

RFU SHORT JUDGMENT FORM



Match	Newcastle Falcons	Vs	Exeter Chiefs
Club's Level	1st XV - Level 1	Competition	Gallagher Premiership
Date of Match	20/02/2022	Match Venue	Kingston Park

Particulars of Offence			
Player's Surname	Richards	Date of Birth	11/07/1963
Forename(s)	Dean	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Newcastle Falcons	RFU ID No.	114550
Type of Offence	RFU Rule 5.12		
Law 9 Offence	Conduct Prejudicial to the interests of The Union & The Game		
Sanction	3 week suspension		

Hearing Details			
Hearing Date	23/02/2022	Hearing venue	Remote
Chairmen/SJO	Martin Picton	Panel Member 1	Gareth Graham
Panel Member 2	Phillip Davies	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:
Kingsley Hyland, Disciplinary Adviser for Newcastle Falcons	Angus Hetherington, Legal Counsel in Discipline for the RFU

List of documents/materials provided to player in advance of hearing:
Video recordings of post-match interview with press Transcripts of post match interviews England Rugby's Core Values statement 202-2021 Gallagher Premiership Rugby Values of the Game End of Season Review Letter dated 11/11/21 from RFU Referee Union Report on refereeing crisis written by Neil Sweeney RFU Regulation 19 sanctions table Bundle of previous RFU discipline cases Written Submissions on behalf of Dean Richards Written submissions on behalf of the RFU

Newcastle suffered a narrow loss at the end of a closely fought game having had to contend with going down to 14 players at a relatively early stage due to Callum Chick receiving a red card. Mr Richards took part in two post-match press interviews one of which, with BT Sport, was televised. The full text of that which Mr Richards had to say is annexed to this judgment but the passages upon which the hearing focused were:

(a) Comments to written media:

"...one of the issues we're having at the moment is we're trying to get to a really quick decision rather than the correct decision, and it becomes a yellow card rather than a red card. I would have accepted a yellow card, but you can't make such a critical decision in such a big game as this as quickly as that, and I think it's completely poor, really poor."

"I think there are times whereby the decisions need to be made correctly, and you need to take a bit of time to make those decisions, such as a red card or. At the moment they don't want to spend time on TMO decisions – they're asking for a very quick decision, and when you're playing with people's livelihoods and careers, you can't do that. I think they're just barking up the wrong tree. I've just spoken to Rob Baxter and he's said exactly the same thing. They just haven't got it right at the moment, and it's all about the speed of the decision rather than getting to the right decision."

"...you look at the scrum decision whereby he said Adam Brocklebank took it down, then walking back he said 'well you keep it up and there won't be a problem'. There's no way he could when their guy comes in and hits with a knee on the floor and then collapses. Everybody in the crowd's thinking 'where on earth did he come up with that decision?' . It's just some very strange decisions, and we're not happy about it. You get the bounce of the ball and the rub of the green occasionally going our way, but we're not getting it from those boys."

(b) BT Sport interview

"...we didn't get the rub of the green from the officials. Some of their, the boys are in the changing rooms saying some of the decisions are questionable, and some of the boys are actually a little bit more vocal than that. Adam Brocklebank gets penalised in a scrum when their tight-head goes to the floor quite clearly, and you just think 'what the hell's going on here?'. There's obviously a bit of favouritism in some way, shape or form, because, or they don't know what they're doing. The boys just don't know what's happening from one week to the next with the officiating sometimes. Really disappointing, so."

N/A

Summary of Player's Evidence

Written submissions on behalf of Mr Richards anticipated the RFU's position as being that some of the words used by the DofR should be assessed for the purposes of placing the offence within the correct sanction table as amounting to verbal abuse of a referee. Mr Hyland, therefore, began his written submissions stating:

"Dean accepts that he made some ill considered remarks in media interviews after the game. He accepts that in criticising the match officials in this public way shows disrespect for the authority of the match officials. He therefore pleads guilty to the charge on the basis of disrespect but denies that he was guilty of abuse."

