

RUGBY FOOTBALL UNION

DISCIPLINARY PANEL

JUDGMENT

Club: Bradford & Bingley RFC
Panel: Matthew Weaver QC (Chairman), Rebecca Harris & Richard Mann
Secretary: Rebecca Morgan

HEARING

Date: 25th May 2022
Venue: By video
Attending: Andy Watts (Bradford & Bingley RFC)
Chris Hemsley (Bradford & Bingley RFC)
Hugh Gumbs (Bradford & Bingley RFC)
Andy Smith (Bradford & Bingley RFC)
Benjamin Pickin (Bradford & Bingley RFC)
Robert Cumming (Counsel) (RFU)
David Barnes (RFU)

SUMMARY OF DECISION

1. The Panel considered that the appropriate sanction was as follows:
 - a. Hugh Gumb is to be suspended from all coaching for a period of six months, ending on 25th November 2022;
 - b. The Club is to be the subject of a full safeguarding audit to be carried out by Yorkshire CB and the Club is prohibited from playing any under 18 year olds in adult rugby unless and until such an audit is completed and Yorkshire CB approves the Club's safeguarding measures;
 - c. The Club is to organise a training session to address and explain the requirements under Regulation 15.6 of the RFU Regulations and the conditions for playing under 18 year olds in adult rugby for all team managers and coaches of the Club's under 17, under 18 and adult teams. Such training is to be provided by no later than 31st December 2022;
 - d. The Club is to identify one individual who is to be responsible for seeking approval from Yorkshire CB under regulation 15.6 of the RFU Regulations to play under 18 year olds in adult rugby and is to inform Yorkshire CB of the identity of that individual by no later than the date of the first league match for the Club's 1st XV in the season 2022/2023;

- e. The Club's 1st XV head coach is the only coach at the Club entitled to sign any Playing Adult Rugby – Player Approval Form in the section “Coach Endorsement”;
 - f. Chris Hemsley is not to sign any Playing Adult Rugby – Club Approval Form or Playing Adult Rugby – Player Approval Form on behalf of the Club;
 - g. The Club's 1st XV is deducted 10 points to apply from the start of season 2022/2023; and
 - h. The Club's 1st XV is to be relegated, such relegation to be suspended (and therefore not to take effect) until the end of seasons 2023/2024 and is to be applied only in the event that the Club commits any further breach of regulation 15.6 of the Regulations (i.e. it plays an under 18 year old in adult rugby otherwise than in accordance with the requirements of regulation 15.6).
2. The Panel declined to order any costs against the Club.

PRELIMINARY MATTERS

3. The members of the Panel identified themselves and the Chairman explained the procedure to be followed. There were no objections to the composition of the Panel.

THE CHARGE

4. The Club was charged as follows:

On Multiple occasions Bradford & Bingley breached regulation 15.6 by playing u18 players in adult rugby without the relevant permissions.

The occasions include; Cleckheaton v Bradford & Bingley 5/3/22 (2 players), Bradford & Bingley v Moortown 12/3/22 (1player), Driffield v Bradford & Bingley 26/3/22 (2 Players) and Bradford & Bingley v Heath 2/4/22 (2 players).

5. The Club admitted the Charge.

THE RELEVANT REGULATIONS

6. This hearing concerned regulation 15.6 of the RFU Regulations which reads as follows:

15.6 Playing Adult Rugby

15.6.1 Subject to 15.7 a male and female player can play and train in adult contact rugby when they reach their seventeenth birthday provided the following conditions are met:

- (a) the player does not train or play in the front row of the contested scrum. Once a player has reached the age of 18, the player may play in any position;*
- (b) the RFU Safeguarding Policy and RFU Regulation 21 are complied with;*
- (c) the Club has an appointed Safeguarding Officer and is approved by its Constituent Body to play 17 year olds in adult rugby for the season by completing the Playing Adult Rugby – Club Approval Form and process;*
- (d) the player has been assessed, as capable of playing with adults and the assessment has been countersigned and approved by the Constituent Body to play adult rugby until their 18th birthday by completing the Playing Adult Rugby – Player Approval Form and process.*

