

RFU SHORT JUDGMENT FORM



Match	Gloucester Rugby	Vs	Sale Sharks
Club's Level	1	Competition	Gallagher Premiership
Date of Match	2 January 2021	Match Venue	Kingsholm, Gloucester

Particulars of Offence			
Player's Surname	SLATER	Date of Birth	1 August 1988
Forename(s)	Edward Nicholas	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Gloucester Rugby	RFU ID No.	272971
Type of Offence	Dangerous play in a ruck or maul		
Law 9 Offence	Law 9.20		
Sanction	4 weeks		

Hearing Details			
Hearing Date	6 January 2021	Hearing venue	By video
Chairmen/SJO	Gareth Graham	Panel Member 1	Martyn Wood
Panel Member 2	Guy Lovgreen	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:
Alex Brown (COO, Gloucester Rugby)	Sam Raven (Gloucester Rugby) Angus Hetherington (RFU) David Barnes (RFU)

List of documents/materials provided to player in advance of hearing:
<ul style="list-style-type: none">- Charge Sheet- Report from the Citing Commissioner (John Byett)- Statement from Armand Van Der Merwe (Sale Sharks)- Medical Report from Sale Sharks

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

The Player had been charged with an act of dangerous play in a ruck or maul contrary to Law 9.20. The particulars of the offence were stated as follows: "On 2 January 2021 in the 48th minute of the match, drove into a ruck leading with his right shoulder and made contact to the top of SL2's head with his right arm trailing, in an act contrary to Law 9.20 or in the alternative Law 9.11. The incident occurred in the second half of the match."

He was also charged in the alternative with an act of reckless or dangerous play, contrary to Law 9.11. The particulars of the offence were that "In the match between Gloucester RFC and Sale Sharks committed an act of foul play that was reckless or dangerous. The incident occurred in the second half of the match."

In written submissions provided on behalf of the Player in advance of the hearing, the Player accepted the alternative charge contrary to Law 9.11. At the outset of the hearing, a discussion was held as to the correct charge and the basis upon which the Player accepted wrongdoing.

The Player accepted that he had committed an act of dangerous play in a ruck or maul contrary to Law 9.20 but did not accept that he had made contact to the head of the Sale Player. It was for that reason that the Player had accepted the alternative charge, contrary to Law 9.11.

The Panel noted that both offences carried the same range of sanctions (i.e. 2 weeks for a low-end offence, 6 weeks for a mid-range offence and 10+ weeks for a top-end offence) and that the mandatory mid-range sanction would apply in the event that there was a finding that there had been contact with the head and/or neck.

On that basis, the Panel proceeded, with the agreement of the Parties, on the basis that the Player accepted the charge contrary to Law 9.20 (it being the one that most accurately described the incident) but that the Player did not accept that there had been contact to the head and/or neck.

The essential elements of the Citing Commissioner's Report read as follows:-

"Gloucester (GL) 7 carries the ball into contact near the touchline. He goes to ground and Sale (SL) 2 Akker Van Der Merwe goes into to get the ball off GL7. GL3 comes in and is in the process of taking SL2 off the ball, when GL4 Ed Slater drives in leading with his right shoulder making contact initially to the top of SL2's head with his right arm trailing (Play Clock 47:31). The contact to the head was confirmed in a statement from SL2, no attempt at a tackle and GL4 was off his feet. It is a shoulder charge, degree of danger is high. There are no mitigation factors. Therefore it is foul play and I have cited GL4 Ed Slater."

The Panel was provided with footage of the incident, both from the RFU and from the Player.

The footage of the incident accords with the description of the incident given by the Citing Commissioner in his report. The Panel noted that there was a dispute between the parties as to where the initial contact was between the Player and Mr Van Der Merwe.

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

The Panel was provided with a statement from Mr Van Der Merwe. The essential element of that statement read as follows:-

"In regards to the clean by Gloucester 4, I went for the steal and their lock came in with his shoulder tucked and hit me on the head. I was busy trying to steal the ball."

The Panel did not receive live evidence from the Sale Player.

The Panel was also provided with an email from Dr Imran Ahmed as to the (limited) effect on Mr Van Der Merwe. The email stated that there was some discomfort to the neck and shoulder area.

Summary of Player's Evidence

The Panel heard live evidence from Mr Slater.

The Player described that he had been on the floor moments before the incident and had seen his teammate struggling to clear Mr Van Der Merwe out of the ruck. The Player said that he could see he needed to help as a matter of urgency or there was a good chance there would be a turnover or a penalty to Sale.

The Player accepted that he had made a reckless entry into the ruck. He reiterated a number of times that he had not intended to make contact with the head or neck but had just tried to get his weight through the Sale player to clear him out of the ruck.

It was accepted on the Player's behalf that this was a reckless act of dangerous play in a ruck or maul contrary to Law 9.20.

It was said on the Player's behalf that he did not make contact with Mr Van Der Merwe's head but that the contact was shoulder to shoulder.

The medical evidence was challenged on the basis that it was said that there had been no on-field assessment of the Sale Player following the incident and that Mr Van Der Merwe had been treated for what appeared to be a similar injury at another point in the match.

Findings of Fact

The Panel heard live evidence from Mr Slater, who gave a clear account of his conduct.

