

GUIDANCE ISSUED BY THE RFU DISCIPLINARY OFFICER

These Guidance Notes are issued under the authority of the RFU Regulation 19.1.15 and are to be read in conjunction with the relevant provisions of Regulation 19.

RFU GUIDANCE Note 1 Recklessness -

RFU Regulation 19.11.9(b)

When deciding the relevant sanction in relation to a particular offence, Disciplinary Panels are required to assess the seriousness of the player's conduct. One of the key assessments is to decide whether the relevant offending was deliberate or reckless, noting if the offending was accidental then no sanction applies. The term 'reckless' is described in the following terms:

'The player knew (or should have known) there was a risk of committing an act of illegal and/or Foul play.'

The RFU's disciplinary regime reflects IRB Regulation 17. It exists to penalise players whose foul play or misconduct is other than purely accidental, and one of its most important principles is to prevent the risk of injury to other players in a dynamic and physical sport. Players have an obligation to ensure that they do not cause injury to opponents, so there is a presumption that any conduct which is proscribed by IRB Law 10 merits a sanction.

The offences listed in IRB Law 10.4 do not include mens rea (the mental element of a crime or offending behaviour) – they create offences of strict liability. That is, by way of illustration, it is illegal to stamp on an opponent – rather than deliberately stamp, or recklessly stamp unless of course contact is entirely accidental in which case no act of foul play has been committed. An offence is committed if the prohibited act occurs and the mental state of the offending player at the time the offence was committed is only relevant to the level of subsequent sanction. It is therefore wrong in principle to import definitions of criminal recklessness from any single criminal jurisdiction, in considering whether or not the alleged offence was committed.

The definition of recklessness is derived from IRB Regulation 17. It has worldwide application and is rugby specific. It serves to penalise players whose conduct is other than purely accidental and is designed to prevent the risk of injury to other players. Nevertheless, Chairmen of panels may find the following expanded guidance helpful in interpreting the meaning of the IRB definition of reckless.

'A player is acting recklessly if, before doing something he either fails to give any thought to the possibility that there is a risk that he might commit an act of foul play, or having recognised that there was such a risk, he nevertheless went on to do it.'

Thus, again by way of illustration, where a player intends to tackle an opponent by contact with his chest, but the opponent ducks just before contact is made so the contact is with the neck, an offence contrary to Law 10.4(e) will have been committed. In assessing the relevant entry point for sanction it would be appropriate to decide that this offending was reckless because there was a risk that the opponent would duck into the tackle, or that the tackler may misjudge the point of contact. It could not be said in these circumstances that the contact with the head was accidental.

RFU GUIDANCE Note 2 - Offending of the least serious kind – RFU Regulation 19.11.13

Normally players will be entitled to no more than a maximum of 50% discount from the entry point. However Disciplinary Panels can apply a greater reduction from the entry point suspension where it makes each of the following findings:

- i. The Player's conduct is to be categorised at the lower end of the scale of seriousness;
- ii. There are no on-field or off-field aggravating features;
- iii. There are compelling on-field and/or off-field mitigating factors; and
- iv. There are truly exceptional circumstances that make it necessary to apply a greater reduction than 50% from the entry point in order to avoid clear injustice/unfairness to the Player charged.'

RFU GUIDANCE Note 3

SANCTIONS FOR FOUL/ILLEGAL PLAY – TOP END ENTRY POINTS RFU Regulation 19.11.10

1. When undertaking an assessment of a player's offending conduct disciplinary panels must apply the criteria in RFU Regulation 19.11.9. If after that assessment the panel concludes that the offending is at the top end of the scale of seriousness it must make a further assessment of where the starting point should be within the prescribed range.
2. Sanctions for offences assessed as being at the top end are expressed in Annex 2 of the Regulations as a figure followed by +. That means that the range is from that figure to the maximum sanction. Thus for the offence of striking the top end range is from 8 – 52 weeks. Disciplinary panels must not automatically use 8 weeks as the starting point, although that may be the appropriate point if the panel takes the view that the offending is the least serious possible in the Top End entry. Having decided what the entry point is, the disciplinary panel should then go on to consider aggravating features and mitigating factors in accordance with RFU Regulations 19.11.11 and 19.11.12.
3. In assessing the entry point within the range disciplinary panels are likely to give significant weight to RFU Regulations 19.11.9(a), 19.11.9(d) and 19.11.9(e) as follows:

19.11.9(a) – intent. If the panel concludes that the offending player intended to commit the offence and he intended to injure the victim then the entry point would move higher up the range.

19.11.9(d) – effect on the victim. If the player needs no treatment and continues to play the entry point will be towards the bottom of the range. The point will move higher up the range depending on the level of treatment on the pitch, whether he continues to play and the extent of any injury. The more severe the injury the higher up the range will be the starting point.

Note: It is, therefore, very important for panels to have accurate medical evidence before making this assessment. As a matter of practice, the Disciplinary Secretary should try to obtain a medical certificate or report from the victim player's Doctor

confirming the victim's injuries and the likely period of time the victim player is not going to be able to play. If it is not possible to obtain a medical certificate then written confirmation from the victim's club secretary or Director of Rugby about the injury should be obtained. The medical evidence and/or the report should be disclosed to the dismissed/cited player or his representatives prior to the hearing. If the dismissed/cited player challenges it the panel should either adjourn to clarify or obtain further medical evidence or proceed depending upon the evidence before the panel and in accordance with the principles of natural justice.

19.11.9(e) – if the offending causes no reaction at all from other players or spectators then the entry point will be towards the bottom of the range. The point will move higher up the range if players and spectators react to the offending and further up if the offending causes the referee to abandon the game. Any media interest in the alleged offending which might have a deleterious effect on the image of the Game may also be taken into account.

4. Panels may also take account, but to a lesser extent, the actual commission of the offending – for example the number of punches, stamps or kicks or whether the offence was completed as intended.
5. Example. It is difficult to provide examples because there is a danger that they will be seen as prescriptive. Disciplinary Panels must use their rugby experience to decide what is the appropriate rugby specific sanction which properly reflects the seriousness of the offending and the view taken of it by the rugby community. The following example is provided as an indication of where a Disciplinary Panel may start, but each case must be dealt with on its merits.

Facts: A player runs twenty yards into a minor fracas and punches an opponent three times in the head. The victim player falls to the ground and requires treatment for about a minute.

Having made an assessment of the seriousness by applying the criteria in RFU Regulation 19.11.9 the disciplinary panel decides that this is top end on the scale of seriousness. Suggested entry points within the range of 8 - 52 weeks might then be as follows:

Where there is no player, spectator or media reaction:

No injury after treatment	– 8 - 10 weeks
Victim leaves the field but is fit the following week	– 12 - 14 weeks
Victim is injured and cannot play for a few weeks	– 18+ weeks
Victim is badly injured (e.g. broken jaw requiring surgery)	– 36+ weeks

Where there is player, spectator or media reaction (increasing by more if the match is abandoned by the referee):

	– 10 - 12 weeks
Victim leaves the field but is fit the following week	– 14 - 16 weeks
Victim is injured and cannot play for a few weeks	– 20+ weeks
Victim is badly injured (broken jaw requiring surgery)	– 42+ weeks

Having decided the appropriate entry point the panel must then apply aggravating and mitigating features in accordance with RFU Regulations 19.11.11 and 19.11.12.

NB. This example is provided purely as guidance and does not provide an exact approach or a tariff.