RFU REGULATIONS

RFU REGULATION 19 – DISCIPLINE

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Regulation 19 covers all aspects of the disciplinary process for Rugby Union in England. This document includes regulations, marked by paragraph numbers, and explanatory notes. Explanatory notes do not form part of the regulation but are included to assist those using this document where it is felt that further explanation may be beneficial.

Section 1 - Definitions

In this Regulation 19, capitalised terms shall have the meaning given to them as set out below. Any capitalised terms set out in this Regulation 19 not defined below shall have the meaning given to them in RFU Regulation 1 (Definitions).

Accredited	An individual who has attended RFU Panel and/or Discipline training within the last 3 years or has been deemed to be of the appropriate standard by the RFU.
Appeal Panel	A panel, usually consisting of three members but may also comprise a Single Judicial Officer, appointed by the RFU Head of Judiciary to hear appeals against decisions made by a Disciplinary Panel. Appeal Panels will be chaired by a legally qualified person accredited by the RFU.
Balance of Probabilities	The 'balance of probabilities' is a reference to the standard of proof which must be applied by panels considering disciplinary cases. It is a lesser standard than proof 'beyond reasonable doubt' applied in criminal cases. Something is deemed to be proved on the balance of probabilities if the panel is satisfied that it is more likely than not to have occurred.
Burden of Proof	At first instance disciplinary hearings, if the Player does not accept that the act(s) of Foul Play which is the subject of the disciplinary hearing warranted the Player being Ordered Off or cited, the burden of proof rests on the Player to show that the referee/citing commissioner was wrong. In all other cases the burden rests upon the Party bringing the charge to prove their case (in club v club citings, the responsibility rests with the Club bringing the citing).

CB Disciplinary Secretary (CBDS)	The person appointed by a Constituent Body (CB) of the RFU to oversee the exercise of disciplinary powers delegated by the RFU to CBs pursuant to Regulation 19.2.19. This individual is independent of and shall take no part in the deliberations of any Panel.
CB Age Grade Disciplinary Secretary (CBAGDS)	The person appointed by a Constituent Body (CB) of the RFU to oversee the exercise of disciplinary powers delegated by the RFU in respect of age grade matches. This individual is independent and will offer advice and assistance in Age Grade disciplinary matters and hearings to Clubs, Schools, Colleges or Regional Academies/Centre of Excellence pursuant to 19 Appendix 6, 1.6, 2.2 and 3.2.
Cluster Team	Where two or more teams or Clubs join to make one side which participates in fixtures.
Constituent Body Short Judgment Form	A document produced following the hearing of a case by a CB Disciplinary Panel setting out the Panel's decision and the factors the Panel considered in reaching it.
Citing	A form of complaint brought by a senior representative of a club or by a Citing Commissioner in respect of acts of foul play which in the view of the person bringing the citing warranted the issue of a red card but which either went unobserved by the referee or did not receive a red card. The circumstances in which a citing complaint can brought and the steps which must be followed are set out in Regulation 19, Appendix 4.
Citing Commissioner	For the purposes of this Regulation a Citing Commissioner is an independent person appointed by the RFU to certain categories of match who will review match footage and any other relevant evidence to determine whether a player should be the subject of a citing complaint to be considered by a disciplinary panel.
Citing Commissioner Warning (CCW)	A CCW is a warning given to a Player by a Citing Commissioner, who on reviewing the match considers that the Player committed an act of foul play that merited a sanction greater than a yellow card, but not so serious as to warrant a red card. A CCW is treated for the purposes of totting up as a yellow card.
Disciplinary Panel	A panel, usually consisting of three members but may also comprise a Single Judicial Officer, appointed to hear disciplinary cases. Panels will be chaired by a person accredited for this purpose by the RFU and in cases handled by the RFU, as opposed to cases heard by a CB disciplinary panel, will be chaired by a person who is legally qualified.
Entry point	The entry point is the starting point for the determination of a disciplinary sanction before consideration of relevant mitigating features or aggravating factors. In relation to Regulation 19.4.49, this entry point is based on the panel's assessment of the seriousness of the offence(s) and is determined by reference to the World Rugby Sanction Table set out in Regulation 19, Appendix 2.
Formal Written Warning	A Formal Written Warning is a reference to the power set out in Regulation 19.3.5 which enables the RFU Head of Discipline to issue a formal written warning to a person or body subject to the jurisdiction of the RFU for any Misconduct or breach of the Rules and Regulations of the RFU and World Rugby. The power may also be exercised by a CB Disciplinary Secretary.

GMS	The RFU's Game Management System https://gms.rfu.com/GMS/Dashboard/Organisation/457475
Hearsay	Hearsay evidence for the purposes of Regulation 19 relates to a written or verbal statement relied upon in a disciplinary hearing to establish the truth of a fact or facts in it of which the maker of the statement had no direct knowledge. An example would be where a person is advancing evidence of an incident based on what they have been told about it but which they did not themselves witness.
Interim Suspension Order	A written order of interim suspension pending the resolution of a disciplinary investigation which can be imposed by the RFU Head of Discipline where the criteria set out in Regulation 19.3.12 are satisfied. The ISO shall be issued without a hearing and may order that the person subject of it shall not participate in any specific activity, attend any specified location or communicate with any specified person.
Internal Disciplinary Panel	An Internal Disciplinary Panel is a reference to a panel convened by a club in membership of the RFU pursuant to Regulation 19.2.6(b).
Judicial Officer (incl. Single Judicial Officer & Chair)	Judicial Officers/Chairs of RFU Disciplinary & Appeal Panels shall: a) be senior legal practitioners of at least seven years standing or serving or retired judges independent of the Union; and b) have demonstrable, proven and recent (i.e. within the last 2 years) judicial experience at adult men's/women's professional or semi-professional club level; and c) have an in-depth recent knowledge of the Laws and skills of the Game and the relevant RFU Regulations. d) be appointed by the RFU Head of Judiciary.
Laws of the Game	The World Rugby Laws of the Game with reference to Law 9 – Foul Play.
Legally Qualified	Single Judicial Officers/Chairs of RFU Disciplinary & Appeal Panels shall be senior legal practitioners of at least seven years standing or serving or retired judges independent of the Union.
Match Day Activities	Match Day Activities includes any involvement in a team's participation of a match, this will include selection for the team (starting or substitute), water carrying and being in and around the match day squad on the day of the match from 3 hours before up until 2 hours after the finish of the match. For team management (including coaches) this will include being with the match day squad on the day of the match up until an hour after the match. Any person suspended is not permitted within the Playing enclosure (https://www.world.rugby/the-game/laws/law/1). For most teams, this would mean inside the pitch barrier.
Match Official(s)	The person(s) appointed to a match as the Match Official team including the Referee, Assistant Referees/touch judges, 4th/5th Officials, Television Match Official (TMO) and those supporting the individuals in their role.
Misconduct	Any conduct, behaviour, or practices on or off the playing enclosure, in connection with a match or the Game generally, that is unsporting, unruly, ill-disciplined, brings or has the potential to bring the sport of Rugby Union, the RFU, or its commercial partners into disrepute, or which is prejudicial to the interests of the RFU or the Game, including but not limited to:

	a) acts of violence or intimidation within the venue in which the match is taking place including (but not limited to) the tunnel, changing room or warm-up areas; b) acting in an abusive, insulting, intimidating or offensive manner towards Match Officials, any other person associated with the clubs participating in the match, or spectators; c) acts or statements that are, or conduct which is, discriminatory by reason of religion, race, gender, sexuality, colour or national or ethnic origin; d) seeking or accepting any bribe or other benefit to fix, achieve a contrived outcome or to otherwise influence improperly the outcome of any dimension or aspect of any match, series of matches, tour or competition; e) entering into any wager, bet or form of financial speculation, directly or indirectly as to the result or any other dimension or aspect of any match, series of matches, tour or competition of which that individual has a direct or indirect involvement in as a player, coach, administrator; f) any other breach of RFU Regulation 17 and/or World Rugby Regulation 6; g) providing any inaccurate and/or misleading information during Disciplinary proceedings. h) comments and/or conduct in connection with proceedings which may be inappropriate or prejudicial.
Match Official Abuse (MOA)	Any disrespect, written (including any comments posted online), verbal or physical abuse that is directed at a Match Official(s). Full guidance in relation to Match Official Abuse can be found on the England Rugby website here.
NAGDS	National Age Grade Discipline Secretary
Notice of Appeal	A written notice submitted by or on behalf of a person or Club that wishes to challenge the outcome of a disciplinary hearing in accordance with Regulation 19.5. The information which the notice must contain is set out in Regulation 19.5.10.
Notice of Hearing	The document issued in disciplinary cases handled by a CB under delegated powers which formally notifies a person or body charged with a disciplinary offence of a pending disciplinary hearing. The Notice will set out details of the charge and the date, time and place of the hearing, see Regulation 19.4.16. It will also contain the key information required to enable the person or body charged to prepare to answer the case against them.
Panel Chair	A person accredited by the RFU to chair disciplinary panels. In cases handled by the RFU, the Panel Chair will be legally qualified.
Party/Parties	A 'party to proceedings' shall include those bringing the charge (which may be the RFU or Constituent Body) and those subject to the charge (a Player or Club).

