
MANAGING SANCTIONS IN SPORT FOR OFF-FIELD INDISCRETIONS

Abstract ID: EASM-2015-163 - (687)

All authors:

Paul Jonson (corresp)

Date submitted: 2015-03-20

Date accepted: 2015-04-05

Type: Scientific

Keywords: sanctions; off-field behaviour; professional sports

Category: 14: Other sport management related issues

Synopsis:

Abstract:

Professional athletes arguably face the most rigorous regime of punishment for off-field misbehaviour (Goodwin, 2005).

Under most Australian contracts of employment (which include Codes of Conduct and the like) for professional athletes there is a clause that states “players shall not bring the sport into disrepute” or similar words. This clause has been interpreted very widely and in effect sport associations see themselves as having the right under this clause to punish players for any behaviour that attracts negative public attention whenever and wherever it may occur. No other profession has such extensive reach into the private life of its members. For example, a Judge of the Supreme Court of NSW recently admitted to being guilty of drink-driving (although no conviction was recorded) and yet he was neither disqualified or even suspended pending the hearing. Meanwhile, several players from a National Rugby League (NRL) club (the Gold Coast Titans) who have been charged with possession and supply of a prohibited drug (Cocaine) were stood down at the insistence of the NRL and their club. Following the threat of legal action by the players’ lawyers and on the advice of an independent legal opinion the NRL has allowed the players to return to the playing field. It was clear that the NRL was denying the players the presumption of innocence pending the Hearing. There are a plethora of other cases which illustrate the exercise of the so called “morals clauses” by sport associations for off-filed behaviour (Davies, 2011).

They – the sport Associations – will argue with some justification that they are duty bound to protect the repute and brand of their sport. The issue here is that they are doing so with little regard for the rights of the athletes, no real guidelines and no restrictions given the breadth of interpretation that can be given to the phrase “bringing the sport into disrepute” (Jonson et al, 2013). Under the judiciary rules of both the NRL and the Australian Football League (AFL), there are very clear descriptions of on-field indiscretions, the grade of

such indiscretion and the punishment that each will attract. So for example a dangerous throw grade 3 will attract a certain number of points. There is then a Table which indicates how many weeks suspension will be imposed for each number of points.

Recently the Australian Rugby Union Players Association (RUPA, 2015) has prepared a Draft Australian Professional Rugby Code of Conduct in which there are clear guidelines for that sport's judiciary as to the penalties that may be imposed for varying types of offence. Whilst a greater level of specificity is desirable it will be argued that this is a major step forward in the treatment of off-field indiscretions by professional athletes which should be followed by all professional sport associations.

Comparisons will be drawn with Codes of Conduct for Association Football, Rugby League and Rugby Union in the United Kingdom which has a similar legal system to that of Australia. The practice of the associations will be considered in the context of employment management theory (Bray, 2014).

References:

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RUPA Draft Australian Professional Rugby Code of Conduct (2015)