sit as an Appeal Committee to hear the appeal, and shall designate one of those members (who shall be legally qualified) to act as Chair of that Appeal Committee.
- 13.11 None of the members who sat on the Disciplinary Committee that issued the decision being challenged may sit on the Appeal Committee.
- 13.12 No person with a close association with the:
- 13.12.1 Person or Club against whom disciplinary proceedings are being taken;
  - 13.12.2 the victim; or

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13.12.3 the complainant;

or otherwise has a conflict of interest may sit on the Appeal Committee.

13.13 Any objection to a member of the Appeal Committee must be raised as a preliminary matter prior to the start of the Appeal hearing. Failure to do so shall constitute a waiver of that objection. Where such an objection is made, the Chair of the Appeal Committee (or the Chair of the Discipline Panel where the objection concerns the Chair of the Appeal Committee) shall rule on the objection and make any appropriate orders that result from his ruling.

13.14 If one or more members of the Appeal Committee is unable or unwilling, for whatever reason, to hear the matter, the Chair of the Discipline Panel may at his absolute discretion:

13.14.1 appoint other member(s) of the Discipline Panel as replacement(s); or

13.14.2 appoint a new Appeal Committee; or

13.14.3 allow the remaining member(s) to hear the matter on his/their own.

13.15 Appeal Committees shall be entitled to appoint experts to provide specialist advice, including (without limitation) legal advice, medical advice and advice on rugby matters, without such experts sitting as members of the Disciplinary Committee. The costs of such experts shall be costs of the proceedings.

### **Procedures to be followed in Appeal Committee proceedings**

13.16 The parties shall have the right to make submissions to the Appeal Committee as to the procedures that it should follow in hearing the appeal. The Chair of the Appeal Committee shall be entitled to determine any pre-hearing procedural or evidential issues or disputes (and shall not have to have recourse to the other members of the Appeal Committee when doing so).

13.17 The Appeal Committee shall be entitled to conduct and regulate the appeal proceedings as it sees fit in the circumstances of the case, and shall determine the basis on which the appeal will proceed.

13.18 The following clauses set out procedural guidelines for the conduct of appeals before an Appeal Committee. In each case, the Appeal Committee shall be entitled to depart from these procedures as it sees fit in the circumstances of the case at hand, provided that each party is given the opportunity to state its case in full and to challenge or respond to all evidence offered against it. Any such departure shall not invalidate any finding or decision of the Appeal Committee unless it is shown to render such finding or decision unreliable.

13.19 Upon receipt of the Notice of Appeal, the Discipline Manager shall send a notice to the parties involved in the proceedings below informing them of the date, time and place at which the Appeal Committee will hear the appeal.

13.20 The Chair of the Appeal Committee may send to the parties written directions governing the conduct of the proceedings. In the event that he does not send such directions the standing directions at Section F of Appendix Six will be deemed to apply.

13.21 Whether or not directions have been made (or deemed made), the Chair of the Appeal Committee may require any party, prior to the hearing, to identify its contentions in the appeal and/or to respond to the other parties' contentions. In addition, where practicable, written submissions and evidence shall be provided to the Appeal Committee and exchanged by the parties prior to the hearing. All documents must be in English. Documents not in English must be translated into English at the expense of the party relying on them.

13.22 Where the Appellant appeals against the sanction alone, they may request that the Appeal Committee review the sanction without the need for a personal hearing. If the Chair of the Appeal Committee agrees that a personal hearing is not necessary, then the Appellant and any other party to proceedings shall be entitled to make representations in writing to the Appeal Committee.

13.23 The Appeal Committee shall have discretion to consider evidence not offered at the original proceedings, provided that the party offering the evidence shows that it was not, on reasonable enquiry, available at the time of those proceedings.

13.24 The Appellant may not, without the express consent of the Appeal Committee, advance any ground of challenge at the hearing that was not specified in the Notice of Appeal.



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### Procedure at Appeal Hearings

13.25 Unless in its sole discretion the Appeal Committee decides otherwise, the procedure for an Appeal Hearing shall be as follows:-

The Chair of the Appeal Committee shall:

- 13.25.1 introduce the Appeal Committee members and establish the identities and purposes of all others who are present;
- 13.25.2 outline the procedure to be followed;
- 13.25.3 read out the Notice of Appeal, or a summary of it;
- 13.25.4 invite the Appellant to make submissions and (where appropriate) call witnesses, subject to cross-examination through the Chair of the Appeal Committee.
- 13.25.5 invite the other parties to the appeal to make submissions and (where appropriate) call witnesses, subject to cross-examination through the Chair of the Appeal Committee.
- 13.25.6 the parties shall ordinarily each be entitled to make concluding submissions;
- 13.25.7 the Appeal Committee shall ordinarily retire to deliberate in private.

### Decision Making

- 13.26 A decision of an Appeal Committee shall be made by at least a simple majority of the members.
- 13.27 Where an Appeal Committee has an even number of members, and the members of such Committee are unable to come to a unanimous or majority decision, then the Chair shall have a casting vote.
- 13.28 No member of an Appeal Committee may abstain from any decision.

### Decision of the Appeal Committee

- 13.29 The Appeal Committee may:
  - 13.29.1 affirm the decision appealed against;
  - 13.29.2 set aside the decision appealed against and quash any sanction imposed;
  - 13.29.3 set aside only part of the decision appealed against;
  - 13.29.4 refer the matter back to the original Disciplinary Committee or request reconsideration by a new Disciplinary Committee;
  - 13.29.5 substitute its own decision (e.g. finding a party culpable of a lesser or greater offence) and/or substitute for the sanction imposed its own sanction; and/or
  - 13.29.6 take any other step that it considers necessary to deal justly with the appeal.

For the avoidance of doubt, the Appeal Committee may impose a greater sanction than that which was imposed by the Disciplinary Committee.

