

## DISCIPLINARY PROCEDURES AND GUIDELINES

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## DISCIPLINARY DEFINITIONS APPENDIX

### 1. Definitions

1.1 For the purposes of the Union's Disciplinary Rules, Code of Conduct, Scrum Safety Directive and League and Competition Rules, the following definitions will apply:

1.1.1 Appeal Panel means the appeal panel appointed by the Union under the Disciplinary Rules;

1.1.2 Appellant means a Player who appeals against a finding of or a penalty imposed by a Tribunal;

1.1.3 Board of Directors means the current board of directors of the Union;

1.1.4 Chairman means the chairman of a Tribunal;

1.1.5 Challenged Finding means a finding of the Tribunal and challenged by the Appellant;

1.1.6 Challenged Penalty means a penalty imposed by the Tribunal and challenged by the Appellant;

1.1.7 Club means a club represented by a team participating in any Competition;

1.1.8 Code of Conduct means the Union's code of conduct as amended from time to time;

1.1.9 Head of Rugby Operations (or his/her nominee) means the Head of Rugby Operations (or his/her nominee) appointed by the Union from time to time;

1.1.10 Competition means any rugby union football competition administered by the Union;

1.1.11 Complainant Club means a club or association which seeks to cite a Player;

- 1.1.12 Decision means a decision of a Tribunal;
- 1.1.13 Deposit means a remittance for HK\$2,500;
- 1.1.14 Disciplinary Administrator means the disciplinary administrator appointed by the Union from time to time;
- 1.1.15 Disciplinary Administrator's Decision means the written decision of the Disciplinary Administrator;
- 1.1.16 Disciplinary Definitions Appendix means this disciplinary definitions appendix as amended from time to time;
- 1.1.17 Disciplinary Rules means the Union's disciplinary rules as amended from time to time;
- 1.1.18 Effective Registration has the meaning in Rule 3.1 of the L&R Rules;
- 1.1.19 Fixtures Appeals Committee means the fixtures appeals committee appointed by the Union under the L&R Rules;
- 1.1.20 Grand Championship means the competition organised by the Union under Rule 16 of the League and Competition Rules;
- 1.1.21 Hearing means a hearing convened by the Tribunal;
- 1.1.22 HKSRFUR means the Hong Kong Society of Rugby Football Union Referees;
- 1.1.23 Incident(s) means the incident(s) or alleged incident(s) giving rise to the relevant disciplinary proceedings;
- 1.1.24 WR means World Rugby;
- 1.1.25 L&C Rule means a rule in the League and Competition Rules as amended from time to time;
- 1.1.26 Laws of the Game means the IRB laws governing the playing of rugby union football, as amended from time to time;
- 1.1.27 League Commissioner means the Chairman of the League Fixtures Control Panel;
- 1.1.28 League Fixtures Control Panel means the league fixtures control panel appointed by the Union;
- 1.1.29 Match means any rugby union football match administered by the Union;
- 1.1.30 Notice of Appeal means a written notice of appeal submitted by an Appellant;
- 1.1.31 Notice of Citing means a citing complaint;
- 1.1.32 Panel Chairman means the chairman of a Penalty Review Panel;

- 1.1.33 Panel Member means a member of a Penalty Review Panel other than the Panel Chairman;
- 1.1.34 Participant means any player, referee, assistant referee, touch judge or other match official, selector, coach, trainer, manager or other team official, or any individual involved in the organisation, administration or promotion of rugby union football including a director, other officer or employee of the Union, of any member or associate member of the Union;
- 1.1.35 Player means a player playing a match administered by the Union;
- 1.1.36 Player's Club means the club or school the Player was representing at the time of the Incident;
- 1.1.37 Referee means a HKSRFUR-registered match referee officiating in the match administered by the Union in which the Incident took place;
- 1.1.38 Referees' Appointment Board means referees' appointment board established by the HKSRFUR;
- 1.1.38A Rugby Citing Commissioner means a citing commissioner (match official) appointed by the Union under Rule 4A for the purpose of exercising citing functions in accordance with IRB Regulation 17.
- 1.1.39 National Referees' Manager means the current National Referees' Manager appointed by the [Union/HKSRFUR] from time to time;
- 1.1.40 Referee's Report means a written report submitted by a Referee;
- 1.1.41 Registration Form means the registration form issued by the Union from time to time;
- 1.1.42 Rule means a rule in the Disciplinary Rules;
- 1.1.43 Scrum Safety Directive means the Union's scrum safety directive as amended from time to time;
- 1.1.44 Season means August to March inclusive;
- 1.1.45 Sub Committee means a subcommittee of the Union convened by the Union to consider a possible breach of the Code of Conduct;
- 1.1.46 Assistant Referee means an assistant referee officiating in a match administered by the Union, registered with the HKSRFUR, officially appointed by the HKSRFUR or the Union and not appointed by either of the participating Clubs;
- 1.1.47 Assistant Referee's Report means a written report submitted by an Assistant Referee;
- 1.1.48 Trained Front Row Player means a Player trained and qualified to play in the front row of a scrum in rugby union football;
- 1.1.49 Transfer Period means the period as specified in the L&C Rules Section 3;

