Scottish Rugby

AGENTS & INTERMEDIARIES

LEADERSHIP · ENGAGEMENT · ACHIEVEMENT · ENJOYMENT · RESPECT

FOREWORD

The purpose of this Policy and this Regulation is to provide an appropriate regulatory framework in relation to the activities of rugby agents based in or operating in Scotland, or who represent clients employed in Scotland or playing for Scottish teams.

To support this Regulation, we will continue to monitor best practice in this area and will, where necessary and appropriate, update the Regulation accordingly.

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POLICY STATEMENT

Scottish Rugby considers that:

- those involved in the contracting of and the provision of advice to players and rugby support staff must act with integrity and uphold Scottish Rugby's Core Values and the underlying values of the game;
- through their actions, players and clubs, together with those who represent them, can influence the lives and behaviours of others; and
- inappropriate practice in relation to the contracting, management and support of players and others involved in the game can bring the sport into disrepute.

Scottish Rugby wishes to discourage inappropriate practice by those participating in rugby and apply an appropriate level of regulation to the activities of rugby agents.

Those under the jurisdiction of Scottish Rugby must comply with SDR 5 : Agents and Intermediaries.

Key principles:

- Scottish Rugby, and all those governed by Scottish Rugby, shall follow best practice in relation to the operation of agents within the game.

- Participants in the game are obliged to follow World Rugby's Regulations Relating to the Game, including World Rugby Regulation 5, Agents.

- Participants in the game in Scotland, and their representatives, must also follow the rules and regulations of Scottish Rugby.

- Scottish Rugby has adopted a Policy and a Regulation (SDR 5 : Agents and Intermediaries) in relation to operation of agents within rugby in Scotland. This Regulation conforms to World Rugby's Regulation 5 (Agents).

- Scottish Rugby believes that best practice is represented by SDR 5 and World Rugby Regulation 5.

- All agents, clubs, players, coaches and others under the jurisdiction of Scottish Rugby must follow the terms of SDR 5 and World Rugby Regulation 5, together with any further guidance published by Scottish Rugby from time to time in relation to the operation of agents within rugby in Scotland.

SCOTTISH RUGBY CORE VALUES

The Scottish Rugby Union, together with its operating vehicle Scottish Rugby Limited, acts as the Governing Body of the sport of Rugby Union in Scotland and promotes these core values from our National Teams through to grassroots rugby.

Our core values are:

LEADERSHIP

ENGAGEMENT

ACHIEVEMENT

ENJOYMENT

RESPECT

ROLES AND RESPONSIBILITIES

To ensure an environment in which all participants can enjoy their rugby, everyone involved in the game must work together. It is **EVERYONE'S** responsibility to contribute to fair competition and to the wellbeing of players and others involved in the game.

SCOTTISH RUGBY WILL BE RESPONSIBLE FOR:

- Developing and publishing a regulation governing the operation of player agents, SDR 5 : Agents and Intermediaries, and will ensure that this Regulation and any associated guidance is regularly reviewed and updated.
- Requiring that member clubs comply with the Regulation as part of the Club Minimum Operating Standards or successor requirements .
- Providing advice, assistance and education materials in relation to the Regulation of player agents, players and their clubs.
- Managing and responding to referrals and/or concerns in an efficient and fair manner.
- Investigating potential breaches of the Regulation and taking disciplinary action where considered necessary or appropriate.

MEMBER CLUBS WILL BE RESPONSIBLE FOR:

- Ensuring that their players, coaches, officers and other club officials are aware of Scottish Rugby's Regulation SDR 5 : Agents and Intermediaries.
- Ensuring that all of their club's players and club officials comply with the terms of the Regulation and any associated guidance.
- Reporting any suspected breaches of the Regulation to Scottish Rugby.

AGENTS, PLAYERS AND CLUBS COVERED BY THIS REGULATION WILL BE RESPONSIBLE FOR:

- Ensuring that at all times their activities are in accordance with Scottish Rugby's Core Values.
- Abiding by the terms of Scottish Rugby's SDR 5: Agents and Intermediaries and any associated guidance.

