



**Illawarra District Rugby Union Inc.**

**Judiciary Procedures**

**2011**

## 1 Definitions and interpretation

1.1 In this document, unless the contrary intention appears:

- 1.1.1 *competition rules* means the current competition rules of the *IDRU*;
- 1.1.2 *illegal and/or foul play* has the meaning defined in the *IRB's* Regulations relating to the Game;
- 1.1.3 *misconduct* includes an act or acts of *illegal and/or foul play*;
- 1.1.4 other words appearing in italics have the meanings defined in the *competition rules*;
- 1.1.5 a reference to a person includes a reference to a natural person, an association whether incorporated or not and a committee;
- 1.1.6 words indicating the singular number include the plural number and vice versa;
- 1.1.7 words indicating a gender include each other gender;
- 1.1.8 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning
- 1.1.9 Code of Conduct means the *IDRU* Code of Conduct
- 1.1.10 Administration Officer means Judiciary Committee Administration Officer.

## 2 Judiciary membership and meetings

2.1 The *judiciary* is to consist of:

- 2.2.1 a *judiciary* chairman; and
- 2.2.2 4 other persons,

appointed from time to time by the *board*.

2.3. The *judiciary* must meet at such times:

- 2.3.1 as are necessary for compliance with the *IDRU's* competition rules; and
- 2.3.2 as are otherwise required by the *board*.

2.4. At each meeting of the *judiciary*:

- 2.4.1 the *judiciary* chairman is to preside; or
- 2.4.2 if the *judiciary* chairman is absent or unwilling to act, another member of the sub-committee chosen by the members present at the meeting is to preside.

## 3 Voting and decisions

3.1 Questions arising at a meeting of the *judiciary* are to be determined by a majority of the votes of the *judiciary* members present at the meeting.

3.2 Each *judiciary* member present at a meeting of the *judiciary* (including the chairman of the meeting) is entitled to one vote but, in the event of an equality of votes on any question, the chairman can exercise a second or casting vote.

3.2 A majority of the members of the *judiciary* constitute a quorum for the transaction of the business of a *judiciary* meeting

3.3 Subject to clause 3.2, the *judiciary* can act despite any vacancy on the *judiciary*.

- 3.4 Any thing done or permitted, or purporting to have been done or permitted, by the *judiciary*, is valid despite any defect that is discovered afterwards in the appointment or qualifications of any member of the *judiciary*.

#### 4 Judiciary functions

- 4.1 This document sets out the procedures for dealing with:
- 4.1.1 a player ordered off the playing enclosure;
  - 4.1.2 a player temporarily suspended 6 times in the *grade competition* or 5 times in the *junior competition*;
  - 4.1.3 a player, *club* or other person cited for *misconduct*; and
  - 4.1.4 a protest arising from a *competition* match lodged by a *club*.

#### 5 Ordering off distinguished from temporary suspension

- 5.1 A player is ordered off when sent off the playing enclosure permanently by the referee and can take no further part in the match in which the player was ordered off.
- 5.2 A player is temporarily suspended when cautioned in a match by the referee and temporarily sent off the playing enclosure by the referee for a period of 10 minutes playing time which is spent in the so-called sin bin.

#### 6 Players ordered off the playing enclosure

- 6.1 Within 24 hours after a player is ordered off the playing enclosure for *misconduct*, the referee responsible must send by email to the administration officer and to the secretary of each *club* participating in the match a report including:
- 6.1.1 the date and venue of the match and the teams participating;
  - 6.1.2 the names of the player and the player's *club*; and
  - 6.1.3 the reason for ordering the player off the playing enclosure.

The report should be in the form set out in Appendix 2.

- 6.2 A player ordered off the playing enclosure will be suspended from playing until the player's case has been decided by the *judiciary*.
- 6.3 The *judiciary* must meet as directed by the *board* or when necessary throughout the season to hear cases. Unless otherwise directed by the *board* the *judiciary* will meet at Regent Court, 41 Kenny Street, Wollongong at 5.00pm on each Wednesday after a *competition* match in which a player is ordered off the playing enclosure. The player must attend that meeting.
- 6.4 Despite clauses 6.2 and 6.3, if the referee's report has not been received by the player's *club* before the day of the meeting referred to in clause 6.3, the *club* must notify the *administration officer* accordingly. In that event:
- 6.4.1 the meeting to determine the player's case must be adjourned;
  - 6.4.2 the administration officer must subsequently send to the player notice of the meeting at which the player's case is to be determined together with a copy of the referee's report; and
  - 6.4.3 the player can continue to play until the case has been determined.
- 6.5 Despite clauses 6.3 and 6.4, if the player ordered off is unable to attend a meeting of the *judiciary*, the player can give written and signed permission to be represented by an official of the player's *club* or by legal counsel.

