



TO: All Unions, sub-Unions/Zones and Referees' Associations

13 July 2022

Dear rugby colleagues,

RE: WORKING BETTER TOGETHER TO PROTECT OUR MATCH OFFICIALS & DEAL WITH RED CARD CASES

I hope you are all well and looking forward to a well-deserved break before training resumes again ahead of the 2023 season and to an exciting few months ahead with all the men's and women's 15s and 7s international fixtures.

As you will be aware, every season presents its challenges in relation to the range of on and off-field foul play and misconduct matters that our hardworking Judicial Committees, Code of Conduct Committees and Appeal Committees across the country are required to deal with. However, despite previous communications to the Game, there is one constant issue that continues to occupy our disciplinary administrators and committee members and that is the issue of inappropriate behaviour towards our Match-Officials, many of whom give up inordinate amounts of time to voluntarily turn out weekend upon weekend and ensure that all of our matches across the country can go ahead.

The behaviours experienced this season towards Match Officials include, on one end of the scale, dissent, chat-back, abuse, disrespect and allegations of being a cheat right through to threats, assault and serious violence. One player is currently before the criminal courts for punching and kicking a referee a number of times whilst on the pitch during a match. It goes without saying that all of these types of behaviours are utterly unacceptable and a scourge on the game. It remains the case that we all need to do better to ensure that these types of behaviour are properly dealt with under the Disciplinary Rules and Code of Conduct¹ and that robust sanctions are imposed to ensure, not only that the offending person is appropriately sanctioned for their conduct, but also that the sanctions imposed act as a significant deterrent to others in the game.

As you all know, we have the Disciplinary Rules and Code of Conduct in place in order to maintain and promote fair play, protect the safety and welfare of all Participants, ensure that acts of on and off-field misconduct are dealt with expeditiously and appropriately and that the image and reputation of the game is not adversely affected. However, we need to ensure that

¹ These can be found here: <https://australia.rugby/about/codes-and-policies/all-codes-and-policies>





the Rules and Code are properly and robustly applied at all times, and our Match Officials are protected, because, put simply, we have no matches without them.

Specifically, there are a number of issues that need to be addressed going forwards when our administrators and disciplinary committee members are dealing with:

- (a) The evidence of Match Officials in Match Official abuse cases and the evidence of Match Officials in Red Card cases generally; and
- (b) Cases of Match Official abuse under the Code of Conduct (e.g. if dealing with inappropriate behaviour from coaches, spectators etc.)

(A) Dealing with cases of on-field abuse of Match Officials by Players under the Disciplinary Rules

Whilst every case will of course turn on its own facts, the Disciplinary Rules provide the framework with how **on-field** disciplinary cases involving Players abusing Match Officials are to be determined, including a prescribed hearing and sanctioning process.

As you will be aware, Law 28 of *World Rugby’s Laws of the Game* provides that players **must respect the authority of the referee and they must not dispute the referee’s decisions.**

Appendix 1 to the Disciplinary Rules (mirrored from World Rugby Regulation 17) provides the following sanctions for verbal and physical Match Official abuse:

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

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

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

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

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





Low-end: 24 weeks	Mid-range: 48 weeks	Top end: 96+ weeks	Max: Life
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How a Judicial Committee is to arrive at the appropriate low-end, mid-range or top-end sanction entry point when assessing the seriousness of a Player's conduct and the application of any aggravating and mitigating factors is clearly set out in the Disciplinary Rules.

Disciplinary Rule 86 (ii) provides the following:

(ii) Based on the assessment of the offence(s) under consideration against the above features of offending, the Judicial Committee shall categorise the act(s) of Foul Play as being at the lower end, mid-range or top end of the scale of seriousness of offending and identify the applicable entry point as set out in Appendix 1.

(PLEASE NOTE: Disciplinary Rule 89 applies for offences categorised at the top end of the scale of seriousness of offending, where the Judicial Committee is required to identify an entry point between the period shown as the top-end for the particular offence and the maximum sanction in Appendix 16).

Therefore, if the Judicial Committee determines that an offence should attract a **top-end** entry point then **Disciplinary Rule 89** applies, which provides the following:

89. If a Judicial Committee categorises an offence at the top-end of offending, it shall then make a further assessment of the appropriate entry point between the period shown as the top end and the maximum sanction.

It is therefore imperative in top-end sanction cases that this further assessment occurs, and the appropriate entry point be decided upon. For example, in a case involving physical contact with a Match Official, where the Judicial Committee has determined it is a top-end case, the Judicial Committee will then need to determine the appropriate entry point which will, in accordance with the Sanctions table, lie somewhere between 18 and 52 weeks, unless the Committee considers that a greater sanction is required due to the seriousness of the matter.

