



## **DISCIPLINARY POLICY AND PROCEDURE FOR SOMERSET RUGBY FOOTBALL UNION REFEREES SOCIETY, OPERATING AS SOMERSET RUGBY REFEREES SOCIETY OR SRRS ("THE SOCIETY")**

**POLICY OWNER: HONORARY SECRETARY**

**DATE APPROVED: SEP 23**

### **POLICY**

As a Registered Society in membership of the Rugby Football Referees Union (RFRU) ("the Constituent Body" or "the CB") and the Rugby Football Union (RFU) ("the Union"), SRRS encourages and expects the highest standards of behaviour and conduct by its members. Action will be considered when members (including committee members) fail to meet these standards.

All Sports organisations should encourage high standards of behaviour and action should be taken when members breach The Rules of the Society ("The Rules") or any policies approved by the Committee in exercise of the Committee's powers described at para 4.11 and Para 11 of The Rules. A disciplinary procedure allows inappropriate behaviour to be addressed fairly and consistently. Additionally (where it applies), the protection of children and vulnerable adults within an organisation is greatly enhanced by having a good disciplinary procedure.

### **Power To Discipline The Members**

All Members of SRRS are bound by the SOMERSET COUNTY RUGBY FOOTBALL UNION REFEREES SOCIETY RULES 2011 ("The Rules") whilst they are in membership of The Society. Para 5.6 of The Rules states:

"A member shall be liable to termination or suspension of membership or to other appropriate punishment by the Society for any infringement of these Rules, any Regulation or any Rules or Regulation of the Union, the Regulations of the Referees Union, the Laws of the Game or the IRB [now World Rugby] Regulations or any conduct prejudicial to the Society or the Game. The procedure for the exercise of this power shall be as prescribed by the Committee and details thereof shall be kept by the Honorary Secretary and be available for inspection by the Members at all reasonable times."

This document, approved by the Committee, represents the procedure referred to in The Rules.

### **Exclusions And Exceptions**

This procedure covers disciplinary issues relating to the Members of the Society. It excludes matters of player discipline or Match Official Abuse on or off the field. Such matters are dealt with by Clubs, CBs and the Union under the procedures set out in RFU Regulation 19.

Members of the Society are additionally subject to the Rules and Regulations of the CB and the Union in accordance with RFU Rule 5.12. As an exception to this policy, these organisations have the right to exercise jurisdiction over any disciplinary case that involves a potential breach of their superior Rules and Regulations. This will normally apply to serious matters related to: *"any conduct which is prejudicial to the interests of the Union or the Game or which amounts to cheating"* (RFU Rule 5.12); safeguarding; inappropriate use of Social Media; a breach of Core Values, or; matters involving allegations that cross

boundaries of organisations in membership of the Union (e.g. allegations made by a club/school, another society, a CB or a member of the public).

Complaints made by teams or club/school officials about the technical on-field performance of match officials will not be dealt with through this process (e.g. claims of bias, favouritism towards a team, poor decision-making, mistakes in the Laws of the Game or the application of competition regulations). Referee performance is managed through Training, Development and Grading in the society sub-Committees and there is rightly no mechanism contemplated in any RFU or subordinate Regulation to discipline match officials for poor performance. The only exception to this is when a match official's behaviour on or off the field is offensive, inappropriate (especially towards a child or vulnerable adult) or a clear breach of the RFU core values.

## **PROCEDURE**

### **Principles**

This procedure is designed to establish the facts quickly and to deal with disciplinary issues consistently. No disciplinary action will be initiated without a decision having been made by the deciding panel appointed by the Committee, after the matter has been investigated. In the case of an appeal, any punishment ordered by the original deciding panel will not be enacted until the appeal has been heard and decided.

The Committee is the sole arbiter of whether to initiate an investigation and the deciding panel is sole arbiter of whether to accept on the facts of an investigation. The deciding panel decides on any punishment and the standard of proof is "on the balance of probability." The Committee appoints the deciding panel and, if required, the appeal panel; no one from the deciding panel shall sit on the appeal panel. The committee decides the appropriate composition of an investigation team and has the power to appoint external professional(s) (paid or unpaid) to investigate. Where the matter is sufficiently serious or under any other circumstances as decided by the Committee, the matter may be referred to the CB or Union to deal with, at which point this process no longer applies unless the matter is returned.