1.1.50 Tribunal means a disciplinary committee established by the Union under the Disciplinary Rules;

1.1.51 Tribunal Member means a member of a Tribunal who is not the Chairman;

1.1.52 Tribunal's Report means a report on the case submitted by the Chairman of the Tribunal to a Penalty Review Panel;

1.1.53 Union means the Hong Kong Rugby Union;

1.1.54 Union Committee means the Union Committee established under the Union's articles of association.

1.2 Words in the singular include the plural and vice versa; a reference to a gender includes the other gender.

## **DISCIPLINARY PROCEDURES AND GUIDELINES**

### **1. Discipline**

#### **1.1 Definitions**

1.1.1 The definitions set out in the Disciplinary Definitions Appendix shall apply to these Disciplinary Rules.

#### **1.2 Jurisdiction**

1.2.1 Where a Player, when playing in a Match administered by the Union, is:

- a) Ordered Off the playing enclosure (Red Card) (Rule 2); or
- b) required to appear before a Disciplinary Committee or Judicial Officer under the Temporary Suspension procedures (Accumulation ) (Rule 3); or
- c) cited for an act or acts of Foul Play (Citing) (Rule 4);

the Union shall set up a Tribunal. The Tribunal shall have power to act in the name of the Union to hear and determine disciplinary proceedings within its jurisdiction in accordance with these Disciplinary Rules.

1.2.2 All disciplinary proceedings conducted under these Disciplinary Rules (including the Tribunal's deliberations) are confidential. All participants in the proceedings shall maintain such confidentiality, and shall only disclose information and material obtained in the proceedings to professional advisers, by compulsion of law, pursuant to another provision of these Disciplinary Rules or with the written agreement of the Union, the Player and the Player's Club.

## **2. Procedures following an Ordering Off**

### **2.1 Reporting procedures**

2.1.1 Where a Player is Ordered Off the playing enclosure in a match, the Referee shall, within 24 hours of the completion of the match, or such further time as is necessary in the circumstances, send to the relevant parties a Referee's Report incorporating:

- a) the date of the match, the venue and the teams participating;
- b) the name of the Player and his team;
- c) the circumstances in which the Player was Ordered Off;
- d) the reason for the Player being Ordered Off;
- e) any other information the Referee considers material.

2.1.2 The Referee's Report shall usually be made using the Union's sending off form. The Head of Rugby Operations (or his/her nominee) will keep records of all the reports submitted.

2.1.3 Where the Player is Ordered Off the playing enclosure as a result of the intervention of an Assistant Referee, the Assistant Referee shall, within 24 hours of the completion of the match, or such further time as is necessary in the circumstances, send to the relevant parties an Assistant Referee's Report incorporating the matters referred to in Rule 2.1.1.

### **2.2 The Hearing**

2.2.1 The Player Ordered Off shall be required to appear before a Tribunal and the Hearing shall be conducted in accordance with the procedures set out in Rule 5.

## **3. Sin Bin / Accumulated Yellow Cards Procedures**

### **3.1 Preamble**

3.1.1 This Rule 3 contains the "Sin Bin" or "Accumulated Yellow Card procedures" referred to in Rule 1.2.1(b).

### **3.2 Accumulation of 3 or more Yellow Cards within a Season**

3.2.1 A Player who receives three yellow cards within a season shall be suspended automatically for one match, being the Match administered by the Union next following the receipt of the third yellow card.

3.2.2 This suspension is automatic and cannot be reviewed or challenged.

3.2.3 Notwithstanding Rule 3.2, if a Player receives six yellow cards during a season, the Union shall require the Player to appear at a Hearing of a Tribunal, which shall be convened in accordance with Rule 5.

## **Premiership**

3.2.4 A Player who accumulates three yellow cards (for foul play only) and/or Citing Commissioners Warnings (or a combination thereof) within a season will be required to attend a hearing to consider whether any further penalty should be imposed for their persistent foul play.