The Rules provide (please see the NOTE at the end of the Sanctions Table, Appendix 1) the following:

PLEASE NOTE

In respect of offences not referred to in Appendix 1 above, appropriate sanctions may be imposed at the discretion of the relevant Judicial Committee or Appeal Committee.

Notwithstanding the Sanctions in Appendix 1 and/or the provisions of the Rules, in cases where the player's actions constitute mid-range or top end offending for





any type of offence which had the potential to result and, in fact, did result in serious/gross consequences to the health of the victim, the Judicial Committee may impose any period of suspension including a suspension for life.

(B) On-field Match Official abuse cases by Players and other Red Card cases generally

There are a number of other issues that need to be highlighted involving on-field Red Cards for Match official abuse by Players and in dealing with Red Cards generally.

Is the correct process being followed?

1. The first thing that rugby administrators and Judicial Committees need to give consideration too, is ensuring that they are acting under the correct procedures for the case that they are dealing with.

As an example, Red Card cases and citing cases involving players are to be dealt with as **on-field** matters under the Laws of the Game and **Rugby AU Disciplinary Rules**. They must not be dealt with under any a Rugby Body's own competition or other rules, otherwise any determination is void. **Disciplinary Rule 2** provides the following:

2. All Participants, Persons, Rugby Bodies and Unions are deemed to have agreed to be subject to these Rules. Furthermore, all Rugby Bodies and Unions shall only use these Rules to deal with any matter set out in Rule 1 (a) to (e) above. Where a Rugby Body or a Union has applied other rules, regulations, byelaws or procedures, then any determination is void and the matter shall be reheard by a Judicial Committee or Appeal Committee under these Rules

Please note that for cases that do not involve on-field conduct of Players (e.g., side-line or off-field conduct of Players, coaches, spectators etc.) then the process under the **Rugby AU Code of Conduct** needs to be followed.

When should a Match Official be requested to give evidence to the Judicial Committee?

2. **Disciplinary Rule 63(f)(vii)** provides that a Judicial Committee may request that the Match Official(s) (or Citing Commissioner) give evidence at a hearing (by telephone, video or in person) where the Committee considers it desirable.

Therefore, if a player in a Disciplinary Rules case (e.g., a Red Card) disputes any conduct alleged in the Red Card Report (including in Match Official abuse cases) or that the Red Card test has not been met, then the Judicial Committee should exercise its discretion and request that the Match Official(s) is available to give evidence at a hearing (by telephone or in person) so that any relevant questions can be put to the Match Official(s). This will ensure that the Committee has the best available evidence in making





its determination as to whether the Red Card should be upheld or not.² (See **Disciplinary Rule 68** below).

In a relatively recent case, a Player pleaded not guilty to an allegation of Match Official abuse and attended a hearing. The Player disputed the Match Official's account and asserted that he did not behave in the way described by the Match Official. The Judicial Committee did not ask the Match Official to attend and give him the opportunity of responding to what the Player had asserted, despite knowing that there was a significant challenge to the evidence that he had provided. The Judicial Committee then ruled that they were not persuaded on a balance of probabilities that the Player had committed the foul play alleged by the Match Official and dismissed the case. As I am sure you will appreciate, the way that the matter was dealt with from a process perspective caused considerable consternation with the Match Official and the Referees' Association.

These sorts of issues are however easily avoided by ensuring that the Match Official is part of the disciplinary process and that the committee has the best evidence available to it in making its determination.³

Can the Match Official be questioned in a hearing by a Player as of right?

3. **Disciplinary Rule 64** provides that where evidence is given before a Judicial Committee, any witness may be cross examined to the extent permitted by the Judicial Committee chairperson. Questions shall be put to the witness through the Judicial Committee chairperson if the Judicial Committee chairperson deems it appropriate.

This means that there is not a right for a Player/representative to directly cross-examine a witness (including a Match Official) in a Red Card matter, and that remains at the discretion of the Judicial Committee, based on the issues in the case and the requirement to ensure that all persons are afforded natural justice in the determination of any disciplinary case.

² As part of good case management practice, the Rugby Body's disciplinary secretary tasked with organising the hearing should ensure that he/she has the mobile number of the Match Official(s) and that the Match Official(s) have been notified of the proposed hearing date and that they may be required to give evidence to the Committee during the hearing.

³ If required to give evidence by the Judicial Committee, the Match Official will ordinarily be required to give their evidence early on in the hearing, and thereafter they can then be released by the Judicial Committee, or if they wish they can request to observe the remainder of the hearing. The Match Official's formal involvement in the hearing will cease once they have concluded their evidence and they will not be required to take any further part in the hearing process.