THE FACTS

7. The relevant facts concerning the Charge were not in issue. On 4 occasions, the Club fielded players who were not 18 years old in their 1st XV without having followed the requirements of regulation 15.6. Given the age of the players, it is not considered appropriate to identify them in this judgment.
8. On the first occasion (5th March 2022), the Club played 2 such players without having submitted a Playing Adult Rugby – Club Approval Form; a Playing Adult Rugby – Player Approval Form and without receiving approval from Yorkshire CB for the players to play adult rugby.
9. On the second occasion (12th March 2022), the Club played 1 of these players without having submitted a Playing Adult Rugby – Player Approval Form and without receiving approval from Yorkshire CB for the player to play adult rugby.
10. On the third occasion (26th March 2022), the Club played 3 such players without having submitted a Playing Adult Rugby – Player Approval Form and without receiving approval from Yorkshire CB for the player to play adult rugby.
11. On the fourth occasion (2nd April 2022), the Club played 2 such players without having submitted a Playing Adult Rugby – Player Approval Form and without receiving approval from Yorkshire CB for the player to play adult rugby.
12. Playing Adult Rugby – Player Approval Forms for these players were not submitted to Yorkshire CB until 7th April 2022 and approval was not granted by Yorkshire CB for the players to play adult rugby until 8th April 2022.

THE CLUB'S SUBMISSIONS

13. The Club's position is, put simply, that they thought that they had complied with the necessary requirements for playing under age players but had, in error, based that assumption on the previous regime for doing so, whereby the approval of Yorkshire CB was not required. Whilst some of the officers at the Club understood that the regime had changed in 2019, others did not and carried on as if the old regime remained in place. As a result, whilst player approval forms were signed by a coach and the players' parents, they were not submitted to Yorkshire CB in advance of the players playing and no Club Approval Form was submitted prior to the first fixture.

14. Hugh Gumb and Andy Watts understood that forms were required to be submitted and that Yorkshire CB's approval was required. However, they had been told, principally by Chris Hemsley, that the necessary forms had been completed and took that to mean that approval had been sought. This was obviously not the case.
15. The Club had identified the 3 players involved deliberately, having formed the view that they were all equipped for adult rugby. In addition to the confusion over approval, the reason for the players not appearing on the match cards for the first 2 fixtures was said to be that the match cards were prepared in advance and based on selection made on a Thursday. In the case of these players and these fixtures, the players had not been selected on the Thursday but were later replacements for selected players who had dropped out.
16. The Club took the safety of their players very seriously and these players did not, so far as these Club officers are aware, play a colts game on the same weekend as playing for the 1st XV.

THE RFU'S SUBMISSIONS

17. The RFU provided full written submissions which the Panel considered and which Counsel for the RFU set out in his oral submissions. The RFU submitted that the question for the Panel was whether this was, as the Club suggested, nothing more than an administrative error or whether, in fact, there was a wilful blindness as to the requirements for playing under aged players in adult rugby or, worse, a deliberate decision to ignore the regulations. The number of breaches; the absence of the players from the first 2 match cards; and the fact that players were played after the Club had been told by Yorkshire CB that approval was required before the players could play all pointed to a deliberate failure or, at the very least, a wilful blindness on the part of the Club.
18. The RFU submitted that the above failures and the less than straightforward responses to the RFU's investigation indicate that the Club was not concerned about breaching the regulations.

CONCLUSIONS &

DECISION OF THE PANEL

19. The RFU Regulations identify the appropriate entry point for breaches resulting from the failure to abide by regulation 15.6 of the RFU Regulations as follows:

Classification of Breach	Description of Classification	Entry Point for Sanction
Low level breach	A player under the age of 18 trains with adults without required permission. No injury occurs.	Suspension of coach/person responsible for training for 4 weeks; and Club reprimanded.
Mid-level breach	A player under the age of 18 plays with adults without required permission. No injury occurs.	Suspension of coach/person responsible for team selection for 3 months; and Team suspended from playing for 4 weeks; and Points deducted from club 1st XV equating to 2 wins (possibly suspended); and Club reprimanded.
High level breach	A player under the age of 18 plays with adults without required permission. Injury occurs, or no injury occurs but player plays in the front row	Suspension of coach/person responsible for team selection for 6 months; and Team suspended from playing for 3 months; and Points deducted from club 1st XV equating to 4 wins; and Club reprimanded.