- 13.30 Appeal Committees shall also have the discretion to order any party to pay some or all of the costs of proceedings, including:
  - 13.30.1 the costs of holding the hearings;
  - 13.30.2 the legal, travel, accommodation or similar costs of the members of the Appeal Committee;
  - 13.30.3 the legal costs of the parties.

The Appeal Committee shall not ordinarily make an order as to costs (even an order that each side bears its own costs) without first hearing or reading submissions from the relevant parties on the question of costs.

- 13.31 Appeal Committees may also amend any costs order made in the original proceedings.
- 13.32 The Appeal Committee shall advise the parties of its decision as soon as reasonably practicable. The decision shall take effect at that point. The Appeal Committee shall confirm its decision in a written judgment, issued as soon as reasonably practicable after the hearing. The judgment shall be served on each of the parties to the appeal.

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13.33 The decision of the Appeal Committee, including in any case in which the Appeal Committee heard the matter de novo, shall be final and binding.

### General Guidance in respect of Appeal Hearings

13.34 Where a party fails or refuses to act in accordance with the directions applicable to the proceedings, the Appeal Committee shall first give that party the opportunity to make submissions in relation to that failure or refusal. The Appeal Committee shall then determine, in its discretion, what will be the consequences of that failure or refusal. The consequences may include (amongst other things) a fine, an order relating to costs, a refusal to allow evidence to be adduced and/or submissions made, an order that the appeal be dismissed or a response or submission struck out or a recommendation that a Misconduct complaint be brought against that party.

13.35 Save where otherwise directed by the Appeal Committee, all parties should attend the hearing before the Appeal Committee. However, the absence of a party at any appeal hearing shall not, in itself, prevent the Appeal Committee from proceeding to a decision in the matter. The Appeal Committee shall have discretion whether to receive written submissions by or on behalf of such absentee(s).

13.36 In any case where a witness required by the Appeal Committee refuses or fails to attend before the Appeal Committee, the Appeal Committee may, in its discretion, allow or refuse to allow the evidence of that witness to be given in any other form.

13.37 The Appeal Committee shall be entitled at any point to adjourn or postpone proceedings.

13.38 Ordinarily no witness shall be present at any time until called to give evidence and thereafter must retire from the room.

13.39 Appeal hearings shall be held in private, unless otherwise ordered by the Appeal Committee. The proceedings may be recorded at the request of either the Appeal Committee or the Discipline Manager.

13.40 The Discipline Manager shall have the right to be assisted by legal representatives at the hearing and may be accompanied by other representatives of Scottish Rugby.

## 14. GENERAL PROVISIONS

### Public announcements

14.1 The Scottish Rugby shall be entitled to issue press releases and make comments prior to hearings (identifying, for example, the parties involved, the nature of the case, as well as the time, date and venue for the hearing) and following hearings (providing, for example, a summary of the decision). Scottish Rugby shall also be entitled to broadcast (or authorise others to broadcast) footage of incidents that relate to any hearings prior to or following hearings. Scottish Rugby may publish the decisions of Disciplinary Committees and Appeal Committees, in full or in part, after the decision has been communicated to the parties. The public announcement of any decision may include details of offences committed and of the sanctions imposed.

14.2 In addition, in cases involving possible Anti-Corruption Offences, the Discipline Manager may disclose details of such possible Anti-Corruption Offences to World Rugby, in accordance with World Rugby's Regulation 6.

14.3 Save for the disclosures referred to at clauses 14.1 and 14.2 above, until such time as a decision is published, all parties and participants in the proceedings shall treat such proceedings as confidential, and thereafter the proceedings shall no longer be treated as confidential unless otherwise ordered by the relevant Disciplinary or Appeal Committee.

14.4 In any event, Scottish Rugby may provide World Rugby with a copy of any decisions of Disciplinary Committees or Appeal Committees (as well as fuller reports of such cases).

### Interim Orders

14.5 Where a Citing complaint, Multiple Caution complaint or Misconduct complaint has been brought, Scottish Rugby and/or the Discipline Manager may request that an Interim Order be made by the Chair of the Discipline Panel, whom failing another member of the Discipline Panel appointed by the Chair to consider the request, against the Player, Person and/or Club against whom the complaint has been brought.

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14.6 The Chair of the Discipline Panel, the Disciplinary Committee or the Appeals Committee (as appropriate) may of their own volition (without a request further to clause 14.5 above) consider and impose an Interim Order.

14.7 The Chair of the Discipline Panel, whom failing another member of the Discipline Panel appointed by the Chair to consider the matter, or the Disciplinary Committee or Appeals Committee (as appropriate) shall be entitled to issue such Interim Order(s) as they see fit in the circumstances of the complaint. This may include, without limitation, an order for the interim imposition of any sanction (or combination of sanctions) otherwise available to a Disciplinary Committee under these Disciplinary Rules for disposal of a complaint that is upheld.

14.514.8 The Chair of the Discipline Panel, whom failing another member of the Discipline Panel appointed by the Chair to consider the request, or the Disciplinary Committee or Appeals Committee (as appropriate), shall, where practicable, prior to determining an application for an Interim Order, provide the party to whom the Interim Order may apply with an opportunity to make representations on the application for Interim Order. However nothing shall prevent the Chair of the Discipline Panel, whom failing another member of the Discipline Panel appointed by the Chair to consider the request, or the Disciplinary Committee or Appeals Committee (as applicable) from determining an application for an Interim Order in the absence of any such representations.

### Disciplinary Correspondence

14.614.9 Disciplinary correspondence distributed by the Discipline Manager shall be deemed to have been received by the addressee when sent by email to the nominated email address of an appropriate official from the Player's / other Person's Club. It shall be the Club's responsibility to ensure that all such correspondence is transmitted to the Player or other Person on a timely basis.

### Video/web/telephone conferencing

14.714.10 In any case, the Chair of the Disciplinary Committee or Appeal Committee may order that the hearing(s) take place in whole or in part by video, web or telephone conference.

