



# New Zealand Rugby Union Disciplinary Rules 2021

Updated as at 1 March 2021

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# New Zealand Rugby Union Disciplinary Rules

As at 1 March 2021

## Preliminary Section

- (A) Regulations 17, 18 and 20 of the World Rugby (“WR”) Regulations Relating to the Game have been designed to achieve a universal and consistent “rugby specific” approach to Foul Play as well as Misconduct. In the event of any question or issue arising in connection with the interpretation and/or effect of these Rules, they should be interpreted and given effect to in a manner which is consistent with the spirit, scheme and intent of World Rugby Regulations 17 (and in particular the core principles of Regulation 17 as set out below), 18 and 20.
- (B) All Players and Persons within New Zealand, including minors, who are participants in the Game of Rugby Union played in accordance with the Laws of the Game as framed by WR are, by virtue of such participation and/or membership of a Club and/or a Provincial Union and/or who are otherwise bound by the Rules of the NZRU, deemed to have agreed to be subject to these Rules.
- (C) These Rules have the status of an NZRU Regulation and have been adopted and updated by the NZRU Board in accordance with the power provided pursuant to clause 2.2(a) of the NZRU Constitution.

## Flowchart of Provincial Union Disciplinary Process

The flowchart provided as Appendix 1 to these Rules is to aid users of the Rules in familiarising themselves with the disciplinary process adopted where a Provincial Union has jurisdiction. It is by no means a substitute for the user reading the full text of these Rules and in the event of any inconsistency the text of the Rules prevails.

## Core Principles - Foul Play

The principles set out below are mandatory in disciplinary regulations at all levels of the Game:

- (a) The sanctions applicable to Foul Play shall be the same throughout the Game.
- (b) In accordance with the applicable sanction table (i.e. Sections 9 or 10), suspensions will ordinarily be imposed for a number of weeks in which the relevant Player would otherwise have been scheduled to play a Match which meets the criteria in Rule 87. All Matches are equal regardless of the level of competition provided they meet the criteria in Rule 87. A Player suspended from playing the Game shall be suspended from participating in any Match at any level during the period of his or her suspension.

- (c) The core sanctioning process set out in Rule 87 of these Rules shall be applied to all disciplinary cases involving Foul Play at all levels of the Game.
- (d) The principles of natural justice shall be adhered to in all disciplinary proceedings. Such principles include Players cited/Ordered Off shall have the right to know the evidence against them, shall have the right to be heard, to be represented, to produce evidence and defend themselves before independent adjudicators.
- (e) All Duty Judicial Officers, Judicial Officers, Judicial Committees, Appeal Officers, Appeal Committees shall meet the criteria for appointment in these Regulations and shall be independently appointed and shall exercise their functions independently of the parties to the Match and/or proceedings and of the Union under whose jurisdiction responsibility falls for the relevant Match and shall not perform a governance or management role in any Union involved in the Match and/or proceedings.
- (f) Citing Commissioners shall act independently of the Judicial Committee or Judicial Officer. The Citing Commissioner may make such enquiries as he or she sees fit in order to fulfil their duties, including making enquiries of and collaborating with the Match Officials of a Match or other Citing Commissioners, provided that the ultimate decision as to whether or not to cite the player is the Citing Commissioner's.
- (g) Teams may submit complaints in accordance with Rules 22 and 170(2).
- (h) The threshold test for citing ("Red Card Test") shall be as set out in Rule 170(1).
- (i) The standard of proof for Ordering Off and a Complaint shall be as provided in Rule 86.
- (j) Players Ordered Off or cited by a Citing Commissioner shall be provisionally suspended pending the hearing of the case.
- (k) Suspended Players who appeal shall remain under suspension in accordance with these Rules.
- (l) Unions and WR shall have the right to appeal as set out in Rules 117 and 189.
- (m) It is recognised that due to particular circumstances Unions may wish to depart from certain provisions of these Rules for secondary school rugby and they have the flexibility to do so provided always that no rules or procedures may be introduced (and/or omitted) by any Union in respect of their disciplinary rules which conflict with (and/or do not properly implement) the Core Principles as set out in these Rules, the principle of universality and/or are contrary to the Laws of the Game unless they have been approved in writing by the NZRU.

## SECTION 1: DEFINITIONS AND INTERPRETATION

1. In these Rules, unless the context requires or indicates otherwise, the following definitions will apply:

**CEO** - means the Chief Executive Officer of either the NZRU or a Union as the context requires.

**Citing** - A Player is cited when the Citing Commissioner cites a Player for any act(s) of Foul Play that in the opinion of the Citing Commissioner warranted the Player concerned being Ordered Off.

**Citing Commissioner Warning (CCW)** - means a warning issued by an NZRU Citing Commissioner for any act(s) of Foul Play that in the opinion of the Citing Commissioner falls just short of warranting that the Player concerned be Ordered Off in circumstances where the act(s) of Foul Play was not subject to a Temporary Suspension or Ordering off.

**Club** - means any rugby club or other rugby organisation in New Zealand associated for the time being for the purpose of playing, coaching, administering or refereeing rugby football in New Zealand affiliated to any Provincial Union, including any school that fields a team or teams that participate in competitions under the jurisdiction of a Provincial Union, or the NZRU and which is deemed to have subscribed to and be bound by the Rules and Regulations of the NZRU and WR.

**Collective Agreement** - means the collective employment agreement between the NZRU and NZ Rugby Players Collective as amended from time to time.

**Disciplinary Tribunals / Judicial Tribunals** - means Judicial Officers, Duty Judicial Officers, Judicial Committees, Appeal Officers, Appeal Committees and Disciplinary Committees.

**Duty Judicial Officer** - means a Judicial Officer appointed to perform the role set out in Rule 163.

**Foul Play** - means conduct which constitutes a breach or breaches of Law 9 of WR's 'Rugby: The Laws of the Game' and/or a breach or breaches of Law 3.7 or Law 4.7.

**Game** - means the game of rugby football played in accordance with the Laws of the Game.

**Junior Rugby** - means all levels of age-grade rugby below Secondary School level (also known as Small Blacks rugby);

**Match** - means a rugby match in which two teams compete against each other and includes sevens, pre-season and trial Matches.

**Match Official** - means a referee and/or an assistant referee and shall include, when appointed, a citing commissioner, television match official and/or the fourth official.

**Misconduct** - shall mean any conduct, behaviour, statements or practices on or off the playing enclosure during or in connection with a Match or otherwise and/or that is unsporting and/or cheating and/or unruly and/or ill-disciplined and/or that brings or has the potential to bring the sport of Rugby Union and/or any of its constituent bodies, WR and/or its appointed personnel or commercial partners and/or Match Officials and/or judicial personnel, the NZRU, Provincial Unions, Clubs and/or any of these organisation's commercial partners into disrepute. Misconduct shall only exclude Foul Play during a Match which has been the subject of consideration and a finding under the regime for ordering off and/or citing under Section 3, Parts 1 and 2 or Section 7, Parts 1 or 2.

It is not possible to provide a definitive and exhaustive list of the types of conduct, behaviour, statements or practices that may amount to Misconduct under these Rules. By way of illustration, each of the following types of conduct, behaviour statements or practices by any person however or wherever undertaken are examples of Misconduct:

- (a) acts of violence or intimidation within the venue in which the Match is being played including (without limitation) any tunnel, changing rooms and/or warm-up areas;
- (b) acting in an abusive, insulting, threatening, intimidating or offensive manner towards Match Officials or any Person associated with the teams participating in the Match or spectators;
- (c) acts or statements that are, or conduct that is, discriminatory by reason of religion, race, sex, sexual orientation, disability, colour or national or ethnic origin;
- (d) providing inaccurate and/or misleading information about the previous disciplinary record in any proceedings under these Rules or other disciplinary proceedings and/or misleading information concerning the Player's future playing intentions;
- (e) any breach of WR Regulation 18 Appendix 1 (Code of Conduct);
- (f) comments and/or conduct in connection with current and/or anticipated disciplinary proceedings and/or Match officiating (or any aspect thereof), which may be prejudicial to and/or adversely impact on current and/or anticipated disciplinary proceedings (including appeal hearings) and/or which are prejudicial to the interests of the Game and/or any Person and/or disciplinary personnel including Disciplinary Tribunals and Citing Commissioners;
- (g) failure by a Club to take reasonable steps to prevent or curtail conduct by a non-member which would be Misconduct if committed



by a member, in circumstances where the Club has control over that non-member, for instance when the conduct occurs in or on the Club's premises;

- (h) any breach of WR Regulation 6 or the NZRU Anti-Corruption and Betting Regulations;
- (i) failure to co-operate with the citing and/or judicial process in the absence of a reasonable explanation or making a citing referral or citing complaint frivolously or in bad faith;
- (j) failure or refusal by a Player, Person or Rugby Organisation to co-operate fully with any investigations conducted pursuant to the wagering rules (including WR Regulation 6), or the anti-doping rules (including WR Regulation 21), or in connection with any complaint or dispute which is or could be brought before a Disciplinary or Appeal Committee or Judicial or Appeal Officer; and/or
- (k) making any comments (including to the media) that attack, disparage or denigrate the Game and/or any of its constituent bodies, WR, NZRU or Provincial Union and/or its appointed personnel or commercial partners and/or Match Officials and/or disciplinary personnel (including Disciplinary Tribunals and Citing Commissioners).

**NZRU** - means the New Zealand Rugby Union Incorporated.

**Ordered Off/Red Card** - a Player is Ordered Off when that Player is sent off the playing enclosure permanently by the referee and can take no further part in the Match in which that Player is Ordered Off. For the avoidance of doubt, a Player will not be deemed to have been Ordered Off if that Player receives one Temporary Suspension and one Citing Commissioner Warning or two Citing Commissioner Warnings in the same Match.

**Person** - shall mean a member of any Club or any Provincial Union or anybody associated with or affiliated to a Provincial Union or the NZRU or any person associated with any of these organisations for the time being in a playing, coaching, administering or refereeing capacity in rugby union in New Zealand and who are deemed to have subscribed to and be bound by the Rules and Regulations of their Provincial Union, the NZRU and WR.

**Player** - shall mean a member of any Club of any Provincial Union associated for the time being for the purpose of playing the Game in New Zealand and who is deemed to have subscribed to and be bound by the Rules and Regulations of their Provincial Union, the NZRU and WR and includes persons who participate in rugby union prior to membership being formally registered.

**Provincial Union or Union** - means a Provincial Union affiliated to the NZRU.

**Temporarily Suspended/Yellow Card - a Player is Temporarily Suspended** when that Player is cautioned in a Match by the referee and temporarily sent off the playing enclosure by the referee for a period of ten minutes playing time which is spent in the so-called “sin bin”. The Temporary Suspension of a Player is normally done by the showing of a yellow card (“Yellow Card”) by the referee but this is not a requirement.

2. For the purposes of these Rules:
  - words importing the masculine gender include the female; and
  - references to the sanctions set out in Section 9, are to the sanctions set out in Section 9 as updated from time to time by the NZRU to maintain consistency with WR Regulation 17 provided however that where the sanctions set out in Section 9 are updated by the NZRU between the date of the event that is the subject of the hearing and the conclusion of the hearing, the sanctions applicable to the hearing will be those that applied at the date of the event.

## **SECTION 2: JURISDICTION**

### **Matches for which the NZRU has Jurisdiction**

3. Subject to any Tour Agreement with another National Union, the WR Regulations Relating to the Game and the SANZAAR Tournament Rules, the NZRU shall have jurisdiction to hear and determine disciplinary proceedings in accordance with these Rules arising from or in connection with any of the following Matches played in New Zealand:
  - (a) NZRU representative team Matches;
  - (b) Trial Matches for all NZRU representative teams;
  - (c) Super Rugby Pre-Season Matches;
  - (d) Premier Competition Matches but excluding pre-season Matches;
  - (e) Heartland Championship Matches but excluding pre-season Matches;
  - (f) Women’s Inter-Provincial Competition Matches but excluding pre-season Matches;
  - (g) Ranfurly Shield Matches;
  - (h) Men’s B Competition Matches;
  - (i) Non-Championship Matches between Provincial Union Men’s and Women’s Senior “A” teams but excluding pre-season Matches for the Premier and Women’s Competition;

- (j) Matches between an overseas Provincial Union Senior “A” team or equivalent and a New Zealand Provincial Union Senior “A” team; and
- (k) Matches in the Regional and National Sevens Competitions;
- (l) Such other Matches as the NZRU may from time to time determine.

#### **Matches for Which Provincial Unions Have Jurisdiction**

- 4. All other disciplinary proceedings arising from or in connection with any Match in New Zealand outside of those listed in Rule 3 shall be within the jurisdiction of Provincial Unions to hear and determine in accordance with these Rules.
- 5. Subject to Rule 6, the Union within whose boundaries a Match under Rule 4 is played shall have jurisdiction for any disciplinary proceedings arising from or in connection with that Match.
- 6.
  - (1) Where the Player or Person subject to disciplinary proceedings is a member of or associated with a Club affiliated to a Union other than the one in whose boundaries the Match is played, the disciplinary proceedings can, with the written agreement of both Unions, be transferred to the Union to which the Player’s or Person’s Club is affiliated (“the Home Union”).
  - (2) In the event that the disciplinary proceedings are transferred to the Home Union, all references in these Rules to the Union shall be read as a reference to the Home Union and the Home Union shall be responsible for all aspects of the disciplinary proceedings from the time of the written transfer of jurisdiction. The other Union shall cooperate with the Home Union and provide the Home Union with all documents and information necessary for the Home Union to conduct disciplinary proceedings.
  - (3) For the avoidance of doubt, in the event that both Unions do not agree to move the disciplinary proceedings to the Union to which the Player’s or Person’s Club is affiliated, the disciplinary proceedings shall be dealt with by the Union in whose boundaries the Match was played.

### **SECTION 3: PROVINCIAL UNION INITIAL JUDICIAL PROCEDURES**

#### **Appointment of Judicial Panel and Designated Disciplinary Officer**

- 7. The Chairperson of each Union or their nominee shall appoint a panel of individuals (“the Judicial Panel”) of such number as the Chairperson decides, each of whom shall be eligible to sit as Judicial Officers or members of a Judicial Committee and who are independent of the Union. The Chairperson of each Union will appoint one of the panel as the Chairperson. The Chairperson of the Union shall have the discretion to add further individuals to the Judicial Panel at any time.

8. The Judicial Panel shall be chaired by a Judicial Officer who shall be (i) a legal practitioner (or a serving or retired judge), with appropriate rugby experience; or (ii) persons with appropriate training or experience as defined by the Union responsible for the implementation of disciplinary procedures in respect of the Match; and who shall meet any additional requirements, including training qualifications, prescribed by the Union responsible for the implementation of disciplinary procedures in respect of the Match.
9. The Chairperson of the Judicial Panel shall appoint individual Judicial Officers or Judicial Committees of three persons from members of the Judicial Panel to act in the name of the Union for the purposes of hearing and determining disciplinary proceedings for which the Union has jurisdiction. A Judicial Panel member who is a member of the same Club as the Player, Person or Club against whom disciplinary proceedings are taken, the victim Player or a complainant, shall not act as Judicial Officer or be a member of the Judicial Committee which determines those disciplinary proceedings and shall not attend the hearing.
10. Members of the Judicial Panel shall be appointed for a period of up to three years, following which they shall, unless reappointed by the Chairperson of the Union, automatically cease to be a member of the Judicial Panel. The Chairperson may, at his or her discretion, remove any member of the Judicial Panel, at any time for any reason.
11. The Chairperson or CEO of the Union shall appoint a person to be the designated disciplinary officer for the purposes of these Rules.

### **Disciplinary Proceedings**

12. Any Union Judicial Officer or Judicial Committee appointed in accordance with Rule 9 shall have power to act in the name of the Union to hear and determine disciplinary proceedings for which the Union has jurisdiction in the following circumstances:
  - (a) where a Player is Ordered Off the playing enclosure in which case Part 1 of this Section will apply;
  - (b) where a Complaint of Foul Play is lodged pursuant to Part 2 of this Section;
  - (c) where a referee report is lodged pursuant to Part 3 of this Section;
  - (d) where a Player has been Temporarily Suspended from the playing enclosure for a third time in which case Part 4 of this Section will apply;
  - (e) where a Misconduct Complaint is lodged pursuant to Part 5 of this Section;

- (f) where a Match is called off by the referee for persistent or serious Foul Play or Misconduct in which case Part 6 of this Section will apply.

### **Disciplinary Proceedings for Junior Rugby**

- 13. Whilst these Rules apply to all levels of rugby in New Zealand including Junior Rugby, the NZRU and Unions recognise that it would not be practical to apply the full obligations and requirements under these Rules to Players participating in Junior Rugby. For this reason, subject to Rule 14, the Rules contained herein will not apply to Players participating in a Junior Rugby Match.
- 14. Where a Union deals with an incident of Foul Play arising from a Player being Ordered Off in a Junior Rugby Match for which the Union has jurisdiction, the following should apply:
  - (a) the Union has the discretion to determine the process it will follow in determining whether an incident of Foul Play has occurred so long as it accords with the principles of natural justice; and
  - (b) where any disciplinary officer or committee established by the Union determines that an incident of Foul Play has occurred it shall take specific account of the requirements set out in Rule 90 in determining the appropriate sanction for the Player and shall have regard to the sanctions set out in Section 9.
- 15. For the avoidance of doubt, the NZRU or Union shall deal with a Misconduct Complaint under these Rules against any Person in connection with any Junior Rugby Match and nothing in Rules 13 and 14 preclude this unless an alternative process has been approved in writing by NZRU.

### **Part 1 Initial Procedures: Ordering Off (“Red Card”)**

- 16. Subject to the mouth guard proviso below, where a Player is Ordered Off the playing enclosure in a Match for which the Union has jurisdiction the referee shall, within 48 hours of the completion of the Match, or such further time as may be allowed by the Union Complaints Review Officer, send to the CEO of the Union in which the Match is played, a written report incorporating:
  - (a) the date of the Match, the venue and the teams participating;
  - (b) the name of the Player Ordered Off, his or her jersey number and his or her team;
  - (c) the circumstances in which the Player was Ordered Off;
  - (d) the reason for the Player being Ordered Off; and
  - (e) any other information the referee (or assistant referee where applicable) considers material.

Form A may be used by the referee for the purpose of a report under this Rule.