3.2.5 Upon the conclusion of the hearing the players accumulation will restart at zero.

### **3.5 The Hearing**

3.5.1 The Hearing shall be conducted in accordance with the procedures set out in Rule 5 and World Rugby Regulation 17.

3.5.2 Without limiting the generality of this, the Tribunal shall be entitled (but not obliged) to call for and receive such evidence as it thinks fit, including the relevant Sin Binning and/or caution reports from the match officials. If the Tribunal requests any such reports, the Head of Rugby Operations (or his/her nominee) shall supply the Tribunal, the Player and the Player's Club with copies.

### **3.6 Yellow cards already taken into account by Tribunal**

3.6.1 If a player is Ordered Off by reason of having received two yellow cards in one match, and if that player appears before the Tribunal as a result of that sending off, and if the Tribunal deals with that sending off incident, then the two yellow cards in question will not be counted for the purposes of any computation or action under either Rule 3.2 or 3.3.

## **4. Citing Procedures**

4.1 A qualified Rugby Citing Commissioner will be appointed to all Premiership Matches.

### **4.1 Premiership Matches where a Citing Commissioner is appointed**

4.1.1 Citing Commissioners shall be entitled to cite a Player for any act(s) of Foul Play which in the opinion of the Citing Commissioner warranted the Player concerned being Ordered Off.

4.1.2 Citing Commissioners may cite Players for an act(s) of Foul Play where such act(s) may have been detected by the referee or assistant referee and which may have been the subject of referee action. A Citing Commissioner may not cite a Player for an act(s) of Foul Play in respect of which the Player has been Ordered Off save where the Ordering Off is as a result of two yellow cards. A Player in that situation may also be cited for the act(s) of Foul Play which resulted in either or both yellow card(s).

4.1.3 Citing Commissioners may cite a Player if he has been Temporarily Suspended. Such citing may be made in respect of the incident(s) for which the Player was Temporarily Suspended or otherwise.

4.1.4 Citing Commissioners shall be entitled to issue a Citing Commissioner Warning to a Player who has in his opinion committed an act(s) of Foul Play which falls just short of warranting that the Player concerned be Ordered Off in circumstances where the act of Foul Play was not subject to a Temporary Suspension or Ordering Off.

4.1.5 Citing Commissioners shall act independently of the Disciplinary Committee or Judicial Officer and of the Match Officials of a Match or other Citing Commissioners. Citing Commissioners may be in attendance at the Match for which they are appointed.

4.1.6 Where a Citing Commissioner is not present at the Match, there shall be a suitably qualified and experienced Citing Commissioner Liaison Officer in attendance at the Match who is able to provide the Citing Commissioner in accordance with the applicable timeframe with the relevant information and back-up required to assist the Citing Commissioner with his duties.

#### **4.2 Premiership Club referral to Citing Commissioner**

4.2.1 Where a Citing Commissioner has been appointed, the clubs responsible for the management of either participating team in a Match shall not have the power to cite a Player for Foul Play but may refer any incident of alleged Foul Play to the Citing Commissioner for consideration. Such incident shall ordinarily be referred to the Citing Commissioner within 24 hours of the conclusion of the Match in which the incident is alleged to have occurred.

4.2.2 A Citing Commissioner's decision as to whether a Player should be cited, whether as the result of an incident referred to him or otherwise, shall be final.

4.2.3 Players cited by a Citing Commissioner shall be provisionally suspended pending the hearing of the case.

#### **4.3 Initial Procedures – Citing Complaint and Citing Commissioner Warning**

4.3.1 A citing complaint and Warning by a Citing Commissioner must be sent in writing to the Head of Rugby Operations (or his/ her nominee) within a minimum of 12 hours and no later than a maximum of 48 hours of the conclusion of a Premiership match.

4.3.2 For the purposes of these procedures, a citing complaint/ warning is deemed to be sent when:

- a) it is transmitted by facsimile or e-mail provided that timed and confirmed notice of transmission can be provided; or
- b) if transmitted by some other means, when it is received by the Head of Rugby Operations (or his/ her nominee).

4.3.3 In circumstances where a Player has not been cited within the time periods specified above as of either:

- a) mistaken identity; and/or
- b) circumstances exist where the nature of the Foul Play incident(s) concerned is such that an investigation is needed to identify the Player(s) alleged to have committed an act(s) of Foul Play; and/or
- c) circumstances exist where the nature of the Foul Play incident(s) concerned is such that an investigation is needed to identify or establish the full nature of the alleged act(s) of Foul Play;

- d) then the citing period may be extended by the duly appointed Disciplinary Tribunal or Judicial Officer, however, any such extension will not in any event exceed 12 days from the last date otherwise permitted within these regulations.