### Multiple incidents

14.814.11 Two or more parties (e.g. two Players, or a Club and a Player) may be dealt with at the same hearing where the proceedings arise out of the same incident or set of facts, or where there is a clear link between separate incidents. In this situation, the Disciplinary Committee or Appeal Committee, as applicable, shall modify the procedures adopted at the hearing as may be appropriate.

14.914.12 Potential acts of Misconduct recorded on the Match Official report(s) provided in respect of a Red Card or MOAF may be dealt with as part of the associated Red Card or Match Official Abuse proceedings, and the Chair of the Disciplinary Committee shall be entitled to amend the procedure to be followed at the hearing as appropriate, provided always and only if the Chair is satisfied that the Person concerned is aware of the details of the alleged Misconduct, the relevant evidence has been made available to the Person, sufficient time has been given for the Person to consider the evidence and any representation or response that the Person wishes to make, the Person has been informed that they are entitled to be represented by a Club official or other representative (including a legal adviser) to assist them, and the Person does not object to dealing with the alleged Misconduct at the Red Card or Match Official Abuse proceedings.-

### Language

14.1014.13 All hearings shall be conducted in English. In any case where a person is involved does not speak English fluently, an interpreter shall ordinarily be present, unless this requirement is waived by such person. Wherever practicable, such interpreter shall be independent.

### Suspension or other sanction of Players, other Persons and Clubs

14.1114.14 All Players who are suspended under these Disciplinary Rules are prohibited from playing rugby union in any form anywhere during the period of suspension. Nor may they enter the Playing Enclosure in any capacity, (including as a water carrier or tee carrier) at any time on the day of a Match during the period of suspension.

14.1214.15 In the event that any Person is suspended as a result of proceedings brought pursuant to these Disciplinary Rules, the Disciplinary Committee or Appeal Committee imposing the suspension shall ordinarily

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specify the activity from which the Person is to be suspended. For the avoidance of doubt it shall be open to that Disciplinary Committee or Appeal Committee to suspend the Person from participating in any aspect of rugby union (including without limitation managing, coaching, officiating, selection, team management, administration, playing and training as part of a team or squad or providing medical treatment to a team or squad).

~~14.13~~14.16 If a Person is suspended from a form of rugby activity by a competent rugby disciplinary body, Scottish Rugby shall wherever possible, recognise and enforce that suspension in Scotland.

~~14.14~~14.17 For the avoidance of doubt, if a Player, other Person or Club has been suspended or has been the subject of any other sanction imposed pursuant to these Disciplinary Rules (including suspended sanctions), the obligations owed by that Player, other Person or Club pursuant to that sanction will continue until the sanction has been discharged.

### Substantial Assistance

~~14.15~~14.18 In a Misconduct case, the Disciplinary Committee or Appeal Committee may decide, in its discretion, to reduce the sanction that would otherwise be imposed where the Player, other Person or Club concerned provides Scottish Rugby with Substantial Assistance relating to act(s) of Misconduct by others and that information or assistance results in (or - if Scottish Rugby decides not to pursue the matter for whatever reason - would have resulted in) Misconduct complaints by Scottish Rugby being upheld against those others.

~~14.16~~14.19 The scope of any such reduction shall depend on the type and value of information or assistance and the gravity of the Misconduct to which it relates. Ordinarily, no reduction shall be made unless the Disciplinary Committee or Appeal Committee is satisfied that the Player, other Person or Club concerned has fully co-operated with Scottish Rugby in respect of the matter (which might include providing written statements and presenting testimony at relevant hearings).

~~14.17~~14.20 If necessary and/or appropriate, the Disciplinary Committee or Appeal Committee may delay the imposition of the sanction pending an assessment of the information or assistance provided and/or impose a sanction with a proviso that the sanction may be subsequently reduced on the assessment of the information or assistance provided.

### Persons under the Age of 18 or who are of Reduced Capacity

~~14.18~~14.21 Modified procedures may be adopted in respect of Persons under the age of 18 or who are of reduced capacity, subject always to the supervisory authority of a Disciplinary Committee.

~~14.19~~14.22 In addition to their general rights of representation a Person under the age of 18 or who is of reduced capacity may additionally be accompanied at any Disciplinary or Appeal hearing by one of their parents, guardian or other representative.

~~14.20~~14.23 In considering a Person's status as a previous offender ordinarily offences committed by the Person whilst under the age of 18 shall be disregarded by the Disciplinary Committee (unless the Person is under the age of 18 at the time of the offence).

~~14.21~~14.24 For the avoidance of doubt the World Rugby *Disciplinary Guidelines for Underage Game* set out in Appendix 3 to World Rugby Regulation 17 have not been adopted by Scottish Rugby.

### Payment of Fines or Costs

~~14.22~~14.25 Unless otherwise expressly ordered by the relevant Disciplinary Committee or Appeal Committee, a fine, costs or compensation award imposed on a Club or Person must be paid within 30 days of the decision.

~~14.23~~14.26 Any Club or Person that fails or refuses to pay by that deadline (or - if different - the deadline imposed by the relevant Disciplinary Committee or the Appeal Committee) may be subject to Misconduct proceedings and/or suspended by the Board from National Competitions and/or excluded by Board from participation in other events organised by Scottish Rugby, without the need for any further hearing.

~~14.24~~14.27 In the event that a Person fails to pay any fine, costs or compensation award imposed on him under these Disciplinary Rules within 30 days of the decision (or - if different - the deadline imposed by the relevant

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Disciplinary Committee or Appeal Committee), his Club at the time of the incident to which the fine or award relates shall become immediately liable to satisfy that fine, costs or compensation award.

~~14.25~~14.28 If a Club fails to pay any fine, costs or compensation award imposed on it (including under clause 14.27~~2~~ above) within 30 days of the decision (or - if different - the deadline imposed by the relevant Disciplinary Committee or Appeal Committee), the Board may deduct (and retain) a corresponding amount from any sums payable by Scottish Rugby to the applicable Club.