Provided that where a Player is Ordered Off the playing enclosure for failing to wear a mouth guard, the referee will send the appropriate report referred to in Rule 16 and the Player will be automatically suspended from playing rugby for a period of one week (which will equate to one Match) with the sanction to be applied to the next match that the Player is scheduled to play after having been Ordered Off and no hearing will be required.

17. If a Player is Ordered Off the playing enclosure as a result of the intervention of an assistant referee, the assistant referee shall also send to the CEO of the Union a written report incorporating the matters referred to in Rule 16 within the time prescribed by that Rule. Form A may be used by the assistant referee for the purposes of a report under this Rule.
18. For the purposes of Rules 16 and 17 a referee's and an assistant referee's report shall be deemed to be sent to the CEO of the Union when:
  - (a) it is posted; or
  - (b) it is transmitted by facsimile or email provided that timed and confirmed notice of transmission can be provided; or
  - (c) it is received at the offices of the Union.

#### **Alternative Judicial Procedures - Provincial Union**

19. A Union may, with the prior written consent of the NZRU, adopt either:
  - (a) A procedure which involves the use of a Duty Judicial Officer or an equivalent role and which is broadly consistent with the equivalent process in Rule 163; and/or
  - (b) the following alternative procedure;at any or all levels of rugby in relation to Players Ordered Off the playing enclosure in a Match for which the Union has jurisdiction:
  - (i) a Player Ordered Off is automatically suspended and not permitted to play any game of rugby for a period of two weeks (this is intended to equate to two Matches) from the date of his or her Ordering Off;
  - (ii) if within 48 hours of the Ordering Off, the Player Ordered Off, personally or through his or her Club, notifies the Union that that Player requests a hearing before a Judicial Officer or Judicial Committee the Union shall within six days of the Ordering Off convene a hearing before a Judicial Officer or Judicial Committee;

- (iii) if within seven days of having received copies of the reports of Match Officials on the Ordering Off, which the Union will obtain and provide to the Player personally or through his or her Club forthwith, the Player Ordered Off notifies the Union that that Player requests a hearing before a Judicial Officer or Judicial Committee the Union shall within six days of such notification convene a hearing before a Judicial Officer or Judicial Committee;
- (iv) after having received copies of the reports of the Match Officials on the Ordering Off a nominated member of the Union Judicial Panel or the Union Complaints Review Officer shall perform an assessment of whether the two-week suspension of the Player is an appropriate sanction taking into account the requirements of Rule 87 or whether the matter should proceed to a hearing before a Judicial Officer or Judicial Committee. In the event that the nominated member of the Judicial Panel or the Union Complaints Review Officer determines that the two week suspension is not an appropriate sanction in the circumstances then that person should refer the matter to a hearing before a Judicial Officer or Judicial Committee;
- (v) if the Player requests, or the nominated member of the Judicial Panel or the Union Complaints Review Officer determines that the matter should proceed to a hearing before a Judicial Officer or Judicial Committee, the Union should revert to the normal process for Players Ordered Off with notice to be provided to the Player under Rule 20;
- (vi) in fixing any period of suspension under Sections 4 and 9, the Judicial Officer or Judicial Committee shall take account of any period of suspension already served by the Player by operation of this Rule.

#### **Notice to Player**

20. In the event that a matter is to proceed to a hearing before a Judicial Officer or Judicial Committee, the Player Ordered Off shall be supplied with a copy of the referee's report and, where applicable, the assistant referee's report by the CEO of the Union and advised:
- (a) of the date, place and time of the hearing of the Judicial Officer or Judicial Committee;
  - (b) that that Player will be required to attend the hearing;
  - (c) that if that Player is unable to appear at the hearing that Player should personally or through his or her Club advise the CEO of the Union forthwith including details as to the reason(s) why the Player is unable to attend as soon as practicable;
  - (d) that that Player is entitled to adduce evidence and make submissions and be represented by his or her Club and/or legal advisor; and

- (e) he or she is not eligible to play and shall be suspended from all on-field activities on a Match day pending resolution of the case.

Where possible notice to the Ordered Off Player under this Rule shall be given in writing. It shall be sufficient compliance with this Rule if a copy of the referee's report and, where applicable, the assistant referee's report and the information required to be given by this Rule is sent to the Ordered Off Player's address last known to the CEO of the Union or are handed to the Player or are sent to the Secretary of the Player's Club.

***If Ordering Off proceeding to a hearing, refer Section 4.***



## Part 2 Initial Procedures: Complaints

21. A Judicial Officer or Judicial Committee shall have jurisdiction to hear and determine a complaint of Foul Play against a Player (“a Complaint”) in respect of any act of Foul Play which has not been detected by the Match Officials in a Match for which the Union has jurisdiction.
22. A Complaint under Rule 21 may be made by:
  - (a) the CEO of the NZRU or his or her nominee;
  - (b) the CEO of the Union or his or her nominee or Citing Commissioner (where appointed by the Union);
  - (c) the Secretary of a Club involved in the Match;
  - (d) the Union Referees’ Association; and
  - (e) all other persons.
23.
  - (1) Subject to paragraph (2) hereof, a Complaint under Rule 21 shall be in writing (electronically or otherwise) and shall be sent to the CEO of the Union in which the incident the subject of the Complaint occurred within 48 hours of the completion of the Match.
  - (2) With the leave of the Union Complaints Review Officer, a Complaint under Rule 21 may be sent to the CEO of the Union in which the incident, the subject of the Complaint occurred, outside the 48 hour period provided for in paragraph (1) hereof. Leave under this provision shall be given only in exceptional circumstances.
  - (3) Except as hereafter provided, a Complaint made under paragraph (2) shall be treated and dealt with for all purposes as a Complaint made under paragraph (1).
  - (4) For the purposes of this Rule, a Complaint is deemed to be sent when:
    - (a) it is posted; or
    - (b) it is transmitted by email provided that timed and confirmed notice of transmission can be provided; or
    - (c) it is received at the offices of the Union.
24. A Complaint under Rule 21 shall contain the following information:
  - (a) the date and place of the alleged Foul Play;
  - (b) the name of the Player in respect of whom the Complaint is made (and his or her jersey number) and the team which that Player was playing for at the time of the alleged Foul Play;

- (c) the name of the opposing team; and
  - (d) full details of the alleged Foul Play.
25. (1) On receipt of a Complaint (other than a Complaint brought with leave under Rule 23(2)), the CEO of the Union shall immediately refer the Complaint to the Union Complaints Review Officer.
- (2) On receipt of a Complaint brought with leave under Rule 23(2), the CEO of the Union shall proceed as required by Rule 26(4) as if notification had been received from the Union Complaints Review Officer that the Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee.
26. (1) If the Union Complaints Review Officer determines that the Complaint is not frivolous, vexatious or otherwise without merit, that person shall either:
- (a) if the Complaint relates to conduct which in his or her opinion would not warrant an Ordering Off and is not sufficiently serious to require a hearing before the Judicial Officer or Judicial Committee and the Player, the subject of the Complaint, has not within the period of 6 months preceding receipt of the Complaint received a caution issued under this or any other Rule herein, notify the CEO of the Union that a written caution should be issued by the Union to the Player; or
  - (b) in all other cases notify the CEO of the Union that the Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee.

No reasons need be given by the Union Complaints Review Officer for his or her determination.

- (2) On being notified by the Union Complaints Review Officer that a written caution should be issued to a Player, the CEO of the Union shall forthwith arrange for a written caution, including a copy of the Complaint, to be posted to the Player and his or her Club.
- (3) If, within 7 days after any caution issued under paragraph (2) has been posted to a Player, the Player notifies the CEO of the Union in writing that that Player wishes to have the Complaint heard and determined by the Judicial Officer or Judicial Committee, the CEO shall notify the Judicial Officer or Judicial Committee and shall thereafter deal with the Complaint as if that Player had received notification from the Union Complaints Review Officer that it should proceed to a hearing before the Judicial Officer or Judicial Committee.
- (4) On being notified by the Union Complaints Review Officer that a Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee, the CEO of the Union shall obtain reports from the

Match Officials and such other persons who that Player considers may be able to provide evidence bearing on the subject of the Complaint.

27. On receipt of notification under Rule 26 that a Complaint should proceed to a hearing, the CEO of the Union shall notify the Player and his or her Club of the Complaint and the fact the Union Complaints Review Officer has determined that it should proceed to a hearing before a Judicial Officer or Judicial Committee and shall send to the Player and his or her Club or other rugby organisation copies of the Complaint and any reports obtained under Rule 26, and video coverage of the incident, if available, and advise the Player:
- (a) of the date, time and place of the Judicial Officer or Judicial Committee hearing at which the Complaint will be heard;
  - (b) that that Player will be required to attend the hearing in person;
  - (c) that if that Player is unable to appear at the hearing as notified, that Player should advise the CEO of the Union forthwith;
  - (d) that that Player is entitled to adduce evidence and make submissions and be represented by his or her Club and/or a legal advisor;
  - (e) that that Player is not eligible to play and is suspended from all on-field activities on a Match day pending resolution of the case.

The CEO shall also notify the person who made the Complaint of the date, time and place of the hearing.

***If Complaint proceeding to a hearing, refer Section 4***

### Part 3 Initial Procedures: referee's reports

28. Where in a Match for which the Union has jurisdiction an incident of Foul Play occurs and the referee (or, if considered appropriate by a Union, a person designated by the CEO of the Union to review such incidents) within 48 hours of the completion of the Match in which the incident occurred reports in writing to the CEO of the Union in which the Match was played, that that referee (or person) believes a decision taken by the referee in respect of the incident may have been inappropriate or insufficient or that that referee was wrong in taking no action, the Judicial Officer or Judicial Committee shall have jurisdiction to inquire into the incident of Foul Play as if the referee's (or reviewer's) report was a Complaint under Rule 21 hereof.
29. The report of the referee (or reviewer) under Rule 28 shall contain the information required of a Complaint as specified in Rule 24 and shall state why the referee (or the reviewer) believed the action taken by him or her (or the referee) was inappropriate or insufficient or why that Player (or the reviewer) believed that Player (or the referee) was wrong in taking no action.
30. For the purpose of Rule 28, the referee (or reviewer) shall be deemed to have reported to the CEO of the Union when:
  - (a) it is posted; or
  - (b) it is transmitted by email provided that timed and confirmed notice of transmission can be provided; or
  - (c) it is received at the offices of the Union.
31. On receipt of the report pursuant to Rules 28-30, the CEO of the Union shall forthwith forward it to the Union's Complaints Review Officer who shall determine whether the matter, the subject of the report, should be heard by the Judicial Officer or Judicial Committee or whether it should be dismissed as frivolous, vexatious or otherwise without merit; provided however that the Union Complaints Review Officer shall have power to notify the CEO that a written caution should be issued by the Union to the Player concerned as if the report was a Complaint under Rule 21 and the requirements of Rule 26 are otherwise met.
32. If the Union Complaints Review Officer determines that the matter, the subject of the above report, should be heard by the Judicial Officer or Judicial Committee, the CEO of the Union shall send a copy of the report to:
  - (a) the Player or Players involved in the incident the subject of the referee's report; and
  - (b) the Secretary of the Club of the Player or Players concerned.

At the same time, the CEO shall notify the Persons to whom the report is sent and the referee of the date, time and place of the meeting of the Judicial Officer or Judicial Committee at which the incident, the subject of the report, will be inquired into.

*If referee report proceeding to a hearing, refer Section 4*

#### Part 4 Initial Procedures: Temporary Suspensions (“Yellow Cards”)

33. Where a Player is Temporarily Suspended from play (i.e. receives a “Yellow Card”) in a Match for which the Union has jurisdiction, the referee shall, within 48 hours of the completion of the Match, or such further time as may be allowed by the Union Complaints Review Officer, send to the CEO of the Union in which the Match is played a written report incorporating:
- (a) the date of the Match, the venue and the teams participating;
  - (b) the name of the Player Temporarily Suspended, his or her jersey number and his or her team;
  - (c) the circumstances in which the Player was Temporarily Suspended;
  - (d) the reason for the Player being Temporarily Suspended; and
  - (e) any other information the referee considers material.

Form A may be used by the referee for the purpose of a report under this Rule.

34. If a Player is Temporarily Suspended as a result of the intervention of an assistant referee, the assistant referee shall also complete a written report incorporating the matters referred to in Rule 33 and provide this to the Referee who shall include it as part of his or her written report. Form A may be used by the assistant referee for the purposes of a report under this Rule.
35. For the purposes of Rule 33 or 34, the report of the referee or assistant referee shall be deemed to be sent to the CEO of the Union when:
- (a) it is posted; or
  - (b) it is transmitted by email provided that timed and confirmed notice of transmission can be provided; or
  - (c) it is received at the offices of the Union.
36. A Player Temporarily Suspended on two occasions during a playing season in Matches for which any Union has jurisdiction shall be advised in writing by the CEO of his or her Union that in the event that Player is Temporarily Suspended on any further occasion during the same playing season in any Match for which any Union has jurisdiction that Player will be subject to an automatic suspension of one week (which will equate to one Match) to be applied from the week immediately following the third Temporary Suspension. For the avoidance of doubt there is no ability to challenge a Yellow Card before a Judicial Officer or Judicial Committee until three Yellow Cards have been received.

37. A Player Temporarily Suspended on three occasions during the same playing season in Matches for which any Union has jurisdiction, and having received the notification required by Rule 36, shall, subject to Rules 38 and 39, be automatically suspended from all rugby for a period of one week (which will equate to one Match) with the suspension to be applied to the next match that the Player is scheduled to play immediately following the match in which the third Temporary Suspension was issued. The CEO of the Union shall advise the Player and his or her Club or other rugby organisation of the one week suspension in writing. This automatic suspension is subject to the right of the Player to request a hearing under Rule 38.
38. If, within 48 hours after notice of the suspension issued under Rule 37 has been received by a Player, the Player notifies the CEO of the Union in writing that that Player wishes to appear before the Judicial Officer or Judicial Committee, the matter will then proceed to a hearing with the automatic suspension applying unless the Judicial Officer or Judicial Committee determines otherwise. The Player shall be sent copies of the referee's temporary suspension reports and be advised:
- (a) that the purpose of the hearing is to consider whether any sanction (in addition to the yellow cards) should be imposed on him or her by reason of his or her persistent offending;
  - (b) of the date, place and time of the hearing of the Judicial Officer or Judicial Committee;
  - (c) that that Player will be required to attend the hearing;
  - (d) that if that Player is unable to appear at the hearing that Player should personally or through his or her Club advise the CEO of the Union forthwith;
  - (e) that that Player is entitled to be represented by his or her Club and/or legal advisor;
  - (f) that save where that Player alleges that a Temporary Suspension in any incident was a result of the referee having wrongly identified the Player as the offending Player no evidence will be heard other than on the question of penalty; and
  - (g) that that Player is not eligible to play and is suspended from all on-field activities on a Match day pending resolution of the case unless a Judicial Officer or Judicial Committee determines otherwise.
39. At a hearing convened under Rule 38 the Judicial Officer or Judicial Committee shall have the power to cancel the automatic one week suspension, confirm it or impose a further period of suspension on the Player for his or her persistent offending.

***If Temporary Suspensions proceeding to a hearing, refer Section 4***

## Part 5 Initial Procedures: Misconduct

40. Unions and Clubs are responsible and accountable for the conduct of their Players and all Persons under their jurisdiction whether by way of membership or representation in some way. Unions, Clubs, Players and Persons must conduct themselves in a disciplined and sporting manner and ensure that they do not commit an act or acts of Misconduct.
41. A Judicial Officer or Judicial Committee shall have jurisdiction to hear and determine a misconduct complaint against a Union, Club, Player or Person which arises from any conduct, behaviour, statements or practices on or off the playing enclosure in connection with any Match or otherwise (excluding Foul Play by a Player during a Match that has resulted in an Ordering Off under Part 1 or a Complaint under Part 2 for which the Union has jurisdiction (“Misconduct Complaint”).
42. A Misconduct Complaint under Rule 41 may be made by:
  - (a) the CEO of the NZRU or his or her duly authorised nominee;
  - (b) the CEO of the Union or his or her duly authorised nominee or duly authorised Citing Commissioner (where appointed by the Union);
  - (c) the Secretary of a Club involved in the Match;
  - (d) the Union Referees’ Association; and
  - (e) all other persons.
43.
  - (1) Subject to paragraph (2) hereof, a Misconduct Complaint under Rule 41 shall be in writing and shall be sent to the CEO of the Union in which the incident the subject of the Misconduct Complaint occurred within 48 hours of the alleged Misconduct occurring.
  - (2) With the leave of the Union Complaints Review Officer, a Misconduct Complaint under Rule 41 may be sent to the CEO of the Union in which the incident, the subject of the Misconduct Complaint occurred, outside the 48 hour period provided for in paragraph (1) hereof. Leave under this provision shall be given only in exceptional circumstances, such as in the case where the Misconduct Complaint has been referred to the Union through the NZRU’s Complaints Management Process or where the offending has only become known to the Union outside of the 48 hour period.
  - (3) Except as hereafter provided, a Misconduct Complaint made under paragraph (2) shall be treated and dealt with for all purposes as a Misconduct Complaint made under paragraph (1).
  - (4) For the purposes of this Rule, a Misconduct Complaint is deemed to be sent when:



- (a) it is posted; or
  - (b) it is transmitted by email provided that timed and confirmed notice of transmission can be provided; or
  - (c) it is received at the offices of the Union.
44. A Misconduct Complaint under Rule 41 shall contain the following information:
- (a) the date and place of the alleged Misconduct;
  - (b) the name of the Player or Person in respect of whom the Misconduct Complaint is made and his or her Union or Club;
  - (c) full details of the alleged Misconduct (including details of the evidence relied upon).
45. (1) On receipt of a Misconduct Complaint (other than a Misconduct Complaint brought with leave under Rule 43(2)), the CEO of the Union shall immediately refer the Misconduct Complaint to the Union Complaints Review Officer.
- (2) On receipt of a Misconduct Complaint brought with leave under Rule 43(2), the CEO of the Union shall proceed as required by Rule 46(4) as if notification had been received from the Union Complaints Review Officer that the Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee.
46. (1) If the Union Complaints Review Officer determines that the Misconduct Complaint is not frivolous, vexatious or otherwise without merit, he or she shall notify the CEO of the Union that the Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee. No reasons need be given by the Union Complaints Review Officer for his or her determination.
- (2) On being notified by the Union Complaints Review Officer that a Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee, the designated disciplinary officer or his or her nominee, shall:
- (a) undertake such investigations as he or she may consider appropriate to gather information bearing on the subject of the Misconduct Complaint; and
  - (b) obtain reports from such persons who he or she considers may be able to gather information bearing on the subject of the Misconduct Complaint.
- (3) Every Club, Person or Player shall be obliged to co-operate with any investigations, referrals, and/or hearings relating to an allegation of

Misconduct and a failure to co-operate with such investigations may itself constitute Misconduct.

