

GUIDANCE NOTE ON SAFEGUARDING CHILDREN IN THE DISCIPLINARY PROCESS

This paper has been approved by The FA's Football Regulatory Authority. Enquiries or clarification with regards to this guidance note should be directed to the Football Regulation Department in the first instance.

It forms part of a wider paper - Guidance Note on Managing Young People with Impairments such as ADHD and Tourette Syndrome in the Disciplinary System, amended January 2009.

The football authorities must seek to ensure that, consistent with their policy of Safeguarding Children, they do not put in place case management and disciplinary systems that of themselves cause harm to the very children that are intended to be safeguarded. The same principles apply to County and national associations, although it is obvious that the vast majority of Under 18s football will come under County jurisdiction. Remember they are children first, participants second.

ISSUES

- Difficulties in children giving evidence, as recognised by the Criminal and Civil courts – the process is intrinsically upsetting for many adults and children will be less likely to be emotionally equipped to cope.
- Seldom in child's best interests to be directly involved in disciplinary commissions.
- Child's evidence can often be necessary for proper determination of proceedings.
- Cross examination can be damaging to child.

CHILDREN UNDER THE AGE OF 14

A child aged 13 or under should not appear at a disciplinary commission. An alternative method should be adopted which could include:

- A meeting - bring the parties together to talk through the issues.
- County Football Association (CFA) Welfare Officer (CFA WO) to talk to the child to warn them about their behaviour. A parent/carer should be present at any meeting.
- CFA WO to obtain written statement from child and disciplinary commission to then proceed on paper basis only – the CFA WO may need to write the statement in conjunction with the child and parent/carer.
- Private meeting between child and CFA WO to establish child's version of events, CFA WO to report verbally to disciplinary commission. A parent/carer should be present throughout the meeting.

CHILDREN AGED 14 THROUGH 16 YEARS

A child between the ages of 14 and 16 years inclusive can attend a disciplinary commission provided that:

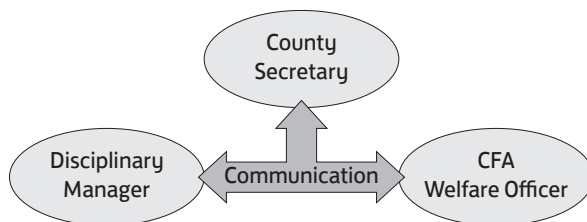
- he / she understands it is his / her duty to speak the truth.
- his / her evidence is sufficiently important to justify it being heard.
- the appropriate procedures relating to minors are adopted. The child must be accompanied by a parent/carer.

CHILDREN AGED 17 YEARS

- Best practice when dealing with a disciplinary commission involving those aged 17 years would be to follow the guidance established for adults, except in cases where the individual has special needs. Special needs should be treated in a manner consistent with their mental capacity. If the suggestion is that the participant has the cognitive reasoning of a child of a particular age, follow that guidance.

- Where a child is aged 17, consent of the parent should be obtained for the child to attend the disciplinary commission where possible / appropriate.
- By law a 17 year old is still a child and if they choose to have adult representation this should be allowed.

COMMUNICATION GUIDANCE FOR CFAS



- The CFA Disciplinary/Governance staff and the CFA WO should always liaise with regards to cases involving minors. This should include meeting to agree procedures to be adopted on how the case should be heard.
- County Secretary/Chief Executive Officer should be kept up to date.

GENERAL BEST PRACTICE PRINCIPLES AT DISCIPLINARY COMMISSION INVOLVING CHILDREN AGED 14 - 16 YEARS INCLUSIVE

Overriding principles are that the process of appearing in a disciplinary commission should not expose a child to intimidation, distress, a late disciplinary commission or long travelling times during the school week. All possible steps should be taken to assist the child to understand and participate in the proceedings.

PREPARATION FOR A DISCIPLINARY COMMISSION

- Consent of the parent/carer will always be required.
- He/she should be accompanied at the disciplinary commission by an appropriate adult who could be a parent, carer, grandparent, social /care worker or Club official properly in loco parentis. This could be a friend of the family, Club Welfare Officer etc.
- The disciplinary commission should be at a location and time that is convenient to the child.
- Restrict attendance at the disciplinary commission to as small a number of people as possible. This should be restricted to those who need to be present or have the right to be present only.
- Before the disciplinary commission, it may be appropriate to allow the child or young person to visit the room so that they can familiarise themselves with the layout.
- Make sure the young person is aware of the format and process they are about to be engaged in.
- CFA WO should be available at the disciplinary commission to advise/support the child or the disciplinary commission members. They can not support both the child and the commission and their role must be limited to one of them. It must be clear which function they are fulfilling at the disciplinary commission.
- Physical layout of room can affect the proceedings and play a role in the effective engagement with the child – you could arrange chairs in two semi circles facing inward, avoid sitting behind tables.

- The members of the disciplinary commission should sit at the same level as other parties to encourage eye contact.
- Provision should be made for parents/carers to be able to sit next to their children.
- If the child is legally represented, they should be seated in a place that allows easy communication with their representative.

THE DISCIPLINARY COMMISSION

- At the beginning of the case, disciplinary commission members should introduce themselves and those present in the room.
- The Chair should briefly explain the role of each person.
- Address child by first name.
- Be aware of the impact body language can have e.g.
 - folded arms and peering over spectacles = negative
 - occasional nod / leaning forward = positive
- Remain seated throughout proceedings.
- If the disciplinary commission is lengthy, regular breaks should be taken.
- Proceedings should be inquisitorial rather than adversarial.
- Closed questions (those that allow a yes or no answer) and legal jargon should be avoided.
- Rephrase a question to simplify it, if the young person is finding it difficult to answer.
- Questions should be in plain English and at a level the child or young person can understand taking into account their age, maturity and intellectual and emotional development.
- Disciplinary commission members should consider what information they are trying to obtain and how it is relevant to the case.
- The nature and extent of the questioning of any witness is under the control of the Chair.
- The Chair can and should intervene to prevent the child being questioned in a hostile way.
- The Chair should ensure that questions are short, simple and phrased in a language that the child can understand.
- The Chair should also ensure that anyone else present in the room conducts themselves appropriately.
- If a parent/carer has accompanied the child to the disciplinary commission, the Chair should make clear that the parent is there in a supporting role only and should not conduct the proceedings on behalf of the child.
- If the case is proven someone should talk directly to the child, encouraging him / her to confront their behaviour, taking responsibility for it and its consequences. As this is a sensitive area it is recommended that someone with the appropriate training should undertake this e.g. the CFA WO.

FA Equality and Child Protection Dept
FA Football Regulation Dept
FA Disciplinary Dept

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