### Deviations from these Disciplinary Rules

~~14.26~~14.29 Any deviation from any provision of these Disciplinary Rules by the Discipline Manager, Match or Citing officials, disciplinary personnel, tribunal members or others involved in bringing proceedings under these Disciplinary Rules (which is to include, without any limitation whatsoever, their appointment and/or any decisions made by them) and/or any irregularity, omission, technicality, timeline or other defect in the procedures followed by such individuals shall not invalidate any finding, procedure or decision unless it is shown to render the proceedings unreliable or to have caused a miscarriage of justice.

### Unforeseen circumstances

~~14.27~~14.30 If a particular incident takes place for which there is no provision in these Disciplinary Rules, then the Discipline Manager may either refer the matter to a Disciplinary Committee, Appeal Committee or the Chair of the Disciplinary Panel or else take such other action that he considers appropriate in the circumstances. If the Discipline Manager refers the matter to a Disciplinary Committee, Appeal Committee or the Chair of the Disciplinary Panel, that entity or person shall deal with the matter in accordance with general principles of natural justice and fairness.

### Expulsion of Clubs

~~14.28~~14.31 If a Disciplinary Committee (or as appropriate an Appeal Committee) expels a Club from a National Competition pursuant to these Disciplinary Rules, the Board shall determine all consequential issues, such as whether the expelled Club can be replaced and how to treat the playing record of the expelled Club.

### Exhaustion of Appeal rights

~~14.29~~14.32 All Persons and Clubs are precluded from exercising any rights of review that may exist under national law unless and until they have exhausted their appeal rights under Section 13 of these Disciplinary Rules.

### Governing Law

~~14.30~~14.33 These Disciplinary Rules shall be governed by and construed in accordance with the Law of Scotland and the Scottish Courts shall have exclusive jurisdiction to determine any dispute or claim that arises out of or in connection with them.

## Appendix 1. DEFINITIONS

“**Anti-Corruption Offence**” means any breach of World Rugby Regulation 6 or Scottish Domestic Regulation 6.

“**Appeal Committee**” means a body appointed to perform that role by the Chair of the Discipline Panel.

“**Appellant**” has the meaning given to that term in clause 13.7 of these Disciplinary Rules.

“**Board**” means the Board of directors of Scottish Rugby.

“**Caution**” means a Yellow Card or a Citing Commissioner Warning.

“**Citing Commissioner**” means a person who has been appointed by Scottish Rugby or any other competent authority to act in that role for a Match.

“**Citing Commissioner Warning**” means a formal warning issued by a Citing Commissioner pursuant to clause 10.8 of these Disciplinary Rules.

“**Citing Officer**” means a person appointed by (but independent of) Scottish Rugby to carry out the functions allocated to the Citing Officer in these Disciplinary Rules.

“**Club**” means any club, school, team or other body which participates in a Match or is otherwise in membership of or recognised by Scottish Rugby.

“**Disciplinary Committee**” means a body appointed to perform that role by the Chair of the Discipline Panel.

“**Discipline Manager**” means the person appointed by Scottish Rugby to act on its behalf in matters arising under these Disciplinary Rules.

“**Discipline Panel**” has the meaning given to that term in clause 4.1 of these Disciplinary Rules.

“**Dual Participation Protocol**” means any protocol, rules or regulations (whether incorporated within other regulations or stated separately) of Scottish Rugby providing for a Player to be registered with and/or play for more than one Club participating in any National Competition or other competition under the jurisdiction of Scottish Rugby.

“**Foul Play**” means any action of a Player within the Playing Enclosure contrary to Law 9 of the Laws of the Game.

“**Interim Order**” means a temporary order made in accordance with the Disciplinary Rules pending a final decision made by a Disciplinary or Appeal Committee.

“**Laws of the Game**” means World Rugby’s *Laws of the Game of Rugby Union*, as amended from time to time, and shall include the Laws of XV’s, Tens, Sevens and any other form of the game recognised by World Rugby.

“**Match**” means a rugby union match played within the Laws of the Game.

“**Match Officials**” means the referee and, where appointed, assistant referees and television match official.

“**Misconduct**” shall mean any act, including without limitation those acts listed in clause 9.3, of Foul Play or any conduct, behaviour, statement (including, without limitation, on social networking platforms or similar) or practices, on or off the Playing Enclosure, during a Match or otherwise, that is unsporting, insulting, misleading or that brings or has the potential to bring the sport of rugby union, Scottish Rugby or any other Union/rugby organising body, other Club or Person, Match Officials and/or any sponsor or other commercial partner of Scottish Rugby into disrepute and/or that is not in accordance with the Code of Conduct, these Disciplinary Rules or any of Scottish Rugby’s other codes, policies, rules or regulations.

“**National Competition**” means any league or knock-out competition designated as such by the Board.

“**Notice of Appeal**” has the meaning given to that term in clause 13.7.1 of these Disciplinary Rules.

“**Official Report(s)**” has the meaning given to that term in clause 6.5 of these Disciplinary Rules.

“**Person**” means a Player, match official or a member, director, official, officer, employee, contractor, worker, agent or representative of a Club and any other person connected to the game in any way on behalf of a Club or otherwise.

“**Player**” means any person who is named by a Team to participate in a Match.

“**Playing Enclosure**” has the meaning given to that term in the Laws of the Game.

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“**Red Card**” means when a Player is sent off the Playing Enclosure permanently (irrespective of whether a red card is physically shown by the referee) such that he can take no further part in the Match (to be contrasted with a Yellow Card where the Player is cautioned and sent off the Playing Enclosure for a defined period).

“**Scottish Rugby**” means Scottish Rugby Union and Scottish Rugby Union Limited.

“**Substantial Assistance**” means (a) full disclosure in a signed witness statement of all information that a Person possesses in relation to Misconduct or Anti-Corruption Offences, and (b) cooperation upon request by the Discipline Manager or any criminal, professional disciplinary or regulatory authority with the investigation and adjudication of any case related to that information, including (for example) providing evidence, including oral testimony if required.