#### 4.3.4 The citing complaint/ warning should ordinarily contain the following information

- a) the date and place of the alleged Foul Play;
- b) the name of the Player in respect of whom the complaint is made and the team he was playing for at the time of the alleged Foul Play;
- c) the name of the opposing team; and
- d) details of the alleged Foul Play including brief details of the evidence relied upon.

4.3.5 Where a Player is the subject of a citing complaint by a Citing Commissioner, his/ her case will be heard within 96 hours of the conclusion of the Match in which the cited alleged Foul Play occurred.

#### 4.3.6 Initial Procedures – Citing Commissioner Warning

- a) A Citing Commissioner Warning shall be notified to the Head of Rugby Operations (or his/ her nominee) within ordinarily a minimum 12 hours and a maximum of 48 hours of the conclusion of the relevant Match. The Citing Commissioner Warning notification shall contain the information in Regulation 4.3.4 (a) to (d).
- b) On receipt of the Citing Commissioner Warning, the Head of Rugby Operations (or his/ her nominee) shall send a copy of the notification to the Player in respect of whom it is made, his team management and the appropriate Match Officials of the Match in which it is alleged the Foul Play occurred.

#### 4.3.7 Citing Commissioner Warnings

The Citing Commissioner Warning shall become part of the Player's disciplinary record.

In this regard:

- a) The Citing Commissioner is not limited in the number of Citing Commissioner Warnings he may issue to a Player for Foul Play during a Match;
- b) If a Player has received 2 Citing Commissioner Warnings or a combination of a Citing Commissioner Warning and a Temporary Suspension during a Match he shall be treated for disciplinary purposes as if he had been Ordered Off;
- c) If the Player concerned wishes to challenge the Citing Commissioner Warning, he shall give notice of his intention to challenge it within 48 hours of its notification. Such notice shall be duly recorded by the Host Union or Tournament Organiser and shall be considered in the event of the Player subsequently being involved in any judicial hearing in relation to the accumulation of Temporary Suspensions and/or Citing Commissioner Warnings;
- d) If a Player has received 3 Citing Commissioner Warnings or a combination of 3 Citing Commissioner Warnings and/or Temporary Suspensions in a tournament, competition or a Series of Matches under the jurisdiction of a Host Union or Tournament Organiser during a

single season, he shall be required to appear before a Disciplinary Committee or Judicial Officer independently appointed by the Host Union or Tournament Organiser.

At that time [of the occurrence of (b) or (d)], the Player shall be notified as follows:

- i) that the purpose of the hearing is to consider whether any further penalty should be imposed on him for his persistent offending;
- ii) that he may be represented by his Union and/or by a legal representative;
- iii) the identity of the appointed Disciplinary Committee members or Judicial Officer; and
- iv) that the Player shall not be permitted to play any Match and shall be suspended from all on-field activities on Match days anywhere in the world pending the outcome of his case.

#### **4.4 Matches where no Citing Commissioner is appointed**

4.4.1 For Matches where it is not reasonably practicable for a Citing Commissioner to be appointed, the following shall apply:

4.4.2 Each team participating in a Match, or any of its authorised officials, may cite:

- a) a Player(s) for an act(s) of alleged Foul Play committed during that Match provided that such act(s) have not been detected by the Match Officials;
- b) a Player for more than one incident of alleged Foul Play in the same Match; and
- c) more than one Player in any Match.

4.4.3 The Citing Complaint must be:

- a) Transmitted by way of letter or e-mail from Chairman, Secretary or nominated person acting on behalf of the Club;
- b) Addressed to the Head of Rugby Operations (or his/ her nominee) as appropriate. In cases of doubt the citing should be addressed to the Head of Rugby Operations with the subject heading of Referral of Citing and delivered to Hong Kong Rugby Football Union, Room 2001, Olympic House, 1 Stadium Path, So Kon Po, Causeway Bay, Hong Kong or e-mailed to [citing.referral@hkrugby.com](mailto:citing.referral@hkrugby.com);
- c) such citing, to be effective, must be made no later than 72 hours of the conclusion of the Match in which the Foul Play is alleged to have occurred;

4.4.4 the responsibility for obtaining information and reports in relation to the citing shall rest with the team management making the citing complaint. The Union (or its/their nominated officer) will ensure that relevant information and reports are circulated to the appropriate parties in advance of the hearing;

4.4.5 the Union, shall consider the citing complaint and any other evidence it deems appropriate including via televisual means, oral (witness), film or photographic evidence. The Player cited shall have the right to be heard, to be represented and to produce evidence; and

4.4.6 If an act of Foul Play is found to have been committed the Union shall take the appropriate action and shall apply the World Rugby Sanctions for Foul Play (Regulation 17)

4.4.7 Players who are the subject of a citing by another team or club shall not be provisionally suspended pending the hearing of the case.