- 6.6 Within 24 hours after the referee's report has been sent to the player's *club*, the player must send by email to the administration officer a response:
- 6.6.1 admitting the *misconduct* alleged in the report without dispute (in which case the player is not required to attend the hearing, unless specifically directed by the administration officer to attend);
  - 6.6.2 admitting the *misconduct* alleged but reserving the right to make submissions to the *judiciary*; or
  - 6.6.3 disputing the report.

If no response is sent, the player will be deemed to have admitted the *misconduct* alleged without dispute. The response should be submitted in the form set out in Appendix 4.

- 6.7 The *judiciary* must consider the circumstances of the case and determine what further penalty, if any, should be imposed on the player. The player can seek to show that the referee's reasons for sending the player off were wrong and the *judiciary* can review the referee's reasons for the ordering off decision and the circumstances surrounding it. In any such case, the *judiciary* must not make a finding contrary to the referee's decision unless it is satisfied, on the balance of probabilities, that the referee's reasons for the decision were wrong.

**[Explanatory note:** The provisions relating to standard of proof have been prepared with Law 6-5 of the *Laws of the Game* in mind. It is essential to preserve the integrity of this Law and the referee's position as sole judge of fact and law during a match. Any decision by a referee during a match cannot be affected by a ruling of the *judiciary*.]

However, it is recognised that a referee can make an error when deciding, for example, that a player be ordered from the field. In that case the ordering off cannot be reversed, but it would be unjust to impose a further penalty on the player.

A distinction is drawn between the referee's decision on the field of play and reasons for the decision. This means that when, after the *judiciary* considers the further disciplinary consequences of an incident, where the referee has already made a decision on the field in relation to that incident, the *judiciary* can nevertheless enquire into the referee's reasons for that decision and the circumstances surrounding it.]

## 7 Temporary suspensions

- 7.1 As soon as practicable after becoming aware that a player is required under *competition rule* 5.12.2 to appear before the *judiciary*, the *administration officer* must send by email to the *judiciary* chairman and to the secretary of the player's *club* a report including:
- 7.1.1 the names of the player and the player's *club*;
  - 7.1.2 the date and venue of each match during which the player was temporarily suspended and the teams participating; and
  - 7.1.3 the date, time and place of the *judiciary* hearing which the player must attend.
- 7.2 The purpose of the hearing is to consider whether any further penalty should be imposed on the player for persistent offending.

- 7.3 Except where the 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.
- 7.4 The player will be suspended from playing until the player's case has been decided by the *judiciary*.

## 8 Citing complaints

- 8.1 A complaint citing a player or other member of a *club* for *misconduct* in relation to a match can be made by a *club*, the *IDRURA* or the *board*.
- 8.2 The complaint must be sent by email to the administration officer and to the secretary of the *club* of which the person cited is a member within 72 hours after the conclusion of the match.
- 8.3 The complaint must include:
- 8.2.1 the date and venue of the match and the teams participating;
  - 8.2.2 the names of the person cited and that person's *club*; and
  - 8.2.3 details of the *misconduct* alleged and the evidence to be relied on.
- 8.4 As soon as practicable after receiving the complaint, the administration officer must notify the *club* of which the person cited is a member of the date, time and place of the *judiciary* hearing of the complaint. The person cited must attend that hearing.
- 8.5 Despite rule 8.4, if the person cited is unable to attend a regular meeting of the *judiciary*, the person cited can give written permission, signed by that person, to be represented by an official of that person's *club* or by legal counsel.
- 8.6 At any hearing of the complaint, the *judiciary* can require the person making the complaint or that person's nominee to attend in person or via telephone conference or video link in order to present evidence or explain the basis upon which the complaint has been made or both.
- 8.7 In the interests of time and minimising inconvenience, a person cited, and whose disciplinary hearing is pending, can be required by the *judiciary*, prior to the hearing, to supply it with full particulars of the case that will be presented on that person's behalf at the hearing.
- 8.8 The *judiciary* can postpone, adjourn or issue directions in respect of the hearing of a citing complaint. However, the complaint should, wherever practicable, be heard and determined within 5 days after the end of the match in relation to which the complaint arose.
- 8.9 The *judiciary* must, prior to considering whether the citing complaint is to be upheld, establish that the incident was undetected by the referee and touch judges.
- 8.10 In any case where the *judiciary* is required to consider a citing complaint in respect of an incident where the referee has made a decision on the field of play in relation to that incident, the *judiciary* can review the referee's reasons for the decision and the circumstances surrounding it. In any such case, the *judiciary* must not make a finding contrary to the referee's decision unless it is satisfied, on the balance of probabilities, that the referee's reasons for the decision are wrong.

