

## REGULATIONS FOR FOOTBALL ASSOCIATION DISCIPLINARY ACTION

These Regulations come into effect on 1 August 2013

### 1 INTRODUCTION

- 1.1 These Regulations set out the way in which proceedings under Rules E and G of the Rules of The Association shall be conducted.
- 1.2 More guidance as to the specific disciplinary procedures and sanctions that are to apply to specific competitions may be found in the Memoranda entitled "Disciplinary Procedures Concerning Field Offences" attached to these Regulations as Sections A-D.

### 2 THE COLLECTION OF EVIDENCE

- 2.1 All Participants must take all reasonable measures to assist The Association in the collection of evidence. Where The Association requests the production of evidence from any Participant, that Participant shall (subject to considerations of legal professional privilege) be under an obligation to provide it.
- 2.2 Where on-field offences are concerned, The Association may request that a Club deliver or procure the delivery of video and/or DVD evidence to it to assist it in investigating possible Misconduct (as defined in the Rules of The Association). Clubs must deliver such video and/or DVD evidence to The Association as soon as reasonably practicable and in any event no later than by 12 noon on the next working day following The Association's request. Failure to provide such evidence within this deadline may result in The Association bringing a charge of Misconduct against the Club.

### 3 THE CHARGE

- 3.1 The decision that facts or matters may give rise to Misconduct and that a Charge be brought will be made by the Chief Regulatory Officer (or his nominee) on behalf of The Association.
- 3.2 Where any facts or matters give rise to alleged Misconduct by a Participant under Rule E1 (b)-(f) of the Rules of The Association, The Association will serve on the Participant concerned (the "Participant Charged") a written Charge ("the Charge") which shall:
  - (a) State briefly the nature of the alleged Misconduct;
  - (b) Identify the provision(s) alleged to have been breached;
  - (c) Provide copies of documents or other material referred to in the Charge.

The Charge may include a request for the provision of a summary of the current terms and conditions of employment of a Participant.

- 3.3 Where the subject matter of or facts pertaining to a Charge or Charges against one or more Participant(s) is sufficiently linked (including, but not limited to, where offences are alleged to have been committed in the same match or where there is common Association or defence evidence), The Association may charge the Participant(s) and consolidate the disciplinary proceedings so that they are conducted together and the Charges shall be determined at a joint hearing.
- 3.4 A copy of the Charge shall be forwarded to the Chairman of the Judicial Panel (or his nominee) who shall appoint a Regulatory Commission in accordance with, and subject to, the terms of reference of the Judicial Panel (as defined in the Articles of Association from time to time).

Where a Participant is charged under Rule E1 (b) - (f) the Secretary of the Regulatory Commission shall forward to both parties a copy of the Regulatory Commission's Standard Directions and/or the date of the proposed Directions Hearing convened in accordance with Regulation 4 below.

- 3.5 A single Charge may be issued against the Participant Charged in respect of more than one instance of Misconduct, but the Charge shall state separately the nature of each alleged Misconduct and the provision(s) alleged to have been breached and shall have effect as separate Charges.

## 4 DIRECTIONS

### Introduction

- 4.1 This Regulation gives effect to the general principle that it is in the interest of the timely and efficient disposal of disciplinary proceedings that directions be given whenever a Charge is brought against a Participant. In the case of complex matters, these directions may, at the discretion of the Regulatory Commission, be the subject of a Directions Hearing in the form and manner set out in Regulations 4.9 - 4.12 below.

Where less complex matters are concerned, these may be the subject of Standard Directions. The applicable Standard Directions are to be found at Schedules A – C to these Regulations.

### Preliminary Applications

- 4.2 A party to the disciplinary proceedings may apply for issues to be dealt with on a preliminary basis (a "Preliminary Application"). A Preliminary Application must be made as soon as practicable following service of the Charge, and in any case no later than 10 working days prior to the full hearing date.

In the event that a party wishes to have the Preliminary Application determined by a separate Regulatory Commission the party may submit the Preliminary Application to the Judicial Panel Chairman who shall determine whether it will be considered by the Regulatory Commission appointed to determine the Charge or by a separate Regulatory Commission.