He went on to state that "Dean denies that his remarks, when put in their proper context, constitute an attack on the integrity and such an attack was never his intention."

It was accepted that Mr Richards had been critical of the performance of the referee in three respects:

- i. The speed with which the red card decision was taken on the basis that insufficient regard was paid to the question of whether mitigation could be applied so as to reduce the sanction to a yellow card.
- ii. The decision making in respect of the scrums in general and one scrum in particular.
- iii. The circumstances in which penalties were awarded against Newcastle for 'throwing' players across the lineout."

The submissions accepted that: "...some of the comments made, in particular the use of the term 'favouritism', may be interpreted as casting doubt on the integrity of the match officials. He will seek to argue that this was not his intention and that when interpreted in the manner in which they were intended they raise a legitimate concern, albeit one which should not be aired publicly in this way."

The submissions recorded that Mr Richards: "...invites the Panel to the view that his remarks were ill-considered, clumsy and disrespectful of the officials. He did not use any abusive language and hopes to satisfy the Panel that he did not in any way intend to call into question the integrity of the officials."

It was also stated that: "Dean acknowledges that post match interviews are not an appropriate forum for criticising match officials he asks that the Panel accepts that the comments were borne out of an acute sense of frustration."

In his evidence to the Panel Mr Richards reviewed his playing career and managerial experience. He emphasised the importance of the game in question and how frustrated he felt at the conclusion of the match. He commented on what he thought was a lack of effectiveness in the system whereby there could be post-match feedback as to the refereeing performance but accepted that a press interview was not the appropriate forum to address that issue. He referred to his opinion of the referee as a person and was adamant that he had never intended to suggest that the referee lacked integrity. He stated that the point he was trying to get across was that there could be a degree of unconscious bias in a situation of an underdog team up against one that was expected to win. He accepted that in speaking as he did he had failed to give the 'favouritism' remark its proper context and acknowledged that taken out of context the word used was obviously wrong. He accepted that he should not have spoken as he had and he expressed regret for so doing. He stated that: "My choice of words was incredibly clumsy and came out wrong". He agreed that speaking as he did in the post-match interviews "does not do any good". He said he had tried to contact the referee to apologise and was fully intent upon doing so.

Findings of Fact

The words used by Mr Richards did fall foul of Regulation 5.12 as he accepted. Both individually but also collectively the comments made that are identified above were highly disrespectful of the referee concerned, carrying with it the potential to undermine the referee himself as well as the standing of referees in general. The remarks were made directly to a number of journalists from the national media and also live to camera and thus broadcast directly to the television audience. Mr Richards was speaking as the Director of Rugby of a well known Premiership side and as such he must have appreciated that the remarks he made were inevitably going to get significant traction in the media and thus with the public at large. Mr Richards did nothing to hide his frustration and anger but instead chose to vent to the public at large. Mr Richards knows there are appropriate channels through which clubs may ventilate any perceived issues with a refereeing performance in particular or refereeing in general. Being frustrated at a particular result, whilst it might explain, cannot justify him speaking as he did. Mr Richards is not entitled to grant himself the luxury of 'going off on one', however upset he may be, when by doing so he creates an obvious potential to undermine the core values of the game. As the written submissions on behalf of Mr Richards acknowledged: "The comments made by the Panel in its judgment in the Boyd case regarding the importance that is attached to the maintenance of respect for match officials resonate with Dean and he accepts that his comments offended against that important principle."

