



# JUDICIAL PROCESS

Red Card and Citing  
Hearing Process

THIS IS OUR GAME, THIS IS WELSH RUGBY

DYMA'N GÊM NI, DYMA RYGBI CYMREIG



This is provided as a guide only in relation to the WRU Disciplinary Regulations (the “Regulations”), which are available here:

**<https://community.wru.wales/governance/policy-and-integrity/discipline/>**

In the event of any conflict between the content of this guide and the Regulations, the provisions of the Regulations shall take precedence

**The overriding objective of the WRU judicial process is to maintain and promote fair play, protect the health and welfare of Players (and others involved in the Game), ensure that acts of foul play and Misconduct (on and off the playing enclosure) are dealt with expeditiously and fairly by independent means within the Game.**

The role of the Disciplinary Panel is to achieve uniformity and consistency in the way in which disciplinary matters relating to foul play and misconduct are adjudicated and that the process is ultimately, fair, efficient, and effective.

## **WHAT IS FOUL PLAY?**

Law 9 of the Laws of the Game sets out the various categorises of dangerous play and misconduct (see Table of Sanctions/Sanction Entry Point Document)

In accordance with World Rugby Regulation 17, an action is only Foul Play if it is:

1. Intentional
2. Reckless

If an action is an **ACCIDENT**, it is **NOT** Foul Play. It is important to examine and understand the distinction between accidental and reckless carefully.

## **WHAT IS INTENTIONAL?**

The player decided that he/she was going to do and then sought to do it. Intentional/deliberate Foul Play is considered to be more serious than reckless.

## **WHAT IS RECKLESS?**

The player knew (or should have known) there was a risk of committing Foul Play in acting as he/she did (e.g. in lifting a player in a tackle even if he/she did not intend to tip him/her or in putting his/her hands on a player's face even if he/she did not intend to put his/her fingers in the player's eye).

## WHAT IS ACCIDENTAL?

The player did not know and could not have known that there was a risk of committing Foul Play (e.g. in tackling a player low around the waist he/she could not have predicted or avoided the player trying to hurdle at the last second and cause him/her to tip). The offences listed in World Rugby Law 9 do not require 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 the contact is entirely accidental in which case no act of Foul Play has been committed. An offence is committed if the prohibited act occurs.

## WHAT IS THE STANDARD OF PROOF?

The standard of proof for all matters under WRU Disciplinary Regulations is the balance of probabilities. This means in deciding any questions which arises in the disciplinary process (e.g. was Foul Play committed, was it intentional or reckless etc?), the Panel have to consider what is more probable based on the available evidence. In the case of a red card/ordering off, In the case of an Ordering Off, the function of the Disciplinary Panel is to consider the circumstances of the case and determine its/his factual findings and what further sanction, if any, should be imposed on the Player.



## THE RED CARD AND CITING PROCESS

A Disciplinary Panel will be required to consider the appropriate sanction under the sanctioning regime (see attached Table of Sanctions) set down in World Rugby Regulation 17.

This is reflected within the WRU Disciplinary Regulations. All Nations are bound by World Rugby Regulations.

The seriousness of the player's actions is the first assessment the Panel must make in order to determine which of the three entry points (lower end, mid-range and top end) is the most appropriate

The Disciplinary Panel will determine the above appropriate entry point based on an assessment of a number of particular characteristics of the player's actions, including whether or not they were reckless or intentional, whether there was existence of provocation, whether the player retaliated, whether or not they caused any injuries and whether or not they had any effect on the relevant match.

After deciding the entry point, the Disciplinary Panel will then consider whether the suspension should be increased from the entry point to take account of certain specified aggravating factors, such as a poor disciplinary record or the need for deterrence, and/or decreased from the entry point to take account of certain specified mitigating actions, such as a guilty plea, a good disciplinary record, the player's conduct at the hearing and expressions of remorse etc.