The relevant Regulatory Commission shall have the power to decide the procedure to be followed in determining the Preliminary Application.

In determining the Preliminary Application the relevant Regulatory Commission shall have the power to:

- Dismiss the Preliminary Application summarily.
- Order that the issues raised in the Preliminary Application be dealt with as part of the main proceedings and not on a preliminary basis.
- Allow or dismiss the Preliminary Application in full or in part.
- Make such further order as it considers appropriate.

The decision of a Regulatory Commission as to matters subject to a Preliminary Application shall be final and binding and there shall be no right of further challenge.

### General Procedures

- 4.3 In all cases other than those referred to in 4.14 and 4.16, the procedure shall be as set out below.

- 4.4 The Participant Charged must within seven days of the service of the Charge serve on The Association a written reply (the "Reply") which:

- (a) admits or denies each Charge or part of a Charge; and
- (b) states whether the matter is to be dealt with:
  - (i) on written submissions alone under Regulation 5 below; or
  - (ii) at a hearing under Regulation 6 below, in which case a fee of £100 must be submitted by cheque made payable to The Football Association Ltd; and

- (c) includes a summary of the current terms and conditions of employment of a Participant who is a Player or Manager or where otherwise requested in the Charge.

4.5 The Reply shall also include:

- (a) a clear explanation of the nature and extent of the Participant's admission or denial of the Charge(s) or any part of a Charge;
- (b) a list of witnesses upon whom the Participant intends to rely together with a written statement signed by each witness setting out his/her evidence in full; and
- (c) copies of any documentation, evidence or other relevant material (of whatever nature) on which the Participant intends to rely at a hearing.

The above must be provided within 7 days of service of the Charge. In complex matters or in exceptional cases, a Participant may apply to the Chairman of the Judicial Panel (on notice to The Association) for an extension of time in which to provide the Reply.

4.6 Where the Participant Charged:

- (a) Fails within seven days of the service of the Charge to serve a Reply on The Association and the Regulatory Commission is satisfied that the Charge was served; or
- (b) Fails to indicate in the Reply whether he wishes the matter to be dealt with at a Hearing or on written submissions; or
- (c) Fails to comply with each of the requirements at Regulations 4.4 and 4.5;

the Regulatory Commission will determine the Charge in such manner and upon such evidence as it considers appropriate.

4.7 Upon review of a Participant's Reply, The Association may provide to the Participant and the Regulatory Commission any further evidence or relevant material on which it intends to rely.

Where The Association has served upon the Participant any such further material, the Participant shall provide to The Association such further evidence or other relevant material upon which it intends to rely at a hearing, provided that it does so at the earliest opportunity and in any event no later than 7 days before the hearing. Evidence or other material not provided within time may not be relied upon at the hearing.

The purpose of the scheme here described at Regulations 4.4-4.7 is to:

- (a) Clarify for all parties and the Regulatory Commission the issues to be determined at a hearing; and
- (b) Ensure the just, timely and efficient disposal of the case.

The parties shall cooperate with one another in so far as they are able in order to achieve this purpose.

4.8 Any party who is to go before a Regulatory Commission for a hearing under Regulation 6 below only (this provision does not apply to matters falling within Regulations 4.14 to 4.16 below, which are dealt with under the Standard Directions set out at Schedules A - C to these Regulations), may make an application to the Judicial Panel Chairman, within seven days of the charge being issued and upon notice to all other parties, for an order that the chairman of that Regulatory Commission shall be a Specialist Panel Member who is a Solicitor or Barrister of seven or more years' standing.

Approval by the Judicial Panel Chairman of such application shall not be unreasonably withheld or delayed and any additional costs incurred in respect of having such a Specialist Panel Member as the chairman of that Regulatory Commission (whether or not the applicant be successful in the relevant hearing before such Regulatory Commission), shall be borne by the party who made the application.

