

## **WORKING PRACTICES ON THE HANDLING OF INCIDENTS FALLING UNDER BOTH CRIMINAL AND FOOTBALL REGULATORY JURISDICTION**

### **Introduction and scope of this document**

This document sets out recommended working practices between the Crown Prosecution Service (CPS), the National Police Lead for football on behalf of the National Police Chiefs' Council (NPCC), the Football Association (FA), and the Football Association of Wales (FAW). This document concerns the issue of concurrent jurisdiction where a criminal offence is alleged to have been committed by a Participant (as defined in the Rules of the FA) or a Member or Subordinate (as defined in the Rules of the FAW) in the context which also falls to be regulated by the FA or FAW<sup>1</sup>.

### **Purpose of this document**

This document clarifies the roles and responsibility of the parties; ensures consistent early liaison between the parties where appropriate; and establishes a consistent approach to all cases. This document is not intended to be legally binding but all parties are committed to following the recommended working practices set out in this document.

### **Criminal prosecutions and FA / FAW disciplinary proceedings**

The CPS can bring a prosecution in a criminal court following an investigation by the police. In more serious or complex cases, prosecutors decide whether a person should be charged with a criminal offence and, if so, what the charges should be.

Prosecutors make their decisions in accordance with the Code for Crown Prosecutors and the DPP's Guidance on Charging. The police apply the same principles in deciding whether to start criminal proceedings against a person in those cases for which they are responsible.

The standard of proof in a criminal court is 'beyond reasonable doubt'. Where a defendant is convicted of a criminal offence, a wide range of sentencing options are available to the court.

The FA's or FAW's Rules and Regulations govern football disciplinary action. The FA and FAW may initiate disciplinary proceedings, for example, by warning a Participant with misconduct where there is an alleged breach of its Rules and Regulations. By way of further example, The FA and FAW may also commence disciplinary proceedings in relation to safeguarding.

The standard of proof in football disciplinary proceedings is the civil standard, namely the 'balance of probabilities'<sup>2</sup>.

Where a charge is proved or admitted, the judicial bodies of the FA or FAW may impose a number of sanctions including a fine, a suspension from all or any specified football activity, a stadium ban, a compensation order or any order appropriate to the misconduct in person.

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<sup>1</sup> For the purpose of this document, the term 'Participant' should be read to include both FA Participants and FAW Member or Subordinates.

<sup>2</sup> Save in respect of Anti-Doping Rules Violations where the applicable standard of proof is that of 'comfortable satisfaction'.

There may be circumstances where the financial penalty likely to be imposed by the FA or FAW may be greater than the maximum financial penalty available to the court. In addition, some FA / FAW sanctions not available to the courts, such as suspension from playing or a points deduction for a player's club, may be a more effective punishment. Such sanctions may also act as a strong deterrent against misbehaviour.

### **Concurrent investigations – early consultation**

Where the FA / FAW is notified of an incident involving one of its Participants which may amount to a breach of its Rules or Regulations, it will commence an investigation immediately with a view to bringing disciplinary proceedings in a timely manner<sup>3</sup>. Where the incident falls within the remit of a criminal offence, then the FA / FAW may (in their discretion) consult with the police.

Where the police receive a complaint or initiate an investigation into an incident involving a Participant, the police may consult the FA / FAW, where appropriate<sup>4</sup>. The consultation must be at an early stage of the investigation and seek to establish the action carried out, or intended to be carried out, by the FA / FAW. This will assist the police / FA / FAW in determining:

- Whether the police consider it is appropriate to conduct a criminal investigation, or it is sufficient for the matter to be dealt with by the FA / FAW; and
- If there is to be an investigation, whether and to what extent the FA / FAW should suspend its own investigation or proceedings.

Where the FA / FAW receives a request from the police or suspends its investigation or proceedings, it will recognise that the fair enforcement of the criminal law is of paramount importance and consider:

- The period of suspension requested;
- The impact upon its own investigation or proceedings of such suspension;
- The impact upon its regulatory responsibilities of such suspension; and
- Whether, if it were not to suspend its investigations or proceedings, there is a real risk of serious prejudice to the criminal investigation which may lead to injustice.

Where the football disciplinary proceedings have been suspended, the FA / FAW will review this decision on a regular basis, having regard to the progress of the criminal investigation and / or prosecution.

### **Decision as to whether to carry out a criminal investigation or prosecution**

It is generally desirable for the FA / FAW to deal exclusively with all football regulatory matters and sanction their Participants appropriately for breaches of their Rules and Regulations. There will, however, be instances where the breach is so serious that it will also be appropriate for a criminal investigation or prosecution to take place. Each case must be considered on its own facts.

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<sup>3</sup> The FA Rules do not prescribe a timescale for bringing proceedings, though the FA endeavour to conclude proceedings within the same season as that within the offence was committed. The FAW's Rules contain no timescale for bringing proceedings against a Member or Subordinate though, in almost every case, the FAW bring proceedings within six months. Where a decision is made to involve the police, most criminal proceedings have to be brought within six months.

<sup>4</sup> The FA's contact point is the Head of On-Field Football Regulation.

