

## APPENDIX 7 – GUIDANCE

### Disciplinary Panel Hearings and De Novo Appeals

- 1 It should be borne in mind that neither a Disciplinary Panel nor an Appeal Panel is a court of law. Those appearing before a Disciplinary Panel or an Appeal Panel may not be trained advocates, and therefore, in the interests of achieving a just and fair result, procedural and technical considerations must take second place to the paramount object of being as just and fair to all parties as is consistent with a duty to the Game.
- 2 A Disciplinary Panel and Appeal Panel should ensure that any person appearing before it is aware of the procedures and give a person appearing before it an opportunity to ask questions on matters of procedure which are not clear.
- 3 The procedure for the hearing shall be determined by the Chairman of the Disciplinary Panel or Judicial Officer who shall have regard to, but shall be entitled to depart from, the guidance for the standard order of proceedings set out below.
- 4 An Appeal Panel shall have regard to the same procedures when a de novo appeal has permitted (in this regard references to ‘the Disciplinary Panel’ in the paragraphs below also apply to Appeal Panels in respect of de novo hearings).

### Guidance for the Standard Order of Proceedings

- 5 The Referee’s Report will be read, or details of the conduct alleged or the citing will be explained.
- 6 The person, player or Club appearing before the Disciplinary Panel shall be asked whether the allegations being the subject of the enquiry or hearing (“the allegations”) are admitted.
- 7 At this stage (or at any other stage considered appropriate by the Disciplinary Panel) the match footage, when available, will be shown.
- 8 Where the production of the Match footage or other visual evidence is delayed, a Disciplinary Panel may decline to accept that evidence or adjourn the hearing (at the expense of the party responsible for the production of the footage) if it feels that the other party is, or may be prejudiced.
- 9 The footage shall be shown without sound or commentary unless the Disciplinary Panel rules that the sound is relevant to their considerations.
- 10 The Match footage or other visual evidence does provide a contemporaneous view of events, although members of the Disciplinary Panel should bear in mind that the footage does not necessarily give the full picture, and that camera angles and foreshortening can result in a misleading impression being given.
- 11 After the screening of the Match footage or other visual evidence, the Chairman or other members of the Disciplinary Panel may ask such further questions as they deem appropriate of those (if any) who have given evidence prior to the screening of the footage.

- 12 If the allegations are not admitted, the Disciplinary Panel will hear the evidence in the following sequence:
  - 12.1 The Referee and/or Assistant Referee will be invited to comment upon his Report or the Abuse Form.
  - 12.2 The Referee's Advisor's evidence (if applicable) and any evidence in support of the Referee's Report will be heard.
  - 12.3 Witnesses supporting the allegation will be heard.
  - 12.4 The person, player or Club against whom the allegations are made shall be entitled to give and to call evidence in rebuttal.
- 13 Before being called, witnesses should be asked to retire whilst evidence is being given, but may remain in the room when their evidence is concluded, if they so wish.
- 14 Questions may be put to each witness upon the conclusion of his/her evidence, by or at the request of the party appearing to make or answer the allegations, or by any member of the Disciplinary Panel.
- 15 Evidence of the player's previous disciplinary record will not be given until after a finding of fact has been made.
- 16 In cases of a citing or a Rule 5.12 case, the person representing the Union or Affiliated Organisation responsible for the citing, or the person (if any) making the allegations shall have the right to address the Disciplinary Panel, but in all cases the person, player or Club answering the allegations shall have the right of the last word.

**Procedure to be used in disciplinary hearings – Flow Chart**

**(for cases of Citing, or to consider action following Red/Yellow Cards)**

Check that behaviour constitutes breach of Laws and ensure charge(s) is (are) properly drafted.

**Do you object to either the composition or constitution of this Panel? (see Note 1)**

**Charge(s) read out by Chairman**

**Do you admit or deny the charge(s)?**

**IF ADMIT (Guilty plea)**

Referees report read out. In citing cases, citing Club outline facts. Video evidence (if available) may be shown. Witnesses may be called (normally only where accused admits the offence(s) but disagrees substantially with the prosecution version of facts). (Note 2)

**IF DENY (Not guilty plea)**

**READ WARNING 1**

Hear prosecution witnesses, Evidence of referee and see video. In case of citing allow accused or rep to ask questions of each. In case of red/yellow card ask questions through Chair.

**DECIDE (in citing cases)**

Citing Club has failed to make a case

**Dismiss the charge(s)  
No order for costs.**

Citing Club has made out case which needs to be answered.

**READ WARNING 2.**

Hear accused. Hear defence witnesses. Allow citing club to cross examine. Chairman asks questions of each.

