

# RFU SHORT JUDGMENT FORM



Match (home)	Sale Sharks RFC	Vs(away)	Saracens RFC
Club's Level	Level 1	Competition	Premiership
Date of Match	05/03/2023	Match Venue	AJ Bell Stadium Sale

Particulars of Offence			
Player's Surname	Hislop	Date of Birth	26/02/1992
Forename(s)	Robin Walter	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Saracens RFC	RFU ID No.	1670908
Type of Offence	Red card		
Law 9 Offence	9.13 Dangerous tackle		
Sanction	Red card rescinded-onfield yellow card awarded		

Hearing Details			
Hearing Date	08/03/2023	Hearing venue	By Zoom
Chairmen/SJO	Charles Cuthbert	Panel Member 1	Martyn Wood
Panel Member 2	Philip Davies	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:
Mark McCall-DOR Saracens Warrick Lang-Rugby Manager Saracens	David Barnes-Head of Discipline RFU Tom Foley-the referee (Referee)
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 checked="" type="checkbox"/> Club Statement	<input checked="" type="checkbox"/> World Rugby Head Contact Process	
Other (Please list below)				

The Referee's report stated:

"Sale 15 took a catch from a kick approximately 5m inside his own half, 15m from the right hand touchline. He ran over the half-way line, breaking the first 2 attempted tackles. As he approached the Saracens 10m line he was hit by Saracens 18. He managed to continue his run before chipping the ball away approximately 5m from the Saracens 22m. There had been a knock on by Sale so the game had stopped whilst players from both teams received medical attention. During this stoppage the TMO alerted me to the fact that there was head contact in the collision between Sale 15 and Saracens 18 and therefore initiated a formal TMO review. During the review it was clear that there was direct head on head contact and that Saracens 18 was upright entering into the tackle. As a result we decided that there was foul play and therefore entered the HCP. We deemed there to be fault due to the upright stance of Saracens 18. We decided that because Saracens 18 was active in the tackle (he was expecting to make the tackle) and was not absorbing or passive, the level of danger was high. We looked for any opportunity to mitigate but could find no obvious mitigation. As a result we entered the HCP at red card and had no means to mitigate."

The Referee was available at the hearing to expand upon his report and answer questions. All parties then viewed the footage taken from the television broadcast -the Panel had chosen this version to be viewed as it was possible from this for it to hear and see what the Referee was saying and seeing.

After viewing the Chair asked the Referee about the Player's submission that the first contact between him and S15 was S15's outstretched arm making contact with the Player's chin or the ball carrying arm of S15 and the ball making contact with the Player's chest so there was indirect contact either simultaneously or just before the head on head contact. He said that there was clearly direct head on head contact and not the situation where there is contact elsewhere and then that contact rises up onto the head or neck -his understanding of the HCP was that a high tackle that hit around the chest and then rides up towards the head or neck area was indirect contact. He saw in this situation direct head on head contact not that the head hit the shoulder first and then rose up with head contact. He saw the contact as simultaneous and didn't see the fend to be a mitigating circumstance in terms of mitigating the force through the tackle.

He was asked by the Chair about question three of the four questions to be considered in the HCP (What was the degree of danger?) where considerations include "Direct v Indirect contact". He confirmed that his understanding of "indirect contact" was that this meant that there was indirect contact first between the head and/or other body part of the player and another part of the victim player's body before that head and/or other body part makes contact with the victim player's head.

Mr Lang said that the Player was contending that the initial point of impact was S15's extended right forearm to the Player's head with the secondary point of contact being between their heads. The Referee said that he didn't concede that the point was that it didn't mitigate the force through the collision. He still felt that the head on head contact was a high degree of danger because of the other factors discussed , the speed of the players coming in and the majority of the collision occurs simultaneously with the head on head contact.