The police and CPS will consider a number of factors when determining whether it is appropriate to commence a criminal investigation or prosecution with regard to an incident involving a Participant including<sup>5</sup>:

- The more serious the incident or allegation, the more likely it is that a criminal investigation is required;
- If an alleged offence is aggravated by factors that would potentially make it a 'hate crime', it is more likely that a criminal investigation will be required;
- The availability and willingness of potential victims and witnesses to support either or both a criminal or disciplinary prosecution.

### **Disclosure and information sharing**

Subject to applicable data protection laws and regulations, the parties to this document will share and provide information wherever possible<sup>6</sup>.

Where a decision has been taken not to proceed with a criminal prosecution or where a prosecution has come to an end, the evidence gathered will be of assistance in informing any football disciplinary action. The police should when taking witness statements, seek the consent of any witnesses to disclose their statements or any other evidential material in their possession to the FA / FAW. Where a Participant is interviewed in respect of an alleged offence, the police should seek his / her consent to disclose the record of the interview to the FA / FAW.

Where the FA / FAW has commenced an investigation, evidence gathered by the investigators may be of assistance to the police in its enquiry. The FA / FAW should seek the consent of its Participants to disclose material to the police. If consent is not forthcoming the FA / FAW should inform the police they have sought consent to release its own investigation, but consent has not been granted.

The police may, where appropriate, obtain a production order to enable the FA / FAW to disclose documentation or other evidence in its keeping.

### **The UK Football Policing Unit**

Police forces carrying out investigations about football matters may seek support, guidance and advice from the UK Football Policing Unit (UKFPU)<sup>7</sup>. The UKFPU is not an investigative body although its staff have a wealth of experience of criminal investigations and prosecutions and provide a useful source of advice and precedents for police forces.

### **CPS advice and decisions to charge**

The police may seek advice from the CPS with regard to any alleged criminal offences, in accordance with current working arrangements

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<sup>5</sup> The list of factors is not exhaustive.

<sup>6</sup> The FA and FAW will use existing mechanisms to capture information about (1) how many on- and off-field investigations are opened and how many of those are closed without action, warned without formal disciplinary action or charged; and (ii) how many of those cases the FA / FAW refers to the police.

<sup>7</sup> UKFPU contact details: email [footballdesk@fpu.pnn.police.uk](mailto:footballdesk@fpu.pnn.police.uk); telephone 0208 196 4999.

The police will, following investigation, refer a case to the CPS. A CPS prosecutor will review the case in accordance with the Code for Crown Prosecutors and will consider whether there is enough evidence to provide a realistic prospect of a conviction and if it is in the public interest for the CPS to prosecute. Prosecutors will also apply any relevant prosecution policy or guidance and take account of any FA / FAW sanction which may be imposed or has already been imposed.

### **Review of document**

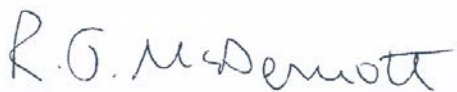
The document will be reviewed every two years.

**Date of Last Review: July 2020**

### **Signatories**

A handwritten signature in black ink, appearing to be 'G. McGill', written in a cursive style.

Gregor McGill, CPS Director of Legal Services  
7 August 2020

A handwritten signature in black ink, appearing to be 'R.G. McDermott', written in a cursive style.

Richard McDermott, Company Secretary of The FA  
1 July 2020

A handwritten signature in black ink, appearing to be 'Jonathan Ford', written in a cursive style.

Jonathan Ford, Chief Executive and Company Secretary, the FAW  
3 July 2020

A handwritten signature in black ink, appearing to read 'Mark Roberts', with a long horizontal flourish extending to the right.

Mark Roberts, Deputy Chief Constable, NPCC Lead for Football Policing  
9 July 2020

## **Glossary**

The Football Association Limited (Company number 00077797)

Registered Address:-  
Wembley Stadium  
Wembley  
London  
HA9 0WS

The FA is not an association of people, but an association of the different constituencies of football: it's closed community of shareholders is made up of county football associations, football clubs who have "Full Member Club" status, members of FA Council (one of The FA's decision making bodies) and the Premier League and English Football League. Furthermore its "Membership" of The FA is not open to the public.

### The Football Association of Wales (the FAW)

The Football Association of Wales Limited (company number 002313349)

Registered Address:-  
11/12 Neptune Court  
Vanguard Way  
Cardiff  
CF24 5PJ

### Participant

An Affiliated Association, Competition, Club, Club Official, Intermediary, Player, Official, Match Official, Management Committee Member, Member or Employee of an Affiliated Club and all such persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association.

### Member

A Councillor, Area Association, Directly Affiliated League or Qualifying Club that has been admitted into membership of the Association by the Council.

### Subordinate

Subordinate shall mean:

- Any director, member, representative, official, employee, referee or other playing official or Player of a Qualifying Club, Area Association or Directly Affiliated League;
- Every spectator at a match of Association Football in which a team of a Qualifying Club plays, or in which a representative team of an Area Association or Directly Affiliated League plays, and any person purporting to be a supporter or follower or such member provided that the provisions of Rules 7.5, 28, 38.13, 38.1.4, 38.1.6, 38.1.8, 38.1.10, 38.1.11, 38.1.12, 38.1.16, 66.7, 76, 77 and 115.1 shall not apply to such spectators, supporters or followers;
- All other organisations, clubs, bodies, entities or persons who are members of, or affiliated to, over whom a Qualifying Club, Area Association or Directly Affiliated League exercises, or purports to exercise, control.