



To: Secretaries / Chief Executive Officers of Unions and Regional Associations in Membership of World Rugby

**From: David Carrigy
Director of Development & International Relations**

Date: January 27, 2021

Re: Application of playing suspensions (for foul play) to matches that are ultimately cancelled

World Rugby's independent Judicial Panel Chairman, Christopher Quinlan QC provided some guidance to members of the World Rugby Judicial Panel as to the application of playing suspensions (for foul play) to matches that are ultimately cancelled.

We are circulating the guidance to Unions / Regions because it may be of wider benefit to your disciplinary personnel as the COVID-19 pandemic continues to impact on match schedules.

Should you have any queries in relation to the above, please contact Yvonne Nolan yvonne.nolan@worldrugby.org.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "David Carrigy".

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“As you know different competitions are played under their own Regulations. Those Regulations sometimes differ in their terms. The differences though modest can be important. By way of example compare RFU Regulation 19 with World Rugby Regulation 17. Therefore, my view is subject to the express provisions of particular Regulations. I will use Regulation 17 ('R17') as at 26 January 2021 as my reference, not least because it is the fundamental Regulation from which all others derive.

Context

The Game and those who play, coach, manage and administer it are wrestling with the impact of the global coronavirus pandemic. Its effects are (in modern times) unprecedented. They remain, in Europe and beyond, unpredictable and ever-changing. The only constant is that certainty remains elusive. While playing and match schedules are capable of being fixed, we have all seen how they are subject to variation and to change often at short notice. There is no reliable indication that will change soon. It is against that background that World Rugby has received a “*number of queries about the application of sanctions where matches are cancelled with an allocation of points to the teams involved*” and so you have asked me, as the independent Judicial Panel Chairman, if I am prepared to “*provide [my] view on how cancelled matches might be treated for the purposes of sanctions based on Regulation 17*”. In the spirit of trying to help, I am.

Regulation 17

The issue of the correct application of suspensions to matches has challenged Disciplinary Committees and Judicial Officers ('Judicial Panels') for some time. The Appeal Board which heard the appeal of *Sekope Kefu* in January 2018 (which I chaired) summarised the matter thus:

“Any period of suspension must, inter alia,
a. Run to a stated date;
b. Apply when the player is scheduled to play; and
c. Must be fixed taking into account the playing consequences of such suspension; and
d. Must not allow a player to escape the full consequences of their actions.”

Of course, *Kepu* was decided pursuant to the version of R17 then in force. That formulation is sometimes expressed in this shorthand way: the sanction must be meaningful. Many a case has required the Judicial Panel to wrestle with the meaning of a 'match' and/or which matches count for the purposes of a suspension.

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The present incarnation is different. R17.21.2 provides:

*“Disciplinary Committees and Judicial Officers shall ordinarily in their written decisions....conclude with the resultant sanction, if any, imposed including, for the avoidance of doubt, the expiry date of the suspension setting out a list of the Matches (or Match weekends, rounds or dates where specific fixtures have not yet been scheduled) for which the Player is suspended provided that, in any event, the Player would, **on the best information available at the time of the decision, be scheduled to play in a Match which would meet the criteria set out in Regulation 17.21.3** below on each of the weeks taken into account and that an expiry date is stipulated for the suspension.”* [emphasis added]

Therefore, if a playing suspension is imposed, the Judicial Panel should ordinarily:

1. Express it in weeks;
2. Stipulate an expiry date;
3. Identify the match/es or weekends, rounds or date for which the player is suspended; and
4. Which match/es etc must:
 - a. be ones in which the player is scheduled to play; and
 - b. which satisfy the criteria in R17.21.3.

The criteria in R17.21.3 does not add greatly to this debate save as highlighted (in bold):

“For the purposes of imposing a suspension, Disciplinary Committees and Judicial Officers shall take into account weeks in which there is a Match(es) which comply with each of the following criteria:

- a. *until such time as he was suspended, the Player **would otherwise have been scheduled to play** in the Match, the burden resting with the Player to prove that he was scheduled to play...”*

The present incarnation of R17 does not include the expression *“taking into consideration all playing consequences of such suspension”* nor any reference to the ‘meaningfulness’ of sanctions. However, I do not, for a moment imagine it is controversial to observe that it is axiomatic that playing sanctions must be meaningful. That is a core principle.