- 8.11 In any case where the *judiciary* is required to consider an incident of *misconduct* which has not been the subject of a determination on the field of play by the referee it must not uphold the citing complaint unless it is satisfied on the balance of probabilities that the player concerned was guilty of the *misconduct* alleged in the citing complaint.

## **9 Protests and disputes**

- 9.1 A *club* wishing to lodge a protest or claiming that a dispute has arisen in connection with a *competition* match, the laws of rugby union, the *competition rules* or any relevant code of conduct must give notice of the protest or dispute within 24 hours after the completion of the match or after the dispute arises by emails addressed to the administration officer the other *club* participating in the match or involved in the dispute and, if the protest or dispute relates to the conduct of the match referee, the *IDRURA*.
- 9.2 The notice must include:
- 9.2.1 the date and venue of the match and the teams participating;
  - 9.2.2 the name of the person with whom the dispute has arisen, if applicable;
  - 9.2.3 details of the protest or dispute; and
  - 9.2.4 the evidence to be relied on.

Except as provided above, no specific form of notice is required.

- 9.3 As soon as practicable after receiving the notice, the administration officer must notify the *club* giving the notice and each person to whom the protest or dispute relates of the date, time and place of the *judiciary* hearing of the protest or dispute. The persons notified by the *judiciary* must attend that hearing or be represented by an official at the hearing.
- 9.4 The *judiciary* can postpone, adjourn or issue directions in respect of the hearing of a protest or dispute. However, the protest or dispute should, wherever practicable, be heard and determined within 14 days after notice of the protest or dispute was received by the *judiciary*.

## **10 Judiciary to regulate its own procedures**

- 10.1 The procedure in all matters dealt with by the *judiciary* is to be as the *judiciary* determines in each case and the *judiciary* can depart from the procedures set out in clause 11.12. However, subject to the power to regulate its own procedures and depart from those procedures, it must:
- 10.1.1 seek to conform generally with the procedures set out in clause 11.12;
  - 10.1.2 ensure that a player subject to disciplinary proceedings has a reasonable opportunity to be heard and to present the player's case;

- 10.1.3 Comply with the standard of proof provisions set out in clause 15.2;
- 10.1.4 ensure that a person making a citing complaint or protest or claiming that a dispute has arisen has a representative in attendance at the hearing, failing which the case will be dismissed.
- 10.2 In any case, the *judiciary* can convene a pre-hearing conference for the purposes of giving directions for the hearing and clarification of the procedures. The conference can include any player ordered off or temporarily suspended or other person or their representative, match official, and anyone else whose participation is considered desirable.
- 10.3 The *judiciary* must endeavour to ensure that disciplinary proceedings are heard in the presence of the player or other person who is the subject of the proceedings. However, nothing in these procedures, or otherwise, will prevent the judiciary from hearing and determining disciplinary proceedings in the absence of the player or other *person* concerned where they do not attend the hearing. In those circumstances the *judiciary* can take written representations made by or on behalf of the player or other person concerned into account in making its decision.

## 11 General procedures

- 11.1 A player who is required to attend a hearing by the *judiciary* is entitled to be represented at the hearing by an official of the player's *club*, or other affiliated organisation, or by legal counsel. A parent of the player can attend the hearing but cannot:
- 11.1.1 act as the player's representative; and
- 11.1.2 speak unless invited to do so by the *judiciary* chairman.
- 11.2 The referee of the match in which a player is ordered off (and, if a player is ordered off as a result of a touch judge's intervention, the touch judge) must, if requested by the *judiciary* chairman and unless exceptional circumstances prevent them from doing so, attend the *judiciary* hearing whether in person or via telephone conference or video link. Nothing in this clause prevents the *judiciary* from hearing and determining disciplinary proceedings in the absence of the referee or touch judge.
- 11.3 In respect of cases involving the ordering off of a player, the *judiciary* must ensure that, prior to the hearing, the player ordered off has been supplied with, and has had a sufficient opportunity to consider, the referee's report and, where applicable, the report of the touch judge, together with other evidence including, where available, video evidence. In respect of cases involving a citing complaint, the *judiciary* must ensure that prior to the hearing, the player or other person cited has been provided with and has had a sufficient opportunity to consider the complaint and any reports relating to it.
- 11.4 Subject to clause 11.5, the *judiciary* is entitled to receive such evidence and in such form as it thinks fit (including evidence in writing), even though the evidence may not be legally admissible and is entitled to attach such weight to that evidence as it sees fit.
- 11.5 Generally, the *judiciary* must apply the best evidence rule. This means that first hand accounts from those attending the hearing as to their observations of the incident in question should be preferred. Hearsay evidence can be accepted. However, caution must be exercised before hearsay evidence is accepted in preference to first hand evidence and generally less weight should be given to hearsay evidence. Further, as a general rule, the *judiciary* 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 every day knowledge of members of the *judiciary*, for example, medical opinion.

