

# **RUGBY AU**

## **Code of Conduct – Sanction Guidelines**

## **A. INTRODUCTION**

1. Rugby AU is committed to promoting and protecting the image and integrity of rugby and its participants and requires all those involved in rugby to act in accordance with the game's core values of *Passion, Integrity, Discipline, Respect and Teamwork*.
2. Rugby AU has a Code of Conduct (Code) in place that sets out the expected standards of behaviour of all rugby participants in order to ensure that a safe, fair and inclusive environment is provided for all and to deter conduct that could damage the image and integrity of the game.
3. The Code also sets out the approach for the handling and resolution of complaints, including the disciplinary and appeals process and the implementation of sanctions for prohibited conduct.

## **B. PURPOSE OF THIS GUIDANCE**

5. This guidance has been prepared:
  - to assist Appointed Persons when they are drafting Breach Notices under clause 8 of the Code in specifying an appropriate and proportionate sanction;
  - to assist Code of Conduct and Appeal Committees when they are dealing with any matters under the Code and are required to determine whether a sanction should be imposed;
  - to assist Relevant Persons and Relevant Organisations that are alleged to have committed Prohibited Conduct in understanding the range of sanctions that are available to Appointed Persons and Code of Conduct/Appeal Committees and the factors that may be taken into account in determining such sanctions; and
  - to assist complainants and other individuals that have an interest in the outcome of a complaint involving prohibited conduct under the Code in understanding the range of sanctions that are available to Appointed Persons and Code of Conduct/Appeal Committees.
6. Please note that whilst this document has been prepared to assist those mentioned above in providing guidance as to the range and application of sanctions, it is not intended to restrict the broad discretion given to Appointed Persons and Code of Conduct/Appeal Committees in determining appropriate and proportionate sanctions for prohibited conduct under the Code.
7. Every case will be fact-specific and those making sanction assessments need to have the ability to impose sanctions based on all the relevant information in their possession, thus enabling the appropriate resolution of complaints and the image and integrity of rugby to be protected. The fact that a sanction has been imposed that falls outside of this guidance, does not necessarily mean that the sanction was inappropriate or that the decision maker(s) erred in their assessment. Neither does it automatically follow that any sanction imposed by a Code of Conduct Committee that falls outside of the guidance will be grounds for a successful appeal to an Appeal Committee established under the Code.

### **C. AVAILABLE SANCTIONS**

7. Under the Code the following sanctions may be imposed on any Relevant Person or Relevant Organisation for prohibited conduct, including:
- (a) a reprimand and/or warning as to future conduct;
  - (b) a direction to provide a verbal or written apology;
  - (c) a direction to undertake a training/education/counselling session(s) to address their behaviour;
  - (d) the payment of a fine and/or compensation;
  - (e) a suspended sanction and/or good behaviour period;
  - (f) placing conditions on or the removal of accreditation;
  - (g) removal or withdrawal of awards or achievements (such as life membership);
  - (h) suspension from membership from a Relevant Organisation;
  - (i) suspension or exclusion from specific or all rugby activities for a set period of time (for example: from playing, officiating, coaching and/or administration of the Game);
  - (j) a deduction or cancellation of points, or any similar competition or tournament-based sanction including expulsion from the remainder of a competition, tournament and/or series of matches;
  - (k) exclusion orders from a Relevant Organisation's grounds/facilities;
  - (l) the withdrawal of other benefits of membership with the Relevant Organisation and/or
  - (m) any combination of the above or such other sanction that may be appropriate.

### **D. ASSESSING SERIOUSNES OF PROHIBITED CONDUCT**

8. When determining the most appropriate and proportionate sanction in a particular case, the Appointed Person<sup>1</sup> or the Code of Conduct/Appeal Committee shall (as required by the Code) have regard to the factors set out in (a) to (g) below. Additionally, examples of what the decision maker(s) may consider to be relevant in assessing these factors are also outlined, but please note that any assessment need not be limited to these examples and should always take into account the specific circumstances of the relevant breach(es).
- (a) **the nature and gravity of the breach(es) and the impact of the offending on any Relevant Person or Relevant Organisation.** This may include determining how serious the conduct was (e.g., a single or multiple acts) and what impact it had on any Relevant Person or Organisation, including any harm, financial loss/damage, reputational impact (including as a result of adverse media publicity), disruption to events or administrative functions etc.
  - (b) **the degree to which the conduct of the Relevant Person or Relevant Organisation was intentional;** This may include whether or not the conduct was intentional and

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<sup>1</sup> When preparing a breach notice under clause 8 of the Code.

whether it was part of an orchestrated, planned, premeditated series of events/conduct or whether it was in response to another event or resulting from a degree of provocation etc.