SCOTTISH DOMESTIC REGULATION 5 : AGENTS & INTERMEDIARIES

1. DEFINITIONS

1.1 AGENT
means any person who carries out or seeks to carry out Agency Activity.

1.2 AGENCY ACTIVITY
means acting in the capacity of agent, intermediary, representative or adviser to a Club or player, either directly or indirectly, in the negotiation, arrangement or execution of any employment transaction or employment contract negotiation for Material Benefit.

1.3 APPROVED INTERMEDIARY
means such individuals, not being a Registered Agent, as may be approved by Scottish Rugby to conduct Agency Activity in accordance with paragraph 5 of this Regulation.

1.4 CLUB
means any club, team or other body admitted into membership of, or affiliated to, SRU and having its primary playing venue in Scotland.

1.5 DISCIPLINE MANAGER
means the person, having appropriate knowledge and expertise, who is appointed by Scottish Rugby to act on its behalf in this capacity in matters arising under this Regulation.

1.6 DISCIPLINARY RULES
means the Scottish Rugby Disciplinary Rules, as issued from time to time by Scottish Rugby.

1.7 MATERIAL BENEFIT
means the definition of “Material” and “Benefit” in accordance with Scottish Domestic Regulation 4.1 Player Status and Player Contracts (“SDR 4.1”).

1.8 MISCONDUCT
means the meaning ascribed to it in Scottish Rugby’s Disciplinary Rules.

1.9 REGISTERED AGENT
means an Agent who is registered with Scottish Rugby.

1.10 SCOTTISH RUGBY
means Scottish Rugby Limited, a company registered in Scotland with registered number SC132061 and having its registered office at Murrayfield Stadium, Edinburgh EH12 5PJ, and it successors, acting under powers delegated to it by SRU, and its successors.

1.11 SRU
means Scottish Rugby Union, a company limited by guarantee registered in Scotland with registered number SC748672 and having its registered office at Murrayfield Stadium, Edinburgh EH12 5PJ, and its successors.

1.12 WORLD RUGBY
means the international governing body for the sport of rugby union.

1.13 WORLD RUGBY REGULATIONS
means the World Rugby Regulations relating to the game, as issued from time to time by World Rugby.

2. WORLD RUGBY REGULATION 5

2.1. Scottish Rugby acknowledges that it is obliged to comply with Regulations issued from time to time by the World Rugby.

2.2. Scottish Rugby recognises that World Rugby has issued a specific Regulation in respect of Agents (World Rugby Regulation 5). Scottish Rugby has adopted World Rugby Regulation 5 to the fullest possible extent.

2.3. This Regulation should be read in conjunction with the Disciplinary Rules and World Rugby Regulation 5 and supplements the provisions of that document.

3. APPLICATION

3.1. This Regulation shall apply to all persons and all bodies subject to the authority of the SRU or Scottish Rugby. Acting in relation to the contracting, management and support of players and/or Clubs in Scotland by undertaking Agency Activity shall bring that person within the ambit of this Regulation.

3.2. Registered Agents and Approved Intermediaries must comply with these Regulations together with World Rugby Regulation 5.

3.3. Principals, whether Clubs, players or otherwise, may be held liable for the acts or omissions of Registered Agents or Approved Intermediaries instructed by them.

3.4. Potential breaches of this Regulation shall be dealt with in accordance with paragraph 9 (Breaches and Sanctions) below.

4. OBLIGATIONS

4.1. Scottish Rugby shall:

4.1.1. adopt, implement and comply with this Regulation;

4.1.2. publish the Regulation on the Scottish Rugby website and make it available on request;

4.1.3. maintain a register of Registered Agents and Approved Intermediaries; and

4.1.4. maintain confidentiality as required under this Regulation.

4.2. Any person wishing to appoint a person to act for them in relation to any Agency Activity covered by this Regulation may only appoint:

4.2.1. a Registered Agent; or

4.2.2. an Approved Intermediary.

4.3. A person appointing a Registered Agent or Approved Intermediary must use all reasonable endeavours to ensure that any Registered Agent or Approved Intermediary appointed by them complies with this Regulation.

4.4. For the avoidance of doubt a person subject to this Regulation may act on their own behalf in any negotiation.

5. APPROVED INTERMEDIARIES

5.1. Any person wishing to act as an Approved Intermediary shall first register with Scottish Rugby in the prescribed manner. Applicants for registration shall:

5.1.1. provide such supporting evidence as may be required (at Scottish Rugby's discretion) in relation to their status under paragraph 5.2 ; and

5.1.2. demonstrate that they meet the Good Standing Criteria set out in Appendix 1 of this Regulation.