Mr Barnes didn't need the Referee to clarify anything now but wished to put forward the RFU's view on this. He said that in terms of the HCP and direct v indirect consideration as to degree of danger, this was not a tick box exercise in that it was not to determine whether there may have been some form of contact before the head contact but it was for the Panel to determine whether that, if there had been indirect contact (and the RFU agreed with the Referee as it would be looking at contact with the head so in this case there wasn't indirect contact) but if the Panel didn't agree with that and thought there was some form of indirect contact through the arm, then the RFU said it was for the Panel to assess the degree of danger that is reduced by that indirect contact and whether that takes it from a high level to a low level of danger. The RFU's view was very similar to the Referee in terms of the Panel assessing whether that contact had essentially reduced the danger or is inconsequential to the contact to the head.

The following report was received from Dr Imran Ahmed:

"To whom it may concern,

I wrote this report in my capacity as Sale sharks club doctor and the team doctor on duty Sunday 5th March in our fixture vs Saracens.

In the second half, I witnessed a collision between the Saracens player and our full back Joe Carpenter. I saw him immediately continue running, but when play stopped, it was brought to my attention that a head to head collision had taken place, by Mr Carpenter.

I reviewed the footage on Hawkeye and identified the collision was indeed head to head, but there was no evidence of a concussive event.

The therapy team reviewed the player and he was deemed fine with on field check, and the incident was reviewed with the match day doctor who was happy with all assessments.

The player will be kept under review, but at present there is no head injury to report."

#### VIDEO FOOTAGE

The lead up to the incident was best seen from the wide angle footage produced by the RFU which showed the Player's movements as described by him and the Referee in their written and oral evidence.

The actual contact was shown on the close up footage and was as described by the Player. There was initial contact between the ball carrying arm of S15 and the Player's chin which was simultaneous or just before contact between their two heads.

## Summary of Player's Evidence

Mr Lang provided written evidence and submissions on behalf of the Player (inter alia):

### "Players Evidence

3. I was at the back of an exit ruck. I am extending the ruck to provide a good platform for our scrum-half to exit from our half. As I am about to start chasing after the ball, I feel someone jump onto me which checks me slightly. This was the sale number 5 while trying to apply kick pressure to our Scrum-half. I am then a bit slow to get out of the blocks and I am likely to be the last person in the chase line. As I am one of the last defenders in the chase line and I see a line of Saracens defenders in front of me I am anticipating that the front line of defenders are going to make the tackle. I see Sale 15 catch the ball and start to run it back. My first thoughts were that Saracens 11 or Saracens 16 were going to make the tackle. However, I then see that Saracens 11 misses the first tackle. I then anticipate that Saracens 18 will make the tackle as he is in a good position to bring him down. I then think Sale 15 will land at my feet, and I will be the person to jackal over the ball. I continue to run forward to join the defensive line. I then see Sale 15 had stepped and handed off Saracens 18 at this point I realise I am now the person who will need to make the tackle. I am not in a good position to make the tackle as this player is approaching me quickly and I was anticipating making a jackal over the ball. In that split second, I anticipate that I will use my left shoulder to make the tackle. I immediately try and stop myself by planting my right foot into the ground. I felt I didn't have enough time to dip as all happened so fast. I then brace myself for the tackle and understand I am in the wrong for being too upright. I then see Sale 15 extend his right forearm away from his body which I react to, by moving my head away and up. I then feel contact first of Sale 15 forearm to my chin and feel majority of the force through my chest area on the arm of Sale 15 which is carrying the ball. I then fall backwards and try to grip onto Sale 15 as I fall backwards. At this point I was more annoyed I missed the tackle and didn't even realise our heads had collided until after I was given the red card and reviewed it after the match.

4. I want to make it clear that whilst I agree that I found myself in a bad position and was too upright when the tackle occurred, I had no intention of making head contact with Sale 15 as I am fully aware of the potential consequences.

### Submissions

5. Tom Foley in the Referee report states that it was direct head contact. We agree that there was head contact but that it was not direct head contact. The first point of contact was the extended forearm of Sale 15 hitting RH. Therefore, Saracens and RH submit that it was indirect contact.

6. As stated in the players evidence this player was not expecting to make this tackle as he had 3 players in front of him who he thought would make the tackle. He anticipates that Saracens 18 will eventually make the tackle and he will be the person to jackal over the ball.