	For the avoidance of doubt this would not include a club bringing a club citing.
Practice Notes	Notes in relation to aspects of the disciplinary process setting out RFU policy in relation to the interpretation of those aspects. Whilst such policy statements do not form part of Regulation 19, they should be treated as binding on all persons or bodies subject to the jurisdiction of the RFU.
Privilege	This relates to legal advice and litigation privilege and means that documents/communications are protected from having to be disclosed during proceedings. Legal advice privilege relates to communications between a Person or Club and a Lawyer for the sole or dominant purpose of giving or receiving legal advice. Litigation privilege relates to documents/communications between a party to proceedings and a third party that was created for the sole or dominant purpose of preparing or dealing with anticipated or existing litigation. In this context, 'litigation' would include any RFU/CB Disciplinary proceedings. For example, this could include communications between a player/club and a Dental expert to advise on a biting case. Documents/communications subject to either privilege may not be requested by any party to proceedings to be disclosed. Where a party discloses privileged documents/communications they will have been deemed to have waived their right to protection and the RFU may be entitled to publish any or all of those documents in accordance with the regulations regarding publication in Regulation 19.
Principles of Natural Justice	A collection of fundamental principles of fair treatment. The key principles include: • the duty to give someone a fair hearing; • the duty to give a person or body charged with a disciplinary offence due notice of the case against them; • the duty to ensure that disciplinary cases are determined by someone who is impartial and who listens to all sides of the argument; • the duty to allow a person or club that is subject to an adverse decision to challenge that decision by way of an appeal.
Proceedings	Any action taken under Regulation 19 including investigations and hearings at Club, CB and RFU level.
Proportionate	Proportionality is a legal principle which means that where a decision must be made as a result of the actions of a person or club the outcome of that decision must be in proportion to the offending actions. Put colloquially in the context of a disciplinary hearing, the punishment must fit the crime.

Reasonable excuse	A reasonable excuse is a matter to be considered in light of all the circumstances of the particular case. What is a reasonable excuse for one person may not be a reasonable excuse for another person and will be considered objectively by the Panel.
Reckless	This is defined in RFU Regulation 19, Appendix 5 as follows 'The player knew (or should have known) that there was a risk of committing an act of Foul Play.' For example, if a Player makes an upright tackle and makes contact with the head of an opposition Player, a Panel may find this is reckless because the Player knew or should have known that there was a risk of that contact happening.
Red card	A red card is shown by a Referee for acts of on-field foul play which they have either witnessed or have had reported to them by an Assistant Referee.
Red Card Threshold	An act of foul play that passes a threshold of seriousness requiring the Person's immediate removal from the field. When a person is shown a red card, they will be required to attend a disciplinary hearing. The Player may not play until their case has been heard by a Disciplinary Panel.
Referee's Report	The report submitted, usually by the match referee, where the referee has dismissed a player or wishes to report match official abuse. Where the referee has acted solely on the evidence of an assistant referee (AR), the assistant must contribute to the report.
RFU Head of Discipline	The person appointed by the RFU to oversee the administration of the disciplinary process in England.
RFU Head of Judiciary	The independent person appointed by the RFU as Head of the Rugby Judiciary or such other person to whom the RFU Head of Judiciary may delegate authority to act on their behalf.
Rule 5.12	Rule 5.12 is a reference to Rule 5.12 of the Rules of the Rugby Football Union. Rule 5.12 sets out circumstances in which a person or body subject to the jurisdiction of the RFU may face a disciplinary charge for acts of misconduct that were not the subject of a red card. Alleged breaches of Rule 5.12 can be investigated by the RFU Head of Discipline or a CB Disciplinary Secretary.
Serious Injury	An individual who sustains an injury which results in their being admitted to a hospital. Their admission may not necessitate an overnight stay in hospital but will require treatment beyond that which can be provided at the match or by the Club medics/physios.
Single Judicial Officer	An individual accredited by the RFU to chair Disciplinary Panels who can in certain circumstances preside over disciplinary or appeal cases without additional panel members.

Section 2 - General Provisions

19.2.1 The overriding objects of RFU Regulation 19 are:

- to maintain and promote fair play;
- to protect the health and welfare of those within the RFU's jurisdiction;

- to ensure that acts of Foul Play, Misconduct and breaches of regulation are dealt with expeditiously and fairly by independent means;
- to achieve consistency and uniformity in the administration, assessment and, where applicable, implementation of sanctions.

The RFU is committed to ensuring that all those who wish to participate in rugby union in England, are given the opportunity, and are treated equitably and respectfully.

19.2.2 All RFU Regulations shall be binding on all persons over whom the RFU has jurisdiction (including Club spectators), who shall be deemed to have full knowledge of the content of these Regulations. Regulation 19 applies to all disciplinary proceedings arising under the RFU Rules and Regulations, unless otherwise explicitly stated in the applicable Competition Regulations.

19.2.3 Disciplinary proceedings arising in Age Grade Rugby shall be dealt with in accordance with the procedures set out in Appendix 6.

19.2.4 All those under the jurisdiction of the RFU are required to cooperate with any disciplinary proceedings and to act in good faith.

19.2.5 An RFU Head of Judiciary shall be appointed by the RFU and will be responsible for:

a) determining the criteria and terms for appointment of independent RFU Disciplinary and Appeal Panel Members and Judicial Officers;
b) the appointment of individuals to RFU Disciplinary and Appeal Panels; and
c) issuing practice notes and sanction guidance.

19.2.6 All Clubs are required:

a) to ensure that any person subject to disciplinary proceedings has an RFU ID prior to any hearing; and
b) to investigate and appoint an internal disciplinary panel who, subject to Regulation 19.2.15 to 19.2.20, may take appropriate action for the conduct of those under their jurisdiction and maintain discipline within that Club.

Explanatory note: Some individuals may not have an RFU iD. Depending on their connection with the Club involved in the incident giving rise to the hearing, the person must either be registered by the Club or they must register themselves so that the case can be recorded on to GMS. If the individual is not connected with the Club (for example is a casual spectator) and does not have an RFU iD then the record shall be kept manually. Before a disciplinary sanction can be imposed on a spectator or on a club in respect of the conduct of a spectator(s), the Disciplinary Panel must be satisfied that there is sufficient evidence to associate the spectator(s) with any club or other body under the RFU's jurisdiction.

19.2.7 Disciplinary proceedings shall be conducted in accordance with the principles of natural justice. Disciplinary or Appeal Panels are not courts of law and panellists and/or those appearing before panels may not be legally trained. In the interests of achieving a fair result, procedural and/or technical defects, irregularities, or omissions shall not render proceedings and decisions invalid, unless they raise a material doubt as to the reliability of the proceedings or decision.

Explanatory note: A Player may be represented at a hearing by any person of their choosing.

19.2.8 The applicable standard of proof in RFU disciplinary proceedings shall be the civil standard of the balance of probabilities. For the avoidance of doubt, there is no sliding scale.

19.2.9 All hearings shall be dealt with by video link unless otherwise directed by the Chair of the Panel.

19.2.10 No person with an interest in the proceedings shall be permitted to sit on a Disciplinary or Appeal Panel. Any potential conflicts of interest must be declared so that the Parties can consider and, where appropriate, raise an objection in advance of the hearing. The Chair of the Panel will decide on whether a member of the Panel has an interest in the proceedings or any potential conflict of interest and may sit on that Panel.

Explanatory note: An 'interested' person would include, as an example, a Match Official involved in the match, which is the subject of proceedings, a Panel Member who is a member of a Club involved in the hearing or a Player who sits on Panels and is due to play against the Club attending the hearing in question. This is a non-exhaustive list, and a common-sense approach must be taken as to whether there is an actual or perceived conflict.

19.2.11 At a Disciplinary Hearing where a Player does not accept that the act(s) of Foul Play warranted a red card or citing, the burden of proof rests on the Player to show that the Referee/Citing Commissioner was wrong, save in a Club on Club citing where the burden of proof rests on the Club bringing the citing.

19.2.12 Where an issue arises that is not covered under Regulation 19, the Disciplinary or Appeal Panel may take such action as it considers appropriate and proportionate applying the principles of natural justice and fairness.

19.2.13 A failure to observe the time limits specified in these regulations shall not nullify any proceedings save in relation to:

a) time limits for citing(s) under appendices 4 and 6;
b) lodging appeals under Regulation 19.5, subject to Regulation 19.5.8.

19.2.14 Where in these Regulations any notice or correspondence is required to be sent to the RFU then it shall be sent by email to the RFU Head of Discipline, disciplinerfu@rfu.com or by post to Rugby House, Twickenham Stadium, 200 Whitton Road, Twickenham, TW2 7BA.

Jurisdiction

19.2.15 The power to conduct investigations and initiate disciplinary proceedings pursuant to Regulation 19, is vested in the RFU, save and to the extent to which this power may be delegated to Constituent Bodies pursuant to Regulation 19.2.19.

