

RFU SHORT JUDGMENT FORM



Match	Bath Rugby	Vs	Worcester Warriors RFC
Club's Level	Level 1	Competition	Gallagher Premiership
Date of Match	09/01/2022	Match Venue	Recreation Ground Bath

Particulars of Offence			
Player's Surname	Sutherland	Date of Birth	15/03/1994
Forename(s)	Rory	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Worcester Warriors RFC	RFU ID No.	2719084
Type of Offence	Red card		
Law 9 Offence	9.13 Dangerous tackling		
Sanction	3 weeks suspension		

Hearing Details			
Hearing Date	11/01/2022	Hearing venue	By Zoom
Chairmen/SJO	Charles Cuthbert	Panel Member 1	Tony Wheat
Panel Member 2	Olly Kohn	Panel Secretary	Rebecca Morgan
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:
Luke Broadley-Team Manager Worcester Warriors Jonathan Thomas-Head Coach Worcester Warriors	Angus Hetherington-Legal Counsel in Discipline RFU

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

Charge sheet
Red card report from Craig Maxwell-Keys (the Referee)
HCP law application guidelines
Sanctions Table
Medical report dated 10/01/2022 from Marc Beggs, Head of Medical Services, Bath Rugby
Video footage of the incident

A World Rugby video recording illustrative of a dangerous tackle and its categorisation was played at the hearing presented on behalf of the Player by Mr Broadley who also presented the panel with a series of still photographs of the incident.

The Referee's report stated:

"At a stoppage in play the TMO altered me to an incident of foul play for review. It was established that W1 had made direct head contact and was at fault as he could have been lower. There was a high level of danger in the tackle so entry point was a red card pending mitigation. There was no clear sudden / significant drop in height or change in direction from the ball carrier to constitute mitigation so the outcome was a red card and the player left the pitch immediately."

The match footage showed from various angles and various speeds:

Worcester 10 kick offs to Bath at the start of the match. The ball is caught by a Bath player just outside the Bath 22m line. He moves forward and is tackled by W6. A ruck is formed, the ball comes back on the Bath side and B9 passes to B3 who is just inside the Bath 22m line. As he receives the ball, the Player is directly in front of him approximately 2 metres away setting himself for a tackle. B3 steps off his left foot by which time the Player has moved forward to within 1 metre of him. The Player moves to his left pushes his body forwards and wraps B3 with both arms just below B3's shoulders. The Player makes direct contact with B3's head.

The medical report from Marc Beggs stated:

"The player was attended to on the field of play following a collision whilst being tackled. The initial assessment was that the player was conscious but not alert or orientated. He gradually regained his level of alertness and orientation to be able to self-extricate with support of our Doctor.

The player was removed from play under criteria 1, for immediate and permanent removal, and post-match returned an abnormal HIA2.

The nature of the player's immediate and permanent removal means that he has a confirmed concussion.

The player will undergo HIA3 on Tuesday 11th January.

The player will be reviewed by the club Doctor to inform his progress through a GRTP. At this stage he is unable to progress to Stage 2b as he remains symptomatic.

At this time, his return to play will not need to be signed off by Professor Belli, a World Rugby approved concussion specialist, however if will is to complete his GRTP within 10 days, this would require approval."

Summary of Player's Evidence

The Chair introduced the panel members to the Player and his representatives who confirmed that there was no objection to the constitution of the panel. The Player also confirmed that he and his representatives had received all of the papers and hearing materials in a timely manner and had had the opportunity to consider the same.

The charge was read to the Player who accepted that he had committed an act of Foul Play but denied that his actions were worthy of a red card.

Mr Hetherington was invited to address the panel as to why the Foul Play had merited a red card but he rightly reminded the panel that it was for the Player to show that the Referee's decision was wrong and therefore it was for the Player to show at this stage which aspects he was relying on to show it should not have been a red card.