What onus is on the Player that challenges a Red Card?

4. **Disciplinary Rule 68** provides that the standard of proof for all matters under the Rules shall be on the balance of probabilities. In the event that the Player does not accept that the act(s) of Foul Play which is the subject of the Judicial Committee hearing warranted the Player being Red Carded, **the burden of proof rests on the Player to show that the Match Official was wrong.**

In effect this means that the starting point is that a Red Card should be upheld, unless there is cogent evidence provided to the Judicial Committee to demonstrate (on the balance of probabilities) on behalf of the Player that the Match Official was wrong in issuing the Red Card to the Player concerned.

As stated above, if there is a challenge by a Player to the Match Official's account of an act of foul play, then the Match Official should be given the opportunity of dealing with any such challenge at the hearing before the Judicial Committee makes any determination on the matter.

Should the Referee's Association be permitted to attend any hearing as an observer?

4. **Disciplinary Rule 63(f)(viii)** provides that the Judicial Committee shall allow a nominated officer from the Referees' Association to attend any hearing as an observer (please note that this irrespective of whether the Match Official who issued the Red Card has been requested by the Committee to attend the hearing to give evidence in accordance with Rule 63(f)(vii)).

When should a Player receive a 50% reduction from the relevant entry point suspension for a Red Card offence?

5. One of the issues that has been brought to our attention recently (specifically in relation to Red Card cases for Match Office abuse, but also Red Card cases generally) is Judicial Committee routinely giving a 50% discount off entry-point suspensions for Players, even where the circumstances of the case do not merit it.

Please note that **Disciplinary Rule 92** is clear and provides that in assessing the percentage reduction applicable for mitigating factors, the Judicial Committee will start at **0% reduction** and apply the amount, if any, to be allowed as mitigation up to the maximum 50% reduction.

This means that the Player needs to satisfy the Judicial Committee of all the relevant mitigating factors (see **Disciplinary Rule 88**) before the full 50% can be allowed i.e., a discount of 50% is not the routine starting point for the Judicial Committee, 0% reduction is and the Judicial Committee can work up from that starting point if required.





As an example, a Player that denies that any act of foul play occurred and it is subsequently found proved by a Judicial Committee or if the Player has a prior disciplinary record, then they should not generally be entitled to the full 50% discount.

Is the Rugby Body required to share the disciplinary judgment with the relevant Referees' Association?

6. **Disciplinary Rule 80** provides that the Judicial Committee shall provide a written report of the decision to the Participant no later than **5 Business Days** after the hearing and record the details of the findings in Rugby Xplorer (or the relevant competition management system used by the State/Territory Union). Rugby AU's Short Judgment Form contained at Appendix 7, or a form approved by the relevant State/Territory Union may be used for this purpose. **In a case involving an Ordering Off or allegation of Match Official abuse, a copy of the report shall also be provided to the Referees' Association of the Match Official(s) concerned by the State/Territory Union or Rugby Australia.**

What is required from the Match Officials in Red Card cases generally?

7. Match Officials are required to provide comprehensive, accurate and legible reports of all Ordering Offs (including allegations of Match Official abuse) and submit these in the stipulated timeframe and make themselves available to attend a hearing (in person or by phone) if required by the Judicial Committee. This will assist in making sure that the Judicial Committee has the **best available evidence** from the Match Official before making its determination on the allegation(s).

My Rugby Body is seeing an increase in Match Official abuse cases, what can be done to increase sanctions on Players under the Disciplinary Rules and, in so doing, act as a deterrent to others?

8. **Disciplinary Rule 87 (Aggravating Factors)** provides as follows:

Having identified the applicable entry point for consideration of a particular incident, the Judicial Committee shall identify any relevant off-field aggravating factors and determine if any additional period of suspension, above the applicable entry point for the offence, should apply to the case in question.

Off-field aggravating factors include:

- (a) *the Player's status generally as an offender of the Laws of the Game*





(b) the need to deter a particular type or 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;

Therefore, should any Rugby Body continue to see incidents of Match Official abuse in their competitions (or an increase in such cases), then the Rugby Body should give serious consideration to **issuing a directive** to all their clubs and advise them that the Judicial Committee will seek to aggravate any sanctions imposed on players for such conduct in the future.

Should Match Officials have a say in the entry point of a sanction imposed on a Player?

9. No, Match Official(s) should **not** be asked to indicate in any Ordering-Off report what entry point the seriousness of the offending should be categorised at (e.g., low-end, mid-range or top-end).