5.2. Approved Intermediaries may include:

5.2.1. a player's immediate family members (being a spouse/partner, parent or sibling over the age of 18);

5.2.2. enrolled solicitors, advocates or barristers entitled to practise law in the United Kingdom or Ireland or other jurisdiction approved by Scottish Rugby; or

5.2.3. such other persons or individuals, having agreed to abide by the provisions of World Rugby Regulation 5 and this Regulation, together with such additional conditions as Scottish Rugby may require, as have been approved in writing by Scottish Rugby.

5.3. Once approved, registration as an Approved Intermediary shall be valid for the period stated by Scottish Rugby in the registration and not exceeding three years, subject to the Approved Intermediary continuing to meet the conditions set out in paragraph 5 and their continued compliance with the Regulation. Scottish Rugby reserves the right to grant a shorter registration period and apply additional conditions and restrictions to the registration of an Approved Intermediary.

5.4. Approved Intermediaries must ensure that they inform Scottish Rugby of any changes in their details which would require an amendment to the register.

6. REGISTERED AGENTS

6.1. Those seeking approval as a Registered Agent in Scotland must first register in accordance with this Regulation and must submit to the jurisdiction of Scottish Rugby in respect of Agency Activity in Scotland.

6.2. The applicant for registration as a Registered Agent shall confirm in writing:

6.2.1. the applicant carries out or intends to carry out the Agency Activity is in Scotland; and

6.2.2. the applicant complies with the Good Standing Criteria outlined in Appendix 1 to this Regulation.

6.3. Subject to paragraph 6.2, Agents who evidence that they have been recognised as holding equivalent status to a Registered Agent by any World Rugby member Union other than SRU or by World Rugby itself, shall be entitled to become Registered Agents upon provision of such evidence without having to satisfy the requirements of paragraph 6.5 unless otherwise required by Scottish Rugby.

6.4. Registered Agents shall be registered personally and may not transfer or delegate their registration to any other person or any other entity.

6.5. Registration of Agents

6.5.1. In order for a person to become a Registered Agent that person must first:

a) pay the relevant registration fee (if any);

b) provide evidence that the Registered Agent has appropriate professional indemnity insurance in place with a reputable insurer to the level of not less than £1,000,000 or such other level as determined by Scottish Rugby;

c) complete and pass any written or other test as may be required by Scottish Rugby; and

d) upon request, attend an interview with representatives of Scottish Rugby.

6.5.2. Registered Agents must ensure that they inform Scottish Rugby of any changes in their details which would require an amendment to the register.

6.5.3. Once approved, registration shall be valid for the period not exceeding three years, subject to the Registered Agent continuing to meet the conditions set out in paragraph 6 and their continued compliance with the Regulation. Scottish Rugby reserves the right to grant a shorter registration period and apply additional conditions to the registration of a Registered Agent.

6.6. Remuneration of Agents

The principal for whom the Registered Agent or Approved Intermediary acts shall be responsible for payment of the fees or other remuneration of the Registered Agent or Approved Intermediary, but this shall not prevent a third party meeting those fees as part of a transaction where the Registered Agent or Approved Intermediary is representing the principal and the third party has agreed to meet those fees.

7. AGENCY ACTIVITY

7.1. Those seeking to become Registered Agents and Approved Intermediaries agree that:

7.1.1. they will at all times conduct themselves in an ethical manner and shall observe the highest standards of integrity and fair dealing;

7.1.2. they will act in good faith in all discussions, negotiations and transactions and will disclose in writing the identity of their principal in any relevant discussions, negotiations or transactions;

7.1.3. any fees or other remuneration to which they are entitled must be reasonable and shall be clearly stated in writing and the basis of calculation clearly disclosed;

7.1.4. they will not allow the game to be brought into disrepute through their acts or omissions;

7.1.5. they will disclose in writing to their principal any relevant formal or informal relationships that they have or have had with any other party to a transaction, such disclosure to be made as soon as reasonably practicable;