“**Union**” means any national governing body for rugby union recognised by World Rugby.

“**World Rugby**” means World Rugby, the international governing body of rugby union.

“**World Rugby Regulations**” means the World Rugby Regulations Relating to the Game, as amended from time to time.

“**Yellow Card**” means when a Player is cautioned and sent off the Playing Enclosure for a defined period (irrespective of whether a yellow card is physically shown by the referee).

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## Appendix 2. WORLD RUGBY SANCTIONS FOR FOUL PLAY (REGULATION 17)

Note : Any act of foul play which results in contact with the head shall result in at least a mid-range entry point sanction.

### 9.11 Players must not do anything that is reckless or dangerous to others

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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### 9.12 A player must not physically abuse anyone. Physical abuse includes, but is not limited to:

Biting	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Intentional Contact with Eye(s) <sup>1</sup>	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Reckless Contact with Eye(s) <sup>2</sup>	Low-end: 6 weeks	Mid-range: 12 weeks	Top-end: 18+ weeks	Max: 208 weeks
Contact with Eye Area <sup>3</sup>	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Punching or striking with hand or arm (including stiff-arm tackle)	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with the elbow	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with shoulder	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with head	Low-end: 6 weeks	Mid-range: 10 weeks	Top-end: 16+ weeks	Max: 104 weeks
Striking with knee	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Stamping or Trampling	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 12+ weeks	Max: 52 weeks
Tripping	Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks
Kicking	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks

### 9.12 A player must not verbally abuse anyone. Verbal abuse includes, but is not limited to, abuse based on: religion, colour, national or ethnic origin, sexual orientation.

Low-end: 6 weeks	Mid-range: 12 weeks	Top-end: 18+ weeks	Max: 52 weeks
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<sup>1, 2 & 3</sup> The "eye" involves all tissues including the eye lids within and covering the orbital cavity and the "eye area" is anywhere in close proximity to the eye.



## Scottish Rugby Disciplinary Rules

**9.13 A player must not tackle an opponent early, late or dangerously. Dangerous tackling includes, but is not limited to, tackling or attempting to tackle an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders.**

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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**9.14 A player must not tackle an opponent who is not in possession of the ball.**

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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**9.15 Except in a scrum, ruck or maul, a player who is not in possession of the ball must not hold, push, charge or obstruct an opponent not in possession of the ball.**

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 6+ weeks	Max: 52 weeks
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**9.16 A player must not charge or knock down an opponent carrying the ball without attempting to grasp that player.**

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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**9.17 A player must not tackle, charge, pull, push or grasp an opponent whose feet are off the ground.**

Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
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**9.18 A player must not lift an opponent off the ground and drop or drive that player so that their head and/or upper body make contact with the ground.**

Low-end: 6 weeks	Mid-range: 10 weeks	Top-end: 14+ weeks	Max: 52 weeks
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**14.19 Dangerous play in a scrum.**

- (a) The front row of a scrum must not form at a distance from its opponents and rush against them.
- (b) A front-row player must not pull an opponent.
- (c) A front-row player must not intentionally lift an opponent off their feet or force the opponent upwards out of the scrum.
- (d) A front-row player must not intentionally collapse a scrum.

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks
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**14.20 Dangerous play in a ruck or maul.**

- (a) A player must not charge into a ruck or maul. Charging includes any contact made without binding onto another player in the ruck or maul.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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- (b) A player must not make contact with an opponent above the line of the shoulders.
- (c) A player must not intentionally collapse a ruck or a maul.

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks
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**9.25 A player must not intentionally charge or obstruct an opponent who has just kicked the ball.**

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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**9.26 A player must not do anything that is against the spirit of good sportsmanship including but not limited to:**

Hair pulling or grabbing	Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 6+ weeks	Max: 52 weeks
Spitting at anyone	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Grabbing, twisting or squeezing the genitals (and/or breasts in the case of female players)	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Other	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks

**9.27 A player must not disrespect the authority of a Match Official.**

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 6+ weeks	Max: 52 weeks
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**9.27 A player must not verbally abuse a Match Official. Verbal abuse includes, but is not limited to, abuse based on: religion, colour, national or ethnic origin, sexual orientation.**

Low-end: 6 weeks	Mid-range: 12 weeks	Top-end: 18+ weeks	Max: 52 weeks
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**9.27 A player must not make physical contact with Match Officials.**

Low-end: 6 weeks	Mid-range: 12 weeks	Top-end: 18+ weeks	Max: 52 weeks
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**9.27 A player must not use threatening actions or words towards Match Officials.**

Low-end: 12 weeks	Mid-range: 24 weeks	Top-end: 48+ weeks	Max: 260 weeks
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**9.27 A player must not physically abuse Match Officials.**

Low-end: 24 weeks	Mid-range: 48 weeks	Top-end: 96+ weeks	Max: Life
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*In respect of offences not referred to in Appendix 1 above, appropriate sanctions may be imposed at the discretion of the relevant Judicial Officer, Disciplinary Committee, Appeal Officer and/or Appeal Committee (as the case may be).*

*Notwithstanding the Sanctions in Appendix 1 and/or the provisions of Regulation 17.19 in cases where the player's actions constitute mid-range or top end offending for any type of offence which had the potential to result and, in fact, did result in serious/gross consequences to the health of the victim, the Judicial Officers and/or Disciplinary Committees may impose any period of suspension including a suspension for life.*

### **Appendix 3. WORLD RUGBY'S SANCTIONS GUIDANCE FOR THE ACCUMULATION OF TEMPORARY SUSPENSIONS AND/OR CITING COMMISSIONER WARNINGS**