- 11.6 If the *judiciary* accepts as of probative value video evidence, it must be viewed without the sound or commentary associated with it being heard, except where the sound commentary includes the comments made by the referee through the referee's microphone in relation to the specific incident in question.
- 11.7 The *judiciary* can determine whether or not witnesses who give evidence can remain in the room in which the hearing is being conducted after their evidence has been given.
- 11.8 The *judiciary* can direct the attendance at the meeting of any player ordered off or cited, any other person and any witness. Where such a direction is given, the player or other person or witness concerned must comply with it. In any case where such a direction given by the *judiciary* is not complied with, the *judiciary* can refuse to allow the evidence of that player or other person or witness to be given in any other form.
- 11.9 At any hearing the *judiciary* can direct that the *IDRU* be represented. If so, the *IDRU* can appear by legal counsel or other representative at the hearing, in such capacity as the *judiciary* requires, to provide assistance to the *judiciary* in the discharge of its duties.
- 11.10 Where evidence is given at a *judiciary* hearing there can be no direct questioning of any witness, except by *judiciary* members or except where the *judiciary* agrees otherwise. However, questions can be put to a witness through the *judiciary* chairman at the chairman's discretion.
- 11.11 The *judiciary* can call on experts to provide specialist advice, including legal advice.
- 11.12 Unless it otherwise directs, the procedure of the *judiciary* at a hearing will be as follows:
- 11.12.1 the chairman will explain the procedure to be followed;
  - 11.12.2 for cases involving ordering off, the referee's report and, where applicable, the touch judge's report will be read;
  - 11.12.3 the player will be asked whether or not the *misconduct* alleged against the player is admitted;
  - 11.12.4 evidence from the ordered off player, if the player elects to give evidence, and from any witnesses will be heard;
  - 11.12.5 final submissions will be heard;
  - 11.12.6 a similar procedure, subject to such modification as the *judiciary* deems appropriate, can be adopted at the discretion of the *judiciary* with regard to cases involving citing.
- 11.13 For citing complaints, the person making the complaint must have a representative in attendance at the hearing to present the basis of the citing complaint and evidence in support.
- 11.14 The player or other person subject to the proceedings can admit the *misconduct* alleged at any time. In that case the *judiciary* must proceed immediately to hear submissions as to the penalty (if any) to be imposed.

- 11.15 The *judiciary's* deliberations on its decision must take place in private.
- 11.16 Subject to clause 11.14, the *judiciary* must, in the first instance, determine its factual findings. It must then, as appropriate, reconvene and hear and consider evidence and submissions in relation to penalties or other remedies.
- 11.17 The *judiciary* can decide to impose a penalty in accordance with the provisions of clause 12 or to take no further action.
- 11.18 Ordinarily, each hearing by the *judiciary* (except for private deliberations) must be fully video and audio recorded.

## 12 Penalties

- 12.1 When imposing penalties, the *judiciary* dealing with an ordering off report or citing complaint must apply the *IRB's* recommended penalties for *illegal and/or foul play* set out in Appendix 1 in accordance with this clause 12.
- 12.2 The *judiciary* must undertake an assessment of the seriousness of the *misconduct* which constitutes the offence and categorise the offence 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 a particular incident where the incident is expressly covered in Appendix 1. That assessment must be determined by reference to the following features of offending:
- 12.2.1 The offence was intentional, that is, committed intentionally or deliberately.
  - 12.2.2 The offence was reckless, that is the player knew, or should have known, there was a risk of committing an act of *misconduct*.
  - 12.2.3 The gravity of the player's actions in relation to the offence, including:
    - 12.2.3.1 the nature of actions, manner in which offence committed including part of body used (e.g. fist, elbow, knee or boot);
    - 12.2.3.2 the existence of provocation and whether the player acted in retaliation or self-defence or both.
  - 12.2.4 The effect of the offending player's actions on the victim (e.g. extent of injury, removal of player from game).
  - 12.2.5 The effect of offending player's actions on the game.
  - 12.2.6 The vulnerability of victim player including the part of victim's body involved or affected, position of the victim and ability to self defend.
  - 12.2.7 The level of participation in the offence and level of premeditation.
  - 12.2.8 Whether the conduct of the offending player was completed or amounted to an attempt.
  - 12.2.9 Any other feature relevant to the offence.