- (4) On receipt of notification under paragraph (1) that a Misconduct Complaint should proceed to a hearing, the CEO of the Union shall notify the Union, Club, Player or Person of the Misconduct Complaint and the fact that the Union Complaints Review Officer has determined that it should proceed to a hearing before the Judicial Officer or Judicial Committee and shall send to the Union, Club, Player or Person copies of the Misconduct Complaint and any reports and other evidence obtained under paragraph (2), and video coverage of the incident, if available, and advise:
  - (a) of the date, time and place of the Judicial Officer or Judicial Committee hearing at which the Misconduct Complaint will be heard;
  - (b) that the Player or Person or a representative of the Union or Club will be required to attend in person the hearing;
  - (c) that if the Player or Person or a representative of the Union or Club is unable to appear at the hearing as notified, they should advise the CEO of the Union forthwith;
  - (d) that the Player or Person or representative of the Union or Club is entitled to adduce evidence and make submissions and be represented by his or her Union or Club (where applicable) and/or a legal advisor.
- (5) Nothing in this Rule limits or restricts the right of WR to appoint a person to undertake an investigation into incidents that may constitute or may be capable of constituting Misconduct or acts which have the potential to bring the Game or WR into disrepute. This provision applies equally to situations where the Union takes no action or insufficient action.
- (6) Where an allegation of Misconduct concerns the Union, the CEO or the designated disciplinary officer must notify the CEO of the NZRU about the allegation. The CEO of the NZRU will have the power to appoint its own designated disciplinary officer to investigate the allegation in substitution for the Union's designated disciplinary officer.
- (7) A Judicial Officer or Judicial Committee may at its or his or her discretion impose a provisional suspension on a Club, Player or Person subject to a Misconduct Complaint pending resolution of the case.
- (8) At any hearing of a Misconduct Complaint, the designated disciplinary officer or his or her nominee shall be in attendance to explain the basis of the Misconduct Complaint and present the Misconduct Complaint and he or she may be assisted by a legal advisor.

- (9) The designated disciplinary officer shall have the burden of proving on the balance of probabilities that an act or acts of Misconduct have been committed. The Player or Person or other party subject to the Misconduct Complaint shall be asked if that Player accepts that that Player committed an act of Misconduct. The Judicial Committee or Judicial Officer shall determine its factual findings and whether it is satisfied on the balance of probabilities that an act(s) of Misconduct has been committed by the Player, Person, or other party concerned.
- (10) The recommended range of sanctions for Misconduct is set out in Rule 88 and Section 10.

***If Misconduct proceeding to a hearing refer Section 4***

## Part 6 Initial Procedures: Matches Called Off

47. Where a Match for which a Union has jurisdiction is called off early by the referee because of:

- (a) persistent or serious Foul Play by Players; and/or
- (b) persistent or serious Misconduct by team management or supporters;

of one or both of the teams involved in the Match, the referee shall, within 48 hours of the completion of the Match or such further time as may be allowed by the Union Complaints Review Officer, send to the CEO of the Union in which the Match is played a written report.

48. The report of the referee under Rule 47 shall incorporate the following:

- (a) the date and place of the Match;
- (b) details of both teams involved in the Match;
- (c) full details of the reasons why the Match was called off including examples of the persistent or serious Foul Play or Misconduct;
- (d) an assessment from the referee as to whether one or both teams or the supporters or management of one or both teams were primarily responsible for the Match being called off.

Form B may be used by the referee for the purpose of a report under this Rule.

49. On receipt of the report from the referee under Rule 47, the CEO of the Union shall notify the Clubs to which the teams are aligned of the fact that the matter will proceed to a hearing before the Judicial Officer or Judicial Committee and shall send to the Clubs to which the teams are aligned copies of the report of the referee and any other evidence obtained by the designated disciplinary officer, and video coverage of the incident, if available, and advise:

- (a) of the date, time and place of the Judicial Officer or Judicial Committee hearing at which the matter will be heard;
- (b) that the Captain and Coach or Manager of each team involved in the Match called off will be required to attend in person the hearing;
- (c) that if all of the Captain and Coach or Manager of either team are unable to appear at the hearing as notified, they should advise the CEO of the Union forthwith;
- (d) that the Captain and Coach or Manager of either team is entitled to adduce evidence and make submissions and be represented by his or her Club and/or a legal advisor.

50. For the avoidance of doubt nothing in this Part precludes any alleged Foul Play or Misconduct involving any Players or Persons participating in or associated with the Match that was called off being dealt with separately under these Rules.

*If the Match Called Off is proceeding to a hearing, refer Section 4*

## **SECTION 4: GENERAL PROVISIONS RELATING TO JUDICIAL HEARINGS**

### **General**

51. Disciplinary Tribunals constituted under these Rules shall exercise their functions independently, including independently of the parties to the Match and/or proceedings, and the Clubs, Union, and other Rugby bodies.
52. Disciplinary Tribunals shall be fully autonomous and, in particular, any decision they make shall be binding on the Player, Person, and his or her Union, none of whom shall have the power to affirm, revoke or alter any decision.
53. The standard of proof on all questions to be determined by Disciplinary Tribunals shall be the balance of probabilities unless otherwise specified in a particular Rule. Disciplinary Tribunals shall have no discretion in this regard.
54. Unions and Disciplinary Tribunals shall be entitled to publish as they think fit reports of their proceedings, findings and penalties. No member of a Disciplinary Tribunal shall comment to the media on a decision of that body.
55. Disciplinary Tribunals shall have absolute discretion in imposing orders as to the payment of costs in relation to any proceedings.
56. Hearings shall take place in private, save where a Disciplinary Tribunal rules that the hearing is to take place in public. Such a ruling may only be made in the following circumstances:
- (a) The party wishing to have the hearing take place in public shall make an application to the Disciplinary Tribunal seized of the proceedings setting out their reasons;
  - (b) A Disciplinary Tribunal shall only grant such an application (i) if all parties are in agreement; or (ii) if the Disciplinary Tribunal determines that it is in the interests of justice to do so.

In granting such an application, a Disciplinary Tribunal shall determine whether the hearing is to take place in a publicly accessible location or whether the proceedings may be transmitted and/or recorded and viewed by the public on a live and/or recorded basis.

57. Disciplinary Tribunals:

- (a) shall be entitled to adjourn and/or postpone proceedings;
- (b) shall be entitled to determine whether witnesses that give evidence are able to remain within the room in which the matter is being heard after their evidence has been given;
- (c) may direct that an interpreter be present to partake in the proceedings;
- (d) shall be entitled to call on experts to provide specialist advice;
- (e) shall be entitled to be assisted by a legal advisor;
- (f) shall deliberate in private on their decisions.

**Power to Regulate Own Procedures**

58. The procedure of the Disciplinary Tribunal in all proceedings shall be as the particular Disciplinary Tribunal shall determine in each case and the Disciplinary Tribunal shall be entitled to depart from the procedures set out in this Section. However, in each case the Disciplinary Tribunal shall:

- (a) seek to conform generally with the procedures set out in this Section; and
- (b) ensure that a Player or Person subject to disciplinary proceedings has a reasonable opportunity to be heard and present his or her case.

59. In any case, the Disciplinary Tribunal (or a member thereof) may convene a pre-hearing conference for the purposes of giving directions for the hearing and clarification of the procedures. Such conference may include any Player or Person the subject of the proceedings, or any NZRU, Union or Club representative, Match Official, Citing Commissioner and any other person or body whose participation is considered desirable.

60. The Disciplinary Tribunal shall endeavour to ensure that disciplinary proceedings are heard in the presence of the Player or Person the subject of the proceedings, but nothing in these Rules or otherwise shall prevent a Disciplinary Tribunal hearing and determining disciplinary proceedings in the absence of the Player or Person concerned where the Player or Person does not attend the hearing. In such circumstances, the Disciplinary Tribunal may take written representations made by or on behalf of the Player or Person into account in making its decision.

**Attendance and Report of Referee**

61. (1) The referee of the Match in which the Player is Ordered Off (and, if a Player is Ordered Off as a result of an assistant referee's intervention, the assistant referee) shall endeavour to attend the hearing of the

Judicial Officer or Judicial Committee whether in person or via telephone conference and/or video link. The involvement of the referee may be excused by the Judicial Officer or Chairperson of the Judicial Committee where circumstances warrant this.

- (2) In respect of cases involving the Ordering Off of a Player, the Judicial Officer or Judicial Committee shall ensure that, prior to the hearing, the Ordered Off Player has been supplied with and has had a sufficient opportunity to consider the referee's report and, where applicable, the report of the assistant referee together with other evidence including (where applicable) video evidence.
- (3) Nothing in this Rule shall prevent the Judicial Officer or Judicial Committee hearing and determining disciplinary proceedings in the absence of the referee and/or assistant referee, provided that the Judicial Officer or Judicial Committee shall have the power to adjourn proceedings where the attendance of the referee or assistant referee is considered necessary given the circumstances.

### **Interpreters**

62. Where, in any case, the Duty Judicial Officer, Judicial Officer or Judicial Committee considers it necessary or desirable, it may direct the NZRU or Union to have an interpreter present at a hearing.

### **Procedure at Hearings**

63. Unless it otherwise directs, the procedure of the Judicial Officer or Judicial Committee at a hearing involving an Ordering Off will be as follows:
  - (a) the Judicial Officer or Chairperson of the Judicial Committee will explain the procedure to be followed;
  - (b) the report of the referee and, where applicable, the report of the assistant referee(s), will be read.
  - (c) the Ordered Off Player will be asked to confirm if that Player admits that he/she has committed an act or acts of Foul Play;
  - (d) evidence from the Ordered Off Player, if that Player elects to give evidence, and from any witnesses to be called will be heard;
  - (e) final submissions will be heard;
  - (f) a similar procedure subject to such modification as the Judicial Officer or Judicial Committee deem appropriate may be adopted at their discretion with regard to cases involving Complaints or referee reports. The Player or Person will be asked to confirm if that Player admits that that Player has committed an act or acts of Foul Play.

64. Unless it otherwise directs, the procedure of the Judicial Committee or Judicial Officer at the hearing of a Misconduct Complaint will be as follows:
  - (a) the Chairperson or Judicial Officer will explain the procedure to be followed;
  - (b) for cases involving Misconduct or breaches of the WR Code of Conduct/Regulations and/or this Rule:
    - (i) the charges or Complaint will be read; and
    - (ii) the Player or Person will be asked to confirm if that Player admits that that Player has committed the act or acts of Misconduct or breaches of the Regulation(s) for which that Player is cited or charged;
  - (c) evidence from the Player or Person if that Player elects to give evidence, and from any witnesses to be called will be heard; and
  - (d) final submissions will be heard.
65. The Player or Person subject to disciplinary proceedings may admit the offence at any time in which case the Judicial Committee or Judicial Officer should proceed immediately to hear submissions in relation to sanction.
66. Where disciplinary proceedings, however arising, are taken against more than one Player or Person as a result of incidents occurring in a Match or arising from the same incident or series of incidents, such proceedings may be heard by a Judicial Committee or Judicial Officer at the same time, provided there is no prejudice to any person against whom the disciplinary proceedings are taken.
67. Upon finding of a breach of the Rules, Judicial Committees or Judicial Officers shall be entitled to impose such penalties and orders as they think fit which may include the penalties set out in Sections 9 and 10.
68. In the event the Judicial Officer or Judicial Committee accepts video evidence, it shall be viewed without the sound or commentary associated with it being heard, save where the sound commentary includes the comments made by any Match Officials through his or her microphone in relation to the specific incident in question.
69. The non-attendance of a party at a hearing and/or preliminary hearing in respect of which that party has received notice shall not prevent the matter being dealt with in their absence.
70. A decision of a Disciplinary Tribunal shall be valid if taken by at least a simple majority of the members of such Tribunal. No member of the Disciplinary Tribunal may abstain from any decision. Where a Tribunal has an even number of members and they are unable to reach a unanimous or



majority decision then the Chairperson of the Judicial, Disciplinary or Appeal Committee shall have a casting vote.

71. For Complaints or Misconduct Complaints, the Judicial Officer or Judicial Chairperson may require that the person or rugby organisation making the complaint against the Player or Person have a representative in attendance at the hearing to present the basis of the Complaint or Misconduct Complaint and evidence in support.
72. The Player or Person subject to the proceedings may admit the offence at any time, in which case the Judicial Officer or Judicial Committee should proceed immediately to hear submissions as to the sanction (if any) to be imposed.

### **Evidence**

73. The Judicial Officer or Judicial Committee shall be entitled to receive such evidence and, in such form as it thinks fit (including evidence in writing) notwithstanding the evidence may not be legally admissible and shall be entitled to attach such weight to that evidence as it sees fit.
74. Generally, Judicial Officers or Judicial Committees should apply the best evidence rule. This means that first-hand accounts from persons present at the hearing as to their observations of the incident in question should be preferred. Hearsay evidence may be accepted. However, caution will be exercised before hearsay evidence is accepted in preference to first-hand evidence and generally less weight is likely to be given to hearsay evidence. Further, as a general rule, Judicial Officers or Judicial Committees should not permit the introduction of opinion evidence other than expert opinion evidence. Expert opinion evidence is only likely to be permitted when the evidence falls outside the everyday knowledge of the Judicial Officer or members of the Judicial Committee e.g. medical opinion.
75. In all proceedings heard by the Judicial Officer or Judicial Committee, Match Officials may only give evidence of fact, not opinion.

### **Witnesses**

76. Where a direction is given by a Judicial Committee or Judicial Officer it shall be the responsibility of the Player, Person or witness concerned to ensure that it is complied with, notwithstanding any travel or other arrangements that may need to be made and/or altered. In any case where a direction given by the Judicial Committee or Judicial Officer is not complied with, the Judicial Committee or Judicial Officer may refuse to allow evidence of the Player, Person or witness to be given in any other form.
77. For cases involving citing complaints initiated by a Citing Commissioner, Misconduct or other breaches of the Rules, the Judicial Committee or Judicial Officer may request that a person be available to present the case

and set out the basis of the Citing Complaint, Misconduct or other charges. Ordinarily this will be the designated disciplinary officer.

78. Where evidence is given before a Judicial Officer or Judicial Committee, there shall be no direct questioning of any witness other than by the Judicial Officer or Judicial Committee save where the Judicial Officer or Judicial Committee agree otherwise. Questions may, however, be put to a witness through the Judicial Officer or Chairperson of the Judicial Committee at their discretion.
79. The Judicial Officer or Judicial Committee shall be entitled to determine whether witnesses that give evidence are able to remain in the room in which the hearing is being heard after their evidence has been given.

### **Representation**

80. The Judicial Committee or Judicial Officer may direct that the Union be represented. If so, the Union shall appear by the designated disciplinary officer (or his or her nominee) and/or by a legal advisor at the hearing, in such capacity as the Judicial Committee or Judicial Officer requires, to provide assistance to the Judicial Committee or Judicial Officer in the discharge of its duties.
81. A Player who is required to attend a hearing by a Judicial Officer or Judicial Committee shall be entitled to be represented at the hearing by an official of his or her Union or Club (as the case may be) or by legal counsel.
82. Judicial Officers or Judicial Committees shall be entitled to call on experts to provide specialist advice, including legal advice.

### **Deliberations**

83. A decision of a Judicial Committee shall be valid if taken by at least a simple majority of the members of the Judicial Committee and Rule 70 shall apply to all deliberations of a Judicial Committee.
84. Subject always to Rule 58, the Judicial Officer or Judicial Committee shall, ordinarily, first determine its factual findings. Thereafter, as appropriate, it will reconvene and hear and consider evidence and submissions in relation to sanctions.

### **Standard of Proof**

85. Offences and breaches of this Rule may be established by any reliable means, including admissions. The following rules of proof shall be applied by the Judicial Committee or Judicial Officer:
  - (a) they shall have the discretion to accept any facts established by a decision of a court of competent jurisdiction or professional disciplinary tribunal which is not the subject of a pending appeal as irrefutable evidence against the Player or Person to whom the decision

relates of those facts, save only where the Player or Person establishes that the decision was contrary to the principles of natural justice; and

- (b) where the Player or Person has been Ordered Off or is charged with an offence and/or breach and fails or refuses without compelling justification to appear at a hearing (in person or by telephonic or electronic means) of which they have been given reasonable notice, the Judicial Committee or Judicial Officer may draw an inference adverse to the Player or Person.
86. (1) Subject to (2) and (3) below, the standard of proof on all questions to be determined by the Judicial Officer or Judicial Committee shall be the balance of probabilities.
- (2) The integrity of Law 6.5(a) of the Laws of the Game and the referee's position as the judge of fact and law during the Match is unassailable. The purpose of a subsequent review of an incident that occurred during a Match by a Citing Commissioner is to review incidents of potential Foul Play with the benefit of additional time and in some cases, additional footage and/or other evidence. The purpose of a subsequent review of an incident that occurred during a Match by a Disciplinary Tribunal/Judicial Committee or Officer/Judicial Appeal Committee or Officer, is to determine whether there should be any disciplinary sanctions applied for an act(s) of Foul Play as provided for in Law 9
  - (3) At first instance disciplinary hearings, in the event that the Player does not accept that the act(s) of Foul Play which is the subject of the disciplinary hearing warranted the Player being Ordered Off or cited, the burden of proof rests on the Player to show that, on the balance of probabilities, the respective referee's decision or the citing commissioner's decision was wrong.

## **STAGE 1**

### **The "Red Card Test"**

Did the act(s) of Foul Play warrant the Player being Ordered Off or should it have resulted in the Player being Ordered Off?

- (4) The Judicial Officer or Judicial Committee shall first determine whether or not the relevant act(s) of Foul Play warranted the Player being Ordered Off or should have resulted in the Player being Ordered Off.