1) There is deliberately no guidance within the World Rugby sanctions table(s) to assist a Judicial Officer or Judicial Committee to determine the appropriate sanction in relation to accumulated Temporary Suspensions and/or Citing Commissioner Warnings. This is an area where judicial discretion is required given the multiple permutations that could emerge. A Judicial Officer or Judicial Committee may be required to consider whether to apply sanctions against Players for accumulation of Temporary Suspensions and/or Citing Commissioner Warnings in two circumstances:

(a) where a Player has received three Temporary Suspensions and/or Citing Commissioner Warnings (or a combination thereof) in a particular tournament or series and/or five Temporary Suspensions and/or Citing Commissioner Warnings in a season of the World Rugby Sevens Series and the Judicial Officer or Judicial Committee is required to consider whether any further penalty should be imposed by reason of his persistent Foul Play (Regulations 17.25.2(d), 17.25.3(d) and 17.35.2(a)); or

(b) where a Player has received two Temporary Suspensions and/or Citing Commissioner Warnings in one Match which in the case of a Temporary Suspension led to him being Ordered Off on receipt of the second temporary suspension (Regulation 17.25.3(b)).

2) It is assumed for the purposes of this Appendix that none of the relevant Temporary Suspensions resulted in a subsequent citing which was upheld by a Judicial Officer. In such cases the Temporary Suspension event which has been cited falls away and is replaced by the decision arising from the citing.

#### **A. Player receives three Temporary Suspensions and/or Citing Commissioner Warnings in a Tournament/Series or five in a Sevens Series**

3) The Judicial Officer or Judicial Committee is required to apply a sanction for the offence of persistent offending, not for the substantive offences relating to each Temporary Suspension and/or Citing Commissioner Warning. Ordinarily, the appropriate entry point sanction in such circumstances is a suspension of one to three weeks depending upon the seriousness of the offending. Sanctioning in these circumstances should be determined by reference to the methodology in Regulation 17.19 and in particular to the application of mitigating and aggravating features.

4) The Judicial Officer or Judicial Committee may, however, decide to apply no sanction in the following circumstances:

(a) where one or more of the Temporary Suspensions and/or Citing Commissioner Warnings was applied as a result of mistaken identity; or

(b) exceptional circumstances exist which would warrant no sanction being imposed. This situation could arise when:

(i) a Player was temporarily suspended for an act of Foul Play but on review it was clear that there was no Foul Play or only a minor act of Foul Play had been committed which would not have warranted a Temporary Suspension or Citing Commissioner Warning;

(ii) some of the Temporary Suspensions were awarded for technical offences (that is, not Foul Play) following a team warning by the referee or for what are characterised as so called technical offences not involving a breach of Law 10.4.

#### **B. Player receives two Temporary Suspensions/Citing Commissioner Warnings in one Match**

5) The Judicial Officer or Judicial Committee is required to apply a sanction for the offence of persistent offending, not for the substantive offences relating to each Temporary Suspension and/or Citing Commissioner Warning. Ordinarily, the appropriate entry point for persistent offending within a single Match is a suspension of one to two weeks. Sanctioning in these circumstances should be determined by reference to the methodology in Regulation 17.19 and in particular to the application of mitigating and aggravating features.

6) The Judicial Officer or Judicial Committee may decide that sending off was sufficient (or otherwise that no further sanction is appropriate) in the following circumstances:

(a) where either of the Temporary Suspensions or Citing Commissioner Warnings was applied as a result of mistaken identity; or

(b) that exceptional circumstances exist which would warrant no further sanctions being imposed. This situation could arise when a Player was temporarily suspended for an act of Foul Play but on review it was clear that there was no Foul Play or only a minor act of Foul Play had been committed which would not have warranted a Temporary Suspension and/or Citing Commissioner Warning;

(c) any of the Temporary Suspensions were awarded for so-called technical offences (including following a team warning) not involving a breach of Laws of the Game 9.11 to 9.27.

## Appendix 4. GUIDANCE ON THE DETERMINATION OF MEANINGFUL SANCTIONS

The following guidance is provided to assist Disciplinary and Appeal Committees in the determination of the meaningfulness of sanctions as set out in Disciplinary Rule 12.17.3.

### Designated Performance-Rugby Tiers

~~1)~~ 1) Players participating within the certain designated levels of the game (as determined from time to time by the Board) shall be required to provide the Disciplinary and/or Appeal Committee with details of their planned or anticipated playing schedule.

~~1)2)~~ 1)2) In respect of Season 201~~98~~/2019 this shall include:

- Edinburgh Rugby and Glasgow Warriors;
- The Super Six;
- The men's Premiership; and
- The women's Premiership-League.

~~2)3)~~ 2)3) Where required, the Disciplinary and/or Appeal Committee shall determine an appropriate, meaningful sanction based on the Player's individual playing schedule and these Disciplinary Rules.

### **Other Tiers of the Game**

~~3)4)~~ 3)4) At all other levels of the game the following rebuttable presumptions shall ordinarily be applied in respect of periods to be disregarded as not being "meaningful" in terms of sanctioning:

- (a) The period commencing 1 May each year up to and including the second Sunday in August; and
- (b) The weekend nearest Christmas and the weekend nearest the New Year.

~~4)5)~~ 4)5) Nothing shall prevent a Player from making representations that any Match or event within the periods noted in 4 above should be regarded as being "meaningful" in terms of sanction. Any such representation shall normally require to be made via the Discipline Manager within 7 days of the Player receiving notification of their period of suspension.

~~5)6)~~ 5)6) Nothing shall prevent a Disciplinary or Appeal Committee from determining that any alternative or additional period or periods should be disregarded as not being "meaningful".

### **Modified Forms of the Game (Sevens, Tens, etc.)**

~~6)7)~~ 6)7) In respect of players participating in the Performance-designated tiers of the game in 2 above, or other Players in relation to the disregard periods noted in 4 above, nothing shall prevent the Player from making representations that any Match or tournament utilising a modified form of the game should be regarded as being "meaningful" in terms of sanctioning. Any such representation shall normally require to be made via the Discipline Manager within 7 days of the Player receiving notification of their period of suspension.