Mr Thomas then addressed the panel to give it a coach's insight as to the actions and events-he explained that his player's were taught "Go-check-go" as part of their tackle technique. The players would "go" to get off the line and "eat up the space". He thought a player was reckless if he flew off the line and was not in control and the responsibility fully lies with the player as the defender. The "check" was shortening stride length so the player was in control of his body. Part of the control/check was dropping height and bending at the hips and then the "go" which the player was then in control and in a powerful position to make a collision and then make the collision. He had watched the footage on many occasions since the match and could not see what the Player had done wrong-he talked the panel through the footage relating it to the "Go-check-go" technique and said that the Player had done everything correctly. The Player had checked and was in full control of his body, he had slowed down and was in a good position to make the tackle, he had lowered his body height. B3 was on the outside of the Player's right shoulder. The major mitigating factor according to Mr Thomas was that B3 then used footwork (a power step) to try to wrong foot the defending player. B3 steps off his left and at the point of collision, B3 has gone on a late 45 degree angle. At the point of collision, the Player's body height has come up slightly because of B3's change in direction. He stated that the Player was not the aggressor at that stage as he had been wrong footed and was now flat footed, almost static with an accidental head contact as a result.

He also stated that with regards to force, the Player did not knock B3 backwards-at point of contact, B3 kept going forwards and there was not a "huge amount of force" from the Player.

In summing up, he said that the mitigating factor was that the Player was not reckless in the sense that he was out of control; he was in control, bent at the hips but that they clashed heads because of the late change of direction by B3.

The Player then gave evidence. He was committed to a body position quite early and B3 stepped into the space where the Player's head was. He had tried to tackle and was bent at the hips but the step was the mitigating factor. He was asked whether one of the options would have been to have tackled B3 with the left side of the Player's head on the hip of B3 if he was as he claimed "in control". The Player said that it would have been hard for him to have changed shoulders at that stage.

He was also asked how the power step affected his balance-he said he was bent at the hips leaning forward ready to tackle and just a split second before making the tackle, he was committed to tackle with the right side of his body. B3 came into his head and shoulders but the step didn't affect his balance at all.

He was asked if he could have been lower to commit himself to the tackle and if he could have been bent further forward. He said that that was the angle and position that he had chosen but he accepted that he could have been "a little bit lower".

Mr Broadley then showed some stills from the video footage whilst Mr Thomas talked the panel through the "Go-check-go" technique in relation to this incident. He was asked why the Player's head rose up at the point of contact if the Player was at the correct height to make a tackle. Mr Thomas said that at the point of contact they both went up because it was head on head contact-the collision forced them both up.

Mr Broadley then showed the World Rugby video number 5 illustrating head contact process mitigating factors as an example of a yellow card which he claimed was worse than the the Player's actions in this case. Mr Thomas explained that this was "worse" because the tackling player has "huge force" and was going forward as the aggressor whereas the Player was much more static and wasn't the aggressor.

The panel then asked to review the video footage again to ascertain exactly when the Player's head went up whether it was in contact with B3 or before contact. The Player said that he came off the line, slowed his speed down, changed his body height, committed to his body position. B3 then stepped into his space where his head was and his head went up when his arms made contact with B3 as B3 lowered his head and body in anticipation of contact.

Mr Hetherington was then invited to address the panel as the RFU had not produced a submission prior to the hearing. In summary, he said that the RFU did not consider the action intentional or that the Player was a "dirty" player. It was a mis-execution of a tackle. With regards to degree of danger and force used, this was a high degree of danger (18 stone prop pushing forward against another prop) and just because B3 did not fall backwards did not mean it was an action without force or a high degree of danger. It was certainly not a passive/soak-up tackle-the Player was pushing off his legs as could be seen from his body angle leaning forward into the tackle.

As to mitigation, Mr Hetherington talked the panel through the video again. He said the Player tracks B3's move and then plants his foot to commit to tackle. There is a step from B3 but it occurs at such a point that it was not sufficient to be considered significant or sudden change in dynamics to the tackle. The cause of the tackle and then the Foul Play was the Player's upright position. The World Rugby example was a different tackle and every tackle has its own merits but the usual scene in high tackles where there is a sudden change in dynamics is a step back in to the tackler which did not happen in this case. In this case, the Player followed B3 well but was too upright coming in to the tackle.