19.2.16 The RFU shall have the power to take disciplinary action in relation to all those subject to Regulation 19 regardless of whether the match, event or incident is played in England or elsewhere, subject to any applicable Competition Regulations or tour agreements stating otherwise.

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

19.2.18 The RFU excludes from delegation to the Constituent Bodies jurisdiction to act in respect of the following (unless directed otherwise by the RFU Head of Discipline):

a) players registered or contracted with Clubs playing in the Premiership, Championship, National League Rugby 1 and 2 or Premiership Women's Rugby (PWR);
b) players who represent a Premiership Club in the Premiership Cup, play in the BUCS Super Rugby Competition, BUCS Women National Leagues, or are part of the Women's EPS or Sevens' squads;
c) red cards or citings from Adult County Championship Matches;
d) breaches of RFU Regulations 6 (Adult Competitions), 10 (Tours, Cross Union Matches, Sevens and Tens), 17 (Anti-Corruption and betting), 20 (Anti-Doping) and 21 (Safeguarding);
e) all cases involving serious injury;
f) all cases under investigation by the Police or other law enforcement agency; and
g) all cases involving verbal or physical abuse based on a protected characteristic (as defined by the Equality Act 2010).

19.2.19 Subject to Regulation 19.2.18 a Constituent Body shall deal with cases which involve individuals and Clubs under their jurisdiction. In cases involving Players from different Constituent Bodies in a single connected incident, the power shall be delegated to a joint cross-border Panel to deal with or as otherwise directed by the RFU Head of Discipline.

Explanatory note: Where a cross-border panel is to be appointed, the organisation for the cross-border hearing shall be undertaken by a Constituent Body Discipline Secretary (CBDS) to be agreed, with the assistance of the RFU if necessary. An example of the Panel composition may be an independent Chair (from another CB or RFU) and a Panel Member from each CB or a Chair from one CB and two Panel Members from the other.

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

Composition of panels

Constituent body disciplinary panels

19.2.21 A Constituent Body Disciplinary Panel shall be chaired by a person who has been accredited to sit by the RFU. Panel Members shall be appointed by the Constituent Body unless otherwise directed by the RFU Head of Discipline.

19.2.22 A Constituent Body Disciplinary Panel shall consist of no more than three members, and exceptionally the hearing may proceed with a panel of two if directed by the Chair. Each Constituent Body must appoint a Constituent Body Discipline Secretary (CBDS) who is not a member of the Disciplinary Panel and shall not take part in the deliberations of the Panel.

Explanatory note: Where a question arises as to whether to proceed with a two-person Panel, the Chair will make a direction having considered any representations from the Person or Club.

RFU Disciplinary & Appeal Panels

19.2.23 The RFU Head of Judiciary shall appoint an RFU Disciplinary or Appeal Panel. Any Panel must include a legally qualified chair and shall comprise of no more than 3 persons. A Panel may proceed with fewer than 3 persons if directed by the Chair.

19.2.24 Where the RFU Head of Judiciary has sat at a first instance hearing then the appointment of any Appeal Panel shall be undertaken by the RFU Disciplinary Hearings Manager.

Bad disciplinary record

19.2.25 The RFU may require a Club to attend before a Disciplinary Panel for a bad disciplinary record in the following circumstances:

a) where a Club appears before a Disciplinary Panel eight or more times as a result of any of its players or members in a season; or
b) when any team within the Club appears before a Disciplinary Panel on 5 or more occasions for any offence; or
c) when any team appears before a Disciplinary Panel for the same offence on 3 or more occasions.

Explanatory note: 'appear before' means any adult or Age Grade case upheld by a Disciplinary Panel (including those heard in-person, online or on the papers or where a sanction has been recognised by the RFU or CB). The Club should be represented at the hearing by one or more of the following: the Club Chair, Club Secretary, Chair of Rugby, Chair of Discipline, Director of Rugby, or Head Coach.

Recognition of sanctions from other sports

19.2.26 The RFU may recognise any sanction, suspension, bar, ban or equivalent of any other sporting body and the Head of Discipline may concurrently suspend, ban, bar (or equivalent), the person from playing or having any other involvement in the game.

19.2.27 The person subject to the decision may initiate an Appeal to a Disciplinary Panel and must do so within 14 days of the date on which the written decision was sent pursuant to Regulation 19.5.7.

Match Officials

19.2.28 This regulation shall apply equally to the evidence of any Match Official whether appointed by the RFU, Referee Society, a Club or another body.

19.2.29 The integrity of the Laws of the Game and the Referee's position as sole judge of fact and law during a match is unassailable. The Referee's decisions on the field of play and their sporting consequences shall only be altered or overturned by a Disciplinary Panel in the following instances:

a) in the case of red cards, when a Disciplinary Panel determines that the Referee's decision was wrong because of:
   i. mistaken identity; or
   ii. where the red card threshold has not been met.

b) In the case of red cards resulting from two yellow cards, where a Disciplinary Panel determines that one or more of the foul play yellow cards was wrongly applied as a result of
   i. mistaken identity; or
   ii. when no act of Foul Play took place (see Appendix 1 to Regulation 19).

19.2.30 The purpose of any subsequent review by a Disciplinary Panel of an incident that occurred during a match is to:

a) make determinations in relation to red cards, citings and yellow cards as set out in Regulation 19.2.29(a)-(b) and Appendix 4 to Regulation 19; and
b) determine whether there should be any disciplinary sanctions applied for an act of Foul Play as provided for in World Rugby Law 9.

19.2.31 A Match Official is an independent witness and their evidence shall be treated as such.

Rules of Evidence

19.2.32 Disciplinary and Appeal Panels may admit/consider any evidence they consider fair and relevant to the case before them, regardless of whether such evidence would be admissible in a court of law.

19.2.33 Where a matter before a Disciplinary or Appeal Panel has been the subject of previous civil or criminal proceedings, the result and findings upon which such result was based, shall be presumed to be correct, unless it is shown by clear and compelling evidence that this is not the case.

Confidentiality and publication

19.2.34 Subject to the remainder of Regulation 19, all disciplinary and appeal proceedings are confidential and shall take place in private, unless otherwise agreed by all parties.

19.2.35 Subject to Regulations 19.2.34 - 19.2.39 all documents, audio and any other media recordings arising out of Disciplinary or Appeal proceedings are confidential. Any audio or other recording made under these Regulations shall be the property of the RFU.

19.2.36 Without prejudice to any form of privilege available in respect of any such publication, whether pursuant to the Defamation Act 2013 or otherwise, the RFU or Constituent Body shall be entitled to publish (notwithstanding Regulation 19.2.33):

a) reports of its proceedings; and/or
b) any written decision of a Disciplinary or Appeal Panel (in full or redacted form); and/or,
c) any supporting evidence,

whether or not they reflect adversely on the character or conduct of any person, Club or other body.

19.2.37 Any person, Club or other body bound by the RFU Rules and Regulations shall be deemed to have provided their full and irrevocable consent to such publication.

19.2.38 The RFU may at any time during disciplinary proceedings notify any person, or Club, UK Sport, UK Anti-Doping (UKAD), police force or any other relevant authority/body of any details relating to the matter as such authority may need to know for the proper exercise of its functions.

19.2.39 These provisions as to confidentiality shall not prevent the RFU from using material received for the purpose of implementing compliance with its Rules and Regulations for the purposes of training.

Section 3 – Special Case management

Education

19.3.1 The RFU Head of Discipline or an RFU/Constituent Body Disciplinary or Appeal Panel has the power to direct any form of education and/or training be undertaken irrespective of any other disciplinary action. They must set out:

a) what education/ training be undertaken;
b) the format that it shall take;
c) the individuals that must undertake the education/training;
d) the date by which it must be completed; and
e) who is responsible for monitoring compliance with the direction.

19.3.2 The discretion to impose education/training shall not be available for on-field offences that fall to be sanctioned subject to Regulation 19, Appendix 2, unless specifically stated.

Explanatory note: For example, a Player sent off under Law 9.12: punching/striking can only be sanctioned with a playing suspension in matches or weeks. A Player sent off under Law 9.12: verbal abuse based on a protected characteristic or Law 9.28: verbal abuse of a Match Official can be sanctioned with a combination of a playing ban and other off-field sanctions including a requirement to complete education or further training such as a Safeguarding or Refereeing course if appropriate.

19.3.3 Where education/ training has been mandated in accordance with Regulation 19.3.1 in respect of a specific individual, should that person not complete the education within the specified period, the matter shall be referred back to the RFU Head of Discipline or the Panel who may suspend the individual from all rugby activity until its completion and/or impose any additional sanction.

19.3.4 Where education/ training has been mandated in accordance with Regulation 19.3.1 in respect of a specific team or Club, then it will be the Club's responsibility to ensure that the education is completed as directed. Should the direction not be followed within the specified period, the matter shall be referred to the RFU Head of Discipline or the Panel who may suspend the team or Club from all rugby activity until its completion and/or impose any additional sanction.