~~7)8)~~ 7)8) However, in addition to any other consideration as to the meaningfulness of the Match or event, the following rebuttable presumptions shall ordinarily be applied in respect of participation in modified forms of the game:

- (a) Any Player seeking to expend a period of suspension arising from a XV-a-side Match in a modified form of the game shall ordinarily require to demonstrate a previous record in participating in that modified form of the game;
- (b) Each week/Match of suspension arising from a XV-a-side Match shall ordinarily be equated with a tournament (or one day of a tournament where the tournament is scheduled to run for more than one day) in the modified form of the game; and
- (c) The presumption shall be against any sanction being expended in Beach Rugby (any format).

**Appendix 5. SCOTTISH RUGBY SANCTIONING PROCESS GUIDE**

Once it has been established that the Player has committed an act of Foul Play the Disciplinary Committee must refer to Section 12 of Scottish Rugby Disciplinary Rules in order to determine the appropriate sanction (if any) to be applied. The Scottish Rugby *Sanctioning Process Guide* below may be used to assist a Chair of a Disciplinary Committee in documenting this process.

However, Disciplinary Committee Chairs must note that the *Sanctioning Process Guide*:-

- (i) is an aide memoire only, designed to assist Disciplinary Committees and Appeal Committees in approaching sanctioning in a consistent manner. It is not a substitute for the application of the Disciplinary Rules;
- (ii) can be used to help the Committee properly express its decision in a full, written and reasoned format;
- (iii) should not be used in substitution for a full, written and reasoned decision;
- (iv) is an internal document and should be used in supplement to the applicable rules; and
- (v) is to be kept strictly private and confidential.

Step	Action	Comment
1.	Establish the appropriate description for the particular act of Foul Play having regard to the World Rugby recommended sanctions.	
2.	Establish whether the act of Foul Play was committed either:-  (i) Intentionally, namely with deliberate action; or (ii) Recklessly, namely where the player’s actions were not intentional but were careless and the risk of committing an act of Foul Play was, or should have been, apparent;	
3.	Consider all “on-field” issues including:-  (i) nature and gravity of actions, the manner in which offence was committed including part of the body used (for example, fist, elbow, knee or boot?)  (ii) existence of provocation, whether the Player acted in retaliation (and the timing of such) and/or self-defence.  (iii) effect of Player’s actions on the victim (for example, extent of injury, removal of player from the game).  (iv) vulnerability of the victim Player, including part of victim’s body involved/affected, position of the victim Player, ability to defend himself.	

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	<p>(v) effect of Player’s actions on the game (did it change the nature of the match; did it cause a brawl, etc).</p> <p>(vi) level of participation in the offending and level of premeditation.</p> <p>(vii) was the conduct of the offending Player completed or did it amount to an attempt.</p> <p>(viii) any other on-field issue relevant to the offending.</p>	
4.	<p>(a) Consider whether World Rugby has an automatic entry point for the offence?</p> <p>(b) Weigh up your decisions under 2 and 3 and in doing so make a firm decision as to the “seriousness” of the incident and declare it to be either:-</p> <p>(i) low-end;  (ii) mid-point; or  (iii) top-end</p> <p>in the range.</p> <p>Having considered (a) and (b) this is your entry point in the World Rugby list of recommended sanctions.</p>	
5.	<p>If it is concluded that the offending is “top end”, consider where it should lie between the top end sanction and the maximum sanction.</p>	
6.	<p>Now consider all off-field aggravating factors including:-</p> <p>(i) Player’s status generally as an offender of the Laws of the Game.</p> <p>(ii) the need for a deterrent to combat a pattern of offending in the Game in general (and not merely by the Player).</p> <p>(iii) any other off-field aggravating fact considered relevant.</p> <p>Where these factors exist go up in the range applicable to the description by an appropriate amount and fix at an appropriate point.</p>	

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7.	<p>Now consider all relevant mitigating factors including:-</p> <ul style="list-style-type: none"> <li>(i) existence and timing of an acknowledgement of culpability/guilt by the Player</li> <li>(ii) good discipline record and/or good character</li> <li>(iii) the youth and inexperience of the Player</li> <li>(iv) Player's conduct prior to and at the Discipline Hearing</li> <li>(v) remorse for actions, including the timing of such</li> <li>(vi) any other off-field mitigating factors.</li> </ul> <p>Where these factors exist come down in the range applicable to the description by an appropriate amount and fix at an appropriate point.</p>													
8.	Calculate the net sanction in weeks.													
<p><b>Sanction to be imposed:-</b></p> <p><b>Offence:</b> _____ <b>Entry Point:</b> Low End / Mid-Range / Top End</p> <p><b>Calculation:</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 40%; text-align: center;"><u>Weeks</u></th> </tr> </thead> <tbody> <tr> <td>Initial tariff for the offence</td> <td style="text-align: right;">(Note 1)</td> </tr> <tr> <td>Add : Additional time for Aggravating Factors</td> <td></td> </tr> <tr> <td>Less : Reduction for Mitigating Factors</td> <td style="text-align: right;">(Note 2)</td> </tr> <tr> <td></td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Net Sanction in whole weeks</td> <td style="text-align: right;">_____ (Note 3)</td> </tr> </tbody> </table>				<u>Weeks</u>	Initial tariff for the offence	(Note 1)	Add : Additional time for Aggravating Factors		Less : Reduction for Mitigating Factors	(Note 2)		_____	Net Sanction in whole weeks	_____ (Note 3)
	<u>Weeks</u>													
Initial tariff for the offence	(Note 1)													
Add : Additional time for Aggravating Factors														
Less : Reduction for Mitigating Factors	(Note 2)													
	_____													
Net Sanction in whole weeks	_____ (Note 3)													
<p><b>Comments (if any):-</b></p>														

### Notes:

1. This is the number of weeks per the World Rugby sanctions table for that offence at that entry point.
2. Please refer to Disciplinary Rules 12.7 and 12.8 regarding the application of any reduction for Mitigating Factors.
3. Express the Net Sanction as a number of whole weeks. Round up where necessary.