## HOW DOES SANCTIONING WORK

In order to drive consistency of outcomes/decisions, there is a mandatory sanctioning process set out in World Rugby Regulation 17 (which is reflected within the WRU Disciplinary Regulations). It is imperative that this process is followed in every case, in order to demonstrate the process to the player/Club. A player and/or Club official would usually be given the opportunity to address and give their views on each of the stages below (either at the hearing or via written observations). However, the ultimate decision lies with the Disciplinary Panel which will deliberate after hearing (or considering) the player's and/or Club's argument on the appropriate sanction.

### STAGE 1 - THE ASSESSMENT

The Disciplinary Panel will assess the seriousness of the Foul Play (whether it is categorised as low-end, mid-range or top-end) by reference to the following factors (World Rugby Regulation and WRU Regulation). This is a sequential exercise:

- Whether the offending was intentional;
- Whether the offending was reckless, that is the Player knew (or should have known) there was a risk of committing an act(s) of Foul Play
- The nature of the actions, the manner in which the offence was committed including part of body used (for example, fist, elbow, knee or boot);
- The existence of provocation;
- Whether the Player acted in retaliation and the timing of such;
- Whether the Player acted in self-defence (that is whether the Player used a reasonable degree of force in defending himself);
- The effect of the Player's actions on the victim (for example, extent of injury, removal of victim Player from the game);
- The effect of the Player's actions on the Match;
- The vulnerability of the victim Player including part of victim's body involved/affected, position of the victim Player, ability to defend himself;
- The level of participation in the offending and level of premeditation;
- Whether the conduct of the offending Player was completed or amounted to an attempt; and
- Any other feature of the Player's conduct in relation to or connected with the offending.

With the Law number and category of conduct (e.g., high tackle, stiff arm tackle, etc.) the entry point will then be identified in the sanctions table.

You will see in the sanction table that for a number of different categories of Foul Play where the victim player's head is involved the action must be classified as either mid-range or top-end depending on the particular offence.

As you will appreciate it is a sequential exercise, considering the facts of every case against the checklist above. Stage 1 is the only stage of the process where the incident itself is reviewed and assessed. The next two stages look at external factors relating to the player him/herself to increase or decrease the sanction from the entry point.

### **Top End Offending – A Practical Note**

When undertaking an assessment of a Player's offending conduct Disciplinary Panels must apply the above criteria.

If after that assessment the panel concludes that the offending is at the top end (TE) of the scale of seriousness, it must make a further assessment of where the starting point should be within the prescribed range.

Sanctions for offences assessed as being at the top end (TE) are expressed in Appendix 1 as a figure followed by +. That means that the range is from that figure to the maximum sanction. For example, the offence of striking (Law 9.12), the top end range is from 10 – 52 weeks.

Disciplinary Panels must not automatically use 10 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.

As an illustrative example, the offence of striking (Law 9.12), the top end range is from 10 – 52 weeks. Disciplinary Panels must not automatically use 10 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.

Disciplinary Panels must use their rugby experience and discretion to decide on the appropriate sanction which properly reflects the seriousness of the offending and what weight should be attached to certain aspects of the assessment process such as nature of actions, effect on victim etc.

However, there are certain factors which should be considered and perhaps characterised as a Top End Offence. Such as:

- Visible on-field injury as witnessed by referee (e.g. bleeding nose)
- No injury after treatment
- Victim leaves the field but is fit the following week
- Victim is injured and cannot play for a few weeks
- Victim is badly injured (e.g. broken jaw requiring surgery)
- Multiple punching.
- Vulnerability of the Victim (e.g. was the victim defenceless)

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

Note: It is therefore very important for Disciplinary Panels to have accurate medical evidence before making this assessment. As a matter of practice, the WRU Disciplinary Manager and/or WRU Disciplinary Co-ordinator should always seek to obtain a medical certificate or report from the victim Player's doctor confirming the injuries and the likely period of time that 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 doctor and/or medical support staff about the injury should be obtained. The medical evidence and/or the report should be disclosed to the ordered off/cited Player or their representatives prior to the hearing.