Written Warnings

19.3.5 The RFU Head of Discipline or a CBDS has the power to issue a formal written warning to any person or Club for any alleged Misconduct, breach of World Rugby laws, RFU Rules or Regulations. Before doing so, the person or Club shall be given the opportunity to make representations.

19.3.6 Any warning given will be retained on the disciplinary record of the person or Club for a period of five years (or such other time as may be specified in the warning) and may be relied upon in future disciplinary proceedings as follows:

a) to establish a course of conduct of the person or Club concerned; and/or
b) for the purposes of consideration of sanction in the current disciplinary proceedings.

Explanatory note: All warnings must be entered on to the Game Management System (GMS) record for the Person or Club.

Whistleblowing

19.3.7 No person who reasonably believes that a breach of safeguarding or disciplinary regulations has occurred and who, in good faith, discloses this to the RFU

Safeguarding, Discipline or Speak-up teams, shall be subject to action detrimental to that person by the RFU or any other body by reason of that disclosure.

Alternative resolution

19.3.8 Without prejudice to any disciplinary action that may be taken, the RFU Head of Discipline may direct that Parties engage in any form of alternative resolution as they consider appropriate.

19.3.9 Clubs and/or individuals are required to comply with any direction from the RFU Head of Discipline to engage in any form of alternative resolution directed.

19.3.10 Failure to comply with the alternative resolution process may result in further action being taken including referral to a Disciplinary Panel, or the matter not being taken forward.

19.3.11 Failure to comply with a direction to engage in alternative resolution may be considered an aggravating factor should the charge be subsequently proved before a Disciplinary Panel.

Explanatory note: It is not anticipated that Alternative Resolution would incur costs to any Parties. Should costs arise, the process for dealing with those costs is set out in Regulation 19.6.2.

Interim and Provisional Suspension Orders

19.3.12 The RFU Head of Discipline shall have the power to issue an Interim Suspension Order (ISO) against any person against whom an allegation of:

a) a breach of World Rugby Regulations; or
b) a breach of RFU Rules or Regulations; or
c) any allegation of misconduct which does not fall in to (a) or (b) above;

has been made and is being investigated and/or against someone who is under police investigation or has been charged with, cautioned or convicted of a criminal offence.

19.3.13 The ISO shall be issued in writing without a hearing and will last for a period of 180 days unless revoked. It may order that the person shall not participate in any specified activity, attend any specified location, or communicate with any specified person(s) within the Game. The ISO may be renewed upon review.

19.3.14 A person subject to an ISO shall have the right to appeal within 14 days from the date on which the ISO was sent and/or renewed. The Appeal Panel shall be convened as soon as reasonably practicable with an Appeal Chair appointed within 14 days of receipt of the Notice of Appeal by the RFU.

19.3.15 An appeal may only be brought on the grounds that the decision to impose the ISO was irrational, wholly disproportionate, or procedurally improper in all the circumstances.

19.3.16 The ISO shall automatically cease:

a) when the matter has been dealt with at a disciplinary hearing; or
b) when the allegation is withdrawn, and no further disciplinary action is taken; or

c) after 180 days from its issue, unless the RFU Head of Discipline determines it is in the interests of the Union or the Game that it should be extended for a further period or periods of not more than 180 days.

19.3.17 Where an individual is subject to an ISO that stipulates a restriction of any kind in relation to a club, it will be the responsibility of that Club to ensure that the full terms of the ISO are complied with at all times. Failure by a Club to take all reasonable steps to ensure an ISO is not breached could result in disciplinary action against the Club.

19.3.18 In addition to the power to issue an ISO, the RFU Head of Discipline, or a person with delegated authority, has the power to provisionally suspend any individual for a period of up to four weeks if such individual has entered the playing area without the permission of the Referee and is subject to a disciplinary or safeguarding investigation as a result. There is no right of appeal arising from this decision.

Explanatory note: Delegated authority may be given at the discretion of the RFU Head of Discipline.

Parallel Criminal or Civil Proceedings

19.3.19 Where it is known that an on-field incident has been reported to the police or other investigatory body or is subject to civil proceedings, any individual with knowledge of the criminal, civil or other regulatory investigation, and/or the club shall report the fact to the RFU Head of Discipline. Where a CBDS becomes aware of a report being made, they must advise the RFU Head of Discipline.

Explanatory note: Examples of reportable incidents may include acts of foul play causing serious injury such as punching or dangerous tackling or incidents of abuse based on a protected characteristic that have been reported to the police by the victim.

19.3.20 Where there is evidence to suggest that the person or Club appearing before a Disciplinary Panel is, or is likely to be, subject to civil or criminal proceedings arising from the circumstances which are the subject of the case, the RFU Head of Discipline shall decide whether it is in the interests of the Game to proceed with the investigation or hearing the case.

Explanatory note: An RFU Disciplinary Panel may proceed to hear a case having consulted with the Parties and the Head of Discipline and based on the specific circumstances of the criminal/civil investigation. For example, it may be appropriate to proceed to hear a case in which a Player has admitted the facts underpinning the discipline charge in, for example, a police interview but it may not be appropriate to do so if they do not accept the facts and the matter is to proceed to trial. Each case will be determined on its own facts.

19.3.21 If the RFU Head of Discipline decides that it is not in the interests of the game to proceed until the conclusion of the civil or criminal proceedings, they may impose an interim suspension order on the person or Player against whom the allegations are made in line with Regulation 19.3.12.

Criminal Convictions or Cautions

19.3.22 Where an individual has been cautioned or convicted of a criminal offence which relates to the playing, administration, or interests of the Union/game, the RFU Head of Judiciary or delegate nominated by them shall have the power to sanction the individual and/or determine whether to hold a hearing.

19.3.23 Any individual sanctioned under Regulation 19.3.22 has the right to appeal the sanction under Regulation 19.5.7.

Section 4 - Disciplinary proceedings

There are several ways in which a Person or Club may be required to appear before a Panel. This includes being 'sent off' (receiving a red card) or cited following the match, either by an independent Citing Commissioner or another Club, being charged for a breach of an RFU Regulation or a Misconduct charge (known as a breach of Rule 5.12).

Red Cards – Where a Player/Individual has been sent off

Constituent Body Matches (Regional 1 and below (Men's) and Championship 1 and below (Women's))

19.4.1 Where a Red Card has been issued, the Match Official(s) shall as soon as practicable and by no later than 9am on the second day following the Match provide a completed copy of the red card report to:

a) the Disciplinary Secretary of the Constituent Body to which the Player's Club is affiliated; and
b) the Referee Society.

Explanatory note: For example, any Saturday game reports must be provided by no later than 9am on Monday or reports from a Sunday game by no later than 9am on Tuesday but preferably earlier in both circumstances.

19.4.2 Where an incident was not seen by the Referee but was brought to the Referee's attention by the Assistant Referee, the Assistant Referee must also provide their written account of the incident to be included in the red card report.

19.4.3 Clubs (Regional 1 and below (Men's) and Championship 1 and below (Women's)) are required to report to their CBDS the fact a red card has been issued to their Player(s), in line with the timeframe set out in Regulation 19.4.1. Information to be sent by the Club to the Discipline Secretary must include:

a) the Players name; and
b) the Players date of birth; and
c) their RFU iD (if they have one); and
d) the name of the Referee.

Explanatory note: Contact details for Constituent Body Discipline Secretaries are available on ER.com here. To check which Constituent Body a club belongs to, please use the Club Directory available here.

RFU Matches (National 2 and above (Men's) and PWR

19.4.4 Where a Red Card has been issued in a weekend match (Friday-Sunday), the Match Official(s) shall as soon as practicable and by no later than 9am on Monday, submit the completed red card report (available via Referee Managers or RFU Discipline) to the RFU as per the contact details on the form.

19.4.5 Where an incident was not seen by the Referee but was brought to the Referee's attention by an Assistant Referee, the Assistant Referee must also provide their written account of the incident to be included in the same red card report.

19.4.6 For all weekday matches, the form must be completed by 9am on the morning following the match.

Citings

19.4.7 Full information in relation to the citing process is set out in Regulation 19, Appendix 4.

Misconduct

19.4.8 Often referred to as a breach of RFU Rule 5.12, this includes acts which, in the opinion of the RFU or CBDS bring or have the potential to bring the Union and/or Game into disrepute. It may include on and off-field matters involving actions by players, officials, members, employees and/or its spectators, that were not dealt with by a red card or a citing.

19.4.9 A club shall be responsible for ensuring that all reasonable steps have been taken to ensure that its players, coaches, members and spectators conduct themselves appropriately and do not behave in a way that is improper, offensive, abusive, threatening, indecent or insulting or enter the pitch without the authority of the referee.

19.4.10 It shall be a defence to a charge in relation to Regulation 19.4.9 (only) if a Club can show that all events occurred because of circumstances outside of its control and all reasonable steps had been taken to prevent such occurrences. A Panel when considering this defence will consider the following:

a) the steps the Club has taken prior to the incident to prevent such behaviour; and/or
b) the consequences of any breaches of Regulation 19.4.9; and/or
c) any previous breaches of Regulation 19.4.9 that have occurred and what subsequent actions were taken.