During the formal disciplinary procedure an individual will have the opportunity to state their case and present supporting evidence. Individual cases may be dealt with by papers or if necessary a hearing will be convened. Individuals have the opportunity to be represented or accompanied at hearings by a third party e.g. a friend or colleague who may or may not be a member.

An individual has the right to appeal against any disciplinary action. The decision of the appeal panel will be final. The Committee may decide to request that the appeal is heard by the CB or Union.

Where a disciplinary case is proven, the Committee delegates the powers of punishment described in Para 5.6 of The Rules to the deciding panel.

### **Data Handling**

The whole process shall be dealt with confidentially and information managed in compliance with the General Data Protection Regulations (UK) and the Data Protection Act. The Committee has the right to publish the outcome of an internal disciplinary process to the membership if it judges there is a legitimate purpose in doing so. The membership has the right to see the details of disciplinary proceedings, subject to appropriate redaction of personal data. The Committee has the right to withhold information if the case is ongoing or is subject to a Criminal Investigation.

## **PROCESS**

### **Stage 1 - Initial Assessment by The Committee**

The purpose of the initial assessment is to clarify the nature and context of the issue or allegation and decide what action should be taken. It will involve examining the basic aspects of the suspected

infringement or misconduct in order to ascertain whether there is a potential case to answer or if the matter is trivial and can be resolved informally (e.g. a minor issue that is immediately admitted by the individual and can be resolved with a simple apology).

The Committee will decide one of the following possible courses of action:

1. The case is a minor matter that is not likely to result in a formal punitive measure and can easily be resolved informally between the relevant parties. If, following this informal action the case remains unresolved, it can be returned for further consideration under this procedure.
2. The case, even if proven, would not represent an infringement or misconduct or in the case of an allegation made by an individual it is judged as being obviously 'frivolous'. No further action is necessary other than to consider whether a 'frivolous' allegation represents a potential infringement or misconduct in its own right (e.g. a malicious false allegation).
3. The case represents a potential criminal act and must be referred to the Police for investigation. The Committee will monitor the progress of the Police investigation and consider when and if it is appropriate to suspend the individual and when or if it is appropriate to conduct an investigation or to apply consequential sanctions directly following a criminal conviction.
4. The case is not appropriate to be dealt with by the Society. A request will be made to the CB or the Union for further consideration. If the case is returned to the Society by these superior organisations then it will be dealt with internally under this procedure.
5. The case is valid, is appropriate to be dealt with by the Society and requires a formal investigation.

### **Precautionary Suspension**

An individual may be subject to precautionary suspension from society activity while an investigation is carried out. This type of suspension is not a form of disciplinary action and the individual remains a member of the Society during the period of suspension. The decision to suspend or not will be made by the Committee and notification of the suspension and the reasons will be conveyed in writing to the individual. An individual under suspension is not permitted to undertake any activity within or on behalf of the society; this includes wearing any society-branded clothing.

Precautionary suspension may be considered in the following circumstances:

- if the case was ultimately to be proved, then there would be a significant concern about the ability of the individual to continue in their role or membership.
- if the case has been passed to the Police, is subject to a criminal investigation and the member's continued active participation in Society matters might prejudice the image, reputation or good standing of the Society.
- if the member's attendance or involvement in SRRS activity could compromise the investigation.

There is no right of appeal to a Provisional Suspension, which will remain in place for an initial period of 3 months after which time it must be reviewed and can be extended.

### **Stage 2 – Formal Investigation**

If a formal investigation is required, the Committee will appoint an investigating team. The composition of the team shall be of a size and nature appropriate to the matter being investigated. The investigating team will normally be composed of members of the society and the lead investigator can be a member of the committee. Anyone who is either a primary party to the matter being investigated or might have a vested interest in the outcome due to their position is excluded from being a member of the investigating team.

