

RFU SHORT JUDGMENT FORM



Match	East London RFC II	Vs	Wanstead RFC II
Club's Level	7	Competition	London 2
Date of Match	06/11/2021	Match Venue	East London

Particulars of Offence			
Player's Surname	Jones	Date of Birth	[REDACTED]
Forename(s)	Andrew	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Wanstead RFC	RFU ID No.	2059994
Type of Offence	Conduct prejudicial to the game (use of homophobic language)		
Law 9 Offence	RFU Rule 5.12		
Sanction	3 week suspension		

Hearing Details			
Hearing Date	30/11/2021	Hearing venue	By Zoom
Chairmen/SJO	Samantha Hillas QC	Panel Member 1	Mitch Read
Panel Member 2	Anthony Wheat	Panel Secretary	Daniel McMeekin
Appearance Player	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appearance Club	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Player's Representative(s):	Other attendees:
Mike Calvert - Wanstead RFC President	Angus Hetherington, RFU Legal Counsel
Nolan Frederick - Wanstead RFC 2nd team captain	David Barnes, RFU Head of Discipline
	Laura Wakefield - Chair of Essex Discipline (observing)

List of documents/materials provided to player in advance of hearing:

Bundle including:

- charge sheet
- exchange of emails between David Barnes and Mike Calvert re investigation of incident on 06.11.21
- letter 19.11.21 from Mike Calvert to David Barnes confirming the Player's admission of the use of homophobic language and his subsequent suspension by the club
- statement from Andrew Jones
- Written submissions - Angus Hetherington, RFU Legal Counsel

Andrew Jones was not cited or red carded as a result of this incident.

David Barnes ("DB") set out the background to the offence:

Kings Cross Steelers ("KCS") share a ground with East London RFC. Following the game between East London II and Wanstead II on 6 November 2021, a member of KCS made a complaint to Laura Wakefield about the use of homophobic language by a Wanstead player. This was passed up to DB as Head of Discipline, in line the policy of reporting any discriminatory abuse to the RFU. DB was made aware that Mike Calvert, Wanstead RFC's President, had spoken to the KCS President, accepting that there had been an incident of homophobic language being used by a Wanstead player and that the player in question had been suspended. DB asked for a statement from the player and received a statement from Andrew Jones ("the Player") admitting he had used homophobic language during the game on 06.11.21. It was clear that this did not relate to the complaint leading to the initial investigation but nonetheless, as the Player had admitted the use of homophobic language, he was charged with the RFU Rule 5.12 offence of conduct prejudicial to the interests of the union and the game.

It was submitted on behalf of the RFU that, although this was a Rule 5.12 offence because of the nature of the way in which the admission was made, it was appropriate to treat it for sanctioning purposes as though it was an equivalent offence contrary to law 9.12, verbal abuse based on sexual orientation. The Player agreed with that approach.

On behalf of the Player:

The second team captain apologised on his behalf and on behalf of the club. He confirmed the Player would not usually act in that manner. Although it was a frustrating day, the Player's behaviour was inexcusable and the club was going through the process of ensuring it did not happen again.

The Club President confirmed that the Player had come up through the club's junior ranks. He had refereed him on a number of occasions and there was nothing about his conduct which would suggest this was typical behaviour.

Summary of Player's Evidence

The Player provided a written statement in advance of the hearing confirming that during the game - and after being falsely accused by an East London team member of being a dirty player and stepping on a player's head during a ruck - he responded by calling the East London player a "poof", implying that he was soft. After the game, he changed and went home with his mum, who had been at the game. He had no contact with any KCS player and had not realised that he had been overheard or that anyone was offended.

In his evidence to the Panel, he echoed the sentiments set out in his statement: that he wants to apologise for his behaviour; that he accepted that his behaviour was inappropriate; he was disappointed in himself, regretful of his actions and ashamed to have let himself and his club down.