Based on the assessment and categorization of the offence under this clause, the *judiciary* must identify the applicable entry point where set out in Appendix 1.

- 12.3 Having identified the applicable entry point for consideration of a particular incident, the *judiciary* must identify all relevant aggravating factors and determine what additional period of suspension, if any, above the applicable entry point for the offence should apply to the case in question. Aggravating factors include:

- 12.3.1 an absence or lack of remorse or contrition or both on the part of the offending player;
  - 12.3.2 the player's status as a persistent offender of the laws of the game;
  - 12.3.3 the need for a deterrent to combat a pattern of offending;
  - 12.3.4 any other off field aggravating factor that the *judiciary* considers relevant and appropriate.
- 12.4 The player's disciplinary record in all competitions and (as appropriate) in other sports within the previous 5 years of the incident that is the subject of the disciplinary proceedings can be considered by the *judiciary*. In any case in which the *judiciary* forms the view that a player before it is a persistent offender against the laws of the game, then the *judiciary* can, in imposing any penalty on the player, take account of such persistent offending as an aggravating factor
- 12.5 The *judiciary* must then identify all relevant mitigating factors and determine if there are grounds for reducing the period of suspension, if any. Mitigating factors include:
- 12.5.1 the presence and timing of an acknowledgement of culpability and guilt by the offending player;
  - 12.5.2 a good record and good character;

- 12.5.3 the age and experience of the player;
  - 12.5.4 the player's conduct prior to and at the hearing;
  - 12.5.5 remorse for the player's actions and the victim of the *misconduct*;
  - 12.5.6 any other off field mitigating factor that the *judiciary* considers relevant and appropriate.
- 12.6 In cases involving an offence of the least serious kind where there are compelling mitigating features and an absence of aggravating features, penalties less than the lower end penalties specified in Appendix 1 can be applied and, in this respect only, the lower end penalties set out in Appendix 1 are not minimum penalties.
- 12.7 The *judiciary* must in its written decisions set out the reasoning for its findings, including the finding on culpability, how it has categorised the seriousness of the offence by reference to the standard features of offending set out in clause 12.2, how it applied aggravating and mitigating factors and conclude with the penalty, if any, imposed.
- 12.8 Whenever any period of suspension is imposed by the *judiciary*, the commencement of that period can be deferred at the discretion of the *judiciary*. However, the *judiciary* cannot suspend the effect of any penalty imposed for cases involving *illegal and/or foul play*.

### **13 Post-hearing procedures**

- 13.1 Notice of the decision of the *judiciary* must be given to the relevant parties as soon as practicable after the conclusion of the hearing and is binding on notification to the player or other person affected or to their *club* or representative at the hearing, if any. Where it considers it appropriate, the *judiciary* can deliver a short oral decision at the conclusion of the hearing (with its reasons to be put in writing and communicated to the relevant parties at a later date) or it may reserve its decision.
- 13.2 Relevant parties heard by the *judiciary* are entitled to a copy of the written decision of the *judiciary* which must, where practicable, be sent to them by the *judiciary* within 48 hours after the decision is made.
- 13.3 In any case where a player or other person is adversely affected by a decision of the *judiciary*, the player or other person must be notified by the *judiciary* of the circumstances in which an appeal can be made to the *board*. That notification must be included in the *judiciary's* written decision and given at the conclusion of the hearing if an oral decision is given.
- 13.4 The record of the hearing, and all papers relating to the hearing, must be kept by the *judiciary* which must make the record and papers available to the *board* if required. Copies of the record and papers must be made available at reasonable cost only on appeal of the decision of the *judiciary*. Otherwise, the video and audio records can be destroyed after 28 days after the hearing.
- 13.5 If the *judiciary* considers that a citing complaint, protest or dispute claim is frivolous or groundless it can impose a fine or other penalty on the *club* lodging the complaint, protest or claim.