Decision

Breach admitted	<input checked="" type="checkbox"/>	Proven	<input type="checkbox"/>	Not Proven	<input type="checkbox"/>	Other Disposal (please state below)	<input type="checkbox"/>
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Sanction is at large. The RFU submitted that the words used by Mr Richards, in particular the reference to favouritism, should be assessed as amounting to "verbally abusing a match official" in terms of identifying the starting point in the sanctions table. As such the effect would be, on the basis that the RFU suggested that this was a low-end offence, to produce a starting point of 6 weeks/matches, to which allowance for mitigation might then be applied. On the RFU approach the least period of suspension would be one of 3 weeks/matches. Counsel for the RFU accepted that the judgment in the Geordan Murphy case (18/5/19) left open the question of whether words directed at someone not present could amount to verbal abuse of a match official. The judgment in the Steve Diamond case (16/11/17) did not identify whether the approach contended for by the RFU had in fact been adopted there, the case turning very much on its own particular facts.

On the facts of this case the Panel rejected the approach for which the RFU contended. As in the case of Geordan Murphy we do not suggest that verbal abuse of a match official cannot be found to have occurred where the words used have been transmitted via a third party, but we could see no basis upon which we should here adopt a approach different from that which was adopted in the cases of Harvey Bijlon and Chris Boyd. The sanction table for verbal abuse of a match official does appear to be directed towards circumstances where abuser and abused are in close proximity with one another but as in the Murphy case this is not a matter that we consider it necessary to decide. The distinction the RFU seek to draw between words that are disrespectful and ones that are abusive seems to us to be a distinction without much of a difference. The Panel here concluded that the better approach is to look at what was said and the context in which Mr Richards spoke and decide the level of disrespect on that basis, rather than trying to put the offence within the straightjacket of one sanction table as opposed to another. The sanction table that the Panel considered best lends itself to a case of this nature is the one designed to address disrespecting the authority of a match official. The task of the Panel is to choose an entry point within that which is reflective of the level of disrespect, which here was 'high'. That conclusion merits a top-end sanction of 6 weeks, which is the same as the RFU submitted by reference to the table for abuse of a match official but where they asserted it should be considered low-end.

The RFU submitted that only an immediate period of suspension could meet the justice of the case.

On behalf of Mr Richards the principal submission was that the words used should be designated 'disrespect' rather than 'abuse' but that it was for the Panel to then settle upon a just and proportionate sanction.

The comment made by Mr Richards has to be considered in the context of the need to maintain the core values of the game. It is worth quoting (as was done in the Boyd case) from the judgment in the Steve Diamond case heard in November 2017:

"Rugby's Core Values are not empty words or slogans which can be signed up to and then ignored. They are not to be treated as useful bolt-ons dreamt up by a marketing team. They are integral to the game and are what make the game special. Referees are vital to the sport. Without them there would be no games. They deserve respect and they must be respected."

Adopting some of the reasoning in the judgment of the Panel in the Boyd case no one involved in the game can be in any doubt about the importance that is attached to the maintenance of respect for referees and other officials. It is crucial that those at a senior level in the game set an example. Someone of the standing of Mr Richards choosing to criticise an official in the terms he adopted doesn't just impact upon that official as an individual but impacts on the game as a whole. If someone at Mr Richards' level thinks it acceptable to denigrate an official in particular but also refereeing at large then that is bound to encourage others to so behave. Any referee labelled as either showing favouritism or just not knowing what they are doing is going to feel denigrated in the eyes of the public and is going to find it harder to carry out the crucial function that the game needs our referees to fulfil. It was a hurtful remark, it was factually wrong (in particular by reference to the red card being subsequently upheld) and Mr Richards should not have spoken as he did. Whilst the comments were made in the immediate aftermath of a game about which Mr Richards felt strongly he is an experienced professional and he should have exercised an appropriate level of self-control. He should have learnt something from the Boyd judgment, the correctness of which he acknowledges, rather than apparently choosing to ignore it. What purpose could his remarks be intended to serve? The fact that they were made to a large number of journalists and on live TV meant that they were bound to be widely publicised. We concluded that the remarks themselves, and the audience to which they would inevitably be conveyed, merited a top-end penalty. Post-match interviews are an important part of the professional game and they both inform and entertain. They do not, however, legitimately provide a platform for attacks on referees, particularly where the words used are not well considered and are instead the ill-considered product of anger, emotion and frustration.