## **5. Disciplinary Hearings**

### **5.1 Composition of the Tribunal**

5.1.1 Immediately on:

- a) receipt of a Referee's report and/or Assistant Referee's report made under Rule 2.1, or
- b) the accumulation by a Premiership Player of three yellow cards or National League Player of 6 yellow cards during the season under Rule 3.2 and 3.4 or
- c) receipt of a Citing notice from the appointed Citing Commissioner under Rule 4.6, the Union shall appoint the members of the Tribunal.

Save as provided in this Rule 5.1, the Union shall have complete discretion in the appointment of the Tribunal and the selection of its members.

5.1.2 The Head of Rugby Operations (or his/her nominee) shall appoint a panel, or a single Judicial Officer to sit on the Disciplinary Panel

5.1.3 The Disciplinary Panel, when not comprised of a single Judicial Officer, will consist of three persons or may proceed with a panel of two if directed by the Chairperson.

5.1.4 The Chairperson or single Judicial Officer shall be a lawyer of at least 10 years' standing or any other person with substantial experience in rugby disciplinary procedures and an in-depth knowledge of the game. Where a Disciplinary Panel is appointed, the remaining two members or one as the case may be, shall be a former player, an experienced rugby administrator or legally qualified persons, with previous experience in rugby disciplinary proceedings.

### **5.2 Notice to the Player and his Club**

5.2.1 In respect of any proceedings, the Tribunal shall sit to hear the evidence submitted and arguments in relation to the disciplinary charge(s) brought against the Player. The Hearing shall be held as soon as possible after the match or matches at which the Player's misconduct is alleged to have taken place.

5.2.2 In respect of any proceedings brought under Rule 2 or 3 or 4.3, until notification of the Tribunal's determination, the Player shall be suspended from competing in further matches held under the auspices of the Union. A Player who has been cited via Rule 4.4 may continue to play rugby until the initial determination of the Notice of Citing by the Judicial Officer - if it is recommended that the matter proceed to Tribunal then the Player shall be suspended until the determination of the Notice of Citing by the Tribunal.

5.2.3 Prior to the Hearing, the Head of Rugby Operations (or his/her nominee) shall supply the Player with (as appropriate) a copy of the Referee's report and/or Assistant Referee's report, the Disciplinary Administrator's Decision and these Rules. The Head of Rugby Operations (or his/her nominee) shall advise the Player:

- a) of the date, place and time of the Hearing;
- b) that he will be required to attend in person at the Hearing;
- c) that, if the Player is unable to appear at the Hearing, he should advise the Head of Rugby Operations (or his/her nominee) forthwith;
- d) that the Tribunal does not have power, in any circumstances, to award to the Union, the Player or anyone else compensation for any legal or other costs incurred during or in connection with the proceedings convened under these Rules.

5.2.4 [In respect of proceedings brought under Rule 3.2 and 3.4, prior to the Hearing, the Tribunal shall be entitled (but not obliged) to call for and receive the relevant Sin Binning and/or caution reports from the match officials. In the event that the Tribunal does request any such reports, the Head of Rugby Operations (or his/her nominee) shall supply the Tribunal and the Player with copies.]

5.2.5 The Head of Rugby Operations (or his/her nominee) shall, simultaneously, send copies of all the Union's communications with the Player to the secretary of that Player's Club.

### **5.3 Procedure**

5.3.1 The Player, a representative of the Player's Club and the Player's legal representatives (if any) shall be entitled to attend the Hearing. The Tribunal shall have discretion to allow additional representatives of the Player's Club or other persons to attend the Hearing.

5.3.2 The Hearing shall be conducted in private and the confidentiality of all proceedings shall be maintained by all concerned.

5.3.3 In respect of proceedings brought under Rule 2, subject to variation as the Tribunal may, in its absolute discretion, see fit, the procedure at the Hearing will be as follows:

- a) the Chairman will explain the procedure to be followed, including that the allegation against the Player will need to be proved by the Union to the Tribunal's satisfaction on the balance of probabilities;
- b) the Chairman will ask the Player to confirm that prior to the Hearing he has been supplied with and had sufficient opportunity to consider the Referee's Report and/or the Assistant Referee's Report;
- c) the Chairman will read, for the benefit of all present, the Referee's Report and, where applicable, the Assistant Referee's Report;
- d) the Tribunal will hear any evidence from the Referee, the Assistant Referee (if appropriate), the Player and any other witnesses who have made statements;

- e) the Tribunal will hear any submissions made by or on behalf of the Player (including in mitigation) and thereafter any submissions made by or on behalf of the Union.

