

RFU SHORT JUDGMENT FORM



Match (home)	Saracens RFC	Vs (away)	Newcastle Falcons RFC
Club's Level	Level 1	Competition	Gallagher Premiership
Date of Match	25/02/2023	Match Venue	Saracens RFC

Particulars of Offence			
Player's Surname	Peterson	Date of Birth	26/03/1991
Forename(s)	Gregory Howard	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Newcastle Falcons RFC	RFU ID No.	1836241
Type of Offence	Red card		
Law 9 Offence	9.13 - Dangerous tackle		
Sanction	3 week playing suspension (2 weeks if the Player completes the Coaching Intervention Programme)		

Hearing Details			
Hearing Date	28/02/2023	Hearing venue	By video
Chairmen/SJO	Matthew Weaver KC	Panel Member 1	Leon Lloyd
Panel Member 2	Alastair Campbell	Panel Secretary	Rebecca Morgan-Scott
Appearance Player	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appearance Club	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>

Player's Representative(s):		Other attendees:	
Kingsley Hyland (Newcastle Falcons RFC) Dave Walder (Newcastle Falcons RFC)		Angus Hetherington (RFU)	
Conflict of Interests	Conflict raised <input type="checkbox"/> No conflict raised <input checked="" type="checkbox"/>	Conflict of Interests	Conflict raised <input type="checkbox"/> No conflict raised <input checked="" type="checkbox"/>

List of documents/materials provided to player in advance of hearing:			
<input checked="" type="checkbox"/> Charge Sheet	<input checked="" type="checkbox"/> Red Card report	<input checked="" type="checkbox"/> Player Statement	Video footage Yes
<input checked="" type="checkbox"/> Medical report	<input type="checkbox"/> Citing report	<input type="checkbox"/> Club Statement	<input checked="" type="checkbox"/> World Rugby Head Contact Process
Other (Please list below) RFU Regulations Letter from Saracens RFC Written submissions from Newcastle Falcons RFC			

The referee's report describes the incident as follows:

My AR live questioned the legality of a tackle by N4. The TMO was also then looking at the tackle and alerted me to potential foul play. Having reviewed the incident it was determined there was no push into the tackle by S, so remained in the high tackle sanction framework. This lead us to conclude there was direct head/neck area contact, the player was at fault as he could have been lower, it was a high level of danger with no clear mitigation so a RC. N4 tried to question the decision on the field but briefly and soon left upon being shown the card.

The video footage shows the incident from a number of different angles. The footage shows the Player advancing from the defensive line close to a ruck and moving towards the ball carrier, S2. S2 is supported by S4 who appears to have his hands on S2's back as S2 moves towards contact. The Player approaches contact in an upright position with no obvious effort to lower his body height. Immediately before contact, S2 lifts his body height and his head by approximately 12 inches and, as a result, there is direct contact between the Player's head and the head of S2. Also just before impact, the Player fixes his feet and moves his right shoulder towards S2 to brace for the impact. The Player is pushed backwards by the contact but S2 remains on his feet and is eventually tackled to the ground by N3.

A letter from Saracens RFC states as follows:

Following the red card incident around the 17 minute mark of the game, the Saracens No:2 Theo Dan did not require any medical attention on the pitch. As per IMDD instructions we carried out a further check on him to ensure there was no cause for concern.

As a medical team we were happy that there was no medical action required for the player and he continued to play. Only being removed from the pitch as a tactical substitution. There were no issues on the pitch, following the game or on subsequent review 24 hours later.

The submissions from Newcastle Falcons RFC stated the following:

The following account is advanced on behalf of the Player:

2.1.1 We were attacking close to the right hand touchline but Saracens were in possession and seeking to clear their line. They did not kick at that point presumably to enable them to play another phase to give any kicker a better angle to touch. The ball was played to S2 who had two supporting players one either side, S4 and S1. With the two supporting players latching I felt that if I went to tackle his legs I would inevitably lose the tackle contest so I positioned myself to make to tackle him around the chest/sternum/shoulder. S2 carried the ball on an outline to take the ball into contact. I took up position to tackle S2 on his inside shoulder to stop Saracens gaining width or gain line and stepped off the line. S2 then ran an outline towards me having initially lowered his height and so I planted my feet square to brace for inevitable contact with at least two attacking players. Almost immediately prior to the collision S2 raised his body position and his head popped up. This left me with little or no time to adjust leaving me in a compromised position to make a tackle where a contact with S2's head could be avoided. The combination of S2 and S4 enabled Saracens to win the collision and I was actually forced backwards onto my heels for several yards by the attacker's impact. When I was able to steady myself S2 had gone to ground with the ball and I moved in to challenge for the ball on the ground. Saracens secured the ball and cleared to touch.