We concluded:

- (i) That it was appropriate, as has been done in many other cases, to take account of the entry points in the sanction table relevant to disrespecting a match official;
- (ii) That the case called for a top-end entry point by reason of (a) the serious and repeated disrespectful comments (b) the range of media addressed by Mr Richards (c) the inevitability of the very wide coverage his remarks would receive (d) Mr Richards' substantial experience at a very high level in the professional game such that he should have been able to avoid speaking as he did.

Accordingly, we concluded that the top-end entry point for disrespecting a match official i.e. a six match suspension (subject to potential reduction to reflect mitigation) was appropriate.

We were quite sure that any period of suspension should be immediate and not suspended, that approach being consistent with the importance attached to the core values of the game at all levels within rugby.

In addition to the period of suspension Mr Richards must present to the Playing and non-Playing members of the Club on the topic of the need for respect for Match Officials. He should undertake a second presentation to a school or local rugby club of his choice so as to get the same message out at a grass roots level. A recording of each presentation should be provided to the RFU. The choice of sanction upon which we have settled is dependent upon Mr Richards undertaking the presentations in a satisfactory manner. We have no doubt from Mr Richards' reaction when told of the proposed sanction that he will do so.

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8

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

Mr Richards chose to use the words that he did.

Nature of actions - Reg 19.11.8(c)

As above.

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)

There was no specific evidence as to any particular impact upon the referee in question but the victim is the game itself and the damage these sort of remarks can have on the standing of referees within the game and how those involved in the sport may behave toward them.

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 checked="" type="checkbox"/>	6

*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:

See above.

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)
Admission notified in advance of the hearing.	
Youth and/or inexperience of player - Reg 19.11.10(c)	Conduct prior to and at hearing - Reg 19.11.10(d)
N/A	The only issue addressed was the issue of whether the word 'abuse' should be attached to the words used. The submissions on behalf of Mr Richards were focussed and helpful.

Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)
We assessed the remorse to be genuine.	Mr Hyland stated that Mr Richards was an excellent DofR who is far removed from the somewhat abrasive demeanour he might at times appear to convey.

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:
The panel considered that Mr Richards was entitled to the maximum 50% available mitigation credit bearing in mind his acceptance of the charge, his remorse and his engagement with the Panel at the hearing.

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: 0

Games for meaningful sanctions:

Mr Richards will serve a 3 game suspension from all match day coaching duties (meaning he can only attend in the same capacity as a spectator), which will be served over the following games:-

26.02 v Bath Rugby
04.03 v Harlequins
12.03 v Saracens

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 matches	Sending off sufficient	
Sanction commences	22/02/2022		
Sanctions concludes	14/03/2022		
Free to play	15/03/2022		
Final date to lodge appeal	10/03/2022		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	M Picton	Date	24/02/2022
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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

Dean Richards post-match press conference with written media after Newcastle Falcons v Exeter Chiefs on Feb 20, 2022.

Q: Deano, they put a hell of a fight up for you didn't they, but what was your view of the sending off?

DR: Well, Josh Hodge clearly dropped his height, and you look at it, and one of the issues we're having at the moment is we're trying to get to a really quick decision rather than the correct decision, and it becomes a yellow card rather than a red card. I would have accepted a yellow card, but you can't make such a critical decision in such a big game as this as quickly as that, and I think it's completely poor, really poor.

Q: And he didn't go off for an HIA, did he?

DR: No, he ended the first half and then came off cos he was having a shocker.

Q: Are you seeing more of this Dean, is it becoming a concern to you that these sorts of decisions are being made? We saw one where it was just waved away.