The Player may either:

- (a) admit that the act(s) of Foul Play warranted the Player being Ordered Off or cited in which case the function of the Judicial Officer or Judicial Committee is to consider the circumstances of

the case and determine what sanction, if any, should be imposed on the Player; or

- (b) deny that the act(s) of Foul Play occurred and/or deny that the alleged acts warranted the Player being Ordered Off or cited and may seek to show that the decision of the referee or Citing Commissioner was wrong. The Judicial Officer and Judicial Committee may review the decision of the referee or Citing Commissioner and the circumstances surrounding it. In such case, the Judicial Officer or Judicial Committee shall not make a finding contrary to the decision of the referee or Citing Commissioner unless he/she/it is satisfied, on the balance of probabilities, that the decision of the referee or Citing Commissioner was wrong.
- (5) In the case of a Complaint, the function of the Judicial Officer or Judicial Committee shall be to determine whether the Player concerned committed an act of Foul Play.
- (6) Where the Player admits that the act(s) of Foul Play warranted being Ordered Off or cited or where the Ordering Off is not overturned or the citing is upheld, the Judicial Committee or Judicial Officer shall move to the next stage of the hearing to determine the sanction (if any) to be imposed.
- (7) Where the Disciplinary Committee or Judicial Officer determines that the act(s) of Foul Play did not warrant the player being Ordered Off or cited, no further sanction is imposed on the Player, the disciplinary hearing ends and the Disciplinary Committee or Judicial Officer shall expunge the Ordering Off (Red Card) or citing from the Player's disciplinary record.
- (8) If the Complaint by an NZRU Citing Commissioner is upheld, the Judicial Officer or Judicial Committee shall determine the sanction, if any, to be imposed on the Player in accordance with Rule 87. In determining the appropriate sanction, if any, the Judicial Officer or Judicial Committee may take account of any action taken during the Match in respect of the Foul Play by the referee.
- (9) If a team Complaint arises from a match where there was no Citing Commissioner, the Judicial Committee or Judicial Officer must establish that (i) the incident was undetected by the referee and/or assistant referees and (ii) the alleged Foul Play was sufficiently serious to warrant an Ordering Off. If the Judicial Committee or Judicial Officer does not consider the alleged Foul Play of sufficient seriousness to have warranted an Ordering Off he/she/it shall dismiss the Complaint.
- (10) In the case of a Misconduct Complaint, the function of the Judicial Officer or Judicial Committee shall be to determine whether, on the

balance of probabilities, the Union, Club, Player or Person concerned committed the act or acts of Misconduct that are the subject of the Misconduct Complaint.

## **STAGE 2**

### **Sanctions and core sanctioning Process for Foul Play**

87. (1) When imposing sanctions in relation to an Ordering Off, Complaint or referee report, a Judicial Officer or Judicial Committee shall subject to Rule 168, apply the Sanctions for Offences: Foul Play set out in Section 9 in accordance with this Rule.

#### **Step 1: What is the correct entry point for the sanction?**

- (2) The Judicial Officer or Judicial Committee shall first undertake an assessment of the seriousness of the Player's conduct, which constitutes the offending and categorise the conduct as being at the lower end, mid-range or top end of the scale of seriousness in order to identify the appropriate entry point for consideration of particular acts of Foul Play where such acts are expressly covered in Section 9. The assessment of the seriousness of the Player's conduct shall be determined by reference to the following features of the offending:
- (a) whether the offending was committed intentionally or deliberately;
  - (b) whether the offending was reckless, that is the Player knew (or should have known) there was a risk of committing an act of Foul Play;
  - (c) the gravity of the Player's actions in relation to the offence;
  - (d) the nature of the actions, the manner in which the offence was committed including the part of the body used, e.g. fist, elbow, knee or boot;
  - (e) the existence of provocation;
  - (f) whether the Player acted in retaliation and the timing of such;
  - (g) whether the Player acted in self-defence (that is whether that Player used a reasonable degree of force in defending himself or herself);
  - (h) the effect of the offending Player's actions on the victim (e.g. the extent of any injury, removal of the victim Player from the game);
  - (i) the effect of the offending Player's actions on the game;

- (j) the vulnerability of the victim Player including the part of the victim's body involved or affected, the position of the victim Player and his or her ability to defend himself;
- (k) the level of participation in the offending and the level of premeditation;
- (l) whether the conduct of the offending Player was completed or amounted to an attempt;
- (m) any other feature of the Player's conduct in relation to or connected with the offending.

Based on the assessment of the offence(s) under consideration against the above features of offending, the Judicial Officer or Judicial Committee shall categorise the offence(s) as being at the lower end, mid-range or top end of the scale of seriousness of offending and identify the applicable entry point where set out in Section 9.

- (3) For offences categorised at the top end of the scale of seriousness of offending, the Judicial Officer or Judicial Committee is entitled to identify an entry point between the period shown as the top end in Section 9 and the maximum sanctions.

## **Step 2: Are there any reasons to increase the sanction?**

### **Aggravating Factors**

- (4) Once the applicable entry point has been identified, the Judicial Officer or Judicial Committee shall identify any relevant off-field aggravating factors and determine what additional period of suspension, if any, above the applicable entry point should apply to the case in question. Aggravating factors include the following:
  - (a) the Player's status generally as an offender of the Laws of the Game. The Player's disciplinary record in all competitions and (as appropriate) in other sports during his or her playing career from the age of 18 shall be considered by a Judicial Officer or Judicial Committee. In any case in which the Judicial Officer or Judicial Committee establishes that the Player has previously been found by a Judicial Officer or Judicial Committee to have committed an act of Foul Play and/or Misconduct, then the Judicial Officer or Judicial Committee in imposing any sanction on the Player may, take account of such offending as an aggravating factor in determining the appropriate sanction;
  - (b) the need for a deterrent to combat a 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;

- (c) any other off-field aggravating factor that the Judicial Officer or Judicial Committee considers relevant and appropriate (including poor conduct prior to or at the hearing).

### **Step 3: Are there any reasons to decrease the sanction?**

#### **Mitigating Factors**

- (5) Thereafter the Judicial Officer or Judicial Committee shall identify all relevant mitigating factors to determine if there are grounds for reducing the period of suspension, if any, and subject to subparagraphs (6) and (7) hereof, the extent, if at all, to which the period of suspension should be reduced. Mitigating factors include the following:
  - (a) the presence and timing of an acknowledgement of culpability/wrong-doing by the offending Player;
  - (b) the Player's disciplinary record and/or good character;
  - (c) the youth and inexperience of the Player;
  - (d) the Player's conduct prior to and at the hearing;
  - (e) remorse for the Player's actions and the victim Player including the timing of such remorse;
  - (f) any other off-field mitigating factor that the Judicial Officer or Judicial Committee considers relevant and appropriate.
- (6) Subject to paragraphs (7) and (8), for acts of Foul Play, the Judicial Committee or Judicial Officer cannot apply a greater reduction than 50% of the relevant entry point suspension (i.e. prior to any increase for aggravating factors). In assessing the percentage reduction applicable for mitigating factors, the Disciplinary Committee or Judicial Officer shall start at 0% reduction and apply the amount, if any, to be allowed as mitigation up to the maximum 50% reduction.
- (7) In cases involving offending that has been classified pursuant to paragraph (2) as lower end offending, where:
  - (a) there are off-field mitigating factors; and
  - (b) where the Judicial Committee or Judicial Officer considers that the sanction would be wholly disproportionate to the level and type of offending involved;

the Judicial Committee or Judicial Officer may apply, notwithstanding paragraph (6), sanctions less than 50% of the lower end entry sanctions specified in Section 9 including in appropriate cases no sanction. In

exceptional cases where the Disciplinary Committee or Judicial Officer considers it is warranted it may expunge the Ordering Off (Red Card) from the Player's disciplinary record, or in the case of a Temporary Suspension or a Citing Commissioner Warning, the Judicial Officer or Judicial Committee, solely in the case of mistaken identity, may expunge the Temporary Suspension or Citing Commissioner Warning from the Player's disciplinary record.

- (8) Where a Player has been found to have committed an act of Foul Play not specifically prescribed in Section 9, appropriate sanctions may be imposed at the discretion of the relevant Judicial Officer, Judicial Committee and/or Appeal Committee (as the case may be).
- (9) Notwithstanding the sanctions in Section 9 and/or the provisions of this Rule, 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 Officer or Judicial Committee may impose any period of suspension including a suspension for life.

#### **Step 4: Applying the sanction to the Player's playing schedule**

##### **Imposition of Sanctions**

- (10) In cases of multiple offending, Judicial Officers and Judicial Committees may impose sanctions to run either on a concurrent or a consecutive basis provided that the total sanction is, in all the circumstances, proportionate to the level of the overall offending.
- (11) Judicial Officers and Judicial Committees shall ordinarily, in their written decisions, set out the reasoning for their findings, including the finding on culpability, how they have categorised the seriousness of the offence by reference to the standard features of offending set out in this Rule, how they applied aggravating and mitigating factors and conclude with the sanction, if any, imposed including, for the avoidance of doubt, the expiry date of the suspension setting out a list of the Matches (or Match weekends, rounds or dates where specific fixtures have not yet been scheduled) for which the Player is suspended provided that, in any event, the Player would on the best information available at the time of the decision, be scheduled to play in a match which would meet the criteria set out in Rule 87(12) on each of the weeks taken into account and that an expiry date is stipulated for the suspension.

##### ***Appendix 2 can be used for this purpose***

- (12) For the purposes of imposing a suspension, Judicial Committees and Judicial Officers shall take into account weeks in which there is a Match(es) which complies with each of the following criteria:



- (a) until such time as he or she was suspended, the Player would otherwise have been scheduled to play in the Match, the burden resting with the Player to prove that he or she was scheduled to play. Where the Player was scheduled to play in more than one Match in a week (for example, a mid-week fixture) this week still only counts as one week of the suspension save where the rules of the particular tournament or tour from which the suspension arises and in which there is more than one Match per week allow for a suspension within that tournament or tour to be served in Matches;
- (b) the Match is to be played between two teams in compliance with all of the Laws of the Game;
- (c) where the Match is not part of a tournament, tour or Series of Matches which has been sanctioned by the Union or NZRU, the Match:
  - (i) is to be played between teams of equivalent level (for example, similar divisions or standards of play) and who play at the same or an equivalent level of the Game to the Player's ordinary level;
  - (ii) is to feature the best players available to each team;
  - (iii) is to be played at a venue of the capacity and characteristics ordinarily used by teams of this level or standard;
  - (iv) is to be open to the public (and in the case of a Match involving professional teams, tickets will be sold);
  - (v) is scheduled within 4 weeks prior to a competition, Match or tournament, which has been sanctioned by the Union or NZRU;
- (d) where the Match is a playoff, final or similar Match for which the Player's team has not yet qualified, the Judicial Committee or Judicial Officer's decision may provide for alternative applications of the Player's sanction whereby the Match(es) in question shall be counted if the Player's team participates or not counted if the Player's team does not participate in which case the Match(es) in which the Player's team next participates is instead included in the sanction.
- (e) where the Player is scheduled to play in a different form of the Game to that from which the sanction arises and those Matches in the other form of the Game fall within the period of the suspension, those Matches shall be taken into account for the purposes of the suspension if they meet all of the criteria set out in this Rule 87(12) save that in the case of a Player whose

suspension arises from a fifteen-a-side Match, only tournaments or series of matches in an abbreviated form of the Game which have been sanctioned by the Union or NZRU shall be taken into account and, in such case, each tournament or series of matches played over a weekend shall be considered to equate to one week for the purposes of calculating the suspension of a Player arising from a fifteen-a-side Match.

Players shall not be free to participate in rugby activities which a Judicial Committee or Judicial Officer (or, as applicable, Appeal Committee or Appeal Officer) has considered do not meet the criteria in this Rule 87(12) and thus have not been included as a week for which the Player is suspended.

- (13) The following principles shall apply to the imposition of decisions on sanctions and suspensions under these Rules:
- (a) sanctions and suspensions shall be applied immediately and may not be suspended;
  - (b) sanctions and suspensions shall be recognised and applied universally by Unions, Tournament Organisers and their constituent bodies; and
  - (c) Players subject to a suspension may not play the Game (or any form thereof) or be involved in any on-field Match day activities anywhere from the time they are Ordered Off, cited or where Section 3, Part 4 or Section 7, Part 3 applies (accumulation of Temporary Suspensions and Citing Commissioner Warnings) until their suspension expires or their case is dismissed.
- (14) When imposing suspensions on Players under this Rule, Judicial Committees or Judicial Officers shall comply with the requirements set out in Paragraph (12) above. In doing so Judicial Committees or Judicial Officers:
- (a) must not suspend the effect of any sanction imposed;
  - (b) may defer the commencement of a suspension provided that the Player is not scheduled to play (and will not be permitted to play) prior to the commencement of this suspension;
  - (c) must, if a Player's suspension has not terminated by the end of the current playing season, continue the suspension until a stated date in the next playing season, unless the Player has been selected for an off-season tour, or that Player has made plans to play during the off-season in another Union. In this event (and subject to the Judicial Committee or Judicial Officer receiving satisfactory verification of such tour or playing arrangements), the period of the tour or the fact that that Player intends to play

in another Union shall be taken into account in determining when the suspension shall come to an end; and

(d) may divide the suspension into two separate periods in order to exclude the whole or part of the off-season provided that the Player is not permitted to play during such off-season.

(15) Disciplinary Committees, Judicial Officers, Appeal Committees and Appeal Officers, prior to a hearing or at any stage during a hearing may amend the offence for which the player has been Ordered Off or cited unless, having regard to the circumstances of the case, such amendment cannot be made without causing injustice. Where an amendment is made, in appropriate cases an adjournment may be granted.

### **Sanctions for Misconduct**

88. If a Judicial Officer or Judicial Committee determines that an act (or acts) of Misconduct has been committed, then it shall receive and consider representations on Sanctions. The Judicial Officer or Judicial Committee shall be entitled to impose such sanction as it thinks fit on the Union and/or Club and/or Person and/or Player concerned including, but not limited to, the following:

- (a) a caution, warning as to future conduct, reprimand;
- (b) a fine and/or compensation order;
- (c) a suspension for a specified number of Matches (including all on-field activities) or period of time;
- (d) expulsion from the remainder of a competition or tournament;
- (e) exclusion orders from attending Matches or having any involvement with any teams playing Matches;
- (f) suspension from involvement in Rugby officiating, coaching and/or administration;
- (g) the deduction or cancellation of points or any such competition or tournament sanction;
- (h) the cancellation of a Match result;
- (i) the replaying of a Match;
- (j) the forfeiture of a Match; and/or
- (k) any combination of the above or other sanction as appropriate.

Where a Player who is covered by the Collective Agreement, is facing a Misconduct Complaint, the provisions of these Rules will apply but they must

be read in conjunction with the Collective Agreement and in the event of any inconsistency between these Rules and the Collective Agreement either in relation to process or sanction the terms of the Collective Agreement will prevail.

89. To provide Judicial Officers and Judicial Committees with guidance in relation to imposing sanctions for Misconduct, the NZRU, in consultation with Unions, has prepared a recommended range of sanctions for the most common categories of Misconduct in Section 10 - Recommended Sanctions for Offences - Misconduct. For the avoidance of doubt, the range of sanctions listed in Section 10 are recommendations only designed to assist the Judicial Officer or Judicial Committee and attempt to provide for a degree of consistency in the treatment of Misconduct offences in New Zealand Rugby. In each case, it will be for the Judicial Officer or Judicial Committee to consider the specific instance of Misconduct and decide on the appropriate sanction under Rule 88 taking into account the guidance in Section 10.
90. The decision of the Judicial Committee or Judicial Officer shall be communicated to the relevant Union, Player, Club or other party concerned and/or their representatives as soon as reasonably practicable and shall be binding upon notification to the Union, Player, Club or other party concerned and/or their representatives.

#### **Sanctions for Matches Called Off**

91. If a Judicial Officer or Judicial Committee determines that:
  - (a) the persistent or serious Foul Play; and/or
  - (b) the persistent or serious Misconduct by team management or supporters of one or both teams was responsible for the Match being called off and the referee's reasons for taking this action were correct in the circumstances, then it shall receive and consider representations on sanctions.
92. Taking into account the relative culpability of the teams involved in the Match, the Judicial Officer or Judicial Committee shall be entitled to impose such sanction as it thinks fit on one or both of the teams concerned including, but not limited to, the following:
  - (a) a caution, warning as to future conduct, reprimand;
  - (b) award the Match and any applicable competition points to one of the teams;
  - (c) declare the score at the time of calling off as the final score in the Match or declare the Match a nullity as if each team had defaulted;

- (d) removal of all or any of the competition points that would otherwise have been awarded to one or both of the respective teams for the Match;
- (e) removal of all or any competition points for all Matches played during that season by one or both of the respective teams for the Match;
- (f) suspend one or both teams and some or all of their respective Players for a period appropriate to the offence;
- (g) any combination of the above.

### **Costs**

93. As a general principle, the NZRU or Union shall bear the cost of holding the hearing and the Player or Person that is the subject of the proceedings or his or her Union or Club shall pay his, her or its own costs. Notwithstanding this general principle, Judicial Officers or Judicial Committees shall have complete discretion to impose such costs orders as it sees fit having regard to the circumstances of the case.

### **Post Hearing Procedures**

94. The decision of the Judicial Officer or Judicial Committee shall be advised to applicable parties (ordinarily using the standard form at Appendix 2)) as soon as practicable after the conclusion of the hearing and shall be binding on notification to the Player or his or her representative. Where it is considered appropriate, the Judicial Officer or Judicial Committee may deliver a short oral decision at the conclusion of the hearing (with its reasons to be put in writing and communicated to the parties at a later date) or it may reserve its decision. If an oral decision is made it shall be binding from the time of communication to the parties.
95. All parties heard by the Judicial Officer or Judicial Committee and any victim Player identified shall be entitled to a copy of the written decision of the Judicial Officer or Judicial Committee containing reasons for the decision which shall, where practicable, be sent to them (or in the case of a victim Player, to their Club) by the NZRU or Union within **48 hours** after it is available. A template for a Judicial Officer or Committee decision is attached as Appendix 2.
96. In any case where a Player or Person is adversely affected by a decision of the Judicial Officer or Judicial Committee that Player shall be advised by the Judicial Officer or Judicial Committee of his or her right of appeal. Such notification shall, ordinarily, be included in the final written decision of the Judicial Officer or Judicial Committee and advised at the conclusion of the hearing if an oral decision is given.
97. No Judicial Officer or member of a Judicial Committee or Appeal Committee should comment to the media on a decision of those bodies but the Judicial Officer or Chairperson may release a copy of that decision to the media

when it is available; or if a full written decision is not immediately available, release to the media a brief summary of the decision.