- 4.9 The Regulatory Commission may give any directions considered necessary for the proper conduct of the proceedings, including but not limited to:
- (a) Establishing the date, time and place of the Hearing;
  - (b) Extending or abridging any time limit;
  - (c) Amending or dispensing with any of the procedural steps set out in these Regulations;
  - (d) Instructing that a transcript be made of the proceedings;
  - (e) Determining that issues be dealt with as preliminary issues, or at a preliminary hearing;
  - (f) Requiring that the parties make written submissions, or submit skeleton arguments in advance of the Regulatory Commission's Hearing;
  - (g) Requiring that the disclosure be made of specific and identifiable documents in the possession of The Association, the Participant Charged or any third party Participant which are considered by the Regulatory Commission to be relevant to the Charge.
  - (h) Determining who shall attend a Hearing.
- 4.10 The Regulatory Commission may order for there to be a Directions Hearing which may take the form of an oral hearing or may be conducted by telephone conference, video link or by written submissions at the direction of the Regulatory Commission. If satisfied that all matters are agreed prior to the time set for the Directions Hearing, the Regulatory Commission may direct that no hearing take place and that the agreed directions shall stand as the decision of the Regulatory Commission.
- 4.11 The decision of the Regulatory Commission on matters referred to in this Regulation 4 is final and not subject to appeal.
- 4.12 The Regulatory Commission will circulate a note of its directions within three working days after the Directions Hearing.

#### Application

- 4.13 The following Regulations 4.14 to 4.18 apply to the Participants of Clubs of the FA Premier League, the Football League, the Football Conference National Division and The FA WSL. Regulation 4.16 also applies to Participants of Clubs of the Football Conference (North and South Divisions), the Isthmian League, the Northern Premier League and the Southern League.
- Incidents concerning Players on the Field of Play which fall within Law 12, which were not seen by Match Officials, but caught on video (serious foul play, violent conduct, spitting at an opponent or any other person, offensive, insulting, abusive language or gestures).**
- 4.14 Where a Player is charged with Misconduct contrary to Rule E1 of The Association, for a matter on the Field of Play (which falls within Law 12 but was not seen by Match Officials during the period of the game), the proceedings shall follow the specific procedures and time limits set out in the relevant directions concerning such matters as determined by Council from time to time (the "Standard Directions – Incidents on the Field of Play which fall within Law 12, which were not seen by Match Officials, but caught on video (serious foul play, violent conduct, spitting at an opponent or any other person, offensive, insulting or abusive language or gestures)" – see Schedule A). In the event of an appeal the procedures set out in Schedule C - "Standard Directions for Appeals against decisions of Regulatory Commissions" will then apply.
- 4.15 Where a Player is charged with Misconduct contrary to Rule E1 of The Association, for a matter on the Field of Play (which falls within Law 12 but was not seen by Match Officials

during the period of the game), which the Chief Regulatory Officer (or his nominee) considers would not have resulted in the dismissal of the Player from the Field of Play, disciplinary proceedings shall not follow the course set out in Regulation 4.14 above. Rather, these will be dealt with in accordance with the general disciplinary procedures (see Regulations 4.3 to 4.12).

**Incidents of Misconduct on or around the field of play (including the tunnel area), incidents outside the jurisdiction of Match Officials but reported to The Football Association and media comments.**

4.16 In all cases involving Charges brought under Rule E1 (b) – (f) for a matter which has been brought to the attention of The Association relating to facts or matters on or around the Field of Play (including the tunnel area), incidents outside the jurisdiction of the Match Officials and media comments (save those matters specifically excluded in the Schedule), the proceedings and the time limits shall be as set out in the “Standard Directions for incidents of Misconduct on or around the field of play (including the tunnel area), incidents outside the jurisdiction of Match Officials but reported to The Football Association and media comments” as determined by Council from time to time (see Schedule B), save that any time limit provided for in that Schedule shall not apply in respect of proceedings involving Participants of Clubs of the Football Conference (North and South Divisions), the Isthmian League, the Northern Premier League and the Southern League. In the event of an appeal the procedures set out in Schedule C – “Standard Directions for Appeals against decisions of Regulatory Commissions” will then apply.