- (c) **the degree to which the consequences of the conduct were reasonably foreseeable at the time the conduct took place.** This may include considering whether there is a close connection between the conduct and any consequences that arose as a direct or indirect result.
- (d) **the degree to which the behaviour or conduct may have caused offence to the general public's sensibilities;** This may include considering the degree to which the conduct became public knowledge and if so, how did it become public knowledge and to what extent was it reported/commented on. Did the conduct fall below general community standards expected, especially given the respondent's position within a community sport?
- (e) **the degree to which the conduct impacted on the integrity of a rugby Activity.** This may include considering the degree to which the conduct impacted on the administration, planning or holding of a rugby Activity;
- (f) **the degree to which the conduct caused reputational damage to any Relevant Person, Relevant Organisation or rugby Activity.** This may include considering what, if any, reputational damage was caused and how significant was it to the Relevant Person, Relevant Organisation or rugby Activity as a result of the Prohibited Conduct; and
- (g) **any other factor that the Appointed Person<sup>2</sup> or the Code of Conduct/Appeal Committee determines is relevant to the circumstances of the case.**

#### **E. CONSIDERATION OF AGGRAVATING AND/OR MITIGATING FACTORS**

9. The Appointed Person<sup>3</sup> or the Code of Conduct/Appeal Committee shall, in addition to the factors set out in paragraph 8 above, also 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<sup>4</sup>; and

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<sup>2</sup> When preparing a breach notice under clause 8 of the Code.

<sup>3</sup> When preparing a breach notice under clause 8 of the Code.

<sup>4</sup> Match Official abuse can take many forms, ranging from disrespect, causing offense, to causing someone physical or mental pain or distress.

- (f) any other aggravating and/or mitigating factors considered relevant by the Code of Conduct/Appeal Committee.

**F. DETERMINING THE APPROPRIATE ENTRY-POINT FOR PROHIBITED CONDUCT**

10. Having regard to the factors set out in paragraphs 8 and 9 above, the Appointed Person<sup>5</sup> or the Code of Conduct/Appeal Committee will determine the degree to which the Relevant Person's or Relevant Organisation's conduct is in breach of the Code, and in doing so, categorise the level of the breach as being a:
- (a) Low-Level Breach;
  - (b) Mid-Level Breach; or
  - (c) High-Level Breach.

**Please note that various sanctions listed in paragraphs 11, 12 and 13 have maximums set out, but these should not be taken to be default sanctions for all prohibited conduct within that level of breach, i.e., decision maker(s) should work up to the maximum sanction and not down from the maximum under the relevant level.**

**Low-Level Breach**

11. Subject to paragraph 6, should the Appointed Person<sup>6</sup> or the Code of Conduct/Appeal Committee determine that the Relevant Person or Relevant Organisation has committed a Low-Level Breach, they may direct that the Relevant Person or Relevant Organisation be subjected to one or more of the following sanctions:
- (a) a reprimand and/or warning as to future conduct;
  - (b) a direction to provide a verbal or written public or private apology;
  - (c) a direction to undertake a training/education/counselling session(s) to address their behaviour (which may be at the individual's own expense, but must be reasonable in all the circumstances);
  - (d) the payment of a fine and/or compensation (up to a maximum of \$500);
  - (e) a suspended sanction and/or good behaviour period (up to a period of 3 months);
  - (f) placing conditions on accreditation (up to a period of 3 months);
  - (g) suspension from membership from a Relevant Organisation (up to a maximum of 3 months);

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<sup>5</sup> When preparing a breach notice under clause 8 of the Code.