Members of the investigating team are excluded from serving on either the deciding panel or the appeal panel for the matter being investigated.

For complex matters or those where specific expertise is required, the Committee has the power to task an external investigation. The external panel can be from another Rugby Union or other sporting organisation or a paid professional organisation. In all cases, the external panel will be bound by strict confidentiality.

The investigation team (whether internal or external) will be issued with a letter of appointment describing:

- the composition of the team and their individual roles if appropriate;
- the basic details as known of the case to be investigated;
- the timescales for the investigation;
- the authority of the investigating team in terms of access to Society data and the ability to question the membership;
- any restrictions, exclusions or boundaries to the investigation, and;
- the explicit requirement for confidentiality and compliance with Data Protection.

The role of the investigating team is to gather evidence (written, verbal, digital and/or physical), establish the facts and form conclusions based on the evidence. The investigating team has the authority to approach witnesses, but they are not compelled to provide a statement. The investigating team should not make recommendations, apportion blame, express personal opinions about the matter or draw conclusions that are not supported by the evidence.

The investigating team shall keep a record of all evidence and submit it in its entirety to the deciding panel chair, along with their written report on completion of the investigation. No evidence shall be retained by the investigating team once they have completed the task.

### **Stage 3 - Deciding Panel**

The committee shall appoint the deciding panel, which will normally comprise 3 Committee members. The chair of the panel shall normally be one of the Officers of the Society unless this is not possible, in which case it shall be another nominated member of the Committee.

The deciding panel shall examine all of the evidence and consider the report of the investigating team. The deciding panel should then choose between these options within 14 days of receiving the report and evidence:

- The case is not admitted and not proven; no further action is to be taken. The subject should be informed of this by the Honorary Secretary in writing within 7 days of the decision.
- There is insufficient evidence to decide either way or the evidence presented is finely balanced. In this case, the panel can direct further investigation into specific issues if it judges there is more potential evidence to be found and reconvene at a later date, or the panel may choose to convene a hearing to explore the matters in question with the subject and witnesses, or the panel may decide that there is no further evidence likely to be found. In this latter case, the default decision should be that the case is not proven but the evidence should be retained securely by the Honorary Secretary to be re-examined in the event of new evidence coming to light at a later date.
- The case is admitted and proven on paper. The decision panel should decide on the appropriate punishment and pass it to the Honorary Secretary, who will write to the subject to inform them of the outcome and any punishment.

- The case is not admitted but the panel inclined that it is proven on paper. The subject shall be given the opportunity for a hearing if they choose. If the subject declines a hearing, then the panel should decide on the appropriate punishment and the subject informed as above. If the subject requests a hearing then the panel will make a final decision having heard the case in person.

If a hearing is required, then the Honorary Secretary shall arrange such at the convenience of all parties within 28 days of the decision. The hearing shall be in person at a neutral venue or via online means (e.g. MSTeams). The hearing shall consist of the decision panel members, the subject individual, along with their representative or companion/friend, a recorder (the Honorary Secretary or their delegate) and any witnesses requested to be heard by either the panel or the subject. The purpose of the hearing is to clarify the original evidence and to allow the subject to expand on their evidence. New evidence will not normally be permitted to be presented to the hearing except under exceptional circumstances as determined by the panel. Once all parties have been heard, the panel will consider their final decision and should normally inform the parties at the hearing. If time does not allow or the panel deliberations are likely to be protracted, then the panel may choose to close the hearing and decide the matter later, but in all cases within 48 hrs of the hearing. The subject will be informed of the outcome verbally within 48hrs of the hearing and informed formally of the outcome and any punishment by the Honorary Secretary within 7 days of the decision.

## **PUNISHMENT**

The following are examples of punishments, but these are not exhaustive and every case will be considered on its merits:

### **Written warning**

If a simple admonishment is considered appropriate, the individual will be given a written warning. Such warnings will expire after 6 months of satisfactory conduct but will remain on record for a period of 3 years.