98. The decision of a Judicial Committee or Appeal Committee can be made public by a Union or the NZRU for the purposes of the administration of the Game including the upholding of the reputation of the Game and the Union and an appeal of a decision does not stay any such publication unless ordered otherwise by a Judicial Officer or Judicial Committee.

#### **Record of Proceedings**

99. The hearing by the Judicial Committee or Judicial Officer (save for private deliberations) shall be audio or audio-visually recorded or recorded by a stenographer. The record of the proceedings should be held for a suitable period by the Union or NZRU. Copies of the record shall be made available to the relevant parties at a reasonable cost only on appeal of the decision. Copies of the record will be made available to WR on request.

#### **No Right of Appeal Against Decision of Complaints Review Officer**

100. For the avoidance of doubt there shall be no right of appeal against any decision made by an NZRU or Union Complaints Review Officer.

#### **Proceedings Not To Be Invalidated For Technical Reasons**

101. No proceedings heard by any Judicial Officer, Judicial Committee or Appeal Committee shall be quashed or held invalid by reason only of any defect, irregularity, omission or other technicality unless such defect, irregularity, omission or technicality raises a material doubt as to the reliability of the findings or decisions of the Judicial Officer, Judicial Committee or Appeal Committee or results in a miscarriage of justice.

#### **Player May Not Play Whilst Case Pending**

102.

- (1) A Player who:
- (a) has been Ordered Off; or
  - (b) is the subject of a Complaint which a Complaints Review Officer has determined should proceed to a hearing;
  - (c) is the subject of a referee's report which a Complaints Review Officer has determined should proceed to a hearing; or
  - (d) is a member of a team that was involved in a Match called off early by the referee because of persistent or serious Foul Play or Misconduct;

is not permitted to play any Match and is suspended from all on-field activities on Match day until the case has been heard and finally determined before a Judicial Officer or Judicial Committee unless that Player is specifically authorised to do so by the Judicial Officer or Judicial Committee by which the case will be heard.

- (2) The lodging of an appeal shall not have the effect of deferring any suspension imposed. Once the period of any suspension has expired the Player may, however, resume playing notwithstanding that the appeal has not been heard.

### **Power To Suspend**

103. The NZRU and Unions shall have power to:

- (a) suspend any Club whose Player or Person fails to comply with any sanction imposed on him or her, provided that the Player's or Person's Club has been notified of the decision in writing, whether or not members of the Club's Executive Committee and Team's Coaches are aware of the Player's or Person's failure to comply as aforesaid;
- (b) suspend any Player who fails to comply with any sanction imposed on him or her pursuant to these Rules;
- (c) suspend any Person who fails to comply with any sanction imposed on him or her pursuant to these Rules.

### **NZRU and Unions To Conduct Own Hearing**

104. Unless otherwise ordered by a Court of Law having jurisdiction in New Zealand, all disciplinary proceedings may take place at the same time as legal proceedings relating to the same subject matter that are in existence in any New Zealand Court.

105. Where under these Rules, any time is prescribed or allowed for the filing of any Notice of Appeal or doing any other thing in respect of an appeal, the Appeal Committee or Appeal Council shall have full discretionary power to extend or abridge the time prescribed or allowed.

### **Autonomy of Committees**

106. All Union Judicial Officers, Judicial Committees and Appeal Committees and the NZRU Duty Judicial Officers, Judicial Officers or Judicial Committees shall exercise their functions independently of their respective Unions and the NZRU.

107. All Union Judicial Officers, Judicial Committees and Appeal Committees and the NZRU Duty Judicial Officers, Judicial Officers or Judicial Committees shall be appointed by an independent process and be fully autonomous and, in particular, any decision they make shall be binding on the respective

parent bodies which shall not have the power to affirm, revoke or alter any decision.

### **Variation and Correction of Decisions**

108. Subject to the following provisions of Rules 110-113, a finding, ruling, determination, sanction imposed, or other order (“Decision”) made by a Judicial Officer/Committee, Disciplinary Committee, Appeal Officer/Committee may be varied or rescinded by such Disciplinary Tribunal within the period of 28 days from the time of notification of the written decision (“written decision” here including the reasons in writing later given in relation to an oral decision).
109. A Disciplinary Tribunal may at any time, on the application of a party to the relevant proceedings or otherwise, correct an accidental slip, error or omission in a Decision.
110. The power conferred by Rules 109- 110 may not be exercised in relation to any Decision if an appeal, or an application for leave to appeal, against that decision has been determined.
111. A Decision shall not be varied or rescinded under Rules 109- 113 except by the Disciplinary Tribunal constituted as it was when the Decision was issued.
112. Where a Decision is varied under these Rules the sanction or other order, as so varied, shall take effect from the date on which it was originally imposed, unless the Disciplinary Tribunal otherwise directs.

## **SECTION 5: PROVINCIAL UNION APPEALS**

### **Appointment of Appeal Panel**

113. The Chairperson of each Union shall appoint a panel of individuals (“the Appeal Panel”) of such number as he or she decides each of whom shall be eligible to sit as members of an Appeal Committee. He or she shall also appoint the Chairperson of the Panel. The Chairperson of the Union shall have the discretion to add further individuals to the Appeal Panel at any time. An individual may be appointed to the Judicial Panel and Appeal Panel at the same time.
114. The Chairperson of the Appeal Panel shall appoint individual Appeal Committees of three persons from members of the Appeal Panel to act in the name of the Union for the purposes of hearing and determining any appeal in relation to disciplinary proceedings for which the Union has jurisdiction. A member of the Appeal Panel who is a member of the same Club as the Player, Person or Club party to the appeal, the victim Player or a complainant, or who acted as Judicial Officer or formed part of the Judicial Committee in the first instance disciplinary proceedings, shall not be a member of the Appeal Committee which determines the appeal and shall not attend the appeal hearing.



115. Members of the Appeal Panel shall be appointed for a period of up to three years, following which they shall, unless reappointed by the Chairperson of the Union, automatically cease to be a member of the Appeal Panel. The Chairperson may, at his or her discretion, remove any member of the Appeal Panel, at any time for any reason.

### Appeal Proceedings

116. An appeal to an Appeal Committee may be lodged by:
- (a) a Player sanctioned by a decision of a Judicial Officer or Judicial Committee for Foul Play;
  - (b) a victim Player of the Foul Play for which the opposition Player was referred to a Judicial Officer or Judicial Committee;
  - (c) a Player, Person, Union or Club sanctioned by a decision of a Judicial Officer or Judicial Committee for Misconduct;
  - (d) the Union Referees' Association; or
  - (e) the Union.
117. An appeal may be lodged by the Club to which a Player or Person belongs or is associated with, provided the Club has the written authority of the Player or Person concerned to lodge the appeal and the written authority is lodged with the Notice of Appeal.
118. An appeal shall be lodged within **seven days** after the date on which the decision of the Judicial Officer or Judicial Committee appealed against is notified. For the purposes of this Rule, a decision is deemed to have been notified when the written decision is sent by the CEO of the Union to the Player or Person.
119. An appeal shall be lodged when the Notice of Appeal is received by the CEO of the Union. The Notice of Appeal shall be in writing signed by the person lodging the appeal and shall specify:
- (a) the name of the person lodging the appeal and whether that person is lodging the appeal personally or as representative of the Club of a Player or Person or the Union;
  - (b) the decision appealed against;
  - (c) the date of the decision appealed against and the date it was received; and
  - (d) the specific grounds of the appeal.

Except as provided, no specific form of Notice of Appeal is required.

120. Upon receipt of the Notice of Appeal including an appeal by the Union, the CEO of the Union may require that an appeal deposit of an amount not exceeding \$1,000 be paid by the person lodging the appeal to the Union within 48 hours. In the event of the required deposit not being paid within 48 hours of notice of this requirement the appeal shall be deemed to be abandoned but the Appeal Committee in any case shall have power to extend the time for payment of the appeal deposit.
121. On the lodgement of the appeal, the CEO of the Union shall:
- (a) immediately arrange for a copy of the Notice of Appeal to be given to any party who has a right to be heard in accordance with these Rules; and
  - (b) make available to the Appeal Committee any record of the proceedings before the Judicial Officer or Judicial Committee.
122. The Appeal Committee shall set a time, date and place for an in-person hearing of the appeal which shall be notified by the CEO of the Union to the party who has lodged the appeal and any other party who has a right to be heard in accordance with these Rules. The Player will also be notified that, pending appeal, the Player is not eligible to play, save always that where a Player's suspension expires while his or her appeal is pending, the Player will be eligible to play forthwith.
123. (1) The following persons or parties shall have the right to be heard by the Appeal Committee on an appeal:
- (a) the person or party who lodged the appeal;
  - (b) the Player or Person sanctioned by the Judicial Officer or Judicial Committee;
  - (c) the victim Player (where applicable);
  - (d) the Union Referees' Association; and
  - (e) the Union or Club of the person or party referred to in paragraph (a).
- (2) All persons or parties entitled to be heard pursuant to paragraph (1) may be represented before the Appeal Committee by a representative of their Union or Club and/or by legal counsel, or in the case of the Union, the designated disciplinary officer or his or her nominee.
- (3) On any appeal the Appeal Committee may direct the Union to be represented and the Union shall appear by the designated disciplinary officer or by legal counsel at the hearing of the appeal in such capacity as the Appeal Committee requires to provide assistance to the Appeal Committee in the discharge of its duties.

124. The Appeal Committee shall have the power to conduct and regulate the appeal proceedings as it sees fit having regard to the circumstances of the case. It shall have the power to order that a de novo hearing in whole or in part be adopted on appeal. Ordinarily, however, appeals will be heard based on the record of the decision by the Judicial Officer or Judicial Committee and the evidence received and considered by the Judicial Officer or Judicial Committee with a de novo hearing in whole or in part being appropriate ordinarily only if it is necessary in the interests of justice. In determining the basis on which an appeal is to be conducted, the Appeal Committee shall have regard to the following principles:
- (a) The evidential assessment of the Judicial Officer or Judicial Committee at first instance should not be overturned save as in circumstances where central findings of fact made by the Judicial Officer or Judicial Committee are clearly wrong; and
  - (b) A de novo hearing in whole or part would ordinarily only be appropriate where:
    - (i) further evidence is available and such further evidence was not, on full and proper enquiry, available at the time of the first instance hearing; and/or
    - (ii) the record and/or evidence received and submitted at the first instance hearing is unclear and/or the record is otherwise defective.
125. Except where an appeal proceeds in whole as a de novo hearing it is for the appellant to establish that the decision being challenged on appeal:
- (a) was in error (either as to central factual findings or in law);
  - (b) in the interests of justice should be overturned;
  - (c) the sanction imposed was manifestly excessive or wrong in principle; and/or
  - (d) the sanction imposed was manifestly too lenient.
126. Except where an appeal proceeds in whole or in part, and then only with respect to that part, as a de novo hearing, appeals shall be conducted on the basis that:
- (a) the evidential assessment or decision involving an exercise of discretion or judgment of or by a Judicial Committee or Judicial Officer shall not be overturned save in circumstances where the relevant findings made by the Judicial Committee or Judicial Officer are clearly wrong;
  - (b) the evidential assessment or decision involving an exercise of discretion or judgment of or by a Judicial Committee or Judicial

Officer shall not be overturned save in circumstances where the Judicial Committee or Judicial Officer applied wrong principles in the exercise of its/their discretion which has resulted in an erroneous decision being made; and/or

- (c) new or additional evidence not offered before to the Judicial Committee or Judicial Officer shall only be considered by the Appeal Committee or Appeal Officer where the party offering such evidence establishes that it was not, on reasonable enquiry, available at the time of the proceedings before the Judicial Committee or Judicial Officer.
127. Notwithstanding Rule 123, where the appellant appeals against the sanction and/or cost order alone, the appellant may request that the Appeal Committee review the sanction without the need for a personal hearing.
128. The Chairperson of the Appeal Committee shall be entitled to determine pre-hearing procedural and/or evidential matters. Such matters may include:
- (a) giving directions for the hearing and clarification of the procedures; and/or
  - (b) the requirement for any person to attend the hearing as a witness.
- For the purposes of pre-hearing case management the Chairperson of the Appeal Committee may exercise this function without reference to the other Appeal Committee members.
129. The Appeal Committee shall set a time, date and place for the hearing of the appeal which shall be notified by the Union to the appellant(s) who has lodged the appeal and any other persons entitled to appear.
130. Where a Player is suspended, provisionally suspended or had other sanctions imposed, such suspension and/or sanction shall remain in place pending the outcome of an appeal unless it has expired in which case the Player shall be eligible to play forthwith.
131. Appeal Committees shall:
- (a) have the power to direct that the Union be represented. If so, the Union shall be represented by a designated disciplinary officer (or his or her nominee) or by legal counsel at the hearing of the appeal in such capacity as the Appeal Committee or Appeal Officer requires, to assist it, in the discharge of its duties;
  - (b) may permit such other persons to be present at the hearing of the appeal as they see fit;
  - (c) in any case where a witness has been required to attend and refuses and/or fails to attend the hearing, the Appeal Committee or Appeal

Officer may decide whether or not to allow the evidence of that witness to be given in any other form;

- (d) be entitled to determine whether witnesses that give evidence are entitled to remain within the room in which the appeal is being heard after their evidence has been given; and
  - (e) subject to Rules 73-75 be entitled to receive evidence in such form as it thinks fit (including evidence in writing), including evidence which may not be admissible in a court or tribunal and should be entitled to attach such weight to that evidence as it thinks fit.
132. Save where the Appeal Committee decides to hear the entire case de novo, the appellant shall have the burden of proving that the decision being challenged should be overturned or varied.
133. The Appeal Committee or Appeal Officer shall have the power to:
- (a) allow the appeal;
  - (b) vary the decision in such a manner as it thinks fit (including power to reduce, uphold, increase or cancel any penalty);
  - (c) make such further order (in relation to costs or otherwise) as it thinks fit; and
  - (d) take any other step in the exercise of its discretion as it considers appropriate to take in order to deal justly with the case in question.
134. The Appeal Committee's deliberations on its decision shall take place in private. A decision of an Appeal Committee shall be valid if taken by at least a simple majority of the members of the Committee. No members of an Appeal Committee may abstain from any decision. When an Appeal Committee has an even number of members and members of such Committee are unable to come to a unanimous or majority decision, then the Chairperson of the Appeal Committee shall have the casting vote.
135. (1) The decision of the Appeal Committee shall be advised to the parties as soon as practicable after the conclusion of the hearing. Where it considers it appropriate, the Appeal Committee may deliver a short oral decision at the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date, or it may reserve its decision.
- (2) All parties heard by the Appeal Committee shall be entitled to a copy of the Appeal Committee's written decision which shall be provided by the Appeal Committee as soon as practicable after it is available. At the same time, the Appeal Committee shall advise of the right of appeal to the NZRU Judicial Committee. Such advice shall be included in the Appeal Committee's written decision.

136. The hearing of an appeal by an Appeal Committee shall be recorded. The record of proceedings and all papers produced at the hearing shall be held by the CEO of the Union for a reasonable period after each hearing.
137. An Appeal Committee may, in its discretion, order that any deposit paid on the lodgement of an appeal, or any part of it, be refunded.

#### **SECTION 6: PROVINCIAL UNION APPEALS TO NZRU JUDICIAL COMMITTEE**

138. Any person or party who had the right to be heard by the Union Appeal Committee under Rule 117 may appeal to the NZRU Judicial Committee against the decision of the Union Appeal Committee.
139. An appeal under Rule 139 may be lodged by the Union or Club to which a Player or Person belongs or is associated with, provided the Union or Club has the written authority of the Player or Person concerned to lodge the appeal and such written authority is lodged with the Notice of Appeal.
140. An appeal under Rule 139 shall be lodged within 7 days after the date on which the decision of the Appeal Committee is notified. For the purpose of this Rule, a decision of an Appeal Committee is deemed to have been notified when the written decision is sent by the CEO of the Union to the persons required to be notified under Section 5 of these Rules.
141. An appeal under Rule 139 shall be lodged when a Notice of Appeal is received by the CEO of the NZRU. A Notice of Appeal shall be in writing, signed by the person lodging the appeal and shall specify:
  - (a) the name of the person lodging the appeal and whether that person is lodging the appeal personally or as a representative of the Union or Club of a Player or Person;
  - (b) the decision appealed against;
  - (c) the date of the decision appealed against; and
  - (d) the specific grounds for the appeal.

Except as provided, no particular form of Notice of Appeal is required.

142. In accordance with Rule 159, the Chairperson of the NZRU Judicial Panel or his or her nominee shall appoint two or three members of the NZRU Judicial Panel to act in the name of the NZRU as the NZRU Judicial Committee for the purposes of hearing and determining the appeal.
143. Upon receipt of the Notice of Appeal the CEO of the NZRU shall notify the party appealing and the CEO of his or her Union of the appeal deposit of an amount not exceeding \$5,000 to be paid to the NZRU within 48 hours. In the event of the required deposit not being paid within 48 hours of notice of this requirement, the appeal shall be deemed to be abandoned provided

that the NZRU Judicial Committee shall have power to extend the time for payment in any case.

144. On the lodgement of an Appeal, the CEO of the NZRU shall forward to the NZRU Judicial Committee:
- (a) the Notice of Appeal;
  - (b) a record of the proceedings before the Union Judicial Officer or Judicial Committee and the decision of the Union Judicial Officer or Judicial Committee; and
  - (c) a record of the proceedings before the Union Appeal Committee and the decision of the Union Appeal Committee.
145. The NZRU Judicial Committee shall set a time, date and place for the hearing of the appeal which shall be notified by the CEO of the NZRU to the party who has lodged the Appeal and any other party who has the right to be heard in accordance with these Rules. The Player will also be notified that pending appeal the Player is not eligible to play save always that where a Player's suspension expires when his or her appeal is pending, the Player will be eligible to play forthwith.
146. On any appeal, the NZRU Judicial Committee may direct the NZRU to be represented and the NZRU shall appear by its designated disciplinary officer, legal counsel or other representative at the hearing of the appeal in such capacity as the NZRU Judicial Committee requires.
- 147.
- (1) The following persons or parties shall have the right to be heard by the NZRU Judicial Committee on an Appeal brought under Rule 139:
    - (a) the person or party who lodged the appeal;
    - (b) the Player or Person originally sanctioned by the Judicial Officer or Judicial Committee;
    - (c) the victim Player (where applicable);
    - (d) the Union Referees' Association;
    - (e) the Union or Club of the person or party referred to in paragraph (a); and
    - (f) the NZRU.
  - (2) All persons or parties entitled to be heard pursuant to this Rule may be represented before the NZRU Judicial Committee by a representative of their Union or Club and/or by legal counsel.