Findings of Fact

The Panel finds (as admitted) that the Player used homophobic language towards another, unidentified player at the game between East London II and Wanstead II on 06.11.21 and that such conduct is offensive and also prejudicial to the game, contrary to RFU Rule 5.12

Decision

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

Although this was a Rule 5.12 offence because of the nature of the way in which the admission was made, the Panel agreed with the RFU (as did the Player) that it was appropriate to treat it for sanctioning purposes as though it was an equivalent offence contrary to law 9.12, verbal abuse based on sexual orientation.

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 intended to use the word 'poof'. The Panel accepts the Player's evidence that he did consciously intend to use it to imply homosexuality, but also accepts the RFU's submission that this is irrelevant. Use of the word 'poof' is homophobic in whatever context it is used

Nature of actions - Reg 19.11.8(c)

Use of a homophobic insult towards another player during a game

Existence of provocation - Reg 19.11.8(d)

None

Whether player retaliated - Reg 19.11.8(e)

The Player acted in retaliation to being called a dirty player, but this does not in any way excuse his conduct and his behaviour was unacceptable

Self-defence - Reg 19.11.8(f)

N/A

Effect on victim - Reg 19.11.8(g)

N/A - there was no complainant in this particular offence

Effect on match - Reg 19.11.8(h)

None - whilst the player was yellow carded during the game for another offence, the Player's language was not heard by any match official and not reported by any member of East London II

Vulnerability of victim - Reg 19.11.8(i)

N/A - see above

Level of participation/premeditation - Reg 19.11.8(j)

N/A

Conduct completed/attempted - Reg 19.11.8(k)

Completed

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

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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 checked="" type="checkbox"/>	6 weeks	<input type="checkbox"/>		<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:

This was a serious offence and the use of homophobic language in the game is to be deprecated. However, the incident passed unremarked upon by any East London II player or any match official and did not impact upon the game. The Panel also took into account that the Player 'volunteered' his admission, which was not the subject of any investigation by the RFU. On balance the Panel considered that a low end entry point was appropriate.

Relevant Off-Field Mitgating Factors - Reg 19.11.10

<u>Acknowledgement of guilt and timing - Reg 19.11.11(a)</u>	<u>Player's disciplinary record/good character - Reg 19.11.11(b)</u>
As set out above, the Player admitted the offence even though it was not the subject of any RFU investigation	Both Wantstead II team captain and the club's President spoke of the Player's clean disciplinary record and that the incident was out of character
<u>Youth and inexperience of player - Reg 19.11.11(c)</u>	<u>Conduct prior to and at hearing - Reg 19.11.11(d)</u>
The Player has only just turned 18	Impeccable. The remorse he exhibited both in his statement and during the hearing seemed heartfelt and his apology appeared genuine

Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
See previously. The Player admitted the offence - even though it was not the subject of any RFU investigation - at the earliest possible opportunity and seemed genuinely remorseful	N/A

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:
The Panel considered that, for the reasons set out above but in particular the Player's youth, his genuine remorse and his heartfelt apology that he may caused offence to anyone merited the maximum credit by way of 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 19.11.10 (a)
N/A
Need for deterrent to combat a pattern of offending - Reg 19.11.10(b)
There is a need to eradicate homophobic insults from the game, but in the Panel's view, the comparatively high (6-week) low end entry point for the equivalent 9.12 verbal abuse offence already takes this into account
Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate - (including poor conduct prior to or at the hearing) Reg 19.11.10 (c)
N/A

Number of additional weeks: 0

Games for meaningful sanctions:

The Player has already been suspended by his club and has missed games on 13.11.21 against Thurrock II and on 20.11.21 against Eton Manor III. As a result of this suspension, he will also miss the game on 04.12.21 against Harlow II

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	Sending off sufficient	
Sanction commences	07/11/2021		
Sanctions concludes	04/12/2021		
Free to play	05/12/2021		
Final date to lodge appeal	14/12/2021		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£125		

Signature (JO or Chairman)	Samantha Hillas QC	Date	30/11/2021
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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