### **Final Warning**

Where a case is proved and on its own is sufficiently serious, or in the case of continued unsatisfactory conduct within 6 months of a written warning, or if a further offence of a similar severity is proven (even after 6 months following a first written warning), a final written warning may be considered appropriate. A final written warning will expire after 12 months of satisfactory conduct but will remain on record for 5 years.

### **Termination of Membership**

Where a case is proven and on its own is sufficiently serious, or in the case of persistent and prolonged unsatisfactory conduct following a final written warning, or if a further offence of a similar severity is proven following a final warning (even after 12 months following the final warning), termination of membership may be considered appropriate. In all cases when an individual has their membership terminated, the Committee should decide on a minimum period during which the individual will be excluded from re-application for membership of the Society, the period normally not to exceed 5 years. Should the individual re-apply for membership beyond the minimum period, the Committee will consider their application but reserve the absolute right to refuse admission as described in Rule 5.4.

### **Gross Misconduct – Criminal Acts**

In any case involving an allegation or evidence of a potential criminal offence (e.g. Fraud, Criminal Damage, Theft, Assault, a Sexual offence or abuse of a child or vulnerable adult), the matter and any evidence

including the names and details of witnesses is immediately to be passed to the Police. If the Police decides to investigate the crime, the Committee should only consider whether to exercise the right to suspend a member and an internal investigation should not be carried out until such time as it is judged appropriate to do so on the advice of the Police. Any member convicted of an offence of this nature should be considered unsuitable for membership of the Society is liable to immediate termination without investigation. The period of exclusion from re-application is unlimited and should be consistent with the 'spending' of the conviction, depending on the nature of the offence. The expected minimum period of exclusion is 5 years. Any offence of a sexual nature or involving abuse of a child or vulnerable adult should normally result in termination of membership with exclusion from re-application for life.

### **Gross Misconduct – Other Acts**

When the most serious of cases not involving a crime is proven, Gross Misconduct may apply. The following are examples of non-criminal gross misconduct:

- Actual or threatened physical violence, verbal abuse or serious personal insults, especially towards a child or vulnerable adult;
- Bullying or harassment, including inappropriate sexual behaviour;
- Actions in an official capacity contrary to the Equality Act 2010;
- Actions by individuals contrary to Equality, Diversity and Inclusion principles;
- A serious safeguarding incident;
- Incapacity when representing the Society due to substance abuse (including alcohol);
- Negligence resulting in a legal or financial liability for the Society;
- A serious breach of the RFU Core Values or the Society Code of Conduct, or;
- Deliberate or malicious acts or acts of conspiracy designed to undermine, disrupt, subvert, obstruct or adversely impact the business, image, reputation or good standing of the Society or a member. This may include serious cases of a malicious false allegation.

### **APPEALS**

An individual who wishes to appeal against a judgement of the deciding panel must do so in writing to the Honorary Secretary within 28 days of the date of the decision letter.

The individual has the right of appeal against either the decision or the punishment and should provide a written statement indicating the grounds for the appeal. New evidence that was not made available to the original decision panel will not be admissible except under exceptional circumstances as determined by the appeal panel.

The appeal panel will be convened by the Committee and will normally be similarly comprised as the deciding panel, but with different members who have had no dealings with the case. If necessary, the Committee will request for the appeal to be heard by the CB or Union. Appeals will normally be decided by papers; there will only be a hearing in very exceptional circumstances where the appeal panel determines that it can only decide by hearing from the parties in person. The appeal panel is not tasked with re-examining the entire case, rather they should examine the overall process and the decision-making of the original panel. The appeal will only be granted where there is compelling evidence that either: the proper process has not been followed and that the failure of process is so severe that the decision is invalid, or; that the original panel has made a genuine mistake or a gross error such that a panel acting reasonably should not have made it. In the case of an appeal against a punishment, the panel only has the power to reduce the level of punishment if it considers that the original panel has been disproportionately harsh. The burden of proof is on the subject to demonstrate why on the balance of probabilities the punishment is disproportionate.

The Honorary Secretary will notify the individual of the appeal panel decision in writing within 7 days of the decision. The decision of the appeal panel is final and there is further right of appeal.