2.1.3 I want to make clear that whilst I found myself in the wrong position to make the tackle that I intended making I had absolutely no intention of initiating head contact as I am fully aware of the potential consequences.

The submissions went on to challenge the Red Card on the following bases:

3.1 The Player accepts that he committed an act of foul play but contends that on a correct application of the Head Contact Process (HCP) this incident did not meet the red card threshold and could have been dealt with by a yellow card. In support of this contention we will make two basic submissions on behalf of the Player:

i. The mechanics of this collision were such as to significantly reduce the Player's culpability for the force of the collision to the extent that it cannot be contended that there was a high degree of danger. Had the on field officials nevertheless concluded that there was a high degree of force and therefore danger they should have gone on to consider mitigation.

ii. Had the officials gone on to consider mitigation they should have concluded that the sudden and wholly unanticipated change in S2's body position amounted to a 'late change in dynamics due to another player in the contact'.

Findings of Fact

The Player admitted that his actions were an act of foul play. He admitted head to head contact. He denied, however, that his actions met the red card threshold.

The Player was very honest about his intentions. He chose to make an upright tackle as he was concerned that a low tackle might be ineffective. He assumed that S2 would run into his sternum. He considered that S4's actions of pre-latching and adding to S2's momentum caused S2 to raise his height immediately before contact, causing the head to head contact. Without this change in height, the Player assumed that S2's head would have contacted the Player's sternum.

The Panel reviewed the Player's evidence, the submissions made on behalf of him and the RFU, and the video footage. From all of the above, the Panel concluded that the Player intended to make an upright tackle on S2. As such, he made no effort to lower his body height. Immediately before impact, the Player turned his right shoulder into the contact. As such, this was not a typical "absorbing" or "passive tackle. Whilst the Club sought to argue that the Player did not inject significant force into the contact, it is the combination of all events and actions, including those of the ball carrier, which determine whether an impact is high level or low level. The Player advanced from the defensive line towards S2 and whilst he did not make an obviously dominant hit, the combination of him advancing towards S2, turning his right shoulder into contact, and S2's momentum meant that the impact could not properly be described as "low force".

The fact that the Player was pushed backwards by the impact and the fact that no significant injury was suffered by either the Player or S2 and no HIA was performed is not conclusive of the force involved in an impact and does not, in the Panel's view, render this collision a low force impact.

S4 pre-latched onto S2 but from the footage, it is not clear that he pushed S2 into contact. The position of S4's hands does not indicate that he applied significant force to S2 prior to contact but even if he did, it was constant force and did not appear to cause a sudden or significant change of position of S2. The Player had a clear line of sight of S2 and sufficient time to adjust his body height to make a legal tackle. He chose not to do so for tactical reasons. To the extent that S2's change in height impacted on the collision, this was a raising of body height not, as is typical in similar cases, a lowering of body height. As such, the Panel did not consider that a raising of body height resulting in direct contact to the head of the ball carrier is grounds for mitigation where the Player was in an already upright position and, therefore, already at fault. The extent of the change in height was not so significant to significantly change the dynamics of the collision.

The Panel were asked to compare the incident with a similar incident involving Harvey Skinner of Exeter Chiefs where only a yellow card was issued due to the referee there determining that the collision was low force. Comparing incidents is rarely helpful as all incidents turn on their own particular facts. However, the Panel considered that the incident involving Harvey Skinner was distinguishable from this incident where Mr Skinner was leaning backwards in the contact and making an obviously passive, "absorbing" tackle. As explained above, that was not the case here.

In short, whilst the Panel accepted that there are unavoidable grey areas for referees when applying the Head Contact Process, given the nature of the collision and the Player's actions, the Panel were not satisfied that the referee was wrong to conclude that the impact was high force or that there was insufficient mitigation to reduce the sanction to a yellow card.