Explanatory note: A Panel may consider such factors including any communications that has been sent to members, any internal training that can be evidenced, the use of 'respect barriers' and/or appropriate signage at the ground.

Match Official Abuse

19.4.11 A Match Official reporting abuse shall comply with the timings as set out in Regulations 19.4.1 – 19.4.6 (as appropriate depending on the level of the match), regardless of whether the Player/Person was shown a red card.

19.4.12 The Match Official shall set out in the report (available here) full details of the alleged physical and/or verbal abuse, including their recollection of the abusive words spoken. The Match Official shall also identify any known witnesses who heard some or all the offending comments. Where the identity of those witnesses is unknown, they shall provide as much information as possible to assist in their identification.

Explanatory note: Guidance on Match Official Abuse can be found online here.

19.4.13 The RFU Head of Discipline and CBDS are each authorised to investigate and if there is sufficient evidence, charge a person or Club for an alleged breach of Rule 5.12, which may require those subject to the charge to attend before a Disciplinary Panel to answer the allegation(s).

Notice of Hearing

19.4.14 A Notice of Hearing shall be sent by the CBDS as soon as reasonably practicable and ideally within 48 hours of receiving the report, to the person or Club charged. It will also be sent to the opposition/citing Club and to the Referee.

19.4.15 The Notice of Hearing will confirm the date, time and location of the hearing and will set a deadline for when the response to the Notice must be received.

19.4.16 The Notice of Hearing shall include the following:

a) details of the specific charge; and
b) a copy of the red card report, citing or complaint form; and
c) a copy of the match footage (if available); and
d) any additional statements or documents received.

19.4.17 When sending the Notice of Hearing to the Club, the following information shall be requested with a deadline for the responses to be received:

a) the Player's name; and
b) the Player's date of birth; and
c) the Player's RFU iD (if not already provided); and
d) whether the Player accepts the charge; or
e) if they deny the charge and, if so, the basis on which it is not accepted.

Response to the Notice of Hearing

19.4.18 The person named in the charge sheet shall respond to the Notice of Hearing by the deadline set within the notice. They must confirm whether the charge is accepted or denied and, if denied, on what basis it is denied. They must also confirm if they require the Match Official(s) to be available at the hearing and provide a copy of any match footage available.

19.4.19 If the Person or Club does not request the Match Official(s) attend the hearing, then the Match Official(s) report cannot be challenged.

19.4.20 If the Match Official(s) are requested to attend, then it is the responsibility of the RFU Disciplinary Hearings Manager or CBDS to notify the Match Official(s) and ensure that they are provided with the date, time, and venue of the hearing.

19.4.21 If the Player/Person accepts the charge, then the case may be dealt with on the papers only without the need for a hearing in-person. The Chair of the Panel will indicate if the case can appropriately be dealt with on that basis and may issue further directions accordingly.

Explanatory note: Additional guidance on dealing with papers only/expediated cases is available in the guidance note located in Regulation 19, Appendix 5.

Directions

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

a) ordering a preliminary hearing;
b) requiring that parties make written submissions or submit skeleton arguments in advance of the hearing;
c) except in relation to Regulation 19.2.13, extending or abridging time limits;
d) requiring disclosure of relevant documents in possession of the parties save in relation to documents where privilege applies;

e) setting time limits for the exchange of evidence;
f) granting an adjournment;
g) establishing the date, time and place of the hearing; and/or
h) setting time limits for oral submissions at the hearing.

19.4.23 Where appropriate, the RFU or CB may use an expedited disciplinary process as set out in Regulation 19, Appendix 5.

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

Failure to attend a hearing

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

Explanatory note: Reasonable grounds for failing to attend may include an emergency arising at short notice on the day of the hearing with the Person or Club being unable to contact anyone at the hearing to advise them of their inability to attend or a child/family care requirement arising at short notice which the Person could not reasonably have anticipated. All cases are fact specific and will be dealt with on their own facts.

19.4.26 Where the Disciplinary or Appeal Panel adjourns a hearing following a person or Club failing to attend a hearing, it shall have the power to suspend the person or Club from any specified activity within the Game until such time as they appear.

Attendance of witnesses

19.4.27 It shall be the duty of any person, Club, Union or Affiliated Organisation involved in disciplinary proceedings to notify and secure the attendance of any witnesses they may wish to call save for the Match Official(s) as per Regulation 19.4.20.

19.4.28 Witnesses shall attend the hearing in person or via video link/telephone to give oral evidence.

19.4.29 Written evidence from witnesses may be submitted. If the written evidence is unchallenged then it shall carry the same weight as oral testimony but if that written evidence is challenged, it may carry less weight than oral testimony.

19.4.30 Hearsay evidence may be admitted but must be treated with caution as its reliability cannot be tested by cross-examination.

19.4.31 Any person or Club who is alleged to have provided false or misleading information to a Disciplinary or Appeal Panel may be liable to separate disciplinary proceedings.

Match Footage

19.4.32 Where there is match footage of an incident covered by Regulation 19, such footage shall be provided to the RFU Head of Discipline or CBDS as soon as possible by the Club/Person who commissioned the footage or any other person in possession of the footage.

19.4.33 Where there is match footage of an incident, and the RFU Disciplinary Hearings Manager or CBDS has advised a person or Club that it does not have the required

equipment or software for the screening of the footage at the hearing, it is the responsibility of that person or Club to provide and install the required means.

19.4.34 Where match footage is in the possession or control of the Club or a member of the Club, of which the person, Player or Club appearing before the hearing is a member and, without reasonable excuse, the footage is not produced to the Disciplinary Panel or Appeal Panel the panel shall be entitled to infer that it is unfavourable to the person or Club.

Explanatory note: Whether this inference should be made is a matter entirely for the Panel's discretion. In the exercise of this discretion the Panel will have regard to the explanation provided for the failure to provide the footage.

19.4.35 A Disciplinary or Appeal Panel shall be entitled to consider match footage from any source, including (but not limited to) footage commissioned or obtained by a Referee Society, Match Official or any other person/body.

Explanatory note: Whilst match footage can be useful in assisting Disciplinary Panels in determining whether a player's offending reaches the red card threshold, it can be the case that footage is unclear. In such cases, it will be for a Panel to determine how much weight to attach to that evidence. It is not the case that players should automatically receive the benefit of the doubt when video evidence is unclear. In such cases, consideration will be given to all the evidence and the fact that the Referee's position as the sole judge of fact and law at a match is unassailable.

19.4.36 Where the authenticity of match footage or other visual evidence is challenged, it is for Disciplinary or Appeal Panel to hear submissions and evidence from the Parties and decide what weight to give to the visual evidence produced.

<u>The Hearing Part 1 – Making a Finding.</u>

The first part of the hearing process is to hear and review the evidence and make a factual finding as to what happened.

<u>Conduct of the Hearing</u>

19.4.37 The procedure for the hearing shall be determined by the Chair of the Disciplinary or Appeal Panel who shall have regard to, but shall be entitled to depart from, the guidance set out in Regulation 19, Appendix 7.

19.4.38 All parties shall be given a proper opportunity to state their case and to challenge or respond to any evidence given subject to Regulation 19.4.19.

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

19.4.40 In the case of a Red Card or citing (by a Citing Commissioner), the Disciplinary Panel will consider the evidence and make its factual findings.

19.4.41 If the Disciplinary Panel finds that the Match Official was wrong to award a red card, or the Citing Commissioner's decision to cite was wrong, then it will dismiss the red card or citing. A yellow card may be placed on the Player's record in accordance with Regulation 19.4.46 and the relevant explanatory note.

19.4.42 If the Disciplinary Panel agrees with the Match Official/Citing Commissioner's decision, it will decide what further sanction, if any, should be imposed.

19.4.43 Where an alleged offence is not admitted, the Disciplinary Panel or single Judicial Officer shall consider their decision as to whether the alleged offence has been proven, having considered all the evidence, in private. In private means without the RFU or Clubs/other Parties, save for the Panel Secretary who is independent of the Panel and plays no part in the decision making.

19.4.44 A decision of the Disciplinary Panel shall (save for when the case is heard by a single Judicial Officer) be determined by a majority. Each member of the panel shall have one vote. In the event of a deadlock the Chair shall have the casting vote.

19.4.45 If the offence has not been proven the finding shall, subject to Regulation 19.4.26 and any appeal brought under these Regulations, be a bar to further disciplinary proceedings against that individual and/or club who were subject to the proceedings arising from the same facts.

19.4.46 If the Disciplinary Panel determines that the red card threshold was not met and a yellow card shall be recorded on the Player's disciplinary record, this will be taken into consideration for totting-up purposes in the current season for cases at National 2 and above in the Men's game and PWR. There is no appeal against the decision of the Disciplinary Panel to record a Foul Play yellow card on the Player's disciplinary record.

Explanatory note: 'totting up' is not applicable at Constituent Body level but may be relevant if a Player has already received a yellow card in the same match. The Player would then need to be dealt with for receiving two yellow cards in one match.