148. The NZRU Judicial Committee shall have the power to conduct and regulate the appeal proceedings as it sees fit having regard to the circumstances of the case. It shall have the power to order that a de novo hearing in whole or in part be adopted on appeal. Ordinarily, however, appeals will be heard based on the record of the decision by the Judicial Officer or Judicial Committee and the evidence received and considered by the Judicial Officer or Judicial Committee with a de novo hearing in whole or in part being appropriate ordinarily only if it is necessary in the interests of justice. In determining the basis on which an appeal is to be conducted, the NZRU Judicial Committee shall have regard to the following principles:
- (a) The evidential assessment of the Judicial Officer or Judicial Committee at first instance should not be overturned save as in circumstances where central findings of fact made by the Judicial Officer or Judicial Committee are clearly wrong.
  - (b) A de novo hearing in whole or part would ordinarily only be appropriate where:
    - (i) further evidence is available and such further evidence was not, on full and proper enquiry, available at the time of the first instance hearing; and/or
    - (ii) the record and/or evidence received and submitted at the first instance hearing is unclear and/or the record is otherwise defective.
149. Except where an appeal proceeds in whole as a de novo hearing it is for the appellant to establish that the decision being challenged on appeal:
- (a) was in error (either as to central factual findings or in law);
  - (b) in the interests of justice should be overturned;
  - (c) the sanction imposed was manifestly excessive or wrong in principle; and/or
  - (d) the sanction imposed was manifestly too lenient.
150. Except where an appeal proceeds in whole or in part, and then only with respect to that part, as a de novo hearing, appeals shall be conducted on the basis that:
- (a) the evidential assessment or decision involving an exercise of discretion or judgment of or by an Appeal Committee shall not be overturned save in circumstances where the relevant findings made by the Appeal Committee are clearly wrong;
  - (b) the evidential assessment or decision involving an exercise of discretion or judgment of or by an Appeal Committee shall not be overturned save in circumstances where the Appeal Committee applied



wrong principles in the exercise of its discretion which has resulted in an erroneous decision being made; and/or

- (c) new or additional evidence not offered before to the Appeal Committee shall only be considered by the Judicial Committee or NZRU Judicial Officer where the party offering such evidence establishes that it was not, on reasonable enquiry, available at the time of the proceedings before the Appeal Committee.

- 151. Where the appellant appeals against the sanction and/or cost order alone, the appellant may request that the NZRU Judicial Committee review the sanction without the need for a personal hearing. The NZRU Judicial Committee may also determine that a personal hearing is not required in relation to any appeal but if it so wishes, the appellant always has the right to appear and make representations in all cases in person or by way of technology or alternatively that Player may make representations in writing.
- 152. The Chairperson of the NZRU Judicial Committee shall be entitled to determine pre-hearing procedural and/or evidential matters. Such matters may include:
  - (a) a pre-hearing conference convened for the purposes of giving directions for the hearing and clarification of the procedures; and/or
  - (b) the requirement for any person to attend the hearing as a witness.

For the purposes of pre-hearing case management, the Chairperson of the NZRU Judicial Committee may exercise this function without reference to the other NZRU Judicial Committee members.

- 153. The NZRU Judicial Committee shall set a time, date and place for the hearing which shall be notified by the Union to the appellant(s) for whom the hearing applies.
- 154. Where a Player is suspended, provisionally suspended or had other sanctions imposed, such suspension and/or sanction shall remain in place pending the outcome of the judicial hearing unless it has expired in which case the Player is eligible to play forthwith.
- 155. The NZRU Judicial Committee shall:
  - (a) have the power to direct that the Union be represented. If so, the Union shall be represented by a designated disciplinary officer (or his or her nominee) or may appear by legal counsel at the hearing of the appeal in such capacity as the NZRU Judicial Committee requires, to assist it in the discharge of its duties;
  - (b) may permit such other persons to be present at the judicial hearing as they see fit;

- (c) in any case where a witness has been required to attend and refuses and/or fails to attend the hearing, the NZRU Judicial Committee may decide whether or not to allow the evidence of that witness to be given in any other form;
- (d) be entitled to determine whether witnesses that give evidence are entitled to remain within the room in which the Judicial hearing is being heard after their evidence has been given; and
- (e) subject to Rules 73-75, be entitled to receive evidence in such form as it thinks fit (including evidence in writing), including evidence which may not be admissible in a court or tribunal and should be entitled to attach such weight to that evidence as it thinks fit.

156. The NZRU Judicial Committee shall have the powers set out in Rule 134.

## **SECTION 7: NZRU INITIAL JUDICIAL PROCEDURES**

### **Appointment of Judicial Panel And Designated Disciplinary Officer**

157. The Chairperson of the NZRU Rugby Committee, or if unavailable the Chairperson of the NZRU Board, shall appoint a panel of individuals (“the NZRU Judicial Panel”) of such number as he or she decides each of whom shall be eligible to sit as NZRU Judicial Officers, Duty Judicial Officers (where applicable) or members of an NZRU Judicial Committee, one of whom will be designated by the Chairperson of the NZRU Rugby Committee or NZRU board as the Chairperson. The Chairperson of the NZRU Rugby Committee, or if unavailable the Chairperson of the NZRU Board, shall have the discretion to add further individuals to the NZRU Judicial Panel at any time.
158. The Chairperson of the NZRU Judicial Panel or his or her nominee shall appoint individual Judicial Officers, Duty Judicial Officers or Judicial Committees of two or three persons from members of the NZRU Judicial Panel to act in the name of the NZRU for the purposes of hearing and determining disciplinary proceedings for which the NZRU has jurisdiction.
159. Members of the Judicial Panel shall be appointed for a period of up to three years, following which they shall, unless reappointed by the Chairperson of the NZRU Rugby Committee, automatically cease to be a member of the Judicial Panel. The Chairperson of the NZRU Rugby Committee may, at his or her discretion, remove any member of the NZRU Judicial Panel, at any time for any reason.
160. The NZRU CEO shall appoint a person to be the designated disciplinary officer for the purposes of this Rule.

### **Disciplinary Proceedings**

161. Any NZRU Duty Judicial Officer, Judicial Officer or Judicial Committee appointed in accordance with Rule 159 shall have power to act in the name

of the NZRU to hear and determine disciplinary proceedings for which the NZRU has jurisdiction in the following circumstances:

- (a) where a Player is Ordered Off the playing enclosure in which case Part 1 of this Section will apply;
- (b) where a Complaint of Foul Play is lodged pursuant to Part 2 of this Section;
- (c) where a Player has been Temporarily Suspended from the playing enclosure (received a yellow card) or issued with a Citing Commissioner warning or any combination thereof, for a third time in any competition in any year in which case Part 3 of this Section will apply;

and any NZRU Judicial Officer or Judicial Committee appointed in accordance with Rule 159 shall have power to act in the name of the NZRU to hear and determine disciplinary proceedings for which the NZRU has jurisdiction where a Misconduct Complaint is lodged pursuant to Part 4 of this Section.

Nothing in this Rule shall affect the jurisdiction of the NZRU Judicial Committee to hear and determine appeals brought before it pursuant to these Rules.

## **162. Duty Judicial Officer**

163.1 The NZRU will determine in consultation with the Chairperson of the NZRU Judicial Panel which, if any, competitions or matches under the jurisdiction of the NZRU will incorporate a Duty Judicial Officer process into the hearing and determination of allegations of on-field acts of Foul Play falling within the jurisdictional provisions of Rule 156 (a), (b) and (c) above. For any competition or Match that a Duty Judicial Officer process is applicable to, the provisions relating to the operation of that process will be as set in this Rule 163.

163.2 In respect of any Match to which Rule 163.1 applies, the following disciplinary matters will be referred to a Duty Judicial Officer:

- (a) Where a Player is Ordered Off the playing enclosure during a Match;
- (b) Where a Player is the subject of a Complaint of Foul Play (cited) pursuant to part 2 of this Section; and
- (c) Where a Player has been Temporarily Suspended from the Playing Enclosure (received a yellow card) three times or received three Citing Commissioner warnings (or any combination thereof).

- 163.3 The function of the Duty Judicial Officer is to carry out a brief initial assessment of the circumstances of the case in accordance with the provisions of the applicable competition manual and determine whether or not to offer the Player a preliminary indication of penalty or refer the matter to a full hearing.
- 163.4 A Duty Judicial Officer will, whenever practicable, determine whether or not to offer the Player a preliminary indication of penalty within 24 hours of the following information being made available to both the Duty Judicial Officer and the Player:
- (a) a copy of the Ordering Off report, the Complaint of Foul Play (Citing Commissioner's Report) or Citing Commissioners Warning;
  - (b) each Match Official's report;
  - (c) all available footage of the incident;
  - (d) any medical report(s);
  - (e) any other relevant evidence or information including the Player's disciplinary record, if any.
- 163.5 The Duty Judicial Officer will determine a preliminary indication of penalty by making an initial assessment of the evidence by considering any submissions from or on behalf of the Player and by applying the Rules relating to sanctions for Foul Play set out at Rule 87 of these Rules. The Duty Judicial Officer will, where appropriate, provide for a discount for an early guilty plea when determining the preliminary indication of penalty, but such discount must be reached and provided within the limits imposed by Rule 87 (6) and (7).
- 163.6 The Duty Judicial Officer will refer the matter to a full hearing if he or she believes that a full hearing is required to fairly and justly deal with the case.
- 163.7 A Player can only accept a preliminary indication of penalty if he or she accepts that he or she committed the act of Foul Play for which he or she has been charged or which the Duty Judicial Officer has amended pursuant to Rule 87(15).
- 163.8 A Player will have 4 hours after the Duty Judicial Officer gives the Player the preliminary indication of penalty to decide whether to accept any preliminary indication of penalty offered by the Duty Judicial Officer.
- 163.9 If a Player accepts the preliminary indication of penalty offered by the Duty Judicial Officer then the Duty Judicial Officer will issue a brief written decision imposing that penalty covering the following:

- (a) the Player's acceptance of culpability;
- (b) how the Duty Judicial Officer has categorised the seriousness of the offence;
- (c) how the Duty Judicial Officer applied aggravating and mitigating factors;
- (d) the sanction imposed together with an explanation of why the term of any suspension (which must be imposed until a stated date) is appropriate and meaningful, having regard to the playing consequences of such suspension, including the matches to be taken into account in determining the length of the suspension.

Attached as Appendix 2 is a template for a Judicial Officer decision which can also be used for a Duty Judicial Officer decision.

163.10 If the Player does not accept the preliminary indication of penalty offered by the Duty Judicial Officer then the matter will proceed to a full hearing before a Judicial Officer.

163.11 Notwithstanding any other provision of these Rules, there is no right of appeal from, or right or ability to take any other review of, a decision of the Duty Judicial Officer by any person or organisation.

#### **Part 1 Initial Procedures: Ordering Off ("Red Card")**

163. Where a Player is Ordered Off the playing enclosure in a Match for which the NZRU has jurisdiction, the referee shall, within 24 hours of the completion of the Match, or such further time as may be allowed by the NZRU Complaints Review Officer, send to the CEO of the NZRU a written report incorporating:

- (a) the date of the Match, the venue and the teams participating;
- (b) the name of the Player Ordered Off, his or her jersey number and his or her team;
- (c) the circumstances in which the Player was Ordered Off;
- (d) the reasons for the Player being Ordered Off; and
- (e) any other information the referee (or assistant referee where applicable) considers material.

Form A may be used by the referee for the purposes of a report under this Rule.

164. If a Player is Ordered Off the playing enclosure as a result of the intervention of an assistant referee, the assistant referee shall also send to

the CEO of the NZRU a written report incorporating the matters referred to in Rule 164 within the time prescribed by that Rule. Form A may be used by the assistant referee for the purposes of a report under this Rule.

165. For the purposes of Rules 164 and 165, a referee's and an assistant referee's report shall be deemed to be sent to the CEO of the NZRU when:
- (a) it is transmitted to the CEO by facsimile or email provided that timed and confirmed notice of transmission can be provided; or
  - (b) it is received at the offices of the NZRU.
166. The Player Ordered Off shall be supplied with a copy of the referee's report and, where applicable, the assistant referee's report by the CEO of the NZRU and advised:
- (a) of the date, place and time of the hearing of the Judicial Officer, Duty Judicial Officer or Judicial Committee;
  - (b) of the identity of the Judicial Officer, Duty Judicial Officer or Judicial Committee;
  - (c) that that Player will be required to attend the hearing, including by teleconference or videoconference;
  - (d) that if that Player is unable to attend the hearing that Player should personally or through his or her Union advise the CEO of the NZRU forthwith including details as to the reason(s) why the Player is unable to attend as soon as practicable;
  - (e) that that Player is entitled to adduce evidence and make submissions and be represented by his or her Union and/or a legal advisor; and
  - (f) that he or she is not eligible to play and will be suspended from any involvement in all on-field activities on Match days pending resolution of the case

Where possible, notice to the Ordered Off Player and his or her Union shall be given in writing. It shall be sufficient compliance with this Rule if a copy of the referee's report and, where applicable, the assistant referee's report and the information required to be given by this Rule is sent to the CEO of the Ordered Off Player's Union or are handed to the Player or the Player's team manager.

167. When imposing a sanction for Foul Play, an NZRU Judicial Officer/Committee or Duty Judicial Officer will apply the sanctions set out in Section 9 in accordance with these Rules except in the case of an Ordering Off where at a full hearing, the Player has proved that the referee's decision was wrong, in which case the Judicial Officer/Committee may remove the Red Card from the Player's record completely.

***If Ordering Off proceeding to a hearing, refer Section 4***

## Part 2 Initial Procedures: Complaints/Citings

168. The Judicial Officer, Duty Judicial Officer or Judicial Committee shall have jurisdiction to hear and determine a complaint of Foul Play against a Player (“a Complaint”/“Citing”) in respect of any act of Foul Play for which the Player has not been Ordered Off the playing enclosure in a Match for which the NZRU has jurisdiction.
169. (1) A Complaint under Rule 169 may only be made by an NZRU Citing Commissioner appointed by the NZRU for a particular Match or series of Matches in circumstances where in the opinion of the NZRU Citing Commissioner, the Player concerned should have been Ordered Off. A Complaint may be made by an NZRU Citing Commissioner notwithstanding the Foul Play may have been detected by Match Officials and have been the subject of action taken, or a decision to take no action, on the playing enclosure.
- (2) For any Match for which the NZRU has jurisdiction:
- (a) the team manager or CEO of a Union whose team participated in the Match;
  - (b) any Citing Commissioner Liaison Officer appointed by the Union hosting the Match; or
  - (c) the CEO of the NZRU or his or her nominee;
- may refer any incident of Foul Play to the NZRU Citing Commissioner for consideration provided such incident is referred to the NZRU Citing Commissioner within 4 hours of the conclusion of the Match in which the incident is alleged to have occurred. A Citing Commissioner’s decision as to whether a Complaint should be made against a Player (or not, as the case may be), whether as a result of an incident referred to him or her or otherwise shall be final.
- (3) An NZRU Citing Commissioner may issue a Citing Commissioner Warning for a serious act of Foul Play which, in the opinion of the NZRU Citing Commissioner came close to but did not warrant the Player being Ordered Off, and was not the subject of a Temporary Suspension or Ordering Off.
170. (1) A Complaint by an NZRU Citing Commissioner under Rule 169 shall be in writing (electronically or otherwise) and shall be sent to the CEO of the NZRU or his or her nominee within 12 hours of the completion of the Match in which the incident the subject of the Complaint occurred.
- (2) A Complaint by an NZRU Citing Commissioner under Rule 169 may be sent to the CEO of the NZRU outside the 12 hour period provided for in paragraph (1) hereof up to 48 hours after the Match or such later time as may be granted with the leave of the NZRU Complaints Review



Officer. Leave under this provision will only be given in exceptional circumstances.

- (3) Except as hereafter provided, a Complaint made under paragraph (2) hereof shall be treated and dealt with for all purposes as a Complaint under paragraph (1).
- (4) For the purposes of this Rule, a Complaint is deemed to be sent when:
  - (a) it is transmitted to the CEO by email provided that timed and confirmed notice of transmission can be provided; or
  - (b) it is received at the offices of the NZRU.

171. A Complaint under Rule 169 shall contain the following information:

- (a) the date and place of the alleged Foul Play;
- (b) the name of the Player in respect of whom the Complaint is made (and his or her jersey number) and the team that Player was playing for at the time of the alleged Foul Play;
- (c) the name of the opposing team; and
- (d) full details of the alleged Foul Play, including brief details of the evidence relied upon.

172. (1) On receipt of a Complaint (including a Complaint brought with leave under Rule 171(2)), the CEO of the NZRU shall immediately refer the Complaint to a Judicial Officer.

- (2) On receipt of a Complaint, the CEO or his or her nominee shall forthwith obtain reports from the referee, the assistant referees and such other persons who that Player considers may be able to provide evidence bearing on the subject of the Complaint.

173. On receipt of a Complaint, the CEO of the NZRU shall notify the Player and his or her Union of the Complaint and shall send to the Player and his or her Union copies of the Complaint and any reports obtained under Rule 173 and video coverage of the incident, if available, and advise the Player:

- (a) of the date, time and place of the Judicial Officer, Duty Judicial Officer or Judicial Committee hearing at which the Complaint will be heard;
- (b) that that Player will be required to attend the hearing including by teleconference or videoconference;
- (c) that if that Player is unable to appear at the hearing as notified, that Player should advise the CEO of the NZRU forthwith;

- (d) that that Player is entitled to adduce evidence and make submissions and be represented by his or her Union and/or a legal advisor; and
- (e) that that Player is not eligible to play and will be suspended from any involvement in on-field activities on Match days pending resolution of the case.