Aggravating features may include:

- *Intentional breach of regulations*
- *Club failure to warn teams of regulation and consequences of breach*
- *Very young player*
- *Serious injury*

Mitigating factors may include:

- *Unintentional breach – Club did not know player was under 18 and it was reasonable to assume he was over 18*
- *Player nearly 18 years old*
- *Player capable of playing adult rugby and permission would have been granted had it been requested*
- *Injury not serious*

20. The facts were not seriously in dispute. The Club played 3 17 year old players without the necessary approval from Yorkshire CB. The players appeared in a total of 4 matches. One player played in all 4 matches, another in 3 and another in just 1 match. The players were respectively 7 months, 5 months and 8 months away from

their 18th birthdays. No injuries were sustained by the players and their parents had all signed the Player Approval Forms to confirm their agreement to their sons playing adult rugby.

21. There were repeated breaches of regulation 15.6 of the RFU Regulations. The chronology paints a disappointing picture. The Club played 2 under 18 year olds on 5th March where no Club Approval Form had been submitted to Yorkshire CB and whilst Player Approval Forms had been completed, they had not been submitted to Yorkshire CB. Whilst the evidence of Mr Hemsley was that he did not appreciate that forms needed to be submitted to Yorkshire CB, he was open that he could not recall looking at the RFU Regulations to check the position at any stage. It seems likely that he did not review the regulations and, as such, did not take what might be thought to be rather simple and obvious steps to ensure that the Club complied with the requirements of regulation 15.6.
22. Mr Gumb told the Panel that he had been assured that the appropriate paperwork had been completed. However, despite his previous experience as a safeguarding officer for Yorkshire CB, he did not make any further enquiries to ensure that, as he knew to be required, Yorkshire CB had approved the playing of the players.
23. Further, when Mr Watts became aware that under 18 players had played in the 5th March fixture, he submitted the Club Approval Form the following morning. Yorkshire CB responded on 7th March confirming that *"You can now start to send me the individual player forms for registration, they can play once you receive confirmation I have registered them."* Mr Watts told the Panel that he reminded a Whatsapp group of the need to submit Player Approval Forms and receive approval once he received the 7th March e-mail. However, that Whatsapp group did not include a team manager of the 1st XV (there was not one at the time) or the 1st XV head coach. Despite the 7th March e-mail, no Player Approval Forms were submitted until 7th April 2022, after the fourth match in question. As such, the Club continued to play under 18s despite knowing, through Mr Watts at the very least, that the necessary paperwork had not been completed and the required approvals had not been sought or obtained. Mr Hemsley could not recall whether he saw the 7th March e-mail.
24. The explanations given by Mr Hemsley to questions raised by the RFU from March 2022 onwards raised serious questions as to how candid Mr Hemsley was. In response to an e-mail from the RFU asking about a particular player, Mr Hemsley explained that:

"The player in question, no 14, is Ben Greaves, a player with over 400 appearances for Bradford and Bingley RFC. As Chair of Rugby I was aware he recently signed for Baildon RFC. However, on the day in question I arrived at the ground at 14.30, 15-minutes past the kick off at 14.15, to see Ben Greaves was playing for Bradford & Bingley RFC. I immediately questioned it with our coach on the day, Mark

Smith, assistant to the absent head coach Hugh Gumbs, to ask why Ben was playing. Mark stated he wasn't aware Ben was registered with another club, so I immediately requested our coach Mark Smith to remove Ben Greaves from the field which he duly did."

25. However, in an e-mail dated 19th April 2022, Ben Greaves stated as follows:

"I was asked to play by someone at the club because Bees were struggling to raise a team to play the fixture and cancel another game. I was originally on the bench to help out the club. It was not the coach that asked me it was a member from the club. This was on the morning of the game about 10.30 am, so last minute as lads were pulling out. I literally played 35 mins and came off with a hamstring strain, as I am old and not played much this season, as trying to retire from playing that level. As I say the only reason I played was to make up the numbers so lads would not miss out on playing another game of rugby. Lads are leaving the club at a steady rate and I don't want to see the club go to the wall if you get my drift, I've been there most of my rugby career as you know and it's heart breaking to see the club the states its in."

26. Ben Greaves' explanation for his appearance plainly does not match Mr Hemsley's.

27. In addition, when asked why Ben Greaves was not included in the match card but a different player, Adam

Gaunt was, Mr Hemsley stated that:

"Adam Gaunt was in the starting 15 and was injured in the warm up, Ben Greaves was in the bar with his brother Phil. He played in Adam's kit until I arrived and he was removed.