The Hearing – Part 2

Application of the sanction

19.4.47 Where the alleged offence is admitted or proven, the Disciplinary Panel shall have power to impose the sanctions set out in Regulation 19, Appendix 2 and in Regulation 19.4.48.

19.4.48 "Appropriate sanction" referred to in Rule 5.12 and Regulation 19.4.61 & 19.4.63 shall include, but shall not be limited to:

a) for a person; a reprimand, a financial penalty or suspension from playing, coaching and/or administration; and
b) for a Club; in addition to the sanction set out in 19.4.48(a), financial or other compensation, deduction of league points or relegation, exclusion or disqualification from any competition.

Explanatory note: For cases brought under Rule 5.12 and/or which relate to off-field matters, the Panel is not bound by the sanction table as set out in Regulation 19, Appendix 2 and may impose any appropriate sanction as per Regulation 19.4.48.

19.4.49 A Disciplinary Panel shall undertake an assessment of the seriousness of the Player's conduct which constitutes the offending and shall categorise the offence as being at the lower end, mid-range or top end of the scale of seriousness in order to identify the appropriate entry point for consideration of a particular incident(s) of Foul Play, where such incident(s) is expressly covered in Regulation 19, Appendix 2. Such assessment of the seriousness of the Player's conduct shall be determined by reference to the following features:

a) whether the offending was intentional;

b) whether the offending was reckless, that is the Player knew (or should have known) there was a risk of committing an act of Foul Play;
c) the nature of actions, manner in which the offence was committed including part of body used (for example, fist, elbow, knee or boot);
d) the existence of provocation;
e) whether the Player acted in retaliation and the timing of such;
f) whether the Player acted in self-defence (that is whether they used a reasonable degree of force in defending themselves);
g) the effect of the Player's actions on the victim (for example, extent of injury, removal of victim Player from game);
h) the effect of the Player's actions on the match;
i) the vulnerability of the victim Player including part of the victim's body involved/affected, position of the victim Player, and the ability to defend themselves;
j) the level of participation in the offending and the level of premeditation;
k) whether the conduct of the offending Player was completed or amounted to an attempt; and
l) any other features of the Player's conduct in relation to or connected with the offending.

19.4.50 For offences categorised at the top end of the scale of seriousness of offending, the Disciplinary Panel shall identify an entry point between the period shown as the top end for the particular offence and the maximum sanction in Regulation 19, Appendix 2.

19.4.51 Having identified the applicable entry point for consideration of a particular incident, the Disciplinary Committee or Judicial Officer shall identify any relevant off-field mitigating factors and determine if there are grounds for reducing the period of suspension and subject to Regulations 19.4.53 and 19.4.54 the extent, if at all, by which the period of suspension should be reduced.

19.4.52 Mitigating factors include the following:

a) the presence and timing of an acknowledgement of the commission of foul play by the offending Player;
b) the Player's disciplinary record;
c) the youth and/or inexperience of the Player;
d) the Player's conduct prior to and at the hearing;
e) the Player having demonstrated remorse for their conduct to the victim Player including the timing of such remorse; and
f) any other off-field mitigating factor(s) that the Disciplinary Committee or Judicial Officer considers relevant and appropriate.

19.4.53 Subject to Regulation 19.4.54 for acts of Foul Play the Disciplinary Panel cannot apply a greater reduction than 50% of the relevant entry point. In assessing the reduction applicable for mitigating factors, the Disciplinary Panel shall start at 0% reduction and apply the amount, if any, to be allowed as mitigation up to the maximum 50% reduction.

19.4.54 In cases involving offending that has been classified pursuant to Regulation 19.4.49 as lower end offending, where:

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

the Disciplinary Panel may apply a greater reduction than 50% of the low-end entry point specified in Regulation 19, Appendix 2, including in appropriate cases, no sanction.

19.4.55 Thereafter, the Disciplinary Committees or Judicial Officers shall identify any relevant off-field aggravating factors and determine what additional period of suspension, if any, should apply to the case in question. Aggravating factors include:

a) the Player's status generally as an offender of the Laws of the Game;
b) the need for a deterrent to combat a pattern of offending in the Game where the teams participating in the Match or Tournament have been put on notice that such a need exists; and
c) any other off-field aggravating factor(s) that the Disciplinary Committee or Judicial Officer considers relevant and appropriate (including poor conduct prior to or at the hearing).

Explanatory note: When following the disciplinary process, Panels are required to follow each stage in turn (assessment of entry point, mitigating features and aggravating features). This means that Panels will need to assess the disciplinary record of a Player in both mitigating features (Regulation 19.4.52(b)) and aggravating features Regulation 19.4.55(a). Under mitigating features, Panels shall consider the Player's disciplinary record and make an assessment as to the amount of mitigation the Player is entitled to. If a Player has a clear record, this should entitle them to mitigation. If a Player has a generally poor disciplinary record with several previous red cards or suspensions, then they should not normally be entitled to mitigation for this factor. The Panel will need to make an assessment based on the evidence and facts before them as to the amount of mitigation a Player is entitled to, and it will vary on a case-by-case basis.

As a reminder, the Panel can apply a maximum of 50% mitigation from the entry point across all the features as set out in Regulation 19.4.52. There is no specific weight to be attached to each of the factors from (a)-(f) however an acceptance of foul play under (a) and a clear record under (b) are key matters the Panel shall give weight to.

Having considered the Player's record under (Regulation 19.4.52(b)) the Panel will again need to consider the Player's record under (Regulation 19.4.55(a)). In this part of the assessment however, the Panel should only consider the Player's record if it is particularly poor in relation to this type of offending. This aggravation reflects the fact that the individual has previously been before a panel for similar offences, and has not made any attempt to rectify their behaviour in this area. For example, the Player has a number of red cards or periods of suspension for MOA and now appears before the panel for a similar offence, this would be an indication that this new offence should be aggravated. Where a Panel is considering adding an additional period of suspension as an aggravating factor, it must be proportionate to the overall sanction and would usually be in the region of 1-3 weeks.

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

19.4.57 A Disciplinary Panel shall ordinarily in their written decisions set out the reasoning for their findings, including the finding on culpability, how they have categorised the seriousness of the offence by reference to the features set out in Regulation 19.4.49, how they identified and applied any mitigating factors (Regulation 19.4.52)

and aggravating factors (Regulation 19.4.55) and conclude with the resultant sanction, if any, imposed. This includes, for the avoidance of doubt:

- the expiry date of the suspension;
- setting out the number of weeks, or where the Player has a specific playing schedule that is known at the time of the imposition of the sanction;
- a list of the Matches (or Match weekends, rounds or dates where specific dates of fixtures have not yet been finalised) (subject, ordinarily, to a maximum of 2 matches in any 7-day period);

for which the Player is suspended provided that, in any event, the Player would, on the best information available at the time of the decision, be scheduled to play in a Match which would meet the criteria set out in Regulation 19.4.60(c)-(g) below on each of the week's taken into account and that an expiry date is stipulated for the suspension.

19.4.58 Sanctions for Players in non-elite rugby settings should ordinarily be expressed in weeks for simplicity and clarity.

Explanatory note: Noting Regulation 19.4.58, the RFU would encourage Clubs and Constituent Bodies to express their sanctions in matches to assist Players in understanding the complex way in which 'meaningful weeks' are calculated.

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

a) be applied universally by all Clubs and Constituent Bodies such that the suspended person may not play the game (or any form thereof) or be involved in any on-field match day activities anywhere from the time they are Ordered Off, cited or where Regulation 19, Appendix 1 applies (totting-up of yellow cards and/or Citing Commissioner Warnings) until their suspension expires or their case is dismissed;
b) not allow the suspended person to avoid the full consequences of their actions by, for example, playing in matches prior to the commencement of their suspension, or playing in matches during a break in the suspension and/or serving their suspension during a period of inconsequential pre-season and/or so-called friendly matches;
c) apply and be served when the Player is scheduled to play and/or have a match day involvement;
d) be imposed until a stated date which should be fixed after taking into consideration all consequences of such suspension; and
e) be effective immediately (subject to Regulation 19.4.59(b)).