Clear room to consider.  
**DECIDE**

**Charge(s) not proved  
Dismiss the charge(s)  
No order for costs.**

**Charge(s) proved.  
Inform accused.**

Examine disciplinary record  
Hear mitigation

Clear room to consider penalty  
Complete Discipline Judgment form

**Reconvene to announce penalty/costs**

*Note 1. Each application should be considered on its own merits, but the panel should be objectively and demonstrably impartial.*

*Note 2. And where the penalty is likely to be different depending on which version of events is accepted.*

*WARNING 1. You will have the opportunity to put your side of the case after the prosecution case has been heard. You will be given the opportunity to ask questions of each witness.*

*WARNING 2. (In case of citing). You may now give evidence on your own behalf. If you do the citing Club representatives will be given the opportunity to cross-examine you.*

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## **Specimen Charge Sheet**

To be prepared after reference to match official report and current IRB Law Book.

### **STATEMENT OF OFFENCE**

Striking, contrary to Law 10(4)(a).

### **PARTICULARS OF OFFENCE**

On the 1st May 2004, Joe BRAND, BLACK RFC, struck an opponent to the head during the match (29th minute of the second half) BLACK RFC V WHITE RFC.”

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## Draft Discipline Judgment Form

### Disciplinary Hearing

**Venue:**

**Date:**

**Judgment:**

Player: (Name) Club: (Name of player's club)

Match:

Venue: Date of match:

Panel: (Names of members making up Panel, i.e. Chairman, followed by Panel)

In attendance: (List of those who attend the hearing, i.e. Club personnel, witnesses, referees advisor, etc.)

To consider: (i.e. 'The sending off of (player's name and club) for an act of (give reason) during (... minute of second half) the match between (clubs names) on the (date) contrary to Law.... (as found in the Law Book).)

#### **Evidence as to fact.**

The Panel has considered:

- i.e.
1. Sending off report and oral evidence from the referee.
  2. Oral evidence and written statement from the player (name).
  3. Written witness statements from (names).

#### **Decision**

The Panel finds the player guilty/not guilty. The reasons for their decision are... (particular attention should be paid to paragraph 8.2 of the Regulations in relation to aggravating and mitigating features.)

#### **Mitigation**

The Panel took into account the following points ...

#### **Sanction**

The player is suspended for ...weeks, running from ...date...to ..... date. The player is free to play again on (date).

#### **Costs**

**The Panel**, makes an award of costs against ... (player/club)

#### **Right of Appeal**

The right of, and procedure on, appeal is set out in the RFU Disciplinary Regulations 12.1.1.

(Signature)  
Chairman

Date:

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## Constituent Body Short Judgement Form

### HEARING DETAILS

Date \_\_\_/\_\_\_/\_\_\_ Venue \_\_\_\_\_

Chairman \_\_\_\_\_

Member 1 \_\_\_\_\_ Member 2 \_\_\_\_\_

Member 3 \_\_\_\_\_ Member 4 \_\_\_\_\_

Secretary \_\_\_\_\_

Offence \_\_\_\_\_ Law \_\_\_\_\_

### PARTICULARS OF OFFENCE

Name of Player \_\_\_\_\_

Club \_\_\_\_\_

Date of Match \_\_\_/\_\_\_/\_\_\_

Plea:  Guilty  Not Guilty  Proved  Dismissed

### ASSESSMENT OF OFFENCE

Intentional  Reckless

Gravity of Player's Actions \_\_\_\_\_

Effect on the Game/Victim \_\_\_\_\_

Vulnerability  Premeditation  Completed or Attempted

Other (if so, what features) \_\_\_\_\_

Entry Point Weeks \_\_\_\_\_ TE \_\_\_\_\_ MR \_\_\_\_\_ LE \_\_\_\_\_

(if TE, indicate figure) \_\_\_\_\_

Further Notes (if any) \_\_\_\_\_

## AGGRAVATION

### Off Field Aggravation

details (if any)

- Lack of Remorse \_\_\_\_\_
- Player Status \_\_\_\_\_
- Need for Deterrent \_\_\_\_\_
- Any other factors \_\_\_\_\_

## MITIGATION

### Other Off Field Mitigation

details (if any)

- Good Record & Conduct \_\_\_\_\_
- Age & Experience \_\_\_\_\_
- Acknowledgement of Guilt \_\_\_\_\_
- Conduct at Hearing \_\_\_\_\_
- Remorse \_\_\_\_\_
- Off Field Mitigation \_\_\_\_\_
- Exceptional Circumstances \_\_\_\_\_

## SANCTION

From \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ To \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

Play Again \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

Costs £ \_\_\_\_\_ Final date for Appeal \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_  
(max 14 days)

Sanction \_\_\_\_\_ weeks \_\_\_\_\_ SoS

Signature \_\_\_\_\_ Date \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_\_  
(CB Rep)