The reasons for this are that the Disciplinary Rules require that this is a matter to be determined by the Judicial Committee once it has heard all of the evidence, including evidence that is obtained post-match, e.g., a medical report from any injured victim player if relevant etc. It is however expected that the Match Official will provide a detailed account as to the foul play alleged however and what the consequences were, i.e., “I saw Blue Player no. 6 punch opposition Green Player no. 6 three times in the face with force and the Green Player received a serious cut as a result. This led to the Green Player leaving the pitch for medical assessment and he was replaced and did not return.”

The Match Official should however keep their report factual and not seek to categorise it as low-end, mid-range or top end for the reasons set out above.

(C) Off-field misconduct by Players and other Participants and increasing sanctions

10. As stated above, the **Rugby AU Code of Conduct** (Code) is to be used for allegations of Match Official abuse that do not arise as a result of a Red Card (for example, to deal with allegations of **off-field misconduct** by Players or by coaching staff during or after a match etc.).

Clause 4.1 (x) provides the following:

Relevant Persons and Relevant Organisations must, at all times, accept and respect the authority of Match Officials, refrain from using any offensive language





or behaviour, show unnecessary dissension, displeasure towards Match Officials, whether on or off the field of play or any other official from relevant Organisation.

Furthermore, as with the Disciplinary Rules, sanctions under the Code can be increased where necessary to deal with the prevalence of Match Official abuse within a Rugby Body's competitions, by the Rugby Body issuing a directive to the game that any future cases of Match Official abuse that come before a Code of Conduct Committee will, if admitted or proved, attract increased sanctions.

Clause 13.4 of the Code provides the following:

Aggravating and/or Mitigating Factors

13.4 In determining the appropriate sanction(s), the Code of Conduct Committee shall have regard to any relevant aggravating and mitigating factors, including the following:

- (a) the presence and timing of an acknowledgement of culpability/ wrongdoing by the Relevant Person or Relevant Organisation;*
- (b) the Relevant Person's or Relevant Organisation's disciplinary record and/or good character;*
- (c) the conduct prior to and at the hearing;*
- (d) remorse for the conduct including the timing of such remorse including any steps taken to rectify any wrongdoing;*
- (e) any directives from a Relevant Organisation regarding Match Official abuse; and***
- (f) any other aggravating and/or mitigating factors considered relevant by the Code of Conduct Committee.*

Conclusion

There can be no hiding from the fact that rugby continues to have issues, year-on-year, with regards to on and off-field Match Official abuse and for us all, as a collective, to accept that unless we get better at dealing with these issues then they will continue to exist and threaten the very fabric and core values of our sport.

As you are all no doubt aware, we are currently experiencing a shortage of Match Officials across the country, and it goes without saying that it is very challenging to recruit and retain them if they are subject to abuse, especially where there is a perception that Match Official





abuse cases have been handled by the Rugby Body in an inappropriate or manifestly too lenient manner.

We need to recognise that there can be no matches without our Match Officials, and they need to be better protected. This means that all cases of Match Official abuse must be treated seriously and, where conduct is proved, robust sanctions imposed on Participants in an effort to drive this conduct out of rugby and make Match Officiating a really enjoyable role. That way rugby will be able to retain and recruit talented individuals to act as Match Officials in the future.

I strongly urge all Rugby Bodies to discuss the contents of this letter and to send out a clear and strong message to all of their Participants that positive on-field and sideline behaviour, particularly towards Match Officials, must be demonstrated at all of our matches and events, no matter the level.

To support this approach, all Rugby Bodies are asked to consider the need, within their own competitions and jurisdictions, to issue a directive to put all their Participants and Clubs on notice that in order to seek a change in behaviour and eradicate Match Official abuse that increased sanctions are going to be imposed going forwards under the Disciplinary Rules and Code of Conduct.⁴

Additionally, all Rugby Bodies are requested to review their match-day processes and procedures and ensure that they are fit for purpose when it comes to putting appropriate measures in place (e.g., the appointment of suitable experienced Ground Marshalls, roping off pitches, no alcohol pitch-side etc.). in order to seek to mitigate the risks of Match Official abuse by coaching staff and spectators etc.

The Rugby AU Integrity Team remains on hand to assist you with any questions or concerns that you may have. In the meantime, I wish you all the very best for the forthcoming season and hope that we can all work much better together to ensure that our Match Officials are protected and given the respect that they deserve.

Yours in rugby,

Gez McEvelly
Head of Integrity, Rugby AU

⁴ Here is a recent example of such a directive, issued by South Australia Rugby Union:
<https://sa.rugby/news/letter-to-the-community-regarding-match-official-abuse-202276>