**Exceptional Circumstances**

4.17 Where the circumstances of a case are such that the Chief Regulatory Officer (or his nominee) or a Participant considers that it would be impractical or unfair for a Charge to be processed in the time limits set out in these Regulations, the various memoranda of Disciplinary Procedures Concerning Field Offences (Sections A - D) or in any Standard Directions, the Chief Regulatory Officer (or his nominee) or a Participant may apply to the Judicial Panel Chairman (or his nominee) for an order that the relevant time limits be amended, suspended, abridged or dispensed with.

4.18 Examples of circumstances in which the processing of a charge would be impractical or unfair within the time limits set out in these Regulations, the relevant Memorandum of Disciplinary Procedures Concerning Field Offences (Sections A - D) or in any Standard Directions are where:

- (a) there is a pending police investigation; or
- (b) the seriousness or complexity of the matter necessitates a longer period of investigation; or
- (c) substantial evidence needs to be obtained from non-Participants.

**5 DETERMINATION ON WRITTEN SUBMISSIONS**

5.1 Where the Participant Charged states in the Reply that he wishes the matter to be dealt with on written submissions, the Regulatory Commission may dispense with an oral hearing and determine the Charge in the absence of the Participant Charged and make whatever order it thinks appropriate.

5.2 Where the Participant Charged admits Misconduct in the Reply and wishes it to be dealt with under this Regulation 5, he may set out in the Reply submissions in mitigation.

**6 DETERMINATION AT A HEARING**

6.1 Where the Participant Charged states in the Reply that the matter is to be dealt with at a Hearing, the Regulatory Commission will proceed as set out in this Regulation 6, except where cases falling within Regulations 4.14 and 4.16 are concerned. Cases falling within

- Regulations 4.14 and 4.16 will be determined by the procedure set out in the relevant Standard Directions attached as a Schedule to these Regulations.
- 6.2 References to a party or parties mean The Association and any Participant Charged.
- 6.3 The Participant Charged must, if an individual, attend a Hearing of the Regulatory Commission in person. If the Participant Charged is not an individual, it shall attend through an Officer or Club Official as appropriate, unless otherwise ordered by the Regulatory Commission.
- 6.4 The Association, through the Chief Regulatory Officer, shall nominate an individual or individuals to present the Charge to the Regulatory Commission and call evidence and make submissions in support of the Charge.
- 6.5 The Regulatory Commission may adjourn a hearing for such period and upon such terms (including as to costs of the Regulatory Commission) as it thinks appropriate.
- 6.6 The Regulatory Commission has the power on the application of a party or otherwise to require a Participant to attend before the Regulatory Commission to provide information (in which case questions may be put by the Regulatory Commission and the parties) or to produce documents or records to the Regulatory Commission either before or during a Hearing.
- 6.7 Any Participant Charged appearing before the Regulatory Commission has the right to choose to be represented by any person who may speak on his or its behalf, including a legal representative. In the event that a party is to be represented, the Regulatory Commission must be notified of that fact and the identity of the representative at the time of the Reply.
- 6.8 In any proceedings before a Regulatory Commission, the Regulatory Commission shall not be obliged to follow the strict rules of evidence, may admit such evidence as it thinks fit and accord such evidence such weight as it thinks appropriate in all the circumstances. Where the subject matter of a complaint or matter before the Regulatory Commission has been the subject of previous civil or criminal proceedings, the result of such proceedings and the facts and matters upon which such result is based shall be presumed to be correct and the facts presumed to be true unless it is shown, by clear and convincing evidence, that this is not the case.
- 6.9 Where the subject matter of a complaint or matter before the Regulatory Commission has been the subject of previous civil or criminal proceedings, the result of such proceedings and the findings upon which such result is based shall be presumed to be correct and true unless it is shown, by clear and convincing evidence, that this is not the case.
- 6.10 Where a Participant Charged gives evidence in their own defence, they must give their evidence first i.e., before any other defence witness gives evidence. All other witnesses of fact for the defence who attend the Hearing cannot enter the Hearing until they are called to give their evidence.
- 6.11 The Regulatory Commission may proceed at a Hearing in the absence of the Participant Charged where it is satisfied that there are no reasonable grounds for the failure to attend and will do so in such manner as it considers appropriate.
- 6.12 In the event of a party failing to comply with an order, requirement, direction or instruction of the Regulatory Commission, it may take any action it considers appropriate in relation to such failure and may make an award of costs against the offending party.