5.3.4 In respect of proceedings brought under Rule 3, subject to variation as the Tribunal may, in its absolute discretion, see fit, the procedure at the Hearing will be as follows:

- a) the Chairman will explain the procedure to be followed, including that the allegation that the Player persistently infringed the rules of play will need to be proved by the Union to the Tribunal's satisfaction on the balance of probabilities;
- b) the Tribunal will hear any evidence from the Player and any other witnesses who have made statements and will consider any Sin Binning or caution reports or other evidence submitted under Rule 3.4.2;
- c) the Tribunal will hear any submissions made by or on behalf of the Player (including in mitigation) and thereafter any submissions made by or on behalf of the Union.

5.3.5 In respect of proceedings brought under Rule 4, subject to variation as the Tribunal may, in its absolute discretion, see fit, the procedure at the Hearing will be as follows:

- a) the Chairman will explain the procedure to be followed, including that the allegation against the Player will need to be proved by the Union to the Tribunal's satisfaction on the balance of probabilities;
- b) the Chairman will ask the Player to confirm that prior to the Hearing he has been supplied with and had sufficient opportunity to consider the Notice of Citing and the report(s) of the match officials;
- c) the Chairman will read, for the benefit of all present, the Notice of Citing;
- d) the Chairman will ask the Player if he pleads guilty or not guilty to the allegation that he committed an act of Foul Play;
- e) the Tribunal will hear any evidence from the Referee, the Assistant Referee(s), the Player and any other witnesses who have made statements;
- f) the Tribunal will hear any submissions made by or on behalf of the Player (including in mitigation) and thereafter any submissions made by or on behalf of the Union.

5.3.6 In the event that the Tribunal decides to accept videotape evidence, where possible the videotape should be viewed prior to the Referee's Report being read and (unless the allegation against the Player relates to verbal abuse) without the sound or commentary associated with it being heard. Where the allegation against the Player relates to verbal abuse, the Tribunal shall have discretion to decide what proportion of the videotape will be viewed with the sound being audible.

5.3.7 Failure to follow the procedures outlined will not invalidate the proceedings.

5.3.8 Unless the Player objects, the Tribunal may hold the Hearing by way of telephone conference or video conference so long as it ensures that proper standards in the giving of evidence and submissions are maintained and that the Player is given a fair opportunity to argue his case.

## **5.4 Time for Completion of the Process and Powers of Adjournment**

5.4.1 Time being of the essence for the maintenance of good sporting order in the application of disciplinary procedures, the Tribunal shall endeavour to complete the process as quickly as reasonably possible. In all its deliberations, the Tribunal shall ensure that procedural rulings assist in achieving this objective.

5.4.2 Subject to Rule 5.4.1, the Tribunal shall have power to postpone or adjourn the Hearing, to such date and time as it sees fit.

5.4.3 The Tribunal shall endeavour to ensure that the Hearing is not held in the absence of the Player but nothing in this Rule or otherwise shall prevent a Tribunal hearing and determining disciplinary proceedings in the absence of the Player where the Player fails or elects not to attend the Hearing despite having been given a reasonable opportunity to do so.

## **5.5 Attendance of the Referee**

5.5.1 The Referee and/or Assistant Referee (as appropriate) shall, unless exceptional circumstances prevent him from so doing, attend the Hearing. The absence of the Referee and/or Assistant Referee (as appropriate) shall not, however, prevent the Tribunal hearing and determining any disciplinary proceeding.

## **5.6 Language of proceedings and interpreters**

5.6.1 The Hearing shall be conducted in English.

5.6.2 Evidence may be given in another language and, where in any case the Tribunal considers it necessary or desirable, it may direct the Union (at its own expense) to have an interpreter present at the Hearing.

## **5.7 Questioning of witnesses**

5.7.1 In hearing oral evidence, the Tribunal may ask its own questions of witnesses and, so long as such questions will not unreasonably extend the proceedings, shall give a fair opportunity for questions to be put by or on behalf of the Player and the Union.

## **5.8 Evidence**

5.8.1 Subject to the specific provisions of these Disciplinary Rules, the Tribunal shall be entitled to receive such evidence as it thinks fit, including to decide upon issues of admissibility of oral or other evidence.