7.1.6. they will not aid a Club or a player in allowing a player to receive any Benefit (including any Material Benefit) which is not permitted or not registered with Scottish Rugby in accordance with SDR 4.1;

7.1.7. they will maintain appropriate professional accounts in accordance with best accounting practice, and will make available such accounts and all relevant books and records upon demand by Scottish Rugby;

7.1.8. they will advise Scottish Rugby immediately if there is any change to their status in relation to the criteria set out in paragraph 5 (Approved Intermediaries) or paragraph 6 (Registered Agents);

7.1.9. no contract between a player and a Registered Agent shall have a term exceeding two years, and no such contract shall be assignable or transferable to any other person without the player's consent;

7.1.10. Registered Agents must advise in writing any player with whom they are proposing to enter into an agency contract to obtain independent advice prior to execution of any such contract; and

7.1.11. in relation to approaches to players, they must not:

a) take any step (including the making of public statements) intended to induce any person to act in breach of their written agreement with any rugby union, any Club or any other Registered Agent;

b) when acting for a player who is under contract with a Club, without the written consent of that Club, whether directly or indirectly, communicate with or approach another Club or any other person with the object of negotiating or arranging a transfer of the player at the expiry of the period of that player's contract, save to the extent that the rules of the Club's own union or that of World Rugby permit;

c) when acting for a Club to whom a player is contracted, without the written consent of the player, whether directly or indirectly, communicate with or approach another Club or any other person with a view to procuring the transfer of that player; or

d) make any offer of contract, provide any letter of intent or offer any inducement to any player under the age of 18 or to any parent, guardian, or trustee of such player, except where such approach is permitted in accordance with SDR 4.1.

8. REJECTION, CESSATION AND SUSPENSION OF REGISTRATION

8.1. Scottish Rugby may reject, revoke or suspend the registration of a Registered Agent or Approved Intermediary who does not satisfy, and continue to satisfy this Regulation and any of the conditions set out in paragraphs 5.1 or 6.5.1 (as applicable), and paragraph 7, or any such additional conditions applied by Scottish Rugby to their registration .

8.2. If for any reason a Registered Agent or Approved Intermediary ceases to be registered or a registration otherwise ends or is suspended, they shall:

8.2.1. immediately cease to hold themselves out as a Registered Agent or Approved Intermediary;

8.2.2. not by any act or omission mislead (or allow to be misled) any third party into thinking that they are a Registered Agent or Approved Intermediary;

8.2.3. inform all applicable clients that they are no longer a Registered Agent or Approved Intermediary and that they can therefore no longer act for them as a Registered Agent or Approved Intermediary in any Agency Activity in Scotland; and

8.2.4. shall not undertake any Agency Activity of any kind in Scotland.

8.3. Any applicant whose application for registration as a Registered Agent or Approved Intermediary is rejected, suspended, or revoked may appeal against the decision. Such appeal shall be carried out in accordance with Scottish Rugby's disciplinary procedures and the appeal panel shall decide whether the application has been rejected, suspended or revoked fairly or unfairly according to the criteria and procedures set out in this Regulation.

9. BREACHES AND SANCTIONS

9.1. Breaches of this Regulation, including the breach of any obligation imposed under World Rugby Regulation 5, shall constitute an act of Misconduct under the Disciplinary Rules.

9.2. The Discipline Manager (or his nominee) shall investigate potential breaches in accordance with the Misconduct provisions of the Disciplinary Rules. Where the Discipline Manager (or their nominee) determines that there is a case to answer they may either:

9.2.1. refer the matter to a Scottish Rugby Disciplinary Committee; or

9.2.2. request that World Rugby appoint a Disciplinary Committee to consider the matter.

9.3. Where a Misconduct complaint is upheld, the Disciplinary Committee shall be entitled to impose any one or more of the following sanctions as it shall deem appropriate having regard to the circumstances of the case:

9.3.1 a caution, reprimand or warning as to future conduct;

9.3.2. a fine;

9.3.3. suspension of the entitlement to act as a Registered Agent or Approved Intermediary;

9.3.4. withdrawal of entitlement to provide Agency Activity services in relation to all players or Clubs;

9.3.5. the payment of compensation to any person or entity affected by the Misconduct; and/or

9.3.6. such other sanction as they may consider appropriate in the particular circumstances, including such other penalty or sanction as may be provided for within World Rugby Regulations or Scottish Domestic Regulations for acts constituting or being capable of constituting Misconduct under those regulations.