The different scenarios

You ask me to consider the following:

- Within a tournament where matches cancelled and points awarded or split between teams.
- Within a tournament where matches postponed.
- Across tournaments where matches postponed and/or cancelled: e.g. player suspended for 3 matches and next scheduled matches are 2 PRL + 1 Six Nations. Various scenarios could arise here with a combination of PRL matches continue/cancelled/postponed and Six Nations continue/cancelled/postponed.

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Treating a match as one which satisfies the R17.21.3 criteria, and by application of that core principle, my view (in italics) in respect of each is as follows:

- Within tournament where matches postponed: *A postponed match will be played, just not on the date anticipated. Even if the player would otherwise have played the match, the postponed match does not count toward their suspension. They have not been missed a match which took place and which - but for their suspension - they would have played in.*
- Within a tournament where matches are cancelled, and points awarded or split between teams.
 - *This is more difficult. On the one hand, in this scenario the player has not missed a match, because it did not take place and so that cancelled match should not count as part of the suspension.*
 - *However, a match which is cancelled but in respect of which tournament points are awarded, is treated as having 'taken place' for the purposes of the tournament. In such circumstances, it seems (to me) unfair if that match has competition consequences for his team, for other teams and for the tournament, but not for a player scheduled to participate in it. Therefore, and in those limited circumstances I would count it was a match (or week) for the purposes of a suspension. On my reading, there is nothing in R17 contrary to this interpretation. Nor, on these particular facts, do I think it offends the principle of meaningful sanctions.*
 - *This approach is not without precedent. It was adopted in RWC2019 in respect of the suspensions imposed upon Josh Larsen, Andrea Lovotti & Nicola Quaglio when the final pool matches of Canada and Italy respectively were cancelled due to the impact of Typhoon Hagibis. In those cases I was satisfied that*
 - *each player would, but for his suspension, have played in their country's final pool match,*
 - *which match satisfied R17.21.3, and*
 - *that since each match was treated as having been played for the purposes of RWC it should also be treated as a match (week) for the purposes of their respective suspensions.*
- Across tournaments where matches postponed and/or cancelled: e.g. player suspended for 3 matches and next scheduled matches are 2 PRL + 1 Six Nations. Various scenarios could arise here with a combination of PRL matches continue/cancelled/postponed and Six Nations continue/cancelled/postponed. *The principles from the first two scenarios apply regardless of the tournaments: cancelled matches with tournament points awarded count, postponed matches do not. Therefore, in the RWC examples,*
 - *Each player was suspended for 3 weeks/matches*
 - *the last pool match was week/match 1 of the suspension*
 - *the remaining 2 were served by missing club fixtures which otherwise they would have played in.*

In the spirit of providing assistance, not least to Judicial Panels, including those I appoint, it may be helpful to summarise matters thus:

<p>Match schedule unknown/unclear on date of suspension – e.g. league suspended and return to play date not yet known</p>	<p>Judicial Panel should express the sanction in weeks (e.g. a 3 week suspension), note that the schedule is unknown and require an update from the player/his club/Union and tournament organiser once matches scheduled</p>	<p>Sanction: Sanction applies as normal when play resumes (e.g. the first 3 matches on return to play)</p>
<p>Match schedule known on date of suspension but matches subsequently postponed/cancelled</p>	<p>Judicial Panel should express the sanction as clearly as possible (i.e. set out the scheduled matches) but noting that where any of the scheduled matches are cancelled/postponed, the Panel must be notified and the sanction will be adjusted accordingly.</p>	<p>Sanction:</p> <p>Match postponed: sanction adjusted to apply to the matches that are played next in time rather than to the postponed matches.</p> <p>Match cancelled and points awarded: match was scheduled to take place at time of sanction and for the purposes of the tournament in question, has “taken place” in that points were awarded. The match can therefore count towards the player’s suspension.</p> <p>Match cancelled but no points awarded (e.g. standalone warm-up match): match was scheduled to take place at time of sanction but has not “taken place” for the purposes of the team, tournament or otherwise so cannot count towards player’s suspension.</p>