## **5.9 Attendance of witnesses**

5.9.1 The Tribunal may require the attendance at the Hearing of any witness. In any case where a witness required by the Tribunal to attend fails or elects not to attend, the Tribunal may refuse to allow the evidence of that witness to be given in any other form.

## **5.10 Representation**

5.10.1 Any person or party (other than a witness) entitled to be heard by the Tribunal may be represented by another person if they so wish. However, the Tribunal shall have no jurisdiction to order the payment of costs by or to the Union, the Player or anyone else.

## **5.11 Deliberations**

5.11.1 In respect of proceedings brought under Rule 2, having heard the evidence and submissions, the Tribunal must decide whether the Union has proved that the Player is guilty of the alleged act of Foul Play on the balance of probabilities. If the Tribunal considers the allegation to be proved, the Tribunal will decide on the appropriate penalty taking into account all the circumstances and in accordance with current Union and World Rugby Regulation 17 and 18.

5.11.2 In respect of proceedings brought under Rule 3, having heard the evidence and submissions, the Tribunal must decide whether the Union has proved, on the balance of probabilities, that the Player is guilty of persistently infringing the Laws of the Game. If the Tribunal considers the allegation to be proved, the Tribunal will decide on the appropriate penalty taking into account all the circumstances and in accordance with current Union and World Rugby Regulation 17 and 18.

5.11.3 In respect of proceedings brought under Rule 4 and if the Player pleads not guilty, having heard the evidence and submissions, the Tribunal must decide whether the Union has proved that the Player is guilty of the alleged Foul Play on the balance of probabilities. If the Tribunal considers the allegation to be proved, the Tribunal will decide on the appropriate penalty taking into account all the circumstances and in accordance with current Union and World Rugby Regulation 17 and 18.

5.11.4 The Tribunal shall reach its Decision by majority and the Decision shall be final, subject only to an application under Rule 6 for a review of any penalty imposed.

## **5.12 Notification of Decision**

5.12.1 The Decision will be notified to all parties as soon as practicable after the conclusion of the Hearing. Where it considers it appropriate, the Tribunal may deliver a short oral Decision and confirm this in writing at a later date, or it may reserve its Decision.

5.12.2 All parties (including the Player's Club) shall be entitled to a copy of the written Decision, a copy of which shall be sent to them by the Head of Rugby Operations (or his/her nominee) within 48 hours after it is available.

5.12.3 In any case where a Player is adversely affected by a Decision he will be advised by the Tribunal of his right of appeal to the Penalty Review Panel. Notwithstanding such an appeal having been made, the penalty remains valid and effective until and unless varied or cancelled by the Penalty Review Panel.

5.12.4 The Head of Rugby Operations (or his/her nominee) will inform the HKSRFUR and the relevant member union, league or organiser of competition of the Decision.

## **6. Appeals and Penalty Review Procedure**

### **6.1 Lodging an appeal against the Tribunal's finding**

6.1.1 An Appellant may only challenge the Tribunal's finding on the basis that new and relevant evidence is available. For such an appeal to be heard (i) the Appellant must reasonably have not been able to make it available at an earlier stage in proceedings and (ii) the new evidence must establish, prima facie, that the Tribunal's finding may require reconsideration. No other basis for challenging the Tribunal's finding is permitted. The Challenged Finding remains in effect until, and unless, altered by the Appeal Panel.

6.1.2 An appeal against the Challenged Finding must be made by submitting a Notice of Appeal to the Head of Rugby Operations (or his/her nominee).

6.1.3 The Notice of Appeal must lay out in detail the grounds on which Appellant challenges the Challenged Finding and be accompanied by any materials to be relied upon by the Appellant and the Deposit.

6.1.4 The Head of Rugby Operations (or his/her nominee) shall, in his absolute discretion, decide whether the evidence meets the requirements set out in Rule 6.1.1 and notify the Appellant accordingly. If the Head of Rugby Operations (or his/her nominee) decides that the Challenged Finding should be reconsidered, the Union will convene an Appeal Panel.

### **6.2 Lodging an Appeal against a Penalty**

6.2.1 An Appellant may appeal against the penalty imposed by the Tribunal. The Challenged Penalty remains in effect until, and unless, altered by the Penalty Review Panel.

6.2.2 An appeal must be made by submitting a Notice of Appeal to the Head of Rugby Operations (or his/her nominee), within seven days of the Decision being communicated to the player.

6.2.3 The Notice of Appeal must lay out in detail the grounds on which Appellant challenges the Challenged Penalty and be accompanied by any materials to be relied upon by the Appellant and the Deposit.