***If a Complaint proceeding to a hearing, refer Section 4***

### Part 3 Initial Procedures: Yellow Cards

174. Where a Player is Temporarily Suspended from play (i.e. issued with an on-field yellow card) in a Match for which the NZRU has jurisdiction, the referee shall, within 24 hours of the completion of the Match, or such further time as may be allowed by the NZRU Complaints Review Officer, send to the CEO of the NZRU a written report incorporating:
- (a) the date of the Match, the venue and the teams participating;
  - (b) the name of the Player Temporarily Suspended, his or her jersey number and his or her team;
  - (c) the circumstances in which the Player was Temporarily Suspended;
  - (d) the reason for the Player being Temporarily Suspended; and
  - (e) any other information the referee considers material.

Form A may be used by the referee for the purpose of a report under this Rule.

175. If a Player is Temporarily Suspended as a result of the intervention of an assistant referee, the assistant referee shall also send to the CEO of the NZRU a written report incorporating the matters referred to in Rule 168 within the time prescribed by that Rule. Form A may be used by the assistant referee for the purposes of a report under this Rule.
176. For the purposes of Rule 175 the report of the referee, or assistant referee, shall be deemed to be sent to the CEO of the NZRU when:
- (a) it is transmitted to the CEO by email provided that timed and confirmed notice of transmission can be provided; or
  - (b) it is received at the offices of the NZRU.
177. A Player Temporarily Suspended on two occasions or having been Temporarily Suspended and received a Citing Commissioner Warning during a playing season in any Match for which the NZRU has jurisdiction shall be advised in writing by the CEO of the NZRU that in the event that Player is Temporarily Suspended or receives a Citing Commissioner Warning on any further occasion during the same playing season in any Match for which the NZRU has jurisdiction that Player will be required to appear before the Judicial Officer or Judicial Committee which shall determine whether a further penalty will be imposed as a result of his or her persistent offending.
178. A Player Temporarily Suspended on three occasions or having a total of three Temporary Suspensions and/or Citing Commissioner Warnings or any combination thereof, during the same playing season in any Match for which the NZRU has jurisdiction and having received the notification required by

Rule 178 shall be required to appear before the Judicial Officer, Duty Judicial Officer or Judicial Committee. The Player shall be sent copies of the referee's Temporary Suspension reports and the Citing Commissioner Warnings and be advised:

- (a) that the purpose of the hearing is to consider whether any penalty (over and above the Temporary Suspensions or Citing Commissioner Warnings) shall be imposed on him or her by reason of his or her persistent offending;
  - (b) of the date, place and time of the hearing of the Judicial Officer or Judicial Committee;
  - (c) of the identity of the Judicial Officer, Duty Judicial Officer or Judicial Committee;
  - (d) that that Player will be required to attend the hearing;
  - (e) that if that Player is unable to appear at the hearing that Player should personally or through his or her Union advise the CEO of the NZRU forthwith;
  - (f) that that Player is entitled to be represented by his or her Union and/or legal advisor;
  - (g) that save where that Player alleges that a Temporary Suspension or Citing Commissioner Warning in any incident was a result of the referee or Citing Commissioner having wrongly identified the Player as the offending Player ("mistaken identity") no evidence will be heard other than on the question of penalty; and
  - (h) that that Player is not eligible to play pending resolution of the case.
179. At a hearing convened under Rule 178 the Judicial Officer or Judicial Committee shall have power to impose a period of suspension on the Player for his or her persistent offending.

***If Temporary Suspension proceeding to a hearing, refer Section 4***

#### Part 4 Initial Procedures: Misconduct

180. The NZRU, Unions and Clubs are responsible and accountable for the conduct of their Players and all Persons under their jurisdiction. The NZRU, Unions, Clubs, Players and Persons must conduct themselves in a disciplined and sporting manner and ensure that they do not commit an act or acts of Misconduct.
181. An NZRU Judicial Officer or Judicial Committee shall have jurisdiction to hear and determine a Misconduct Complaint against an employee or agent of the NZRU, a Union, Club, Player or Person which arises from any conduct, behaviour or practices on or off the playing enclosure in connection with any Match (excluding Foul Play by a Player during a Match which has been dealt with under Parts 1-3 of this Section) for which the NZRU has jurisdiction.
182. A Misconduct Complaint under Rule 182 may be made by:
- (a) the NZRU's designated disciplinary officer or his or her duly authorised nominee; and
  - (b) the CEO of a Union where a team from that Union was involved in the Match which gave rise to the alleged Misconduct.
183. (1) Subject to paragraph (2) hereof, a Misconduct Complaint under Rule 176 shall be in writing and shall be sent to the CEO of the NZRU or his or her or her duly authorised nominee within 72 hours of the alleged Misconduct occurring.
- (2) With the leave of the NZRU Complaints Review Officer, a Misconduct Complaint under Rule 182 may be sent to the CEO of the NZRU outside the 72 hour period provided for in paragraph (1) hereof. Leave under this provision shall be given only in exceptional circumstances such as, in the case of a Misconduct Complaint made by the CEO of a Union, where the offending only became known outside of the 72 hour period.
- (3) Except as hereafter provided, a Misconduct Complaint made under paragraph (2) shall be treated and dealt with for all purposes as a Misconduct Complaint made under paragraph (1).
- (4) For the purposes of this Rule, a Misconduct Complaint is deemed to be sent when:
- (a) it is transmitted to the CEO by facsimile or email provided that timed and confirmed notice of transmission can be provided; or
  - (b) it is received at the offices of the NZRU.
184. A Misconduct Complaint under Rule 182 shall contain the following information:
- (a) the date and place of the alleged Misconduct;
  - (b) the name of the Player or Person in respect of whom the Misconduct Complaint is made and his or her Union;

- (c) full details of the alleged Misconduct (including brief details of the evidence to be relied on).

Except as provided, there is no specific form required.

- 185. (1) Where a Misconduct Complaint is lodged by a Union CEO, on receipt of the Misconduct Complaint (other than a Misconduct Complaint brought with leave under Rule 184(2), the CEO of the NZRU shall immediately refer the Misconduct Complaint to the NZRU Complaints Review Officer.
  - (2) On receipt of a Misconduct Complaint brought with leave under Rule 184(2), the CEO of the NZRU shall refer the matter to the designated disciplinary officer (or his or her nominee) who shall proceed as required by Rule 187(2) as if notification had been received from the NZRU Complaints Review Officer that the Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee.
- 186. (1) If the NZRU Complaints Review Officer determines that the Misconduct Complaint is not frivolous, vexatious or otherwise without merit that Player shall notify the designated disciplinary officer of the NZRU that the Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee. No reasons need be given by the NZRU Complaints Review Officer for his or her determination.
  - (2) On becoming aware of circumstances that could give rise to a Misconduct Complaint or on being notified by the NZRU Complaints Review Officer that a Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee, the NZRU's designated disciplinary officer or his or her nominee shall:
    - (a) undertake such investigations as that Player may consider appropriate to gather information bearing on the subject of the Misconduct Complaint; and
    - (b) obtain reports from such persons who that Player considers may be able to gather information bearing on the subject of the Misconduct Complaint.
  - (3) Once a decision to proceed with a Misconduct Complaint has been made or on being notified by the NZRU Complaints Review Officer that a Misconduct Complaint should proceed to a hearing before the Judicial Officer or Judicial Committee, the NZRU's designated disciplinary officer or his or her nominee shall notify the Union, Player or Person of the Misconduct Complaint and if applicable, the fact the NZRU Complaints Review Officer has determined that it should proceed to a hearing before the Judicial Officer or Judicial Committee (if applicable) and shall send to the Union, Player or Person copies of the Misconduct Complaint and any reports and other evidence obtained under paragraph (2), and video coverage of the incident, if available, and advise:
    - (a) of the date, time and place of the Judicial Officer or Judicial Committee hearing at which the Misconduct Complaint will be heard;

- (b) that the Player or Person or a representative of the Union will be required to attend in person the hearing;
- (c) that if the Player or Person or representative of the Union is unable to appear at the hearing as notified, they should advise the NZRU's designated disciplinary officer or his or her nominee forthwith;
- (d) that the Player or Person or representative of the Union is entitled to adduce evidence and make submissions and be represented by his or her Union and/or a legal advisor.

***If Misconduct proceeding to a hearing, refer Section 4***

## SECTION 8: NZRU APPEALS TO APPEAL COUNCIL

187. An appeal to the NZRU Appeal Council may be lodged by:
- (a) a Player sanctioned by a decision of an NZRU Judicial Officer or Judicial Committee for Foul Play;
  - (b) a victim Player of the Foul Play for which the opposition Player was referred to an NZRU Judicial Officer or Judicial Committee; or
  - (c) a Player or Person sanctioned by a decision of an NZRU Judicial Officer or Judicial Committee for Misconduct; or
  - (d) the NZRU and/or WR.
188. An appeal may be lodged by the Union to which a Player or Person belongs provided the Union has the written authority of the Player or Person concerned to lodge the appeal and the written authority is lodged with the Notice of Appeal.
189. An appeal shall be lodged within two working days after the date on which the written decision of the Judicial Officer or Judicial Committee is notified. For the purposes of this Rule, a decision is deemed to have been notified when the written decision is sent by the CEO of the NZRU to the Union of the Player or Person.
190. The appeal shall be lodged when written Notice of Appeal is received by the CEO of the NZRU. The Notice of Appeal shall be in writing signed by the person lodging the appeal and shall specify:
- (a) the name of the person lodging the appeal and whether that person is lodging the appeal personally or as a representative of the Union of the Player or Person;
  - (b) the decision appealed against;
  - (c) the date of the decision appealed against; and
  - (d) the specific grounds for the appeal.

Except as provided, no specific form of Notice of Appeal is required.

191. In accordance with clause 19.1 of the NZRU Constitution, upon receipt of the Notice of Appeal, the CEO of the NZRU may require that an appeal deposit be paid by the person lodging the appeal to the NZRU within 48 hours. In the event of a deposit not being paid within 48 hours of notice of this requirement the appeal shall be deemed to be abandoned provided that the NZRU Appeal Council in any case shall have power to extend the time for payment of the appeal deposit.



192. On lodgement of the Notice of Appeal, the CEO of the NZRU shall:
- (a) immediately arrange for a copy of the Notice of Appeal to be given to any party who has a right to be heard in accordance with these Rules; and
  - (b) make available to the NZRU Appeal Council any record of the proceedings before the Judicial Officer or Judicial Committee.
193. The Chairperson of the NZRU Appeal Council shall set a time, date and place for the hearing of the appeal which shall be notified by the CEO of the NZRU to the party who has lodged the appeal and any other party who has a right to be heard. The Player will also be notified that, pending appeal, the Player is not eligible to play or participate in any match day activities, save always that where a Player's suspension expires while his or her appeal is pending, the Player will be eligible to play forthwith.
194. (1) The following persons or parties shall have the right to be heard by the NZRU Appeal Council on an appeal:
- (a) the person or party who lodged the appeal;
  - (b) the Player or Person sanctioned by the Judicial Officer or Judicial Committee;
  - (c) the victim Player (where applicable); and
  - (d) the Union of the person or party referred to in paragraph (a);
- (2) All parties entitled to be heard by the NZRU Appeal Council may be represented by a representative of their Union and/or by legal counsel.
- (3) On any appeal, the NZRU Appeal Council may direct the NZRU to be represented and the NZRU shall be represented by the designated disciplinary officer (or his or her nominee) or by legal counsel at the hearing of the appeal in such capacity as the NZRU Appeal Council requires to provide assistance in the discharge of its duties.
195. The NZRU Appeal Council shall have the power to conduct and regulate the appeal proceedings as it sees fit having regard to the circumstances of the case. It shall have the power to order that a de novo hearing in whole or in part be adopted on appeal. Ordinarily, however, appeals will be heard based on the record of the decision by the Judicial Officer or Judicial Committee and the evidence received and considered by the Judicial Officer or Judicial Committee with a de novo hearing in whole or in part being appropriate ordinarily only if it is necessary in the interests of justice. In determining the basis on which an appeal is to be conducted, the NZRU Appeal Council shall have regard to the following principles:
- (a) The evidential assessment of the Judicial Officer or Judicial Committee at first instance should not be overturned save as in circumstances where central findings of fact made by the Judicial Officer or Judicial Committee are manifestly wrong.
  - (b) A de novo hearing in whole or part would ordinarily only be appropriate where:

- (i) further evidence is available and such further evidence was not, on full and proper enquiry, available at the time of the first instance hearing; and/or
  - (ii) the record and/or evidence received and submitted at the first instance hearing is unclear and/or the record is otherwise defective.
- 196. Except where an appeal proceeds in whole as a de novo hearing it is for the appellant to establish that the decision being challenged on appeal:
  - (a) was in error (either as to central factual findings or in law);
  - (b) in the interests of justice should be overturned;
  - (c) the sanction imposed was manifestly excessive or wrong in principle; and/or
  - (d) the sanction imposed was manifestly too lenient.
- 197. Except where an appeal proceeds in whole or in part, and then only with respect to that part, as a de novo hearing, appeals shall be conducted on the basis that:
  - (a) the evidential assessment or decision involving an exercise of discretion or judgment of or by an NZRU Judicial Committee or Judicial Officer shall not be overturned save in circumstances where the relevant findings made by the NZRU Judicial Committee or Judicial Officer are manifestly wrong;
  - (b) the evidential assessment or decision involving an exercise of discretion or judgment of or by an NZRU Judicial Committee or Judicial Officer shall not be overturned save in circumstances where the NZRU Judicial Committee or Judicial Officer applied wrong principles in the exercise of its/his/her discretion which has resulted in an erroneous decision being made; and/or
  - (c) new or additional evidence not offered before to the NZRU Judicial Committee or Judicial Officer shall only be considered by the NZRU Appeal Council where the party offering such evidence establishes that it was not, on reasonable enquiry, available at the time of the proceedings before the NZRU Judicial Committee or Judicial Officer.
- 198. Where the appellant appeals against the sanction and/or cost order alone, the appellant may request that the NZRU Appeal Council review the sanction without the need for a personal hearing. The NZRU Appeal Council may also determine that a personal hearing is not required in relation to any appeal but if it/he/she so wishes, the appellant always has the right to appear and make representations in all cases in person or by way of technology or alternatively that Player may make representations in writing.
- 199. The Chairperson of the NZRU Appeal Council shall be entitled to determine pre-hearing procedural and/or evidential matters. Such matters may include:
  - (a) the giving of directions for the hearing and clarification of the procedures; and/or
  - (b) the requirement for any person to attend the hearing as a witness.

For the purposes of pre-hearing case management, the Chairperson of the NZRU Appeal Council may exercise this function without reference to the other NZRU Appeal Council members.

200. The NZRU Appeal Council shall set a time, date and place for the hearing of the appeal which shall be notified by the NZRU to the appellant(s) who has lodged the appeal.
201. Where a Player is suspended, provisionally suspended or had other sanctions imposed, such suspension and/or sanction shall remain in place pending the outcome of an appeal unless it has expired while the appeal is pending, in which case the Player will be eligible to play forthwith.
202. The NZRU Appeal Council shall:
  - (a) have the power to direct that the NZRU be represented. If so, the NZRU shall be represented by a designated disciplinary officer (or his or her nominee) or may appear by legal counsel at the hearing of the appeal in such capacity as the NZRU Appeal Council requires, to assist it in the discharge of its duties;
  - (b) may permit such other persons to be present at the hearing of the appeal as they see fit;
  - (c) in any case where a witness has been required to attend and refuses and/or fails to attend the hearing, the NZRU Appeal Council may decide whether or not to allow the evidence of that witness to be given in any other form;
  - (d) be entitled to determine whether witnesses that give evidence are entitled to remain within the room in which the appeal is being heard after their evidence has been given; and
  - (e) subject to Rules 73-75 be entitled to receive evidence in such form as it thinks fit (including evidence in writing), including evidence which may not be admissible in a court or tribunal and should be entitled to attach such weight to that evidence as it thinks fit.
203. Save where the NZRU Appeal Council decides to hear the entire case de novo, the appellant shall have the burden of proving that the decision being challenged should be overturned or varied.
204. The NZRU Appeal Council shall have the powers set out in Rule 134.
205. The NZRU Appeal Council's deliberations on its decision shall take place in private. A decision of an NZRU Appeal Council shall be valid if taken by at least a simple majority of the members of the Council. No members of an NZRU Appeal Council may abstain from any decision. When an NZRU Appeal Council has an even number of members and members of such Council are unable to come to a unanimous or majority decision, then the Chairperson of the NZRU Appeal Council shall have the casting vote.
206. (1) The decision of the NZRU Appeal Council shall be advised to the parties as soon as practicable after the conclusion of the hearing. Where it considers it appropriate, the NZRU Appeal Council may deliver a short oral decision at

the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date, or it may reserve its decision.

(2) All parties heard by the NZRU Appeal Council shall be entitled to a copy of the Appeal Council's written decision which shall be provided by the NZRU Appeal Council as soon as practicable after it is available.

207. The NZRU Appeal Council shall have power to quash, vary or increase any sanction imposed in any case.

208. The hearing of an appeal by an NZRU Appeal Council shall be recorded. The record of proceedings and all papers produced at the hearing shall be held by the CEO of the NZRU.

209. An NZRU Appeal Council may, in its discretion, order that any deposit paid on the lodgement of an appeal, or any part of it, be refunded.

210. The decision of the NZRU Appeal Council on an appeal shall be final.

## SECTION 9: SANCTIONS FOR FOUL PLAY

This section replicates the sanctions applicable under WR Regulation 17 and incorporates the relevant references to Law 9 of the Laws of the Game (e.g. “Law 9.11”).

**Note:** Any act of Foul Play which results in contact with the head and/or neck shall result in at least a mid-range sanction.

[1] *The note does not apply to the following Laws whose low-end entry points already take into account head contact being a potential feature or consequence of such breach reaching the red-card threshold: 9.12 (biting, contact with eye(s)/eye area, striking with head and tripping), 9.18 and 9.27 (hair pulling).*

[2] & [3] *The “eye” involves all tissues including the eye lids within and covering the orbital cavity and the “eye area” is anywhere in close proximity to the eye.*

**Law 9.11** Players must not do anything that is reckless or dangerous to others.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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**Law 9.12** A player must not physically abuse anyone. Physical abuse includes, but is not limited to:

Biting	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Intentional Contact with Eye(s) (2)	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Reckless Contact with Eye(s) (2)	Low-end: 6 weeks	Mid-range: 12 weeks	Top-end: 18+ weeks	Max: 208 weeks
Contact with Eye Area (3)	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Punching or striking with hand or arm (including stiff-arm tackle)	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with the elbow	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with shoulder	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
Striking with head	Low-end: 6 weeks	Mid-range: 10 weeks	Top-end: 16+ weeks	Max: 104 weeks
Striking with knee	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Stamping or Trampling	Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 12+ weeks	Max: 52 weeks
Tripping	Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks

Kicking	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
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Law 9.12 A player must not verbally abuse anyone. 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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Law 9.13 A player must not tackle an opponent early, late or dangerously. Dangerous tackling includes, but is not limited to, tackling or attempting to tackle an opponent above the line of the shoulders even if the tackle starts below the line of the shoulders.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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Law 9.14 A player must not tackle an opponent who is not in possession of the ball.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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Law 9.15 Except in a scrum, ruck or maul, a player who is not in possession of the ball must not hold, push, charge or obstruct an opponent not in possession of the ball.