The Panel read the statement from the Sale Player and the report which contained evidence as to the purported physical effect of the incident. It also watched the footage of the incident a number of times both in slow motion and at full speed.

The Panel did not have the benefit of hearing from the Sale Player or from Dr Ahmed. To that end, it placed limited weight on that documentary evidence. Instead, it placed greater emphasis on the oral evidence of Mr Slater and from what could be clearly seen in the video footage.

The Panel made the following brief findings of fact on the balance of probabilities:-

1. There was a deliberate attempt by the Player to clear the Sale Player out of the ruck.
2. The Sale Player was jackling for the ball with his head and neck exposed.
3. The Player made no attempt to wrap his right arm; instead he dropped his right arm and used his shoulder to make direct contact with the Sale Player.
4. The initial contact was between the Player's right shoulder and the right hand side of the Sale Player's head and/or neck, before moving down towards the shoulder.
5. The contact was forceful and caused the Sale Player to fall backwards. However, no lasting injury was caused as a result of that contact.

Decision

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

The Player admitted that he had committed an act of foul play contrary to law 9.20, in that this was a reckless act of dangerous play in a ruck or maul that passed the red card threshold.

In light of the Player's admission, and in light of the evidence with which it had been provided, the Panel had no hesitation in finding the matter proven.

Although it was denied by the Player, the Panel concluded that there had in fact been contact with the Sale Player's head and/or neck.

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8

PLEASE TICK APPROPRIATE BOX

19.11.8(a) Intentional/deliberate

19.11.8(b) Reckless

Reasons for finding as to intent:

The Panel accepted the Player's evidence that he had not intended to make contact with the Sale Player's head or neck and that this was a reckless act of foul play.

Gravity of player's actions - Reg 19.11.8(c)

The Player made forceful and direct contact to the head and/or neck of the Sale Player at a ruck without any attempt to wrap his right arm.

Nature of actions - Reg 19.11.8(d)

As described above.

Existence of provocation - Reg 19.11.8(e)

There was none.

Whether player retaliated - Reg 19.11.8(f)

Not applicable.

Self-defence - Reg 19.11.8(g)

Not applicable.

Effect on victim - Reg 19.11.8(h)

There was none.

Effect on match - Reg 19.11.8(i)

There was none.

Vulnerability of victim - Reg 19.11.8(j)

The Sale Player was highly vulnerable with his head and neck exposed as he attempted to jackle for the ball.

Level of participation/premeditation - Reg 19.11.8(k)

There was no premeditation.

Conduct completed/attempted - Reg 19.11.8(l)

The conduct was completed.

Other features of player’s conduct - Reg 19.11.8(m)

Not applicable.

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	<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 this assessment, the JO/committee should be consider RFU Regulation 19

Reasons for selecting entry point:

This was a reckless act of dangerous play where contact was made to the head and/or neck of the victim player. As such, there is a mandatory mid-range entry point prescribed by the Regulations.

Additional Relevant Off-Field Aggravating Factors - Reg 19.11.10

Player’s status as an offender of the laws of the game - Reg 19.11.10 (a)

Not applicable.

Need for deterrent to combat a pattern of offending - Reg 19.11.10(b)

Not applicable.

Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate - Reg 19.11.10 (c)

Not applicable.

Number of additional weeks: 0

Relevant Off-Field Mitigating Factors	
Acknowledgement of guilt and timing - Reg 19.11.11(a)	Player's disciplinary record/good character - Reg 19.11.11(b)
The Player accepted the charge, although he did not accept that he had made contact to the head and/or neck.	The Player received a two-match ban in January 2017 for striking another player.
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
The Player is highly experienced and has played at the highest level for a considerable time.	Exemplary.
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
The Player expressed remorse and had sent a message to the Sale Player after the match to apologise for his actions.	The Player is an active participant in helping in the community game and regularly assists his Club's Academy to train younger players.

Number of weeks deducted: 2

Summary of reason for number of weeks deducted:

The Player had accepted the charge at the earliest opportunity, although he not did not accept that he had made contact to the head and/or neck of the Sale Player.

The Panel noted that the Player had played rugby at the highest level for a considerable time and had not come before another disciplinary panel for a similar offence, notwithstanding the number of rucks that he must have entered during his career. Nonetheless, it could not be said that he had a clear disciplinary record on account of the two-match ban from 2017.

The Panel noted the RFU Regulations which state that when considering any reduction by way of mitigation, a disciplinary panel must start at 0% mitigation and that it can apply up to a maximum reduction of 50%.

In all the circumstances, including the other off-field mitigating factors, the Panel considered that a reduction of two weeks was appropriate in this case.

Games for meaningful sanctions:

The following matches are to be taken into account by way of meaningful sanctions:

1. v Newcastle, 9 January 2021
2. v Ulster, 16 January 2021
3. v Lyon, 24 January 2021
4. v Northampton 30 January 2021.

The Panel noted that in the event any of these fixtures do not take place, the matches taken into account for the purposes of the sanction may have to be revisited.

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	4 weeks	Sending off sufficient	N/a
Sanction commences	5 January 2021		
Sanctions concludes	2 February 2021		
Free to play	3 February 2021		
Final date to lodge appeal	8 February 2021		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	<i>E J Graham</i>	Date	7 January 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