## Appendix 6. STANDING DIRECTIONS IN RELATION TO DISCIPLINARY HEARINGS

*The Standing Directions set out below are designed to facilitate the efficient running of the disciplinary process. Whilst timelines are noted, Disciplinary and Appeal Committees shall have the power to vary them where appropriate.*

*Where a party wishes to indicate that they will not be challenging the allegations being made against them, or where they wish to express remorse for any action, they are strongly encouraged to do so as early in the disciplinary process as possible (as early notification may be of benefit in terms of possible mitigation).*

*Standard reply forms may be available to provide some or all of the requested information.*

### Section A – Cases arising out of a Player being shown a Red Card

No later than 24 hours prior to the hearing the Player shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether he accepts that Official Reports as a true and accurate account of the incident; or
- (b) whether he will try to show that the referee's decision to show a Red Card was wrong;
- (c) if option (b), why he says the decision was wrong (in summary), and what evidence he will rely on to support his position (any written/video evidence must be provided together with the names of any witnesses);
- (d) who will be attending the hearing and in what capacity; and
- (e) where applicable, if he wishes to argue any preliminary matters, and if so what they are (in summary);

### Section B – Citing cases

No later than 24 hours prior to the hearing the Player named in the Citing Complaint shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether he accepts that Citing Complaint as a true and accurate account of the incident, including whether he accepts that he committed an act of Foul Play set out in the Complaint and whether he accepts that the act warranted a Red Card;
- (b) if he does not accept (a), why he does not accept it (in summary), and what evidence he will rely on to support his position (any written/video evidence must be provided together with the names of any witnesses);
- (c) who will be attending the hearing and in what capacity; and
- (d) where applicable, if he wishes to argue any preliminary matters, and if so what they are (in summary).

### Section C – Match Official Abuse Misconduct Cases

No later than 24 hours prior to the hearing the Player named in the Match Official Abuse Complaint shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether he accepts that the MOAF as a true and accurate account of the incident;
- (b) if he does not accept the MOAF, why he does not accept it and what evidence he will rely on to support his position (any written/video evidence must be provided together with the names of any witnesses);
- (c) who will be attending the hearing and in what capacity; and
- (d) where applicable, if he wishes to argue any preliminary matters, and if so what they are (in summary).

### Section D – General Misconduct Cases

No later than 48 hours prior to the hearing the Person/Club named in the Misconduct Complaint shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether they accept that they committed the acts set out in the Misconduct Complaint and whether they accept that those acts constituted Misconduct;
- (b) if they do not accept paragraph (a), why they do not accept it (in summary), and what evidence they will rely on to support their position (any written evidence must be provided together with the names of any witnesses);
- (c) who will be attending the hearing and in what capacity; and
- (d) where applicable, if he/they wish to argue any preliminary matters, and if so what they are (in summary).



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### Section E – Totting up cases

No later than 24 hours prior to the hearing the Player subject to the totting up case shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether he timeously notified the Discipline Manager that he considers any of the Cautions to have been wrongly issued to him, and if so what evidence he will rely on to support his position (any written evidence must be provided together with the names of any witnesses);
- (b) who will be attending the hearing and in what capacity; and
- (c) where applicable, if he wishes to argue any preliminary matters, and if so what they are (in summary).

### Section F – Appeals

#### 1. *Appellant directions*

No later than 72 hours prior to the hearing the Appellant shall provide the Discipline Manager with a written statement setting out the following matters:

- (a) whether the Appellant will argue that the Appeal Committee should hear the case de novo;
- (b) if so, their reasons (in summary) and why the circumstances are exceptional and the reasons compelling;
- (c) on the assumption that the Appeal Committee will not hear the case de novo, why the decision of the Disciplinary Committee was in error and why it should be overturned or varied, according to the grounds of appeal identified in the Notice of Appeal;
- (d) what evidence they will rely on to support their position (any written evidence must be provided together with the names of any witnesses);
- (e) whether any evidence that they will rely on is evidence that was not offered at the original hearing, and if so, why it was not, on reasonable enquiry, available at the time of the original proceedings, and why the Appeal Committee should exercise its discretion to consider such evidence;
- (f) what authorities they will rely on to support their position (any authorities must be provided); and
- (g) who will be attending the hearing and in what capacity.

#### 2. *Directions for the other parties to the appeal*

No later than 24 hours prior to the hearing, the other parties to the appeal must each provide to the Discipline Manager and the Appellant a written statement setting out the following matters:

- (a) their response (in summary) to the Appellant's position regarding a de novo hearing;
- (b) if there is any evidence that they will rely on to support their position, what that evidence is (any written evidence must be provided together with the names of any witnesses);
- (c) whether any evidence that they will rely on is evidence that was not offered at the original hearing, and if so, why it was not, on reasonable enquiry, available at the time of the original proceedings, and why the Appeal Committee should exercise its discretion to consider such evidence;
- (d) what authorities they will rely on to support their position (any authorities must be provided); and
- (e) who will be attending the hearing and in what capacity.

## Appendix 7      STANDARD FORMS

The following Standard Forms shall form part of these Disciplinary Rules:

- Form 1 : Red Card Report
- Form 2 : Yellow Card Report
- Form 3 : Assistant Referee Flagging Report
- Form 4 : Match Official Abuse Form (MOAF)
- Form 5 : Citing Commissioner Report
- Form 6: Club Citing Report
- Form 7 : Red Card Response Form
- Form 8 : Citing Response Form
- Form 9 : Match Official Abuse Response Form
- Form 10 : Misconduct Response Form (Individuals)
- Form 11 : Misconduct Response Form (Clubs)
- Form 12 : Totting Up Response Form

Copies of the Standard Forms may be obtained from the Discipline section of the Scottish Rugby website.