### **14 Appeals**

- 14.1 A party to proceedings before the *judiciary* can appeal to the *board* against a finding or decision of the *judiciary*. Any such appeal must be made by notice lodged with the *administration officer* within 7 *business days* after notice of the *judiciary's* finding or decision is given to that party.

14.2 The notice of appeal must be in writing and signed by the *person* lodging the appeal and must specify:

- 14.2.1 the name of the *person* lodging the appeal;
- 14.2.2 the decision appealed against;
- 14.2.3 the date of the decision appealed against; and
- 14.2.4 the specific grounds of the appeal.

Except as provided above, no specific form of a notice of appeal is required.

14.3 The notice of appeal must be accompanied by a deposit of \$200. If the deposit is not paid, the appeal is deemed to be abandoned, but the *board* can, in any case, extend the time for payment of the deposit.

14.4 On notification by the *administration officer* of lodgement of the appeal, the *judiciary* must make available to the *administration officer* the full record of the proceedings before the *judiciary*.

14.5 The *board* can conduct and regulate the appeal proceedings as it sees fit having regard to the circumstances of the case but must generally conform to the procedures stated in this document but particularly clause 14.6.

14.6 The *board* can conduct a hearing anew or determine the appeal based on the record of the decision of the *judiciary* or a combination of them, as it deems appropriate. Where the appellant appeals against the penalty or cost order alone, the appellant can request the *board* to review the penalty or cost order without the need for a personal hearing. The *board* can also determine that a personal hearing is not required in relation to any appeal but if the appellant so wishes, the appellant always has the right to appear and make representations in all cases or alternatively can make representations by telephone or in writing or both.

14.7 The *board* can, as it sees fit, deal with such pre hearing procedural and evidentiary matters as may be applicable and can convene a pre-hearing conference for the purposes of giving directions for the hearing and clarification of the procedures. The *board* can require any person to attend the hearing as a witness.

14.8 The *board* must set a time, date and place for the hearing of the appeal which must be notified by the *administration officer* to the appellant.

14.9 The *board* can call on experts to provide specialist advice, including legal advice.

14.10 An appeal should, where practicable, be heard within 14 days of its lodgement.

14.11 The *board* can postpone or adjourn the hearing of an appeal.

14.12 In any appeal, the *board* can direct that the appellant be represented. If so, appellant must appear at the hearing of the appeal in such capacity as the *board* requires, to provide assistance to the *board* in the discharge of its duties.

14.13 The appellant can be represented before the *board* by a representative or legal counsel or both.

- 14.14 Where any question of fact arises on an appeal before the *board* it can be determined by reference to the record of proceedings before the *judiciary*. However, the *board*, in its discretion, can rehear or receive written evidence in respect of the whole or any part of the evidence given before the *judiciary* as it considers appropriate.
- 14.15 Subject to clause 14.6, the *board* has full discretionary power to hear and receive such further evidence on an appeal as it thinks fit. Ordinarily, such evidence would only be accepted where it can be established that such evidence was not, on full and proper enquiry, available at the time of the original hearing. The *board*, subject to clauses 11.5 and 11.6, can receive such evidence as it thinks fit, even if the evidence may not be legally admissible.
- 14.16 If in its discretion, and subject to clauses 14.5 and 14.6, the *board* permits further evidence to be adduced at a hearing, there must be no cross-examination of witnesses except to the extent allowed by the *board*.
- 14.17 In any case where a witness required by the *board* refuses or fails to attend before the *board*, the *board* can decide whether or not to allow the evidence of that witness to be given in any other form.
- 14.18 The *board* can determine whether witnesses who give evidence are able to remain within the room in which the appeal is being heard after their evidence has been given.
- 14.19 Except where the *board* decides to hear the entire case anew (in which circumstance the applicable first instance standards and burdens will apply), the appellant will have the burden of proving that the decision being challenged should be set aside or varied.
- 14.20 The *board's* deliberations on its decision are to be made in private.
- 14.21 In exercising its jurisdiction, the *board* can:
- 14.21.1 uphold or dismiss the appeal and confirm, set aside or vary any finding, determination or penalty appealed against; and
  - 14.21.2 order that the whole or any part of a deposit lodged pursuant to clause 14.3 be forfeited or refunded;
  - 14.21.3 take any other steps that it considers necessary to deal justly with the appeal.
- 14.22 The *board* can make such cost order as it deems appropriate and can order any party or parties to pay some or all of the costs of or in relation to proceedings under this clause 14.
- 14.23 The *administration officer* must notify the parties as soon as practicable after the conclusion of the hearing of the decision of the *board* in relation to the appeal. That decision will be final and binding on notification to those parties. Where it considers it appropriate, the *board* can 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.
- 14.24 The parties to the appeal are entitled to a copy of the *board's* written decision which must be provided by the *administration officer* as soon as practicable after it is available.
- 14.25 The hearing of any appeal by the *board* must, ordinarily, be fully audio and video recorded. The record of the hearing and all papers relating to the

hearing must be retained by the *board* which must make them available to the appellant if the appellant so requires, at the cost of the appellant.