19.4.60 When imposing suspensions, a Disciplinary Panel shall comply with the requirements set out in Regulation 19.4.59 above. In doing so a Disciplinary Panel:

a) must not suspend the effect of any sanction imposed;
b) may defer the commencement of a suspension provided that the Player/person is not scheduled to play (and will not be permitted to play) or have any match day involvement prior to the commencement of the suspension;
c) shall, set out the reasons why it considers those Matches to be meaningful;
d) shall take into account weeks in which there is a Match(es) which comply with each of the following criteria:

i. until such time as the Player was suspended, the Player would otherwise have been scheduled to play in the Match, the burden resting with the Player to prove that they were scheduled to play. Where the Player was scheduled to play in more than one Match in a week (for example, a mid- week fixture) this week still only counts as one week of the suspension save where the rules of the particular tournament or tour from which the suspension arises and in which there is more than one Match per week allow for a suspension within that tournament or tour to be served in Matches;
ii. the Match is to be played between two teams in compliance with all of the Laws of the Game;
iii. where the Match is not part of a tournament, tour or Series of Matches which has been sanctioned in accordance with RFU Regulation 10, the Match:
i. is to be played between teams of equivalent level (for example, similar divisions or standards of play) and who play at the same or an equivalent level of the Game to the Player's ordinary level;
ii. is to feature the best players available to each team;
iii. is to be played at a venue of the capacity and characteristics ordinarily used by teams of this level or standard;
iv. is to be open to the public (and in the case of a Match involving professional teams, tickets will be sold);
v. is scheduled within 4 weeks prior to the start of a Season an International Match, tournament, tour or Series of Matches which has been sanctioned in accordance with RFU Regulation 10;

e) where the Match is a playoff, final or similar Match for which the Player's team has not yet qualified, the Disciplinary Panel or Judicial Officer's decision may provide for alternative applications of the Player's sanction whereby the Match(es) in question shall be counted if the Player's team participates or not counted if the Player's team does not participate in which case the Match(es) in which the Player's team next participates is instead included in the sanction;
f) must, if a Player/person's suspension has not terminated by the end of the current playing season, continue the suspension until a stated date in the next playing season, unless the Player/person has been selected for a closed season match and/or tour that complies with Regulation 19.4.59/60, or has made plans to play during the close of season in another Union. In this event (and subject to the Disciplinary Panel receiving satisfactory verification of such tour or playing arrangements), the match, period of the tour or the fact that the Player/person intends to play in another Union shall be taken into account in determining when the suspension shall come to an end; and
g) where the Player is scheduled to play in a different form of the Game to that from which the sanction arises and those Matches in the other form of the Game fall within the period of the suspension, those Matches shall be taken into account for the purposes of the suspension if they meet all of the criteria set out in this Regulation save that in the case of a Player whose suspension arises from a fifteen-a-side Match, only tournaments or Series of Matches in an abbreviated form of the Game which have been sanctioned in accordance with Regulation 10 shall be taken into account and, in such case, each tournament or Series of Matches played over a weekend shall be considered to equate to one week for the

purposes of calculating the suspension of a Player arising from a fifteen-a-side Match.

19.4.61 In respect of offences not referred to in the recommended sanctions in Regulation 19, Appendix 2, appropriate sanctions may be imposed at the discretion of the relevant Disciplinary Panel.

19.4.62 Notwithstanding the sanctions in Regulation 19, Appendix 2 and/or the provisions of RFU Regulation 19, in cases where the Player/person's actions constitute mid-range or top end offending for any offence which had the potential to result in, or did result in, serious/gross consequences to the health and safety of the victim, the Disciplinary Panel may impose any period of suspension including, in the most serious cases, a suspension for life.

19.4.63 In Rule 5.12 cases, (and breaches of Law 9.28 or 9.12 (verbal abuse only)), a Disciplinary Panel may suspend some or all of the sanction [and may impose any other appropriate sanction including an educational element].

19.4.64 Where a Disciplinary Panel imposes a period of suspension it shall:

a) make it clear whether the period of suspension is from playing, administration, coaching, officiating, attending a Club or from any other specified activity in relation to the Game;
b) specify the precise dates of the period of the suspension; and
c) list the matches for which the Player/person is suspended.

19.4.65 The person or Club shall provide the Disciplinary Panel with an accurate list of the Player's upcoming meaningful matches at the disciplinary hearing. If the person is not able to provide a list of their fixtures, then the Chair of the Disciplinary Panel shall issue directions stating when such information must be provided.

19.4.66 It shall be the responsibility of the person and Club and to ensure that the terms and duration of the suspension are adhered to.

19.4.67 Should the list of the matches change following the Disciplinary Panel's determination then the Club and/or person must notify the CBDS and/or the RFU Disciplinary Hearings Manager who may amend the dates of suspension.

19.4.68 Where there is an issue to be resolved, the matter may be referred to the Disciplinary Panel to consider the dates of the period of the suspension. The Disciplinary Panel will only consider the dates of the period of suspension to ensure that it is meaningful and will not review the duration or terms of the suspension.

The hearing - Part 3 - Notification of the decision

Constituent Body Disciplinary Hearings

19.4.69 The Constituent Body Disciplinary Panel shall produce written reasons on the Constituent Body short judgment form within 72 hours of the conclusion of the hearing in all cases. A copy shall be provided to the person or Club that is the subject of the proceedings and any other party involved in the hearing including where appropriate the opposition Club and Referee Society.

19.4.70 In cases that are upheld, the decision shall be uploaded to the RFU game management system (GMS) within 7 days of the hearing.

19.4.71 If the decision is appealed the Chair shall, if requested, produce a full written decision to assist the Appeal Panel.

RFU Disciplinary Hearings

19.4.72 RFU Disciplinary Panels shall deliver written reasons to the person or Club that was the subject of the charge and any other party to the disciplinary proceedings within:

- 24 hours for red cards at National 2 and above in the Men's game;
- 24 hours for citing's at Championship and Premiership in the Men's Game;
- 24 hours for red cards and citings in PWR; and
- 7 days in all other matters.

19.4.73 Where the party is a Player, the decision and the reasons shall also be delivered to the Player's Club and if appropriate to the League Organising Committee and the Referee's Society.

19.4.74 The written reasons shall be provided on the RFU short judgment form or otherwise be sufficiently detailed to identify the material facts established by the Disciplinary Panel, how it resolved material conflicts, how it categorised the seriousness of the offence by reference to the standard features of offending and how it applied aggravating and mitigating factors. A failure to comply with these requirements shall not invalidate the decision and/or any sanction awarded.

19.4.75 Any sanction imposed by a Disciplinary Panel shall take effect immediately (or as directed by the Panel) irrespective of whether an appeal is subsequently lodged, save where the RFU Head of Judiciary determines otherwise in the interests of justice.

19.4.76 Any meaningful matches already missed by the Player in the period between the match in which the incident occurred and the hearing, must be counted by the Disciplinary Panel.

Section 5 - Appeals

Initiating an Appeal

19.5.1 An appeal may be commenced against a decision of an RFU or Constituent Body Disciplinary Panel by the following:

a) any person or Club that was the subject of a charge before the Panel;
b) the RFU Head of Discipline.

Explanatory Note: For the avoidance of doubt this would not include a club bringing a club citing or any other party other than those specifically listed in Regulation 19.5.1(a) and (b).

19.5.2 A person or Club may initiate an appeal on the following grounds. That the Panel:

a) came to a decision to which no reasonable body could have come; and/or
b) made an error of law in reaching its decision; and/or
c) failed to act fairly in a procedural sense; and/or
d) imposed a sanction that was so excessive as to be unreasonable, save where a fixed penalty sanction has been imposed; and/or
e) did not have before it evidence which is significant and is now available to the Appeal Panel, which was not reasonably available to the Disciplinary Panel.

19.5.3 A suspended player who elects to appeal may not take part in any match day activities until:

a) their case has been dealt with by an Appeal Panel and the Appeal Panel has directed they may play again; or,
b) the expiry of their suspension.

19.5.4 The RFU Head of Discipline may commence an appeal on the same grounds as set out in Regulation 19.5.2 and/or on the basis that the sanction imposed was so lenient as to be unreasonable.

19.5.5 Where the RFU Head of Discipline appeals, a Player may play pending the appeal hearing, if the period of suspension has expired or no suspension was imposed.

19.5.6 A Club or other Party to a complaint or dispute may appeal against a decision of a Regional Organising Committee, Disputes Committee, Constituent Body, or NLR executive, on the same grounds as set out in Regulation 19.5.2 within 14 days beginning with the date on which the written decision was sent (or such other period as may be specified in the decision).

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

19.5.8 In exceptional circumstances necessitating an extension, permission must be sought from the RFU Head of Judiciary prior to any deadline and the Parties must be given the opportunity to make representations before a decision is made.

Explanatory note: To be considered exceptional, the reason for which the extension is sought must be a matter that was not known or foreseeable at the time the written decision was sent. All reasonable steps must have been taken to comply with the original appeal deadline up until the request for an extension was made. The RFU Head of Judiciary may request any supporting evidence is submitted prior to making a decision. For the avoidance of doubt, a request for an extension due to holidays (public or personal) or other prior/ongoing commitments will not be considered exceptional.

19.5.9 Appeals in relation to an Anti-Doping Rule Violation may be appealed as set out in RFU Regulation 20 and World Rugby Regulation 21.

<u>The Notice of Appeal</u>

19.5.10 An appeal is commenced by serving a written notice on the RFU Head of Discipline which must include:

a) the decision(s) in respect of which the appeal is being brought;
b) the date of the original hearing;
c) the grounds of appeal relied upon by reference to Regulation 19.5.2;
d) a statement of the facts on which the appeal is based, specifying whether the appeal is against finding and/or sanction;
e) any supporting documentation, including video footage, on which the appellant is seeking to rely;
f) any request on behalf of the appellant for a full re-hearing and the grounds in support of any such request;
g) confirmation that the requisite fee has been paid in accordance with Appendix 3.