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 6+ weeks	Max: 52 weeks
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Law 9.16 A player must not charge or knock down an opponent carrying the ball without attempting to grasp that player.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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Law 9.17 A player must not tackle, charge, pull, push or grasp an opponent whose feet are off the ground.

Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
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Law 9.18 A player must not lift an opponent off the ground and drop or drive that player so that their head and/or upper body make contact with the ground.

Low-end: 6 weeks	Mid-range: 10 weeks	Top-end: 14+ weeks	Max: 52 weeks
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Law 9.19 Dangerous play in a scrum.

- a. The front row of a scrum must not form at a distance from its opponents and rush against them.
- b. A front-row player must not pull an opponent.
- c. A front-row player must not intentionally lift an opponent off their feet or force the opponent upwards out of the scrum.
- d. A front-row player must not intentionally collapse a scrum.

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks
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Law 9.20 Dangerous play in a ruck or maul.

- a. A player must not charge into a ruck or maul. Charging includes any contact made without binding onto another player in the ruck or maul.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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- b. A player must not make contact with an opponent above the line of the shoulders.
- c. A player must not intentionally collapse a ruck or a maul.

Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 8+ weeks	Max: 52 weeks
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Law 9.25 A player must not intentionally charge or obstruct an opponent who has just kicked the ball.

Low-end: 2 weeks	Mid-range: 6 weeks	Top-end: 10+ weeks	Max: 52 weeks
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Law 9.27 A player must not do anything that is against the spirit of good sportsmanship including but not limited to:

Hair pulling or grabbing	Low-end: 2 weeks	Mid-range: 4 weeks	Top-end: 6+ weeks	Max: 52 weeks
Spitting at anyone	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks
Grabbing, twisting or squeezing the genitals (and/or breasts in the case of female players)	Low-end: 12 weeks	Mid-range: 18 weeks	Top-end: 24+ weeks	Max: 208 weeks
Other	Low-end: 4 weeks	Mid-range: 8 weeks	Top-end: 12+ weeks	Max: 52 weeks

Law 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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Law 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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Law 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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Law 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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Law 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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In respect of offences not referred to in Section 9 above, appropriate sanctions may be imposed at the discretion of the relevant Judicial Officer, Disciplinary Committee, Appeal Officer and/or Appeal Committee (as the case may be).

Notwithstanding the Sanctions in Section 9 and/or the provisions of Rule 87, 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 Officers and/or Disciplinary Committees may impose any period of suspension including a suspension for life.



## SANCTIONS GUIDANCE FOR ACCUMULATION OF TEMPORARY SUSPENSIONS AND/OR CITING COMMISSIONER WARNINGS

1. There is deliberately no guidance within the above sanctions table(s) to assist a Judicial Officer of Judicial Committee to determine the appropriate sanction in relation to accumulated Temporary Suspensions and/or Citing Commissioner Warnings. This is an area where judicial discretion is required given the multiple permutations that could emerge. A Judicial Officer or Judicial Committee may be required to consider whether to apply sanctions against Players for accumulation of Temporary Suspensions and/or Citing Commissioner Warnings in two circumstances:
  - (a) where a Player has received three Temporary Suspensions and/or Citing Commissioner Warnings (or a combination thereof) in a particular tournament or series and/or five Temporary Suspensions and/or Citing Commissioner Warnings in a season of the World Rugby Sevens Series and the Judicial officer or Judicial Committee is required to consider whether any further penalty should be imposed by reason of his or her persistent Foul Play (Rules 36-38, Rules 175-181); or
  - (b) where a Player has received two Temporary Suspensions and/or Citing Commissioner Warnings in one Match which in the case of a Temporary Suspension led to him or her being Ordered Off on receipt of the second temporary suspension (Rules 175-181).
2. It is assumed for the purposes of this Appendix that none of the relevant Temporary Suspensions resulted in a subsequent citing which was upheld by a Judicial Officer. In such cases the Temporary Suspension event which has been cited falls away and is replaced by the decision arising from the citing.
  - A. Player receives three Temporary Suspensions and/or Citing Commissioner Warnings in a Tournament/Series or five in a Sevens Series**
    1. The Judicial Officer or Judicial Committee is required to apply a sanction for the offence of persistent offending, not for the substantive offences relating to each Temporary Suspension and/or Citing Commissioner Warning. Ordinarily, the appropriate entry point sanction in such circumstances is a suspension of one to three weeks depending upon the seriousness of the offending. Sanctioning in these circumstances should be determined by reference to the methodology in Rule 87 and in particular to the application of mitigating and aggravating features.
    2. The Judicial Officer or Judicial Committee may, however, decide to apply no sanction in the following circumstances:
      - (a) where one or more of the Temporary Suspensions and/or Citing Commissioner's Warnings was applied as a result of mistaken identity; or
      - (b) exceptional circumstances exist which would warrant no sanction being imposed. This situation could arise when:
        - (i) a Player was temporarily suspended for an act of Foul Play but on review it was clear that there was no Foul Play or only a minor act

of Foul Play had been committed which would not have warranted a Temporary Suspension or Citing Commissioner Warning;

- (ii) some of the Temporary Suspensions were awarded for technical offences (including following a team warning) not involving a breach of Law 9.

**B. Player receives two Temporary Suspensions/Citing Commissioner Warnings in one Match**

1. The Judicial Officer or Judicial Committee is required to apply for the offence of persistent offending, not for the substantive offences relating to each Temporary Suspension and/or Citing Commissioner Warning. Ordinarily, the appropriate entry point for persistent offending within a single Match is a suspension of one to two weeks. Sanctioning in these circumstances should be determined by reference to the methodology in Rule 87 and in particular to the application of mitigating and aggravating features.
2. The Judicial Officer or Judicial Committee may decide that sending off was sufficient (or otherwise that no further sanction is appropriate) in the following circumstances:
  - (a) where either of the Temporary Suspensions or Citing Commissioner Warnings was applied as a result of mistaken identity; or
  - (b) that exceptional circumstances exist which would warrant no further sanctions being imposed. This situation could arise when a Player was temporarily suspended for an act of Foul Play but on review it was clear that there was no Foul Play or only a minor act of Foul Play had been committed which would not have warranted a Temporary Suspension and/or Citing Commissioner Warning;
  - (c) any of the Temporary Suspensions were awarded for so-called technical offences (including following a team warning) not involving a breach of Law 9.

## SECTION 10: RECOMMENDED SANCTIONS FOR OFFENCES: MISCONDUCT

### Recommended Sanctions For Misconduct

Type of Misconduct	Type of Sanction	Seriousness	Recommended Range
Verbal Abuse of a referee or assistant referee by a Player or Person	Suspension	Less serious	2-11 weeks
		More serious	12-52 weeks
Physical Abuse of a referee or assistant referee by a Player or Person	Suspension	Less serious	12-47 weeks
		More serious	48 weeks - Life
Threatening actions or words at referee or assistant referee	Suspension	Less serious	12-23 weeks
		More serious	24-104 weeks
Acts or Statements that are discriminatory by reason of Religion, Race, Sex, or National or Ethnic Origin	Suspension	Less serious	2-17 weeks
		More serious	18-52 weeks
Player or Person providing false or misleading information to Match Officials, Union or NZRU	Suspension	Less serious	2-23 weeks
		More serious	24-104 weeks

**FORM A: MATCH OFFICIAL/CITING COMMISSIONER REPORT FORM**

NAME OF COMPETITION	
MATCH	v
DATE OF MATCH	
VENUE	
MATCH RESULT	

**REPORT SUBMITTED BY (tick as applicable):**

REFEREE	
ASSISTANT REFEREE	
TELEVISION MATCH OFFICIAL	
CITING COMMISSIONER	

**TYPE OF INCIDENT (tick as applicable):**

RED CARD	
YELLOW CARD	
CITING	
CITING COMMISSIONER WARNING	

PLAYER'S FULL NAME	
PLAYER'S TEAM	
PLAYER'S PLAYING POSITION	
PLAYER'S PLAYING NUMBER	

NATURE OF FOUL PLAY INCIDENT/CITING

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PERIOD OF GAME WHEN INCIDENT OCCURRED	
ELAPSED TIME IN PERIOD	
PROXIMITY OF MATCH OFFICIAL TO INCIDENT	
MATCH SCORE AT TIME OF INCIDENT	
HAD CAUTIONS BEEN ISSUED TO	
(a) Individual	(b) General

DETAILED REPORT

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SIGNATURE	
NAME	
UNION/RRA	
CONTACT PHONE NUMBER	

**FORM B: REFEREE REPORT ON MATCHES CALLED OFF**

Forms are available in electronic format from the NZRU

Team A \_\_\_\_\_ Team B \_\_\_\_\_

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

Period of the match when called off 1<sup>st</sup> Half  2<sup>nd</sup> Half

Elapsed time in half \_\_\_\_\_

Score at that time \_\_\_\_\_ pts \_\_\_\_\_ pts \_\_\_\_\_

What were the circumstances in which the match was called off?

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What were the examples of the persistent or serious Foul Play or Misconduct that led to the match being called off and who committed these offences?

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Were one or both teams responsible for the match being called off (give details)?

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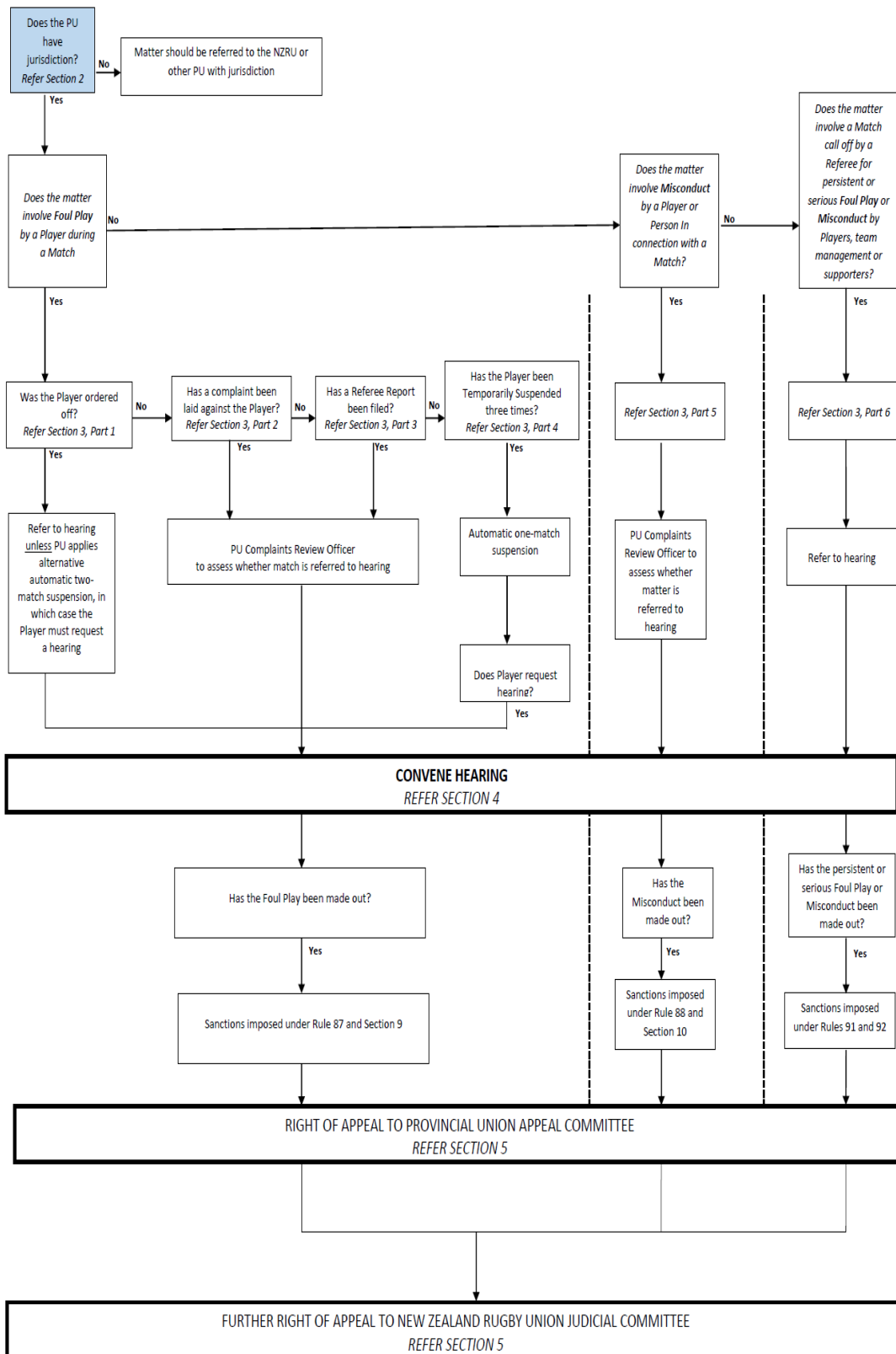
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REFEREE'S NAME \_\_\_\_\_ UNION \_\_\_\_\_

REFEREE'S SIGNATURE \_\_\_\_\_ CONTACT PHONE \_\_\_\_\_

**REPORT TO BE LODGED WITH THE PROVINCIAL UNION WHERE THE MATCH WAS PLAYED WITHIN 48 HOURS OF THE MATCH**

# APPENDIX 1: FLOWCHART OF PROVINCIAL UNION DISCIPLINARY PROCESS





## APPENDIX 2: TEMPLATE FOR A JUDICIAL OFFICER DISCIPLINARY DECISION

Match	[insert] v [insert]		
Player's Union	[insert]	Competition	[insert]
Date of match	[insert]	Match venue	[insert]
Rules to apply	Regulation 17 World Rugby Handbook; or Tournament Disciplinary Program; or NZRU Disciplinary Rules		

[insert logo e.g.]

PARTICULARS OF OFFENCE			
Player's surname	[insert]	Date of birth	[insert]
Forename(s)	[insert]		
Referee Name	[insert]	Plea	<input type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	[Select] *for drop down list, see attached	SELECT:    Red card <input type="checkbox"/> Citing <input type="checkbox"/> Other <input type="checkbox"/>	If "Other" selected, please specify:
Summary of Sanction	[insert] weeks OR No Sanction [delete as appropriate]		

HEARING DETAILS			
Hearing date	[from calendar]	Hearing venue	[insert]
Chairperson/JO	[insert]		
Other Members of Disciplinary Committee	[insert] (ex-[insert team/referee] etc) [insert] (ex-[insert team/referee] etc)		
Appearance Player	YES <input type="checkbox"/> NO <input type="checkbox"/>	Appearance Union	YES <input type="checkbox"/> NO <input type="checkbox"/>
Player's Representative(s)		Disciplinary Officer and/or other attendees	
List of documents/materials provided to Player in advance of hearing			

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/DVD FOOTAGE

**ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)**

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**SUMMARY OF PLAYER'S EVIDENCE**

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**FINDINGS OF FACT**

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**DECISION**

Breach admitted <input type="checkbox"/>	Proven <input type="checkbox"/>	Not proven <input type="checkbox"/>	Other disposal (please state) <input type="checkbox"/>
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## SANCTIONING PROCESS

### ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 87(2)(a)-(b) (or equivalent Tournament rule)
Intentional/deliberate <input type="checkbox"/> Reckless <input type="checkbox"/>
State Reasons
Gravity of player’s actions – R 87(2)(c) (or equivalent Tournament rule)
Nature of actions – R 87(2)(d) (or equivalent Tournament rule)
Existence of provocation – R 87(2)(e) (or equivalent Tournament rule)
Whether player retaliated – R 87(2)(f) (or equivalent Tournament rule)
Self-defence – R 87(2)(g) (or equivalent Tournament rule)
Effect on victim – R 87(2)(h) (or equivalent Tournament rule)
Effect on match – R 87(2)(i) (or equivalent Tournament rule)
Vulnerability of victim – R 87(2)(j) (or equivalent Tournament rule)
Level of participation/premeditation – R 87(2)(k) (or equivalent Tournament rule)
Conduct completed/attempted – R 87(2)(l) (or equivalent Tournament rule)
Other features of player’s conduct – R 87(2)(m) (or equivalent Tournament rule)

**ASSESSMENT OF SERIOUSNESS CONTINUED**

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Low-end</u>	<u>Weeks</u>
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	

\*If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.19.2(a), 17.19.2(h), and 17.19.2(i) or the equivalent provisions within the Tournament Rules or NZRU Disciplinary Regulations referred to above.

Reasons for selecting Entry Point above Top End

**ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS**

Player's status as an offender of the Laws of the Game – R 87.4(a) (or equivalent Tournament rule)
Need for deterrence – R 87.4(b) (or equivalent Tournament rule)
Any other off-field aggravating factors – R 87.4(c) (or equivalent Tournament rule)

Number of additional weeks:

### RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 87.5(a) (or equivalent Tournament rule)	Player’s disciplinary record/good character – R 87.5(b) (or equivalent Tournament rule)
Youth and inexperience of player – R 87.5(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 87.5(d) (or equivalent Tournament rule)
Remorse and timing of remorse – R 87.5(e) (or equivalent Tournament rule)	Other off-field mitigation – R 87.5(f) (or equivalent Tournament rule)

Number of weeks deducted:

Summary of reason for number of weeks deducted:

### SANCTION

**NOTE:** PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING

Total sanction	[insert]	Sending off sufficient <input type="checkbox"/>
Sanction commences		
Sanction concludes		
Matches/tournaments included in sanction		

Costs	
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Signature (JO or Chairperson)	_____	Date	_____
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**NOTE:** YOU HAVE [ ] HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRPERSON/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR