

# **FA DISCIPLINARY PROCESSES: SEASON 2006-07**

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## **SECTION 1: OVERVIEW**

### **Introduction**

The objective of this document is to provide an overview of The FA's Compliance and Disciplinary functions.

It outlines the processes leading up to the issuing of charges, the timetable for bringing cases to a Disciplinary Commission hearing, the sanctions available to Disciplinary Commissions and the various appeals procedures.

It covers the two main categories of issues: on-field events, some of which fall under the Fast Track system, and off-field matters such as agents, doping, financial irregularities, child protection, etc.

The FA's jurisdiction covers FA Premier League, Football League, Football Conference and Isthmian, Southern and Northern Premier leagues for on-field matters. Below this level, on-field discipline is administered by County FAs. For off-field matters, The FA can cover all levels of the game although the County FAs ordinarily deal with matters further down the football pyramid.

*Note: This document does not replace or supercede the actual applicable FA Rules and Regulations and is only intended as a helpful guide for the media and the public. In all cases the FA Rules and Regulations take precedence and Participants in the game should follow those procedures and not this document.*

## **The Compliance Department**

The Compliance Department is responsible for overseeing compliance with The FA's rules and regulations, and for action against players, officials, clubs, etc. that breach those rules. The department is staffed by individuals who have specialist professional backgrounds in a number of areas: legal, financial, investigatory, regulatory, etc.

The department's structure is divided into two sections: investigating and charging. It is distinct from The FA's Disciplinary Department which is responsible for the administration of Disciplinary Commission hearings and the administration of cautions and dismissals.

If a matter involving a potential or alleged breach of FA Rules arises, the Compliance Department will decide whether to investigate, assess any evidence and decide whether the evidence warrants a charge. The Department then acts on behalf of The FA in prosecuting the charges in front of a Disciplinary Commission.

The Compliance Department is also involved in any review of The FA's rules and regulations in areas such as discipline, players' agents, doping control, etc. The Department is responsible for the licensing of agents and for a significant portion of The FA's child protection work.

## **Disciplinary Commissions**

Disciplinary Commissions act as independent tribunals and are convened to hear both claims for wrongful dismissal and disciplinary charges.

Disciplinary Commissions are comprised of three Disciplinary Committee members plus a member of the specialist panel comprised of former players, managers, referees and administrators. The composition of each Disciplinary Commission is decided by the Chairman of the Disciplinary Committee.

Commissions effectively act as independent tribunals considering cases, deciding on guilt or otherwise and determining penalties. Compliance presents the case on behalf of The FA.

## **How does The FA decide whether to charge?**

The Compliance Department, on behalf of The FA, applies the same process for all categories of cases.

### **Step 1: Gather information / evidence**

Evidence generally comes from match officials' reports, match assessors' reports and video footage for on-field incidents.

For off-field issues information can come from variety of sources, including interviews as part of the investigation process.

External specialists (legal, investigative, financial) may occasionally be used as appropriate.

### **Step 2: Assess information / evidence**

Assess the weight and admissibility of evidence obtained.

### **Step 3: Decision on action: charge / warning / no action**

Decision taken based on realistic prospect of whether the charge will be found proven. Any policy factors are also considered.

## **SECTION 2: ON-FIELD MATTERS**

### **The Fast Track system**

In season 2004-05, The FA introduced a Fast Track system to make the handling of most on-field cases more efficient by improving speed and clarity while preserving fairness. The system was agreed after lengthy consultation with all sectors of the game, including leagues, match officials, the PFA and the LMA.

The Fast Track system applies to players in the Premier League, Football League and Football Conference National and aims to conclude cases before the next game.

It also allows for the use of video evidence by both The FA to support charges, and by defendants for wrongful dismissal / mistaken identity claims.

The Fast Track covers three main areas:

1. Claims for wrongful dismissal / mistaken identity
2. Incidents not seen by the match officials but caught on video
3. Incidents outside the referee's jurisdiction

## **Claims for wrongful dismissal / mistaken identity**

### **How it works**

Suspensions for sendings-off come into effect immediately in line with FIFA guidelines.

Claims for wrongful dismissal are permitted for straight red cards (offences such as denying a clear goal-scoring opportunity, serious foul play, violent conduct).

Clubs must inform The FA of their intention to submit a claim by 1pm on the first working day following the match. Any evidence to support the claim must be submitted by 1pm the following day.

Claims are heard by Disciplinary Commissions before the player's next match wherever possible, and on the basis of video and written submissions only. There is no personal representation for either the player or The FA. If the matter cannot be considered before the next game, eg. on bank holidays, the player may play in the meantime if he has notified The FA of his intention to appeal.

Claims are also permitted for mistaken identity for red or yellow cards. In successful cases, the card in question is transferred to the correct player.

The onus rests of the player concerned to prove the dismissal was wrongful or that it was a case of mistaken identity.

Disciplinary Commissions may increase the penalty if they deem the claim to be frivolous, ie abusing the system.

The Compliance Department plays no active part in claims for wrongful dismissal / mistaken identity other than to check that claims conform to the relevant rules and regulations.

### **2005-06 figures**

#### **Wrongful dismissal**

- 426 straight red cards issued
- 84 claims received
- 12 claims withdrawn
- 7 invalid – out of time / no video evidence
- 23 claims upheld
- 42 claims rejected, of which 2 rejected as frivolous (extra matches)

#### **Mistaken identity**

- 3 claims received
- 1 upheld, 2 withdrawn

## **Incidents not seen by the match officials but caught on video**

### **How it works**

Applies to the more serious sending-off offences (violent conduct, serious foul play, spitting, offensive/insulting/abusive language or behaviour) where the match officials did not see the incident. The purpose is to put the player in the same position as if the incident had been seen by the match officials.

The Compliance Department is guided by the referee's view of whether the incident merited a dismissal.

The processes mirror the timings and sanctions that would apply had any of the match officials seen the incident and the referee then sent the player off.

A charge must be issued within two working days of the incident, with a response due from the club within one day of receipt of the charge.

When a charge is issued, a set penalty is offered (eg. three matches for violent conduct).

Disciplinary Commission hearings are generally scheduled for Tuesdays and Thursdays.

Neither The FA nor the charged party is represented in person at the hearing – cases are dealt with on the basis of video evidence and written submissions.

### **2005-06 figures**

- 34 cases referred
- 7 players charged
- 5 admitted charge
- 2 denied charge (both cases found proved by a Disciplinary Commission)

### **Incidents outside the referee's jurisdiction**

This applies to incidents before, during or after the game, on or around the field of play (excluding tunnel incidents). Includes incidents where the player has already been sent off.

A charge must be issued within two working days of the incident. A full response including evidence is due from the club within two working days of receipt of the charge. The FA then has two further days to respond.

Disciplinary Commission hearings are generally scheduled for Tuesdays and Thursdays.

Representation at hearings is allowed for both sides, and suspensions apply immediately.

### **2005-06 figures**

- 13 cases referred
- 5 improper conduct charges
- 3 admitted, 2 denied (1 found proved, 1 not proved)
- 5 charges for abusive and/or insulting words
- 3 admitted, 2 denied (1 proved, 1 not proved)
- 1 violent conduct charge - admitted

## **Appeals**

### **When are they allowed?**

For incidents not seen by the match officials, appeals are against sanction only, not the decision of guilt. In addition, appeals are only permitted for suspensions over 3 matches, and only against the part of the suspension over 3 matches (eg the fourth match of a four-match ban). There is no right to personal representation for either the participant or The FA – the appeal is on submitted evidence only.

For incidents outside the jurisdiction of the referee, appeals are allowed against both decision and sanction. Representation is allowed for both sides in these cases.

Appeals are not permitted for claims for wrongful dismissal / mistaken identity.

### **How it works**

Appeals are heard by a three-man Appeal Board, with an independent, legally-qualified chairman appointed by the Sports Dispute Resolution Panel alongside one member of The FA Council and one member selected from the specialist panel of ex-players, ex-managers, ex-referees, etc.

The FA must be notified on intention to appeal by noon the day after the disciplinary hearing. Submissions and responses made and appeal heard at the earliest opportunity.

### **When is The FA prevented from taking action?**

FIFA guidelines aimed at avoiding the “re-refereeing” of matches generally prevent The FA from taking disciplinary action on incidents which are seen and dealt with at the time by the match officials (this includes taking no action). As a general rule, if the match officials see an incident and have jurisdiction to take action, The FA cannot act retrospectively.

For instance, these guidelines prevent The FA from upgrading/downgrading yellow and red cards based on retrospective advice provided by the match referee.

### **Non Fast track cases**

Incidents which do not fall within the above categories, and incidents involving non-players, are dealt with as quickly as possible but do not fall under the Fast Track system. These include:

- Mass confrontations: typically reported by match officials, and their opinion sought on potential action
- Improper conduct: match officials’ opinions sought
- Tunnel incidents

Once charges are issued, participants have 14 days to respond. Personal representation is allowed at hearings, which take place as soon as possible.

## **SECTION 3: OFF-FIELD MATTERS**

### **Overview**

The scope of the Compliance Department's off-field remit includes:

- Agents / transfers
- Doping Control
- Child Protection
- Betting
- Financial irregularities
- Crowd control
- Racism
- Media comments

Timetables for investigation and assessment of evidence differ on a case-by-case basis, and are inevitably generally longer than those for on-field misconduct where video evidence is available and the amount of evidence is usually small and straightforward.

Powers of inquiry enable The FA to require participants in the game to provide documents and other information, and to attend personal interviews if appropriate. External experts are used as required.

The FA has jurisdiction over domestic matters. Where there are international aspects, The FA refers to FIFA as appropriate.

It is important to recognise that the appropriate burden of proof has to be satisfied in all cases in a similar way to the court system.

Once charges are issued, participants have 14 days to respond. Personal representation is allowed at hearings. Where participants are found by a Disciplinary Commission to have breached any of The FA's Rules and Regulations in these areas, the Disciplinary Commission is responsible for making any decision regarding possible sanction.

It should be noted that not all cases result in charges being brought. Certain cases will not proceed due to lack of evidence due to the fact that the conduct simply does not constitute a breach of FA Rules or Regulations.

Certain other cases may result in the Compliance Department writing to a participant to remind them of their responsibilities. This is not a formal warning (which can only be delivered by a Disciplinary Commission) but is generally an indication that the conduct may be in breach of the Rules and Regulations but formal disciplinary action is not justified / appropriate in the circumstances.

## **Appeals**

Appeals are permitted against both decision and sanction, and Appeal Boards are chaired by independent lawyers appointed by the Sports Dispute Resolution Panel, a body independent of The FA. Participants have 14 days to appeal from date of receipt of the decision or written reasons.

## **Agents / Transfers**

The Compliance Department is responsible for the licensing of Players' Agents, the development of regulations in relation to Players' Agents and the enforcement of FIFA and FA Football Agents Regulations.

Cases involving an international dimension are generally referred to FIFA under the terms of the FIFA Players' Agents Regulations, as FIFA has jurisdiction over international matters.

The FA is in the process of agreeing further amendments to the FA Football Agents Regulations which it hopes will be in force from the January 2007 transfer window.

## **Doping Control**

The Compliance Department is responsible for enforcing the FA Doping Control Regulations and dealing with any alleged breaches, including investigations arising from positive tests.

Doping offences range from positive tests, to interference with the testing process, to the private testing of players outside the FA Doping Control Programme.

Testing of players is managed by The FA's Medical and Exercise Science Department and carried out by UK Sport on the FA's behalf. Last year The FA's programme incorporated 1752 tests covering all levels of the game, by far the largest and most comprehensive testing programme in British sport.

## **Child Protection**

The Compliance Department incorporates the Child Protection Case Management team which oversees all cases relating to Child Protection in football.

This involves:

- the implementation of The FA's Child Protection Policy;
- undertaking the assessment and any subsequent investigation of allegations involving child protection concerns in football;
- overseeing The FA's Criminal Records Bureau checking programme which has already covered nearly 70,000 adults involved in organised football in England.

The work of the team is extremely important in seeking to ensure that people with access to children through football are suitable to perform their role. The department also contributes to policy-making both within and outside football on how best to manage child protection issues within sport.

## **Financial irregularities**

The term "financial irregularities" covers any number of possible matters involving finances that may constitute a breach of FA Rules (eg. the payment of non-contractual bonuses to players).

The FA has a number of specific rules covering financial requirements as well as its general rules of conduct.

The Compliance Department is responsible for the investigation of any such matters that are brought to the attention of The FA.

## **Betting**

The FA Rules on betting are set out below. The Compliance Department is responsible for the enforcement of these rules and investigating any alleged breaches of them.

Participants are not permitted to bet (either directly or indirectly) on matches involving their own team. In addition, players are not permitted to bet (either directly or indirectly) on domestic competitions involving their own team.

This means that, for example, a Premiership Player cannot bet on any Premiership game whatsoever. Also, if his Club is in The FA Cup, he cannot bet on any FA Cup game either. Part (b) covers the provision of “insider information” and it is an offence to use such information, or to provide such information to anyone else for, or in relation to, betting.

### FA Rule E8

*(a) A Participant shall not, either directly or indirectly, bet, or instruct, permit or enable any person for the Participant’s benefit to bet, on the result, progress or conduct of a Match or Competition in which the Participant is participating or in which the Participant has any influence, either direct or indirect.*

*(b) A Participant shall not use or provide to any other person any information relating to football which the Participant has by virtue of his or her position within the game and which is not publicly available for, or in relation to, betting.*

*It shall not be a breach of the above provisions if the Participant can prove that the bet was on authorised and registered football pools.*

## **Racism**

FA Rule E4 states that:

*“A Participant shall not carry out any act which is discriminatory by reason of ethnic origin, colour, race, nationality, religion, sex, sexual orientation or disability.”*

The FA treats any form of racism or discrimination as a serious offence and such matters are considered and dealt with accordingly.

## Crowd control

The FA's Rules relating to crowd control are set out below:

### *Rule E20*

*Each Affiliated Association, Competition and Club shall be responsible for ensuring:*

- a) that its directors, players, officials, employees, servants, representatives, spectators and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or a combination of the following: racist, violent, threatening, abusive, obscene or provocative behaviour, conduct or language whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere; and*
- b) that no spectators or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or on to the pitch.*

Whilst the onus is on all clubs to comply with the above requirements, the rules incorporate a "due diligence" defence, whereby a club can discharge its responsibilities relating to crowd behaviour where it can demonstrate that it has used all due diligence, or where events were the result of circumstances over which it had no control.

This essentially means that where crowd disorder occurs, The FA (through the Compliance Department) will generally only be in a position to take formal disciplinary action against a Club where the Club has failed to exercise due diligence. This may mean that disciplinary action is not taken even where serious disorder has occurred.

## **Media comments**

Whilst recognising that the football public is interested to hear from football players, managers and others, and whilst appreciating the pressures of the modern game, The FA expects certain standards to be upheld in relation to public comments by participants.

Whilst this area is most commonly associated with post-match comments about referees, it is not limited to such considerations.

By way of general guidance, the following types of public comment may lead to disciplinary charges (although this is obviously not exhaustive):

- Implication of bias – where a comment implies bias by another Participant.
- Questioning integrity – where a comment calls into question the integrity of another Participant.
- Personal/offensive – where a comment is personal in nature such that it causes, or may cause, offence.
- Detriment to the Game – the concepts of “disrepute” and “best interests of the game” are inherently broad and cannot be precisely defined. Charges may be brought where comments cause, and/or may cause, damage to the wider interests of football and/or to the image of the Game.

The Compliance Department is responsible for consideration of such matters and deciding whether or not charges should be brought. Consideration will be given to the actual comments made (rather than any media reporting of such comments) and their context.