6.2.4 Immediately on receipt of a Notice of Appeal, the Union will convene an Appeal Panel and the Head of Rugby Operations (or his/her nominee) will obtain from a Tribunal's Report on the case that details the penalty and the reasons why it was imposed.

6.2.5 The Union also has a right of appeal in all cases, in accordance with World Rugby Regulation 17.

This right can be exercised by the HKRU CEO (or a designated senior member of staff) after consultation with a designated legal advisor if he/she believes that that the original finding

- (a) was in error (either as to central factual findings or in law);
- (b) in the interests of justice should be overturned;
- (c) the sanction imposed was manifestly excessive or wrong in principle; and/or
- (d) the sanction imposed was unduly lenient.

### **6.3 Composition of the Appeal Panel**

6.3.1 The Appeal Panel will consist of a Panel Chairman and two Panel Members.

6.3.2 Save as provided in this Rule 6.3, the Union shall have complete discretion in the selection of the Panel Chairman and Panel Members appointed to the Appeal Panel.

6.3.3 Neither a member of the Tribunal convened under Rule 5 in the same proceeding, nor a member of the same Club as the Appellant, the victim player or a complainant shall be a Panel Chairman or Panel Member.

6.3.4 The Panel Chairman shall be a lawyer of at least 10 years' standing or any other person with substantial experience of the application of disciplinary procedures.

The Panel Members shall be:

- a) a Vice President of the Union; or
- b) a Chairman, Secretary or equivalent official from a Club in membership of the Union.

### **6.4 Procedure at the Hearing**

6.4.1 Immediately the Appeal Panel has been appointed (or as soon as possible thereafter), the Head of Rugby Operations (or his/her nominee) will send:

- a) to the Panel Chairman and the Panel Members copies of the Notice of Appeal and all materials accompanying it, the Tribunal's Report (if any), all the materials submitted to the Tribunal in the original proceedings and the Decision;
- b) to the Appellant a copy of the Tribunal's Report (if any).

6.4.2 The Panel Chairman will convene a Hearing of the Appeal Panel within seven days of the Notice of Appeal being received by the Union.

6.4.3 The Appeal Panel will consider, on the balance of probabilities, whether a Challenged Finding or a Challenged Penalty is reasonable.

6.4.4 Rules 5.3.1, 5.3.2, 5.3.7, 5.4, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11.4, 5.12.1, 5.12.2 and 5.12.4 shall apply to the Hearing of the Appeal Panel (save that, for the purposes of a proceeding brought under Rule 6, all references to the Tribunal shall be understood as referring to the Appeal Panel and a Decision shall be understood as referring to a decision of the Appeal Panel). Subject to those Rules and subject to variation as the Appeal Panel may, in its absolute discretion, see fit, the procedure at the Hearing will be as follows:

- a) the Panel Chairman will explain that the procedure to be followed, including that (i) for the Challenged Finding to be reversed or a Challenged Penalty to be reduced, the Appellant will have to show, to the Appeal Panel's satisfaction and on the balance of probabilities, that the Challenged Finding or Challenged Penalty is unreasonable, (ii) if a Challenged Finding is reversed, the Appeal Panel has discretion to cancel any penalty that had been imposed previously by the Tribunal and, if appropriate in the circumstances, impose a different penalty, (iii) the Appeal Panel has discretion to increase a Challenged Penalty and (iv) the Appeal Panel has discretion to decide on whether the Deposit should be retained by the Union or returned to the Appellant;
- b) the Panel Chairman will ask the Appellant to confirm that prior to the Hearing he has been supplied with a copy of the Tribunal's Report (if any);
- c) the Panel Chairman will read, for the benefit of all present, the Notice of Appeal;
- d) the Appeal Panel will hear any evidence from the Appellant and any other witnesses who have made statements supporting or opposing the Challenged Finding or Challenged Penalty;
- e) the Appeal Panel will hear any submissions made by or on behalf of the Appellant and thereafter any submissions made by or on behalf of the Union.

6.4.5 If the Appeal Panel considers that the Challenged Finding or Challenged Penalty is reasonable, the original penalty will stand and the Deposit will be retained by the Union and forfeited by the Appellant.

6.4.6 If the Appeal Panel considers that the Challenged Finding or Challenged Penalty is unreasonable, it may stipulate an alternative penalty (which may be an increase or a reduction of the penalty imposed by the Tribunal). The Appeal Panel will have full discretion to decide whether the Deposit (or part of it) should be repaid to the Appellant.

6.4.7 In all circumstances, the Appeal Panel shall issue its decisions with full reasons to explain its Decision. The Decision of the Appeal Panel will be final.