With regards to head contact, the Player's head was always high and whether there was some movement up was the difference between the Player's head catching the chin and a face on face. The point of contact was always going to be high with a minimal increase in height when the contact took place and with B3 bracing for contact, he may have dropped minimally but not sufficient as to meet the requirements of the HCP that there was a significant change in the dynamics of the tackle.

Findings of Fact

The panel considered with great care all the evidence and submissions before making the following findings:

1. B3 received the ball with the Player approximately 2 metres away and directly in front of him;
2. The Player moved forward and set himself for the tackle;
3. B3 stepped off his left foot with the Player approximately 1 metre in front of him. He braced for the impact but had not materially altered his body position;
4. The Player had a clear line of approach to B3 and was able to determine whether he went high or low into the tackle;
5. The Player pushed forward and attempted to wrap around B3 to effect the tackle. Both arms were lawfully engaged in this respect but the Player's initial body position was too high;
6. The Player's head made direct contact with B3's head;
7. B3 went to ground and was treated by the medical staff. He underwent an HIA which he failed and did not return to the pitch.

In regards to the other submissions and using the Head Contact Process Law Application Guidelines, the panel finds the following:

1. The tackle was a dominant tackle with high degree of danger due to high force and direct contact
2. Although there was a change of direction and drop in height by B3 both of which were sudden, these were not significant and did not change the dynamics of the tackle. The Player was too high to start with, did not adjust sufficiently to the changes and mistimed his tackle.
3. With reference to the World Rugby video clip, there is a long line of rugby disciplinary jurisprudence making it clear that each case must be considered on its own facts and that accordingly earlier cases are likely to be of only limited relevance. The panel was not assisted by the World Rugby clip which were in its view all distinguishable on the facts.

Decision

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

The Player admitted the act of Foul Play but denied that he should have been awarded a red card.

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:

Based upon the panel's findings set out above this was not an intentional act.

Nature of actions - Reg 19.11.8(c)

Direct head on head contact

Existence of provocation - Reg 19.11.8(d)

None

Whether player retaliated - Reg 19.11.8(e)

NA

Self-defence - Reg 19.11.8(f)

NA

Effect on victim - Reg 19.11.8(g)

As set out in the medical report, B3 was removed from the pitch and has failed HIA1 and 2

Effect on match - Reg 19.11.8(h)

The Player's team lost the match

Vulnerability of victim - Reg 19.11.8(i)

B3 was expecting to be tackled but not with head contact

Level of participation/premeditation - Reg 19.11.8(j)

Sole participant-no premeditation

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 weeks	<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:

The mandatory minimum mid-range was applied. Whilst B3 failed his HIA 2, the panel considered that when looking at all of the factors, a mid-range entry point was still the appropriate entry point for the offence.
 The panel also considered footnote 1 ii of Appendix 2 of Regulation 19 and decided that the sanction would not be "wholly disproportionate" to the Player's "fault and the consequences thereof"

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 accepted the commission of an act of Foul Play at the start of the hearing	The Player has not appeared before a Disciplinary Committee before
Youth and/or inexperience of player - Reg 19.11.10(c)	Conduct prior to and at hearing - Reg 19.11.10(d)
He is an experienced international player	The Player and his representatives conducted themselves in an exemplary manner throughout

Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)
The Player said that he had spoken with and apologised to B3 as soon as he was ordered off the pitch	The Player is involved in community and promotional activities for the Club proactively and without payment

Number of weeks deducted: **3 weeks**

Summary of reason for number of weeks deducted:
All of the mitigating factors above entitle the Player to a full discount of 50%.

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) NA
Need for deterrent to combat a pattern of offending - Reg 19.11.13(b) None identified by either the RFU or World Rugby for this type of offence.
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) NA

Number of additional weeks: **0 weeks**

Games for meaningful sanctions:

15/01/2022 v Toulon (EPCR)
22/01/2022 v Zebre (EPCR)
29/01/2022 v Northampton Saints *

*If the Player successfully completes the World Rugby Coaching Intervention then he will be available for selection for this match.

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	11.01.2022		
Sanctions concludes	30.01.2022		
Free to play	01.02.2022		
Final date to lodge appeal	13.01.2022		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Charles Cuthbert	Date	12/01/2022
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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