1. Match card.- Adam Gaunt was on match card but was injured in Warm up, my bad sorry should have removed."

28. However, on the day of that match, Adam Gaunt was, in fact, playing for Keighley Albion RL. As such, Mr Hemsley's explanation is plainly incorrect.

29. In short, the Panel considered that the Club's responses to the RFU investigation were not transparent. Whilst it is by no means certain, this lack of transparency may also have impacted upon the match cards produced by the Club which omitted reference to the under 18 players. Whilst Mr Smith said that errors in such cards were due to them being prepared prior to the match and based on selection decided on Thursday, the match card for 5th March was submitted at around 11.30am on the day of the match and the match card for 12th March was submitted after kick off (at 3.44pm). Again, the explanation for an error on the part of the Club is somewhat opaque.

30. The Panel's conclusions are that the evidence demonstrates a wilful blindness in respect of the requirements for playing under age players in adult rugby. Few people within the Club appear to have troubled themselves to identify the necessary steps to take to comply with regulation 15.6 and few appear to have made reasonable checks to ensure that the steps were, in fact, taken. Reliance was placed on Mr Hemsley having taken the appropriate steps in circumstances where Mr Hemsley did not do so and despite not making himself aware of the requirements, he told other Club officers, incorrectly, that the requirements had been met.

31. As such, the Panel considered that the offence warranted a mid-level entry point. The Club's 1st XV head coach, Mr Gumb, had to take responsibility for the breaches as he was the coach of the adult side which played these players without the necessary approvals. Mr Gumb's background as a safeguarding officer made his failure to ensure compliance with the requirements somewhat concerning.
32. As for the Club itself, the Panel considered that a meaningful sanction was necessary, in part to make clear that such breaches cannot simply be overlooked as administrative errors and are taken seriously. In addition to a punitive element of the sanction, the Panel were keen to enforce various changes on the Club in respect of their internal processes for seeking approval for under aged players and to ensure that the Club's safeguarding measures generally were sufficiently robust. It is hoped that these measures will improve the internal management within the Club.
33. For the reasons set out above, the Panel considered the following sanction to be appropriate:
- a. Hugh Gumb is to be suspended from all coaching for a period of six months, ending on 25th November 2022;
 - b. The Club is to be the subject of a full safeguarding audit to be carried out by Yorkshire CB and the Club is prohibited from playing any under 18 year olds in adult rugby unless and until such an audit is completed and Yorkshire CB approves the Club's safeguarding measures;
 - c. The Club is to organise a training session to address and explain the requirements under Regulation 15.6 of the RFU Regulations and the conditions for playing under 18 year olds in adult rugby for all team managers and coaches of the Club's under 17, under 18 and adult teams. Such training is to be provided by no later than 31st December 2022;
 - d. The Club is to identify one individual who is to be responsible for seeking approval from Yorkshire CB under regulation 15.6 of the RFU Regulations to play under 18 year olds in adult rugby and is to inform Yorkshire CB of the identity of that individual by no later than the date of the first league match for the Club's 1st XV in the season 2022/2023;
 - e. The Club's 1st XV head coach is the only coach at the Club entitled to sign any Playing Adult Rugby - Player Approval Form in the section "Coach Endorsement";
 - f. Chris Hemsley is not to sign any Playing Adult Rugby – Club Approval Form or Playing Adult Rugby - Player Approval Form on behalf of the Club;
 - g. The Club's 1st XV is deducted 10 points to apply from the start of season 2022/2023; and
 - h. The Club's 1st XV is to be relegated, such relegation to be suspended (and therefore not to take effect) until the end of seasons 2023/2024 and is to be applied only in the event that the Club commits

any further breach of regulation 15.6 of the Regulations (i.e. it plays an under 18 year old in adult rugby otherwise than in accordance with the requirements of regulation 15.6).

COSTS

34. Whilst, ordinarily, a club in breach of the regulations might be expected to pay something towards the costs of the disciplinary process, the Panel were conscious of the financial impact of COVID on the Club and the fact that parts of the above sanction might expose the Club to a financial cost. As such, it was felt appropriate not to make any costs order against the Club.

RIGHT OF APPEAL

35. The Club has the right to appeal this decision pursuant to regulation 19.12.1, such appeal to be lodged with the RFU Head of Disciplinary by no later than 14 days from the date when this judgment is sent to the Club.

Matthew Weaver QC
Chairman
27th May 2022