## STAGE 2 – MITIGATING FACTORS

After undertaking an assessment of the seriousness of the Player's conduct that constitutes the offending, the Disciplinary Panel shall identify any relevant off-field mitigating factors and determine if there are grounds for reducing the period of suspension and subject to WRU Disciplinary Regulation and World Rugby Regulations the extent, if at all, by which the period of suspension should be reduced.

Note: These relate to factors rather than the act of foul play itself.

- The presence and timing of an acknowledgement of the commission of foul play by the offending Player;
- The Player's disciplinary record;
- The youth and/or inexperience of the Player;
- The Player's conduct prior to and at the hearing;
- The Player having demonstrated remorse for their conduct to the victim Player including the timing of such remorse; and
- Any other off-field mitigating factor(s) that the Disciplinary Panel considers relevant and appropriate.

A Disciplinary Panel cannot apply a greater reduction than **50% of the relevant entry point** suspension.

As the Regulation provides, any addition period imposed as part of the Aggravation process will not be deducted as part of this process.

The reduction is calculated as a percentage starting at 0% up to a maximum 50% based on an assessment of the factors above. Any fractions of weeks following this process are rounded down to the benefit of the player. There is one exception to give the Disciplinary Panel flexibility to deal appropriately with low-end cases. Where, having taken into consideration the mitigating factors, the Panel considers the sanction which would have been reached following the above process in a low-end case would be wholly disproportionate to the level and type of offending involved, the Panel may reduce the sanction by more than 50% down to no sanction in appropriate cases.

Note: This provision applies only in cases of a low-end entry point.



## STAGE 3 – AGGRAVATING FACTORS

The Disciplinary Panel will increase the sanction above the entry point if any of the following aggravating factors are present.

Note: These relate to factors rather than the act of foul play itself.

- The player's status generally as an offender of the Laws of the Game (looking at his/her disciplinary record in since the age of 18 years);
- A need for a deterrent to combat a pattern of offending in the Game.  
There may be a directive issued to combat a particular offence. For example tip tackling, in order to get the message through to change tackling techniques to protect player welfare; and
- Any other off-field aggravating factor(s) that the Disciplinary Panel considers relevant and appropriate.

If there are aggravating factors available, the sanction increases above the entry point. By way of example only, for a mid-range "tip tackle" (entry point: 10 weeks) there could be an increase of, say, two weeks if the player has a poor disciplinary record, increasing the sanction to 12 weeks.

## STAGE 4 - SANCTIONING PROCESS AND DECISION

The Final stage is for the Panel to set out the sanction/suspension. The Chair of the Panel will be responsible for coordinating the Panel's assessment and decision, in order to formulate the Panel's written decision. The written decision needs to explain the reasons of the Panel's decision on whether the red and/or citing was upheld, each stage of the sanctioning process and the final sanction/suspension and end date.

## APPEALS

### How do appeals work?

The Player and the WRU will have the right to appeal decisions of a Disciplinary Panel. A player can do so by notifying the WRU Disciplinary Department within seven (7) days of receiving the written decision. Appeals are heard by a three-person Appeal Panel who have no prior connection with the case.

### Appeal hearings are not simply a second hearing of the case.

Instead, the onus in an appeal is on the party appealing (the appellant) to prove that the Disciplinary Panel's came to a decision to which no reasonable body could have come; or made an error of law in reaching its decision; or failed to act fairly in a procedural sense; or that the sanction imposed was so excessive or unduly lenient as to be unreasonable.

If the appellant can convince the Appeal Panel of one of the above failings in the Disciplinary Panel's decision, then the appeal will be allowed and the Appeal Officer/Committee will issue a new decision/ sanction in line with the process explained above.



# DIOLCH YN FAWR

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