## **15 Additional provisions**

- 15.1 In all proceedings before the *judiciary* or the *board* on appeal from the *judiciary*, referees and touch judges can only give evidence of fact, not opinion.
- 15.2 The standard of proof on all questions to be determined by *judiciary* or the *board* on appeal from the *judiciary* is the balance of probabilities.
- 15.3 Hearings by the judiciary will ordinarily take place at the Regent Court, 41 Kenny Street, Wollongong. Appeals to the *board* will ordinarily be heard the Illawarra Master Builders' Club Limited, 61 Church Street, Wollongong. All hearings will be held in private.
- 15.4 Where disciplinary proceedings, however arising, are taken against more than one player as a result of incidents occurring in a match, those proceedings can be heard by the *judiciary* at the same time, provided there is no prejudice to any person against whom the disciplinary proceedings are taken.
- 15.5 No member of the *judiciary* or of the *board* should comment to the media on a decision of those bodies but the chairman of either can 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 resume of that decision.
- 15.6 *Judiciary* members and *board* members hearing appeals against decisions of the *judiciary* must exercise their functions independently of both *clubs* playing in a match in respect of which the appeal arises.
- 15.7 In respect of any matter not provided for in this document, the *board* must make a decision according to general principles of natural justice and fairness.
- 15.8 The *judiciary*, and the *board* on an appeal from a decision of the *judiciary*, prior to a hearing or at any stage during a hearing, can amend the allegation of *misconduct* for which the player has been ordered off or cited unless, having regard to the circumstances of the case, that amendment cannot be made without causing injustice.

## **16 Unforeseen circumstances**

- 16.1 If a particular incident takes place for which there is no provision in this document, then the president of the *IDRU*, or the president's nominee can take such action that the president or that nominee considers appropriate in the circumstances in accordance with general principles of natural justice and fairness.

## **17 Technical non-compliance**

- 17.1 Any procedures relating to disciplinary processes under this document or proceedings, findings or decisions of the *judiciary* or the *board* on appeal from a decision of the *judiciary* cannot be quashed or invalidated by reason of any departure from those procedures or of any defect, irregularity, omission or technicality unless that departure, defect, irregularity, omission or technicality raises a material doubt as to the reliability of the findings or decisions of these bodies or results in a miscarriage of justice.

**18 Notices**

18.1 The provisions of the *competition rules* in respect of notices apply to any notice able or required to be given under the provisions of this document.

**APPENDIX 1**

<b>IRB recommended penalties for offences within the playing enclosure (Regulation 17) Description</b>	<b>Entry point based on scale of seriousness of the player's conduct, which constitutes the offence. Lower end (LE), mid range (MR), top end (TE).</b>	<b>Maximum penalty</b>
Physical abuse of match officials	LE – 6 months; MR – 24 months; TE – 5 years.	Life
Threatening actions or words at match officials	LE – 3 months; MR – 12 months; TE – 24 months.	36 Months
Contact with eyes or the eye area	LE – 3 months; MR – 9 months; TE – 18 months.	24 Months
Biting	LE – 6 months; MR – 12 months; TE – 24 months.	36 Months
Testicle grabbing or twisting or squeezing	LE – 3 months; MR – 9 months; TE – 12 months.	24 Months
Kicking an opponent	LE – 3 months; MR – 9 months; TE – 12 months.	18 Months
Stamping on an opponent	LE – 1 month; MR – 3 months; TE – 9 months.	12 Months
Trampling an opponent	LE – 1 month; MR – 3 months; TE – 9 months.	12 months
Illegal rucking of an opponent	LE – 2 weeks; MR – 6 weeks; TE – 3 months.	6 months
Dangerous charging or obstructing or grabbing of opponent without the ball, including shouldering	LE – 2 weeks; MR – 3 months; TE – 6 months.	12 Months
Dangerous charging or obstructing or grabbing of opponent carrying the ball, including shouldering	LE - 2 weeks; MR – 3 months; TE – 6 months.	12 Months
Striking with head	LE – 6 weeks; MR – 6 months TE – 12 months	24 Months
Striking with knee	LE – 2 weeks; MR – 3 months; TE – 6 months.	12 Months
Striking another player hand, arm, fist including the elbow.	LE – 2 weeks; MR – 3 months; TE – 6 months.	12 Months