DR: I think there are times whereby the decisions need to be made correctly, and you need to take a bit of time to make those decisions, such as a red card or. At the moment they don't want to spend time on TMO decisions – they're asking for a very quick decision, and when you're playing with people's livelihoods and careers, you can't do that. I think they're just barking up the wrong tree. I've just spoken to Rob Baxter and he's said exactly the same thing. They just haven't got it right at the moment, and it's all about the speed of the decision rather than getting to the right decision.

Q: Do you think that was the difference in the end?

DR: Well, we'd just scored, hadn't we, and then Callum got sent off at I think 7-0, wasn't it? And I think it did make a difference, because had we had 15 players on the field in the second half we may have been able to compete a little bit more in certain situations. You're one man down, we took Nathan [Earle] off and put Will Montgomery on, and you go with 8 men in the scrum or 7 men in the back line on a defensive scrum or line-out. It's just one of those things, it weakens you in one area or the other.

Q: You must want to pay tribute to the 14 who did remain?

DR: I thought all the boys played incredibly well on the day, up against Exeter, but I thought, you know, you look at the scrum decision whereby he said Adam Brocklebank took it down, then walking back he said 'well you keep it up and there won't be a problem'. There's no way he could when their guy comes in and hits with a knee on the floor and then collapses. Everybody in the crowd's thinking 'where on Earth did he come up with that decision?'. It's just some very strange decisions, and we're not happy about it. You get the bounce of the ball and the rub of the green occasionally going our way, but we're not getting it from those boys.

Q: You had a lot of young lads who really stood up today. As disappointing as the result is, you must take heart from that?

DR: We've got 17 boys from our academy today who are playing, and it showed in what they wanted from the game, and what they put into it. It means a lot to them, and 21 English players as well, a massive part of the team, which is homegrown and fighting for each other, and it showed. But you

want that little bit of assistance, and we didn't get it today.

Journalist: Thanks mate.

DR: Alright, cheers. [leaves]

Dean Richards post-match interview on BT Sport.

Q: You've had so many things thrown in your way to make life difficult for you. What do you take from that?

DR: A huge amount of heart from the boys, understanding how to play when you're down to 14 men, and then actually when you're at 15, you're winning the game, and we didn't get the rub of the green from the officials. Some of their, the boys are in the changing rooms saying some of the decisions are questionable, and some of the boys are actually a little bit more vocal than that. Adam Brocklebank gets penalised in a scrum when their tight-head goes to the floor quite clearly, and you just think 'what the hell's going on here?' . There's obviously a bit of favouritism in some way, shape or form, because, or they don't know what they're doing. The boys just don't know what's happening from one week to the next with the officiating sometimes. Really disappointing, so.

Q: On that point, what did you see from your position on high that got you so agitated with the officials?

DR: You look at the Callum Chick thing. Josh Hodge clearly drops his height, and it's not by a couple of inches, it's clearly six or eight inches. With that, it goes to a yellow card rather than a red card if he drops his height, and I think there was no looking at it twice. It was clearly 'that's what it is, OK we'll make the decision, red card, off he goes', and you've got to, in critical decisions like that, you've got to make sure you get it right. And they don't. At this moment in time they're trying to make a really quick decision, and I think they got it wrong. So.

Q: The penalty count was 14-5 against Falcons, so clearly you would question that penalty count. If we put that to one side, other areas where Newcastle were strong, you stayed in the fight right til the very end. Were there any problems of your own making, or is it, are you putting the problems firmly at the door of [stops talking].

DR: Of course you don't play for 80 minutes without making mistakes, and we'll look at those, but at the same time I thought our boys played really well on the day. When you're down to 14 men it does challenge you, the boys tire a little bit quicker than at other times, and we were just disappointed with the officiating on the day, and we'll look at it very closely. You get penalised for going across in the line-out, when it's never straight, and make them throw in straight and it wouldn't be a problem, would it? Just very, very disappointing.

Interviewer: Deano, as always, thank you.

DR: Alright, cheers. [leaves].