

RFU SHORT JUDGMENT FORM



Match (home)	Leicester Tigers	Vs (away)	Harlequins
Club's Level	1	Competition	Gallagher Premiership
Date of Match	06/05/2023	Match Venue	Welford Road Stadium

Particulars of Offence			
Player's Surname	Ashton	Date of Birth	29/03/1987
Forename(s)	Chris	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Leicester Tigers	RFU ID No.	00706013
Type of Offence	Red Card		
Law 9 Offence	Law 9.13 - Dangerous Tackle		
Sanction	N/A		

Hearing Details			
Hearing Date	11/05/2023	Hearing venue	By video
Chairmen/SJO	Gareth Graham	Panel Member 1	John Doubleday
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 type="checkbox"/>

Player's Representative(s):		Other attendees:	
Sam Jones, Counsel		Angus Hetherington (RFU) David Barnes (RFU) Leigh Jones (Leicester Tigers) Cadan Murley (Harlequins)	
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)			
In addition to those matters listed above, the Panel also received a statement from Cadan Murley, the Harlequins player involved in the tackle. The Panel also received detailed, and helpful, written submissions from the Player's representative.			

Summary of Essential Elements of Citing/Referee/s Report/Footage

Chris Ashton ("the Player") was charged with dangerous tackling, contrary to Law 9.13. The Charge Sheet alleged that the Player had dangerously tackled Harlequins 14 (Cadan Murley) making direct contact to the head with a high degree of danger and no mitigation.

The incident occurred in the 39th minute of the match, following which the Player received a red card from the Referee.

The Referee's report reads as follows: -

"In live play I observed a high tackle by LT14 direct to the head of H14. I referred the incident to the TMO as per protocol to confirm whether it was worthy of a yellow or red card.

On reviewing the footage on the screen it was clear that:

- There was head contact,
- There was foul play / fault by LT14 as he was upright and could have tackled lower,
- It was a high degree of danger as LT 14 was making a dominant tackle hitting forward on his toes,
- There was not a significant drop / change of direction / nor other mitigation to be applied,.

As such LT14 was issued a red card."

The Panel was also provided with video footage of the incident from numerous different angles. Many of these angles were not available to the Match Officials.

Essential Elements of Other Evidence (e.g. medical reports)

The Panel was provided with a medical report in respect of Cadan Murley. The report confirmed that Mr Murley did not sustain any injuries in the tackle. Mr Murley was attended to by the Harlequins medical team following the tackle. The medical team was said to be comfortable with Mr Murley's presentation and did not request an HIA 1.

A HIA 1 was subsequently requested by the independent match day doctor. Mr Murley passed his HIA 1 and then the HIA 2.

Summary of Player's Evidence

The Player gave evidence to the Panel. He accepted committing an act of foul play but said the tackle did not pass the red card threshold and only merited a yellow card.

The Player described the incident in detail to the Panel, including by reference to the video footage. The Player described how he had prepared for the match by watching video clips of Mr Murley. He said Mr Murley was a strong player who tended to move towards space, rather than taking contact.

The Player said he was back pedalling in a dynamic phase of play, tracking the Harlequins 4 who was carrying the ball down the touchline. Another Leicester player attempted to tackle the ball carrier and the Player said he anticipated he may have to join the tackle to bring the Harlequins 4 to the ground. However, the ball carrier passed the ball back inside to Mr Murley and the Player had to adjust quickly to effect a tackle on the new ball carrier.

The Player described how Mr Murley was initially running towards his outside shoulder, towards the touchline, but then made a late change of direction to try to fight back his way inside, away from the touchline. The Player also said Mr Murley dropped his height very quickly in a short space of time. The Player had already set his body height to make a tackle and had planted his feet as best he could. He noted that the majority of his weight was on his right foot and that he was sitting back on his heels. The Player said he was looking to accept the tackle rather than move forwards to make a dominant tackle and that when contact was made, Mr Murley's body height was dropping and his knee was almost on the floor.

The Player accepted that his tackle was too high. He said that over a long career, players get a feel for tackles and he knew he was higher than he should be. He said he was sure he had made initial contact to Mr Murley's shoulder but realised his arm was higher than it should be and pulled out of the tackle as soon as contact was made. He demonstrated to the Panel on the video footage how he was moving backwards in the tackle and that he did not try to drive forwards through the tackle as one would expect in a dominant tackle. At the time, the Player did not feel he had made contact with Mr Murley's head, although accepted that it did look as though he had done so on the video footage. The Player told the Panel that any contact was indirect and that it felt to him as though any force went through Mr Murley's shoulder. When it was suggested to him by the RFU representative that he had made contact direct to Mr Murley's jaw, the Player said that he had not and that you can feel the difference between the shoulder and the head.