19.5.11 A Notice of Appeal against a decision of a Constituent Body Disciplinary Panel must be served within 14 days beginning with the date on which the written decision was sent.

19.5.12 A Notice of Appeal against a decision of an RFU Disciplinary Panel must be served within 24 hours from the time on which the written decision was sent in the following cases:

a) red card cases at National 2 and above in the Men's game;
b) red card cases in PWR;
c) citings at Championship and above in the Men's game.

19.5.13 In all other cases, the Notice of Appeal must be served within 14 days from the day on which the written decision was sent.

19.5.14 A failure to comply with these requirements shall, subject to Regulation 19.5.8, invalidate the notice and may result in the appeal being struck out by the Head of Discipline, the Chair of the Appeal Panel or RFU Head of Judiciary.

19.5.15 A validly lodged appeal may be withdrawn by serving written notice on the RFU Head of Discipline (or on the party that is subject to the appeal where the appeal is brought by the RFU Head of Discipline).

19.5.16 Where an appeal is withdrawn the RFU Head of Discipline shall have a discretion to order that the appellant shall forego the fee paid on serving the Notice of Appeal.

Assessment of Grounds of Appeal (See flowchart in Regulation 19, Appendix 7)

19.5.17 On receipt of a Notice of Appeal the RFU Head of Discipline will conduct a preliminary assessment as to whether the stated grounds and any supporting material amount to an arguable case.

19.5.18 If the RFU Head of Discipline is of the view that the grounds of appeal and supporting material do establish an arguable case the appeal will be referred to an Appeal Panel who will be appointed in accordance with Regulation 19.5.23.

19.5.19 If the RFU Head of Discipline is of the view that the grounds of appeal do not give rise to an arguable case the Appellant will be notified in writing and offered the choice of withdrawing the appeal, in which event the fee paid on lodging the appeal will be returned, or to invite a review of the RFU Head of Discipline's assessment by an independent Judicial Officer.

19.5.20 If the Independent Judicial Officer confirms that the grounds of appeal and supporting material do not give rise to an arguable case, the appeal will be dismissed, and the fee paid on lodging the appeal will be forfeited.

19.5.21 If the Independent Judicial Officer disagrees with the RFU Head of Discipline's initial assessment and finds that there is an arguable case, then an Appeal Panel will be appointed in accordance with Regulation 19.5.23.

19.5.22 In appeals brought under Regulation 6, the RFU Head of Discipline has the power to refer the matter appealed to the Regional Organising Committee and/or the Adult Competitions Management Sub-Committee for mediation. If there is no referral for mediation or no resolution by mediation, the appeal shall be referred to an Appeal Panel for determination.

The Appointment of an Appeal Panel

19.5.23 The RFU Head of Judiciary shall appoint an Appeal Panel to hear any appeal, which shall be made up of either:

a) a single Judicial Officer; or
b) a Panel of three chaired by a legally qualified person (exceptionally, a Panel may proceed with 2 members at the direction of the Chair.)

19.5.24 Where a valid Notice of Appeal against the decision of a Constituent Body Disciplinary Panel is lodged, the RFU Head of Discipline shall inform the CBDS as soon as practicable and shall provide them with the Notice of Appeal and any supporting documents. The RFU Head of Discipline shall have a discretion to invite written submissions in response to the Notice from the CBDS in consultation with the Chair of the Panel that heard the original case.

19.5.25 A member of a Disciplinary Panel which heard the case at first instance may attend the appeal hearing as an observer. They may, with leave of the Chair of the Appeal Panel, give evidence and/or provide information to the Panel regarding the original hearing.

Explanatory Note: An example of when it might be appropriate to request evidence or information from a member of the original Panel would be where the appellant advances a factual case which materially differs from the account advanced at the original hearing.

<u>The Appeal Hearing Process</u>

19.5.26 An appeal shall be conducted by way of a review of documents, any video footage, and written submissions from the Parties to the appeal. Where the Parties have requested permission to make oral submissions in their Notice of Appeal, the Panel will consider such application and determine the format the appeal hearing will take.

19.5.27 In exceptional circumstances at the discretion of the Appeal Panel where the interests of justice require it the conduct of the Appeal shall consist of a full re-hearing with witnesses called and available to be questioned by the other party to the Appeal and/or the Appeal Panel.

Explanatory Note: a decision to undertake a full re-hearing of the evidence will be a matter entirely for the discretion of the Appeal Panel but might include (but not be limited to) the following circumstances:

a) where the documentation provided by the Disciplinary Panel contains insufficient detail to enable the Appeal Panel to make an informed decision on one or more of the grounds of appeal relied upon; and/or
b) where further evidence is being considered pursuant to Regulation 19.5.2(e) and the Appeal Panel are of the view that they need to hear from witnesses to assess the weight to be attached to the new evidence.

<u>The Powers of an Appeal Panel.</u>

19.5.28 An Appeal Panel has the power to:

a) dismiss the appeal;
b) allow the appeal and remit the matter to the Disciplinary Panel for a re-hearing;
c) allow the appeal and quash the finding and any sanction imposed;

d) partially allow the appeal and substitute an alternative finding and/or sanction;
e) make such further orders as it deems appropriate.

Explanatory Note: Ordinarily where an Appeal Panel is satisfied that one or more of the grounds of appeal advanced have been made out, they will allow the appeal and quash the finding and any sanction imposed (Regulation 19.5.28c)). Where an appeal is allowed on the grounds of a procedural irregularity or an error of the law, and the Panel is of the opinion that had the correct procedure been followed the outcome would have been the same they may dismiss the appeal (Regulation 19.5.28(a)) without the need for a rehearing. Where a case is remitted for re-hearing, the case shall be heard by a differently constituted Disciplinary Panel.

In respect of alternative sanctions pursuant to Regulation 19.5.28(c), a sanction will only be reduced where the Appeal panel is satisfied that the sanction imposed was so manifestly excessive as to be unreasonable. A sanction will only be increased (a) where the appeal has been brought by the RFU Head of Discipline and the Panel is satisfied that the sanction imposed was so unduly lenient as to be unreasonable or (b) that an appeal against sanction was so clearly without merit as to be considered frivolous.

19.5.29 The Appeal Panel shall only depart from the application of RFU Regulation 6 in exceptional circumstances where the Appeal Panel is of the opinion that the application of RFU Regulation 6 has resulted or would result in a perverse and/or unfair outcome.

The outcome of an Appeal.

19.5.30 The decision of the Appeal Panel will ordinarily be announced to the parties at the hearing. In exceptional cases where the Panel require further time to deliberate the decision shall be communicated to the parties as soon as practicable and every effort shall be made to conclude deliberations and communicate the decision within 72 hours.

19.5.31 The Chair of the Appeal Panel shall as soon as practicable after the conclusion of the hearing deliver a written judgment to the RFU Disciplinary Hearings Manager who will distribute it to the parties and may publish it on the England Rugby website in accordance with Regulation 19.2.36.

19.5.32 In competition appeals, no sanction or points deduction will be applied until any proceedings have concluded.

Section 6 - Costs

For a table of the costs applicable to each level, please refer to Regulation 19, Appendix 3.

19.6.1 All costs figures are VAT exempt.

Alternative Resolution Costs

19.6.2 Where a referral is made under Regulation 19 for Alternative Resolution, it is not anticipated that any costs will be incurred. Should there be any cost to the Parties, the RFU Head of Discipline may direct that either Party pays an amount up to the maximum as set out in Regulation 19, Appendix 3. If the total cost is more than the maximum set out, the amount payable by each Party is to be agreed in advance between the RFU Head of Discipline and the Parties.

Citing Costs

19.6.3 In citing cases where the complaint is not proven, the citing fee shall be forfeit. Where the citing is upheld, the person or Club against whom the citing was brought shall pay the fee as set out in Regulation 19, Appendix 3. The fee paid by the citing Club shall be refunded.

19.6.4 Where a citing is initiated by a Club and subsequently withdrawn prior to a hearing being held, the citing fee will be returned to the Club.

Disciplinary Hearing Costs

19.6.5 Where a charge is accepted or found proven, the administrative fee as set out in Regulation 19, Appendix 3 will be payable by the Person or Club.

19.6.6 No party shall be required by a Disciplinary or Appeal Panel to pay or contribute towards the costs incurred by the other party in any matter brought under Regulation 19. The Panel shall have the power to award reasonable costs against a party where it is satisfied that the party has acted improperly, unreasonably, or negligently in the preparation or presentation of their case.

19.6.7 Where a person or Club is ordered to pay costs, then, unless the Disciplinary or Appeal Panel grants a longer period for payment, they shall be paid within 30 days of receipt of the invoice, or any other timeframe indicated by the body producing the invoice. If such costs are not paid by the specified date, the matter may be referred to the Panel who may impose further sanctions (such as extending the terms of the previous sanction or imposing a new sanction) until such time as the costs are paid.

Appeal Hearing costs

19.6.8 Where an appeal has been dismissed, the appeal fee shall be forfeit save in relation to Regulation 19.5.19. The Appeal Panel may order the return of the fee as appropriate.