7. This was not a dynamic tackle but a passive tackle. The video evidence shows RH plants his right foot to stop himself (0.47 in the footage). RH moves backwards after the collision and Sale 15 continues with his run.

8. This tackle was not a high degree of danger as previously submitted this was not direct contact but indirect contact as the first point of contact is with the forearm of Sale 15 with RH

9. Most of the force was through the chest of RH and the ball carrying arm of Sale 15. We submit that the collision of RH head and Sale 15 head was one of low force.

10. The Sale 15 received an on-field assessment, but it was deemed by the Sale medical team and the MDD that he was not injured and could continue with the game.

11. It is also unsure that the player required an on-field assessment due to the tackle of RH or the tackle of Billy Vunipola after Sale 15 continued with his run after breaking the tackle of RH."

He then stated in summary;

"The player accepts that there was head contact and that foul play occurred. We accept that the first 2 steps in the HCP were correct in application. We submit that the players actions were not of a high degree of danger as listed out above and that a yellow card would have been appropriate. The contact was not a direct contact but indirect contact. The tackle was of a low force to the head of Sale 15. RH was upright and passive in the tackle"

The Player then talked the Panel through the footage. He said he got checked by Johnny Hill he saw his winger and his sub hooker both of whom were good defenders in front of him and didn't expect S15 to get through. . His tight head was in a good position to tackle and thought he was going to "chop" him so the Player got ready to jackal the ball. S15 gets through that tackle as well so he stopped himself on his right foot but didn't have time to dip. S15 runs into him. The Player felt most of the impact went through his chest and he's annoyed he missed the tackle. He didn't realise there was head on head contact until the big screen replay. He explained again that he hadn't been expecting to make the tackle, stopped himself on his right foot but didn't dip.

He was asked about the positioning and movement of his right foot since this was of importance in the Referee's decision to red card him -passive action to active action. He disagreed with the Referee's conclusion in that he put his right foot out to stop him moving forward because he was running. If his foot had kept going he was running not expecting to make the tackle so he put his right foot out to slow himself down which if he hadn't done it he would probably have gone into S15 with a dominant shot but viewing this again he thought it was "a passive pretty poor tackle". He was unclear what he was looking at on the big screen as S15's elbow went into his chin first of all so he wasn't sure if it was S15 the MOs were looking at or him. He said he felt no contact with S15s head (he had a scrum cap on) but he did feel his chin get an elbow - most of the impact went through his chest "which took the wind out of it a bit". It was an understatement to say he was surprised to receive a red card.

There were no further questions of the Player and the Chair summarised the position as between the parties. The HCP asked four questions which the Referee, the RFU and the Player had all given their answers to:

1. Has head contact occurred? - All parties agreed that it had

2. Was there foul play? - All parties agreed that it had

3. What was the degree of danger? - The RFU submitted that there was direct contact which led to a high degree of danger whilst the Player submitted that there indirect contact on chest first before the head on head contact and that that should be classed as indirect contact a with a low degree of danger and low force.

4. Is there any mitigation? - The RFU and the Referee decided that there was none, that the Player was active and upright basing that on his right foot moving, with the Player submitting that there was mitigation in that although he was upright, his actions were passive.

The Chair said the Panel would adjourn to consider the facts and the law. Mr Lang asked if he could address the Panel and raised the issue of the Coleman judgment which had been presented as part of the Player's written submission. He considered that the mechanism of the offence in that case was similar to this incident. The panel in that hearing had stated that "head to head contact may not have occurred but if it did, it was secondary to the shoulder to the jaw contact and as such was indirect contact". He therefore submitted that as the first point of contact was the forearm (of S15) to the chin (of the Player), the secondary point of contact was the collision of the head and the chest with the ball carrying arm of S15 with the head at a relatively low force". He said that Referee tonight said he was aware of the primary contact with forearm of S15 and he still deemed that direct rather than indirect contact but he (Mr Lang) deemed that secondary indirect contact as in the findings of fact of the Coleman judgment.