The Player accepted that Mr Murley's head was moved backwards in the tackle but suggested that that was on account of the way in which Mr Murley had leant into the tackle and then continued to move downwards through the collision rather than because of any force applied by him.

Cadan Murley also gave evidence to the Panel. The season is now over for Mr Murley and he was on holiday at the time of the hearing. Despite there being some technological issues which delayed part of the hearing, Mr Murley described the tackle in detail. Mr Murley was candid that he knew the Player well and that he had previously played with him. He said, however, that the Player had not approached him to obtain a witness statement and that it was Harlequins who had asked him to provide an account of the incident.

Mr Murley told the Panel that a focus of their preparation for the match against Leicester was on body height. He said he had dipped his body height as he approached contact with the Player and that his intention was either to try and fight to get to the floor or to push the Player away using the ball. Mr Murley said that the contact was to his right shoulder (and gestured to the Panel a point around his AC joint) and that the tackle then rode up and finished around the neck area as he tried to bust through the tackle. He said that he felt the impact through the shoulder and that the level of force on his neck was minimal.

When asked by the RFU representative whether he was sure the initial contact was to the shoulder, he replied "definitely". He said he had not seen the video but remembered the point of contact. He said the tackle rode up to the "crease of my neck as I dipped further". When asked why he thought his head moved backwards in the tackle, Mr Murley said he was continuing to go towards the floor and felt like the Player's shoulder was holding his head up as he was going to the floor rather than because the tackle was driving him backwards.

Mr Murley said he had stayed down on one knee after the tackle because he had had a little bit of pressure around the neck area, that he had recently had an issue where he had been tackled to the head, causing him to have a double root canal, and that it was what he was trained to do in those circumstances. He said the physio tested his shoulder range and strength before he then continued with the match. The Player said he respected the decision of the Referee but was surprised the Player had received a red card given the (low) level of contact to the head.

The Player's Representative then provided oral submissions to the Panel in support of the earlier, detailed, written submissions. In short, the Player contended there was not a high degree of danger in this tackle, given the indirect contact to the head/neck and the absence of there being a high level of force to the head/neck. The Player also submitted that there were also a number of mitigating features given the sudden and significant drop in height of Mr Murley, combined with the late change of direction.

The RFU Representative provided oral submissions to the Panel. It was said that there was direct contact to Mr Murley's head or, alternatively, that any contact to the shoulder was merely a glancing blow such that it was not sufficient to dissipate the force of the tackle before it made contact to the head/neck. The RFU said that the Player was clearly attempting to generate force through the dynamic tackle and that there was a high degree of danger present in the tackle. The RFU also said that there was no sudden or significant drop in height or change in direction and that although the Player had attempted to reduce his height before making the tackle, the Player himself accepted that he did not get low enough and that the tackle was higher than it ought to have been.

Findings of Fact

The Panel took account of all the evidence with which it had been provided, including the numerous angles of the tackle contained in the video footage. It made the following findings of fact, on the balance of probabilities:

1. During the relevant phase of play, Harlequins were attacking down their left hand side of the pitch. Harlequins 4 carried the ball from the halfway line over the Leicester 10m line before being tackled near the touchline. The Player was tracking back towards his own line, inside Harlequins 4.
2. As Harlequins 4 went to ground in the tackle, the Player was able to position himself between the Leicester try line and the oncoming Harlequins players, approximately 3 metres from the touchline.
3. Harlequins 4 then passed the ball back inside to Mr Murley, who had reduced his pace slightly as Harlequins 4 was being tackled. When Mr Murley received the pass, he was in an almost-upright position, approximately 3 metres away from the Player.
4. The Player lowered his body height and braced himself so as to prepare to make a tackle on Mr Murley. He was turned slightly towards the touchline, with his right foot back and his left shoulder forwards.
5. Mr Murley also lowered his body height, in anticipation of the tackle. He was holding the ball across his body with his right arm. He leant into the tackle, leading slightly with his right shoulder. As he travelled the (approximately) 3 metres between receiving the ball and making contact with the Player, he did so using only two strides. He also shifted his line of running from a direction that would have taken him towards the Player's outside shoulder to a line directly towards the Player.
6. Mr Murley's change of direction and change in body height was neither sudden nor significant. His change of direction was slight and was nothing other than that which could be entirely expected in a dynamic phase of attacking rugby. The change of Mr Murley's body height was also entirely in keeping with the actions of a ball carrier preparing for contact with a tackler.
7. As the two players came together, the Player was stationary with his feet planted. The Player used his left shoulder to make the tackle, using an action of throwing his left arm and shoulder into the tackle. This was not a passive tackle (a term used to describe a tackle where the tackler absorbs the contact / falls backwards, without any forward movement into the ball carrier).
8. This was a reckless tackle that was too high. The Panel accepted the evidence of both players that the initial contact point was to the top of Mr Murley's shoulder (around his AC joint) and not to his head.
9. As Mr Murley continued to move forwards, he attempted to drive through the Player and the tackle rode up to Mr Murley's neck. Any contact to the head/neck area was therefore indirect.
10. The Panel accepted the evidence given by the Player that he then attempted to back-off the tackle rather than continue to drive through it, because he realised he was too high. This detail was corroborated by the video footage which shows the Player move backwards in the tackle and by the account given by Mr Murley whose opinion was that he felt like his head was being held up as he was going to floor, rather than the Player continuing to drive into him.
11. The Panel also accepted the evidence of Mr Murley that the force of the tackle was received by him through his right shoulder and that the level of any consequential force to his neck area was low.

