

# RFU SHORT JUDGMENT FORM



Match (home)	Leicester Tigers	Vs (away)	Bristol Bears
Club's Level	Premiership	Competition	League
Date of Match	27/04/2024	Match Venue	Leicester

Particulars of Offence			
Player's Surname	Brown	Date of Birth	04/09/1985
Forename(s)	Michael Noel	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Leicester Tigers	RFU ID No.	92320
Type of Offence	Rule 5.12 conduct prejudicial to the game		
Law 9 Offence			
Sanction	5 weeks suspension from playing - 3 weeks of which are suspended		

Hearing Details			
Hearing Date	30 April 2024	Hearing venue	Video Hearing
Chairmen/SJO	Philip Evans KC	Panel Member 1	Becky Essex
Panel Member 2	Martyn Wood	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:	
John Shea		Richard Wilks - Leicester General Manager Angus Hetherington, RFU Senior Legal Counsel	
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 type="checkbox"/> Red Card report	<input type="checkbox"/> Player Statement	Video footage Please select
<input type="checkbox"/> Medical report	<input type="checkbox"/> Citing report	<input type="checkbox"/> Club Statement	<input type="checkbox"/> World Rugby Head Contact Process
Other (Please list below)			
<p>A hearing bundle was prepared which contained the charge sheet for this matter along with the separate charge sheet for the two yellow cards matter which led to this citing (see separate judgment). The bundle contained the details as to why the two yellow cards were issued along with the evidence of the fourth official as to what was said by the Player and in what circumstances. At the end of the bundle there were a collection of documents setting out the available guidance in relation to match official abuse along with a document issued by the RFU Head of Judiciary.</p>			



In the 71st minute the Player was sent off after receiving a second yellow card. As he was leaving the field of play and walking to back to the stand and the team area, the fourth official reports hearing the following; "As he walked past me he said "that's a fucking joke, the lot of you." He did not look at me but at the time I felt he was talking to me and making reference towards the match officials"

It is disappointing that the fourth official went on to note that both sides had behaved with "notably poor values" during the game.

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

The footage shows the Player walking off the pitch next to a member of the Leicester staff and walking towards the Leicester team area. Given this was the Player's home ground it is obvious that he would have been aware that the general area he was walking in when he said what he did and that it was an area where the fourth official may well be standing. That said the footage only shows that the Player walking off - it does not show him remonstrating or obviously shouting or directing his comments to the match official.

## Summary of Player's Evidence

The Player accepted his behaviour constituted behaviour properly described as being disrespectful to the match officials. He also accepted he used the words "that's a fucking joke, the lot of you."

The Player told the panel he is very sorry for using those words and described it as a stupid off the cuff remark. He said that when he said it he was 'head down' and was not sure who was or could have been around him. He said he was engaged in his own thoughts, it was a big moment in the game and he was very frustrated by the decisions which he disagreed with. In essence we understood his evidence to be that, he said what is alleged, he said it because he was frustrated by the decisions but that he had not directed the words at the match officials although now, in hindsight he accepts the words were heard by the official. This had not been his intention.

The Player accepts and the panel is entirely satisfied that he walked off the pitch and said “that’s a fucking joke, the lot of you”. On the Player’s behalf it has been contested before us that the comment did not amount to verbal abuse. In our view the words used in this instance obviously could amount to verbal abuse. Reading the whole phrase together, we conclude that what was meant by the words is entirely self-evident. The Player was saying that his sending off was, in his view, a “fucking joke” and “the lot of you” indicates his view that the match officials collectively were a joke for making that or those decisions, which were in his mind a “fucking joke.”

The Player submits his behaviour did not amount to verbal abuse largely because it was not in his mind directed at the match official. He relies on the words of the ‘match official abuse - a guide for referees’ set out at p17 of bundle. This document, which we read as guidance only, says under the heading Verbal Abuse - “this occurs where the offender uses foul or offensive language in comments aimed directly at a Match Official.” At page 22 a number of examples of disrespect and of verbal abuse are set out and at p23 there is a further reference to the need to direct the comments at the match official.

We also note, the same guidance, points out in section 2 that, “it is acknowledged that the dividing line between dissent and abuse can be a narrow one. For example, if a player responded to a decision by the Match Official by shouting, “That’s a fucking joke”, that would constitute disrespecting the authority of the referee but if the player’s response was to shout directly at the Match Official, “You’re a fucking joke” that would amount to abuse.”