9.4. Additional Offences: Notwithstanding anything else in this Regulation, a failure to comply with any requirement or sanction in relation to this Regulation shall be deemed to constitute a separate and additional act of Misconduct for the purposes of this Regulation.

9.5. Appeals: Any sanction imposed in consequence of this Regulation may be appealed in accordance with the Appeal provisions of the Disciplinary Rules.

10. CONFIDENTIALITY AND PERMITTED DISCLOSURESS

10.1. Information in relation to potential breaches of this Regulation must not be disclosed to any person except Scottish Rugby or SRU, unless expressly authorised under this Regulation.

10.2. Where appropriate, and at its sole discretion, Scottish Rugby may share intelligence and other information in relation to specific cases with World Rugby and other relevant regulatory authorities. The Discipline Manager (or his nominee) may also be required to disclose such information to others for the orderly management of the Regulation and of rugby union in Scotland. As a condition of their participation, each Agent, player, Club and other person agrees to the collection, processing and disclosure of such information (including sensitive personal data) as may be required to properly implement this Regulation.

10.3. Nothing in this Regulation shall prevent or preclude Scottish Rugby or any individual or person from sharing information as to potential offences with the police or other appropriate authority.

10.4. Should an Agent, player, Club or other person disclose details of any potentialact of Misconduct, or where such information becomes known in the public domain other than through the actions of Scottish Rugby, Scottish Rugby shall be free to comment thereon.

10.5. On completion of Misconduct or appeal proceedings by the Disciplinary Committee, Scottish Rugby may disclose details of the Misconduct and of any sanction or of any appeal finding applied by the Disciplinary Committee.

10.6. Nothing in this Regulation shall prevent Scottish Rugby from disclosing statistical information in respect of this Regulation.

APPENDIX 1 – GOOD STANDING CRITERIA

Scottish Rugby reserves discretion on whether an applicant for registration as a Registered Agent or Approved Intermediary is of good standing. The list below is an illustrative and not exhaustive list of matters which may lead to a negative conclusion on an applicant's standing. However, the existence of one or more of the parameters listed below shall not automatically prevent an applicant being considered to be of good standing and Scottish Rugby may take other facts, circumstances or factors into consideration before reaching a conclusion.

The applicant:

a) is bankrupt or has made any arrangement or composition with their creditors generally;

b) is under or is pending suspension imposed or confirmed by Scottish Rugby or World Rugby;

c) is the subject of an endorsed Disclosure from Disclosure Scotland;

d) has within the last 5 years been:

   i. disqualified as a director pursuant to a disqualification order granted under the Company Directors' Disqualification Act 1986 or was serving a disqualification as a director pursuant to such Act at any time within the previous five years; or

   ii. disqualified from serving on a public body or holding public office;

   iii. censured or disciplined for a serious offence (to be judged in the absolute discretion of Scottish Rugby) or had their membership revoked by any regulatory or professional organisation in relation to any applicable business or professional activities; or

   iv. disqualified from or restricted in practising in a regulated profession or industry;

e) has been convicted within the last 10 years of

   i. an offence liable to imprisonment; or

   ii. corruption; or

   iii. fraud;

f) has been suspended or expelled by another national sports association from involvement in the administration of a sports club;

g) has been a director or officer of a club in membership of SRU or any other national sports association within the 5-year period preceding such club having undergone an insolvency event;

h) is under or is pending suspension imposed by or confirmed by Scottish Rugby, any other national sports association, the World Anti-Doping Association or UK Anti-Doping under anti-doping regulations; or

i) is or has been the subject of a disciplinary finding or sanction imposed by the Scottish Rugby Discipline Committee within the preceding 5 years.

CONTACT US

Advice and further information with regard to *SDR 5 : Agents and Intermediaries* may be requested from:

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RAISING A CONCERN

Where a concern arises in the relation to a potential breach of SDR 5, or where there is concern that best practice is not being followed, the matter may be referred in confidence to Scottish Rugby Union's Discipline Manager.

POLICY AMENDMENT PROCESS

Changes to SDR 5 shall be approved by the Scottish Rugby Board.



SCOTTISH RUGBY
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