<sup>6</sup> When preparing a breach notice under clause 8 of the Code.

- (h) suspension or exclusion from specific or all rugby activities (up to a maximum of 3 months), for example, from playing, officiating, coaching and/or administration of the Game;
- (i) conditions of entry or exclusion orders from a Relevant Organisation's grounds/facilities (up to a maximum period of 3 months);
- (j) the withdrawal of other benefits of membership with the Relevant Organisation (up to a maximum of 3 months) and/or
- (k) any combination of the above or such other sanction that may be appropriate.

**Mid-Level Breach**

12. Subject to paragraph 6, should the Appointed Person<sup>7</sup> or the Code of Conduct/Appeal Committee determine that the Relevant Person or Relevant Organisation has committed a Mid-Level Breach, they may direct that the Relevant Person or Relevant Organisation be subjected to one or more of the following sanctions:
- (a) reprimand and/or warning as to future conduct;
  - (b) a direction to provide a verbal or written public or private apology;
  - (c) a direction to undertake a training/education/counselling session(s) to address their behaviour (which may be at the individual's own expense, but must be reasonable in all the circumstances);
  - (d) the payment of a fine and/or compensation (up to a maximum of \$1000);
  - (e) a suspended sanction and/or good behaviour period (up to a period of 12 months);
  - (f) placing conditions on accreditation (up to a period of 12 months);
  - (g) suspension from membership from a Relevant Organisation (up to a maximum of 12 months);
  - (h) suspension or exclusion from specific or all rugby activities (up to a maximum of 12 months), for example, from playing, officiating, coaching and/or administration of the Game;
  - (i) conditions of entry or exclusion orders from a Relevant Organisation's grounds/facilities (up to a maximum period of 12 months);

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<sup>7</sup> When preparing a breach notice under clause 8 of the Code.

- (j) the withdrawal of other benefits of membership with the Relevant Organisation (up to a maximum of 12 months) and/or
- (k) any combination of the above or such other sanction that may be appropriate.

### **High-Level Breach**

13. Subject to paragraph 6 and 14, should the Appointed Person<sup>8</sup> or the Code of Conduct/Appeal Committee determine that the Relevant Person or Relevant Organisation has committed a High-Level Breach, they may direct that the Relevant Person or Relevant Organisation be subjected to one or more of the following sanctions:
- (a) reprimand and/or warning as to future conduct;
  - (b) a direction to provide a verbal or written public or private apology;
  - (c) a direction to undertake a training/education/counselling session(s) to address their behaviour (which may be at the individual's own expense, but must be reasonable in all the circumstances);
  - (d) the payment of a fine and/or compensation (up to a maximum of \$2,500);
  - (e) a suspended sanction and/or good behaviour period (up to a period of 24 months);
  - (f) placing conditions on accreditation (up to a period of 24 months);
  - (g) suspension from membership from a Relevant Organisation (up to a maximum of 24 months);
  - (h) suspension or exclusion from specific or all rugby activities (up to a maximum of 24 months), for example, from playing, officiating, coaching and/or administration of the Game;
  - (i) conditions of entry or exclusion orders from a Relevant Organisation's grounds/facilities (up to a maximum period of 24 months);
  - (j) the withdrawal of other benefits of membership with the Relevant Organisation (up to a maximum of 24 months) and/or
  - (k) any combination of the above or such other sanction that may be appropriate.
14. Notwithstanding the guidance set out in paragraph 13 above, in cases where it has been assessed that the Relevant Person's or Relevant Organisation's Prohibited Conduct constitutes high-end offending and that it resulted or had the potential to result in serious/gross

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<sup>8</sup> When preparing a breach notice under clause 8 of the Code.

consequences to another person or organisation; to the image or integrity of the game or to the health, welfare or safety of another person etc., then the Appointed Person<sup>9</sup> or the Code of Conduct/Appeal Committee may impose sanctions greater than those set out above. The reasons for increasing the sanction shall be set out in writing to Relevant Person or Relevant Organisation.

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<sup>9</sup> When preparing a breach notice under clause 8 of the Code.