We wish to make it very clear that the guidance referred to is just that, guidance, and, as the guidance itself says, each case must be judged on its own facts. In the very particular circumstances which exist in this case, this Panel takes the view the offending can be more appropriately placed in into the category of disrespect rather than verbal abuse. We give the player the benefit of the doubt, but we do so in relation to the circumstances of what was said, rather than as a result of what was said. We have no doubt that what the Player said is capable of amounting to verbal abuse. The words, read together cause us to conclude that the Player was clearly saying that he took the view the match officials were a ‘fucking joke’ because of the decisions they had taken in relation to him. However, because we accept it can be argued here that the words were not said directly to the face of the match official and may generously be described as having been uttered whilst the player was effectively in a world of his own and ‘head down’ we do exercise our doubt in his favour and categorise this as disrespect rather than verbal abuse.

### Decision

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

The total sanction is one of 5 weeks suspension. The Panel takes the view that an appropriate period of immediate suspension would be one of 2 weeks. The Player will be suspended from playing for two weeks and the Panel is prepared to suspend the remainder of the 5 weeks meaning a period of three weeks will be suspended. That aspect (three weeks) will be suspended until the final game of the 2024/2025 domestic season. It will only be activated in the event that the player commits any further similar type of offending on or off the pitch. For the avoidance of doubt it is not this panel's intention that it should be activated for any other, different type of on field or off field offence. The further condition of the suspension is that the Player delivers a talk about the relevant core values and why they are so important to the game. With the Player's agreement this is to be recorded and provided to the RFU so that it can be used, as the RFU chooses, to promote and educate as to the importance of such core values.

## 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:

Notwithstanding that we categorised this offending as disrespect we are satisfied that the player intended to be disrespectful about all of the match officials and was deliberately describing them all as a "fucking joke."

Nature of actions - Reg 19.11.8(c)

Such offending is a direct undermining of the authority of the match officials and an attack on the game's ethos and core values. Maintaining respect for match officials at all times is central to that ethos and core values.

Existence of provocation - Reg 19.11.8(d)

None - the fact that the Player disagrees with decisions of the officials is absolutely no excuse.

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)

Regardless of where or to whom the words were directed they were heard by the match official and would have had the same or similar effect on him as if they were spoken directly to his face. He perceived them to have been directed at him and his colleagues.

Effect on match - Reg 19.11.8(h)

None

Vulnerability of victim - Reg 19.11.8(i)

Match officials are always vulnerable to such outbursts.

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)

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 checked="" type="checkbox"/>	4	<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:

Despite the submissions of both parties we are entirely satisfied that these particular words are not best categorised as low-end disrespect. The words are a more serious form of disrespect as they undermine and challenge the ability of the officials describing them as a joke. That aspect of the disrespect was intentional and was heard by one of the subjects of that disrespect. We are not satisfied they should be classed at top-end and so find they are mid-range.

Relevant Off-Field Mitgating Factors - Reg 19.11.10

<u>Acknowledgment of the commission of foul Play &amp; timing - Reg 19.11.10(a)</u>	<u>Player's disciplinary record - Reg 19.11.10(b)</u>
The Player accepted his offending prior to the hearing and accepted that what the match official reported was accurate.	Whilst the Player has one previous suspension in 2021 is it is three years old and for an entirely unrelated matter. We agree with the RFU's submission that this is irrelevant to this matter.
<u>Youth and/or inexperience of player - Reg 19.11.10(c)</u>	<u>Conduct prior to and at hearing - Reg 19.11.10(d)</u>
N/A	The Player's conduct was good



Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)
We accept the Player regrets his actions which were uttered in the heat of the moment.	We accept evidence that the Player is generally of excellent and positive character and a Player with a very large number of professional appearances.

Number of weeks deducted: 2

Summary of reason for number of weeks deducted:
We felt in all of the circumstances and in the interest of consistency the Player warranted a 50% reduction in his sanction.

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)
We refer to the RFU Head of Judiciary's sanction guidance relating to this topic which all parties agree requires us to add to the period of suspension. Given our finding that this was a mid-range starting point the appropriate aggravation is a period of 3 weeks added to the sanction because of the prevalence of such offending across the rugby community.
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: 3

Games for meaningful sanctions:

03/05/2024 v Georgia  
10/05/2024 v Sale Sharks

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	See Above	Sending off sufficient	
Sanction commences	30/04/2024		
Sanctions concludes	13/05/2024		
Free to play	14/05/2024		
Final date to lodge appeal	15/05/2024		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Philip Evans	Date	01/05/2024
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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