Dangerous tackling of an opponent including early or late and including the action known as the "stiff arm tackle".	LE – 2 weeks; MR – 6 weeks; TE – 3 months.	6 Months
To trip an opponent with the foot or leg.	LE – 1 week; MR – 4 weeks; TE – 6 weeks.	3 Months
To hold, push, charge, obstruct an opponent not holding the ball except in a scrum, ruck or maul.	LE – 1 week; MR – 3 weeks; TE – 4 weeks.	6 Weeks
To cause a scrum, ruck or maul to collapse.	LE – 1 week; MR – 3 weeks; TE – 6 weeks.	3 Months
Verbal abuse of opponents whether based on race, creed, colour or otherwise.	LE – 2 weeks; MR – 2 months; TE – 4 months.	6 Months
Spitting at players	LE – 1 month; MR – 3 months; TE – 6 months.	6 Months

In respect of offences not referred to above, appropriate penalties can be imposed at the discretion of the *judiciary*.

However, in cases where the player's actions constitute serious *illegal and/or foul play* for any type of offence which had the potential to result and, in fact, did result in serious or gross consequences to the health of the victim, the *judiciary* can impose any period of suspension including a suspension for life.



## APPENDIX 2

## REFEREE'S REPORT ON ORDERING OFF

This report is submitted by:   
 Your best contact number:   
 Match day controller's name:

Players name:

Player's number:

Player's club:

Send-off date:

Ground:

Match between:  (Home team) Vs

Grade:

Score:  (Home team) Vs

Ground & weather conditions:

Had the player been previously warned during the game?

If yes, state the warning:

Had a yellow card been previously issued to the player?

If yes, for what offence was the yellow card issued?

For what offence was the red card issued?

Period of game when offence occurred: 1<sup>st</sup> half [  ] 2<sup>nd</sup> half [  ]

Elapsed time in half: [  ]

Did you have a clear view of the offence?

Was the player ordered off further to the report of a touch judge? [  ]

(If so, the touch judge's report must be completed and submitted by the touch judge in the same manner as this report.)

**Describe the circumstances of the offence and provide any comments which would assist the judiciary in determining a penalty e.g. seriousness of the offence, player's reaction, etc:**

**THIS REPORT MUST BE COMPLETED AND EMAILED TO THE  
 ADMINISTRATION OFFICER AT broo@bigpond.net.au IMMEDIATELY  
 AFTER THE COMPLETION OF THE MATCH**

Name-----Signature-----

Appendix 3



**TOUCH JUDGE'S REPORT ON ORDERING OFF**

This report is submitted by:   
 Your best contact number:

Players name:

Player's number:

Player's club:

Send-off date:

Ground:

Match between:  (Home team) Vs

Grade:

Score:  (Home team) Vs

Did you have a clear view of the offence?

Describe the circumstances of the offence and provide any comments which would assist the judiciary in determining a penalty e.g. seriousness of the offence, player's reaction, etc:

**THIS REPORT MUST BE COMPLETED AND EMAILED TO THE ADMINISTRATION OFFICER AT broo@bigpond.net.au IMMEDIATELY AFTER THE COMPLETION OF THE MATCH**

Name-----Signature-----

**APPENDIX 4**

**PLAYER'S RESPONSE TO SENDING OFF REPORT**

To: **The Chairman, IDRU Judiciary**

Email: [mark@mandm.net.au](mailto:mark@mandm.net.au)

I, \_\_\_\_\_ ( player's full name)

of the \_\_\_\_\_ (player's club)

having a copy of the referee's report dated \_\_\_\_\_

alleging an offence for which I was ordered off the playing enclosure give notice that I elect to (\* select one only):

- \*[ ] admit the offence and not dispute the referee's report
- \*[ ] admit the offence and make submissions concerning the matter
- \*[ ] deny the offence. I understand that I will be required to appear before the Judiciary and I intend to provide evidence as follows:

[ ] video

[ ] witnesses named below:

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

[ ] other (specify) - \_\_\_\_\_

\_\_\_\_\_

Player: \_\_\_\_\_ Date: \_\_\_\_\_

Club official: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE: This form must be sent to the Judiciary Chairman at the email address shown above within 24 hours after the referee's report was sent to the player's club**

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