Decision

Breach admitted	<input type="checkbox"/>	Proven	<input type="checkbox"/>	Not Proven	<input checked="" type="checkbox"/>	Other Disposal (please state below)	<input type="checkbox"/>
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The Panel had due regard to the Head Contact Process (“HCP”) (as updated by World Rugby on 1 March 2023) and to RFU Regulations 19.5.1 and 19.11.1.

The Panel concluded that there had been contact to Mr Murley’s neck area, thereby bringing into play the HCP. The Panel also accepted there had been an act of foul play on the part of the Player in that he had made a (reckless) dangerous tackle that was too high.

The third stage of the HCP is to consider what the degree of danger was in the tackle. The Panel had concluded that there was indirect contact to the neck area and had accepted the evidence of Mr Murley that the level of any force to his neck was low. These two factors pointed towards there not being a high degree of danger. This was not, however, a passive tackle. Instead, it was a reckless tackle in which the Player had used an action of throwing his left arm and shoulder into the tackle, albeit that he had then backed off the tackle having realised it was too high.

In all the circumstances of the case, the Panel concluded that there was not a high degree of danger and that the correct starting point under the HCP was a yellow card (and not, as the Referee had concluded, a red card). The key factor was the evidence given by Mr Murley, without whom there may well have been a different outcome.

In arriving at this conclusion, the Panel considered the Player had satisfied the burden placed on him by RFU Regulation 19.5.1 to demonstrate the Referee was, on the balance of probabilities, wrong to have awarded a red card. Nonetheless, the Panel wish to record publicly that the decision it reached was very finely balanced decision, reached at a hearing that lasted almost five hours. At that hearing, the Panel had had the benefit of hearing from the Player and from Mr Murley, and of viewing footage of the incident numerous times from various angles, luxuries that simply were not (and could never be) afforded to a referee who must necessarily make a decision in the space of a few minutes on-field. As such, the Panel's decision should not be seen as being any form of criticism of the Referee.

The Panel also went on to consider the fourth stage of the HCP as to whether there was any mitigation such that the act of foul play would have been reduced further. The Panel had rejected the Player's submission that there was a sudden and/or significant drop or movement and had concluded that there was not sufficient mitigation here to reduce the starting point.

In the circumstances, the Panel concluded that the charge was not proven and that the Player is able to play with immediate effect.

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8			
PLEASE TICK APPROPRIATE BOX	19.11.8(a) Intentional	<input type="checkbox"/>	19.11.8(b) Reckless

Reasons for finding as to intent:
N/A

Nature of actions - Reg 19.11.8(c)
N/A

Existence of provocation - Reg 19.11.8(d)

N/A

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)

N/A

Effect on match - Reg 19.11.8(h)

N/A

Vulnerability of victim - Reg 19.11.8(i)

N/A

Level of participation/premeditation - Reg 19.11.8(j)

N/A

Conduct completed/attempted - Reg 19.11.8(k)

N/A

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

N/A

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 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:

N/A

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)
N/A	N/A
Youth and/or inexperience of player - Reg 19.11.10(c)	Conduct prior to and at hearing - Reg 19.11.10(d)
N/A	N/A

Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)
N/A	N/A

Number of weeks deducted:

Summary of reason for number of weeks deducted:
N/A

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) N/A

Number of additional weeks:

Games for meaningful sanctions:

N/A

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	-	Sending off sufficient	-
Sanction commences	-		
Sanctions concludes	-		
Free to play	Immediately		
Final date to lodge appeal	13/05/2023		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	Nil		

Signature
(JO or Chairman)

G D Graham

Date

12/05/2023

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