## **7 DETERMINING THE CHARGE AND PENALTY**

- 7.1 The Regulatory Commission will first consider whether or not a Charge is proven. In doing so the Regulatory Commission will have regard to any admission of the Charge or a part of the Charge made by the Participant. Where a Charge is denied, or where it is admitted but there remains a factual dispute between the Participant Charged and The Association, the Regulatory Commission shall consider the witness and other evidence placed before it

together with each party's submissions in order to make findings in respect of any factual dispute(s) in order to determine: (i) whether a Charge is proven; (ii) if so proven or admitted, the factual basis on which the Charge is proven.

- 7.2 The Regulatory Commission shall retire to deliberate in private. A decision shall be determined by majority. Each member of the Regulatory Commission shall have one vote, save that the Chairman of the Regulatory Commission shall have a second and casting vote in the event of a deadlock.

**Announcement of the decision on the Charge**

- 7.3 The Regulatory Commission shall announce its decision as to (i) whether a Charge is proven; and (ii) if so, the factual basis on which the Charge is proven. The Commission may cite such findings as it considers appropriate to enable the parties to understand its decision. The Commission shall announce its decision as soon as reasonably practicable and in such manner as it considers appropriate. Where such decision is reached at a Hearing at which the Participant Charged is present it should be announced immediately, save where the Regulatory Commission considers it appropriate to act otherwise.

**Matters relevant to penalty**

- 7.4 Where a Charge is proven, the parties shall be invited to address the Regulatory Commission as to any matter relevant to its consideration of penalty, which shall include the disciplinary record of the Participant Charged and any mitigation raised.

**Announcement of decision on penalty**

- 7.5 The Regulatory Commission shall retire to deliberate in private. It shall announce its decision as to any penalty or other order to be imposed as soon as is reasonably practicable and in such manner as it deems appropriate. Where such decision is reached at a Hearing at which the Participant Charged is present it should be announced immediately, save where the Regulatory Commission considers it appropriate to act otherwise.

**8 PENALTIES**

- 8.1 The Regulatory Commission shall have the power to impose any one or more of the following penalties on the Participant Charged:

- (a) a reprimand and/or warning as to future conduct;
- (b) a fine;
- (c) suspension from all or any specified football activity from a date that the Regulatory Commission shall order, permanently or for a stated period or number of matches;
- (d) the closure of a ground permanently or for a stated period;
- (e) any order which may be made under the rules and regulations of a Competition in which the Participant Charged participates or is associated, which shall be deemed to include the deduction of points and removal from a Competition at any stage of any Playing Season;
- (f) expulsion from a Competition;
- (g) expulsion from membership of The Association or an Affiliated Association;
- (h) such further or other penalty or order as it considers appropriate.

- 8.2 While the Memoranda dealing with disciplinary procedures concerning field offences and offences on or around the Field of Play set out standard sanctions, these sanctions may be increased by the Regulatory Commission where the facts of an individual case so dictate, where a particular act of Misconduct is sufficiently serious that the guideline sanction would not constitute a sufficient penalty for the Misconduct that has taken place.

### **Suspended Penalty**

- 8.3 The Regulatory Commission may order that a penalty imposed is suspended for a specified period or until a specified event and on such terms and conditions as it considers appropriate.

### **Drug Rehabilitation and Counselling**

- 8.4 Where a Participant has breached the provisions of any anti-doping regulations ("a Doping Offence") a Regulatory Commission may order a compulsory period of target testing, rehabilitation and counselling, and attach such conditions as it considers appropriate.

### **Compensation Orders**

- 8.5 The Regulatory Commission may, where it considers it appropriate, order the Participant Charged to pay compensation to any Participant ("the Claimant"), instead of or in addition to any penalty or other order.

- 8.6 An order to pay compensation to a Claimant may be for such amount as the Regulatory Commission considers appropriate.