Decision

Breach admitted Proven Not Proven Other Disposal (please state below)

See above

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8

PLEASE TICK APPROPRIATE BOX

19.11.8(a) Intentional

19.11.8(b) Reckless

Reasons for finding as to intent:

The Player did not intend to make a dangerous tackle

Nature of actions - Reg 19.11.8(c)

The Player made an upright tackle, making direct contact with the victim's head

Existence of provocation - Reg 19.11.8(d)

None

Whether player retaliated - Reg 19.11.8(e)

N/A

Self-defence - Reg 19.11.8(f)

N/A

Effect on victim - Reg 19.11.8(g)

The victim did not suffer any obvious injury from the incident

Effect on match - Reg 19.11.8(h)

None

Vulnerability of victim - Reg 19.11.8(i)

N/A

Level of participation/premeditation - Reg 19.11.8(j)

Not premeditated

Conduct completed/attempted - Reg 19.11.8(k)

Completed

Other features of player's conduct - Reg 19.11.8(l)

None

Assessment of Seriousness Continued

Entry point

<u>Low-end</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Top-end*</u>	<u>Weeks</u>
<input type="checkbox"/>		<input checked="" type="checkbox"/>	6	<input type="checkbox"/>	

*If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making the above assessment, the Panel should consider the RFU Practice Note as set out in Appendix 5 to Regulation 19. Significant weight should be given to RFU regulation 19.11.8(a), 19.11.8(h) and 19.11.8(i).

Reasons for selecting entry point:

Given the contact to the victim's head, a mandatory minimum mid-range entry point applies. Nothing about the incident makes a top-end entry point appropriate. The Panel were asked to consider whether a different entry point was appropriate in circumstances where the sanction was wholly disproportionate. The Panel rejected this submission in circumstances where the sanction for this offence was not disproportionate and certainly not wholly disproportionate

Relevant Off-Field Mitgating Factors - Reg 19.11.10

Acknowledgment of the commission of foul Play & timing - Reg 19.11.10(a)	Player's disciplinary record - Reg 19.11.10(b)
The Player admitted the act of foul play at the earliest opportunity	The Player has no previous disciplinary incidents
Youth and/or inexperience of player - Reg 19.11.10(c)	Conduct prior to and at hearing - Reg 19.11.10(d)
The Player is 31 years old. He played in Australia, France and Scotland before joining Newcastle Falcons RFC and has been capped 39 times by USA	The Player's conduct was exemplary throughout

Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)
The Player regretted the incident	

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:
The Player's acceptance of the act of foul play, his remorse and his clean disciplinary record makes it appropriate to apply the maximum 50% mitigation

Additional Relevant Off-Field Aggravating Factors - RFU Regulation 19.11.13
Player's status as an offender of the laws of the game - Reg 19.11.13 (a)
N/A
Need for deterrent to combat a pattern of offending - Reg 19.11.13(b)
N/A
Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate - (including poor conduct prior to or at the hearing) Reg 19.11.13 (c)
None

Number of additional weeks: 0

Games for meaningful sanctions:

The Player will be unavailable for the following fixtures:

5.3.2023 - vs London Irish
11.3.2023 - vs Exeter
18.3.2023 - vs Ayrshire Bulls (TBC)

If the Player successfully completes the Coaching Intervention Programme, he will only be unavailable for the matches vs London Irish and Exeter and will be available for the fixture against Ayrshire Bulls. Should the Player fail to complete the CIP, the Panel will want to review whether the fixture vs Ayrshire Bulls amounts to a meaningful fixture within the meaning of the RFU Regulations.

Sanction

NOTE: PLAYER ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING

Total sanction	3 weeks (2 weeks with CIP)	Sending off sufficient	
Sanction commences	25/02/2023		
Sanctions concludes	20/03/2023 (13/03/2023 with CIP)		
Free to play	21/03/2023 (14/03/2023 with CIP)		
Final date to lodge appeal	03/03/2023		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Matthew Weaver KC	Date	01/03/2023
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NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 19.12 OF THE DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 19.12.9

ANY PERSON SUSPENDED UNDER THESE REGULATIONS IS REMINDED THAT UNDER RFU REGULATION 19.11.16 THE SUSPENDED PERSON MAY NOT PLAY THE GAME (OR ANY FORM THEREOF) OR BE INVOLVED IN ANY ON-FIELD MATCH DAY ACTIVITIES ANYWHERE WHICH INCLUDES (BUT IS NOT LIMITED TO) ACTING AS WATER CARRIER/ RUNNING ON A TEE ETC