## SUMMARY OF PLAYER'S EVIDENCE (CONT)

Mr Barnes was asked to comment on Mr Lang's statement. He said that with regards to the Coleman case in terms of the RFU, each case was judged on its own set of facts. This Panel did not hear the Coleman case and did not have that footage or have the ability to hear from the people in that case. It was a first instance hearing and carries no precedent for this Panel.

He also said that the Panel had the wide angle footage which should be considered when assessing the passive/dynamic nature of the tackle, in that it would show the Player's movements before the contact from a wider angle.

The Chair then mentioned that World Rugby(WR) had just produced an agreed decisions package for various types of offences under the HCP and asked that the parties be shown the first three clips. Due to technical difficulties, only clips 1 and 3 could be viewed by the parties.

The Chair asked Mr Barnes whether if we now had a set of agreed decisions from WR and the facts were similar if not identical then possibly the RFU should follow those cases. Mr Barnes said the RFU's view was that if the Panel wanted to use these to base a decision on then they had been distributed to all groups so far as he was aware or to all JOs and therefore the intention would be for them to be used. He would wish for the Panel to give these more weight than past RFU outcomes.

## FINDINGS OF FACT

1. S15 has fielded the ball from a box kick 5 metres inside his own half, the Player is behind the initial chase line having been part of the ruck 5 metres inside his own 10.
2. S15 spots a hole in the defensive line and attacks breaking the line, the Player is still advancing trying to get into the defensive line. S15 is half-caught by Saracens 18 but not slowed down. The Player is approx two metres from S15 and checks himself by his right leg moving forward and planting his right foot.
3. He bends his legs slightly but his hips are not bent. S15's right forearm makes contact with the Player's chin at which time or just after the Player makes direct contact with the left side of his head on the right side of S15's head.

**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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Having considered all of the evidence both oral and written, the Panel concluded that there was an act of Foul Play namely direct head on head contact. The Referee had then correctly and with considered clarity undertaken the HCP up to the point of the fourth question namely "Is there any mitigation?"

The Panel considered that the answer to this question should have been "Yes" in that it believed that the movement of the Player with his right leg was to stop his bodyweight rather than propelling himself in to the tackle. For that reason the Player's tackle was a passive tackle rather than an active one which should have led to a yellow card rather than a red card.

For this reason, the Panel concluded that the offence was worthy of a yellow card rather than a red card. It therefore rescinded the red card and in accordance with its powers under Regulation 19.11.4 determined that an on-field yellow card be recorded on the Player's disciplinary record.

**THE REST OF THIS FORM IS NECESSARILY BLANK**

## **SANCTIONING PROCESS**



**Assessment of Seriousness**

Assessment of intent - Ref 19.11.8

PLEASE TICK APPROPRIATE BOX	<input type="checkbox"/> 19.11.8(a) Intentional	<input type="checkbox"/> 19.11.8(b) Reckless	<input type="checkbox"/>
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Reasons for finding as to intent:

Nature of actions - Reg 19.11.8(c)

Existence of provocation - Reg 19.11.8(d)

Whether player retaliated - Reg 19.11.8(e)

Self-defence - Reg 19.11.8(f)

Effect on victim - Reg 19.11.8(g)

Effect on match - Reg 19.11.8(h)

Vulnerability of victim - Reg 19.11.8(i)

Level of participation/premeditation - Reg 19.11.8(j)

Conduct completed/attempted - Reg 19.11.8(k)

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

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:

Relevant Off-Field Mitigating 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)

Youth and/or inexperience of player - Reg 19.11.10(c)

Conduct prior to and at hearing - Reg 19.11.10(d)

**Remorse and timing of Remorse - Reg 19.11.10(e)**

**Other off-field mitigation - Reg 19.11.10(f)**

Number of weeks deducted:

**Summary of reason for number of weeks deducted:**

**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)**

**Need for deterrent to combat a pattern of offending - Reg 19.11.13(b)**

**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)**

Number of additional weeks:

Games for meaningful sanctions:

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	None	Sending off sufficient	
Sanction commences			
Sanctions concludes			
Free to play			
Final date to lodge appeal	16/03/2023		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	Nil		

Signature (JO or Chairman)	Charles Cuthbert	Date	13/03/2023
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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