

The Premier League's Red Card: disciplinary investigations, Commissions, arbitration – and the role of experts

This is the first article in a series between Hogan Lovells and Secretariat on legal and expert issues that arise in sports disputes.

The 25/26 Premier League season has only recently started, but disputes involving the Premier League and its clubs have been ongoing for several seasons. Those disputes have brought the Premier League's dispute resolution mechanisms into sharp focus.

This article focuses on the two main dispute mechanisms under the Premier League's Rules (the "**PL Rules**"): disciplinary proceedings under Rule W (like those initiated against Everton FC and Manchester City FC in recent years); and arbitration under Rule X (like the now-settled dispute between the Premier League and Manchester City FC in connection with the Associated Party Transaction Rules). The article also looks at the role of experts in both sets of proceedings.

Chapter 1: Disciplinary proceedings under Rule W

The Board's powers

When clubs are suspected of having breached the Premier League's Rules, the Board of the Premier League has various powers to investigate, request information, and require clubs to produce documents.

The Board also has its own disciplinary powers to deal with breaches of the Rules. Those powers range from issuing a reprimand to imposing penalties and fines.¹ However, for substantial breaches, the Board typically refers the matter to an Independent Commission.

Referral to an independent commission

The Board commences proceedings before an Independent Commission by sending a complaint to the Chair of the Premier League's Judicial Panel as well as to the respondent club.

Following receipt of the complaint, the Chair of the Judicial Panel appoints the Independent Commission. The Independent Commission will comprise of three members from the Premier League's Disciplinary Panel (one of whom will act as Chair).

Assuming the respondent denies the complaint, the Chair of the Commission will set down a procedure for the conduct of the complaint. The Chair's procedural powers include:

- providing the Board and respondent club further opportunities to set out their case in writing;
- requiring the parties to conduct reasonable and proportionate searches for, and to disclose documents relevant to the issues;
- allowing the parties to exchange reports from experts on relevant issues, for example, on financial, accounting, valuation, and sporting issues;
- allowing the parties to exchange witness statements on factual issues relevant to the complaint; and
- ordering interim relief.

Typically, a formal hearing will be held at which the parties will set out their arguments, witnesses and experts will be cross-examined, and the Independent Commission will ask questions. The length of the proceedings and hearing will reflect the extent of the documentary, witness and expert evidence submitted by the Parties.

The decision and sanction

The Independent Commission makes its decision unanimously or by majority. It must be satisfied that the complaint has been proven on the balance of probabilities.

¹Under its summary jurisdiction, the Board can impose a fine not exceeding £100,000, or, in the case of a managerial breach, a sum which set out in a tariff or a penalty agreed with the League Managers Association.

The Independent Commission has a wide range of sanctioning powers against clubs. After considering any mitigating or aggravating factors, amongst various options, the Independent Commission may:

- impose an unlimited fine;
- order the respondent club to pay unlimited compensation to any person, entity, or club;
- deduct points; and
- recommend that the Premier League expel the respondent club from Premier League membership.

However, the Independent Commission's decision is not final because it may be appealed (by either the club or the Board) to an Appeal Board.

Appeals

The appeal must be made within 14 days of the decision that is the subject of the appeal. It will be heard by an Appeal Board of three members.

The purpose of the appeal is to review the evidence set out in the Independent Commission proceedings. Parties cannot rely on new evidence unless granted permission from the Appeal Board. The appeal will typically involve a hearing at which each Party's lawyers will make arguments.

The Appeal Board has the power to allow, dismiss, or vary the decision of the order made at first instance.

Subject to arbitration, the decision of an Appeal Board is final.

Chapter 2: Arbitration under Rule X

Under the PL Rules, membership of the Premier League constitutes an arbitration agreement, meaning that each club agrees to submit all disputes that arise between each club, and between the Premier League and each club, to arbitration seated in England and Wales.

This is a separate dispute resolution procedure to disciplinary proceedings under Rule W. It means that (in theory) the Premier League and its clubs cannot pursue claims against each other in the courts of England & Wales.

The Premier League distinguishes between three different kinds of disputes:

- Decisions of Independent Commissions or Appeal Boards ("**Disciplinary Disputes**");
- Exercise of the Board's discretion ("**Board Disputes**"); and
- Other disputes arising from the PL Rules or otherwise.

Disciplinary Disputes can be reviewed by an arbitral tribunal only in limited circumstances, including where the decision was reached as a result of fraud, malice or bad faith, procedural errors, a perverse interpretation of the law and/or was one which could not reasonably have been reached by any Independent Commission or Appeal Board.

The grounds for reviewing a Board Dispute are even more limited. They include where the decision was reached as a result of fraud, malice or bad faith, contrary to English law, or could not have been reached by any reasonable Board.

The outcome of arbitration is final and binding on all concerned parties, save for the limited grounds for appeal to the courts set out in the Arbitration Act. Parties are unable to appeal on a point of law.

Chapter 3: The Role of Experts

The role of experts in Premier League disputes is growing. As financial structures around clubs become more complex—spanning multi-jurisdictional ownership, sophisticated sponsorship arrangements, and contested valuation issues—Independent Commissions and arbitral tribunals are increasingly reliant on financial, accounting, and valuation experts to help them navigate the issues in dispute. Questions such as whether a sponsorship deal reflects fair market value often cannot be answered without expert evidence.

Under the Premier League Rules, tribunals may permit the exchange of expert reports, the cross-examination of experts at hearings, and the testing of their methodologies through questioning. The procedural framework, however, is narrow. Expert evidence is usually confined to what is strictly necessary to resolve compliance or sanction issues. The process is designed to be efficient, confidential, and focused on preserving the integrity of the competition.

By comparison, the IBA Rules on the Taking of Evidence in International Arbitration set out a more expansive role for experts. Party-appointed experts must disclose their instructions, assumptions, and methodologies, enabling tribunals to test competing analyses on equal footing. Cross-examination and direct questioning by the tribunal are integral, clarifying technical issues and maximising the reliability of the evidence. Often the experts appointed by both parties prepare joint-expert reports or are cross-examined by the tribunal together (also known as hot-tubbing) to narrow down the differences in their opinions. In practice, expert analysis often sits at the heart of the tribunal's deliberations, particularly in disputes involving financial modelling and valuation.

Conclusion

The PL Rules provide a structured framework for addressing alleged breaches and disputes between clubs and the Premier League by individuals and clubs.

As the financial dimensions of cases grow in scale and complexity, the role of experts in Premier League disputes is set to increase.

The question remains how far the existing procedural tools under the PL Rules can accommodate that evolution.

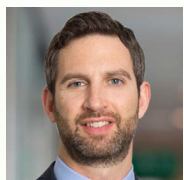
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