- 8.7 The Regulatory Commission may order compensation only:

- (a) on receipt in advance of its determination of whether or not a Charge has been proved of a written claim by or on behalf of the Claimant setting out the amount claimed and detailed reasons for the claim; and
- (b) where it is satisfied that the Claimant has suffered loss as a consequence of the Misconduct of the Participant Charged; and
- (c) where the Participant Charged has had an opportunity of seeing the claim in advance and of making submissions to the Regulatory Commission on it.

### **Costs Orders**

- 8.8 (a) Any costs incurred in bringing or defending a Charge will be borne by the party incurring the costs.

- (b) Any costs incurred in relation to the holding of a Regulatory Commission considered by the Chairman of the Regulatory Commission to be appropriate (including but not limited to the travel and accommodation of members appointed and any individual carrying out the secretariat functions and the provision of meeting rooms, ancillary rooms, facilities, services and security) may be ordered to be paid in full or part by either party.

- (c) A notice of appeal against a decision of a Regulatory Commission of The Association shall be deemed not to have been lodged unless:

- (i) Either all financial orders, including costs orders, relating to the Participant in question have been paid in full, or

- (ii) The Chairman of the Regulatory Commission has made an order to set aside the relevant financial orders pending the outcome of the Appeal. In the event of an appeal being lodged, payments of costs made will be held in escrow by The Association.

- (d) Any appeal against only the quantum of costs awarded shall be heard and determined by a single person appointed by the Sports Dispute Resolution Panel (SDRP) (or similar independent body as determined by The Association from time to time). Such appointed person shall sit alone.

### **Compliance with Penalties/Orders Imposed**

- 8.9 Unless the Regulatory Commission determines otherwise, a penalty or order shall come into effect immediately at the date of the announcement of the decision.



8.10 A Regulatory Commission may issue such further order, requirement or instructions as it considers appropriate for the purpose of giving effect to its decision. Where a Regulatory Commission is satisfied that a Participant Charged has failed to observe or comply with a penalty or order imposed by the Regulatory Commission, it shall have the power to order that the Participant Charged be suspended immediately from all or any football activity for such period and on such conditions as it considers appropriate.

The Regulatory Commission shall consider any such matter in accordance with Regulation 4 (Directions).

8.11 A Regulatory Commission shall have the power on application by the Participant Charged to suspend the effectiveness of any order pending the outcome of an appeal made pursuant to the Rules of The Association.

The obligation of the Participant Charged to comply with a penalty or order of the Regulatory Commission may be stayed where:

- (a) the Participant Charged has made a written application to the Regulatory Commission; and
- (b) the Participant Charged has made an appeal under the Rules against the decision of the Regulatory Commission; and
- (c) the Regulatory Commission had in its absolute discretion allowed a stay.

#### **Payment of Fines and Compensation Orders**

8.12 Payment of any fine or compensation shall be made to The Association within 14 days of the date of the written decision unless otherwise ordered. Compensation shall be forwarded by The Association to the person in whose favour the order was made within seven days of receipt by it.

### **9. WRITTEN STATEMENT OF DECISION**

9.1 The Regulatory Commission shall as soon as practicable send to the Participant Charged and the Chief Regulatory Officer (or his nominee), a written statement of its decision, which shall state:

- (a) the Charge(s) considered and whether admitted or denied;
- (b) the decision as to whether Misconduct has been proved or not; and
- (c) any penalty or other order imposed.

9.2 The written statement shall be signed and dated by the Chairman of the Regulatory Commission and be the conclusive record of the Regulatory Commission's decision. A copy of the written decision shall be forwarded to The Association.

9.3 The Regulatory Commission shall, upon the written request of the Chief Regulatory Officer (or his nominee) or Participant Charged lodged with the Secretary of the Regulatory Commission within seven days of the date of the written statement of its decision, state in writing:

- (a) the findings of fact made by it; and
- (b) the reasons for its decision finding the Charge(s) proved; and
- (c) the reasons for any penalty or order.

9.4 Participants and The Football Association shall have the right to appeal a decision of a Regulatory Commission to an Appeal Board. Such appeals shall be conducted in accordance with the Regulations for Football Association Appeals. There shall be no further right of challenge in respect of decisions of the Regulatory Commission, which are otherwise final and binding.