

RFU SHORT JUDGMENT FORM



Match	Worcester Warriors	Vs	Gloucester
Club's Level	1	Competition	Gallagher Premiership
Date of Match	15.08.2020	Match Venue	Worcester Warriors

Particulars of Offence			
Player's Surname	Nanai	Date of Birth	03.08.1993
Forename(s)	Melani	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Worcester Warriors	RFU ID No.	2486296
Type of Offence	Red card		
Law 9 Offence	9.16 - Dangerous charging		
Sanction	3 matches		

Hearing Details			
Hearing Date	18.08.2020	Hearing venue	Video
Chairmen/SJO	Ian Unsworth QC	Panel Member 1	Mitch Read
Panel Member 2	Tony Wheat	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:
Mark Hewitt, Worcester Warriors Team Manager	David Barnes, RFU Head of Discipline Angus Hetherington, RFU Legal Counsel

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

Hearing bundle comprising the following information:-

1. Charge sheet
2. Extract from Sanction table
3. Red card report
4. Decision making framework for high tackles
5. Gloucester Rugby injury report for Jonny May
6. Character reference from Mark Hewitt, Team Manager, Worcester Warriors

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

The Referee filed a report which confirmed that he did not have a clear view of the incident. Following an injury, there was a review of the incident. The report of the Referee was as follows:-

"Gloucester playing right to left in the opposition 22m. Gloucester 11 attacking with the ball runs into contact and stays down as ball moves away. I stop the game to avoid interfering with the injured player, allowing medics to come on the field to treat him. During this, the TMO initiated a formal review. On review WW15 led with the shoulder and made contact with the head of GR11. No mitigation applied as I deemed this a shoulder charge."

Video footage of the incident was made available to the Panel. This showed the incident from various angles and at varying speeds.

Gloucester Rugby's Head of Medical provided a medical report the contents of which were as follows:

"On the 15th of August 2020, Jonny May suffered the following injuries and was as a result permanently removed from the game. The injuries occurred when May was tackled by an opposition player at 17 minutes.

1. Confirmed concussion (Level 1 criteria indicating HIA which player subsequently failed and as a result was removed from the game)
2. Left sided Cervical facet joint sprain at C4 and C5 levels.

As a result of the above injuries the player will follow the graduated return to play process post concussion.

The player will have treatment and rehab to manage the Cervical facet joint injury, but I would envisage that he will make a full return to contact training on Thursday 20th August provided he successfully completes his GRTP."

Summary of Player's Evidence

The Player talked us through the video recording and explained to us matters from his viewpoint at the time. He asserted that: -

1. He did not intend to cause any harm to G11.
2. He had carried out a genuine attempt to tackle G11.
3. G11 had changed his line at a time when the Player had already committed to the tackle
4. G11 then dipped his head
5. The players had collided at a point when the Player was also unable to wrap his right arm due to the proximity of a teammate to his immediate right.
6. He accepted that this was reckless
7. He was truly remorseful for what had happened and had apologised to G11 immediately after the game, as well as on social media. He had further addressed his own teammates on Monday morning and apologised to them for his actions.

Findings of Fact

The RFU opened the case and indicated from the outset that they did not consider that there were any specific aggravating features. They did not demur from points generally made by and on behalf of the Player

We considered all the material, the evidence as summarised above and submissions.

1. This was a badly executed action which was borne out of poor technique.
2. G11 carried the ball at speed towards the Player and others.
3. The Player set himself up for a tackle.
4. The Player could reasonably have expected G11 to change his running line
5. The Player could reasonably have expected G11 to brace himself in anticipation of a tackle.
6. It was entirely reasonable that G11 would therefore dip and lose height. That ought to have been within the reasonable expectation of the Player.
7. G11 both changed his line and dipped.
8. The Player's right arm was behind his shoulder as a result of the premature timing of the moment of collision (caused by the actions at 7 above) and because there was a player to his immediate right causing his arm to be blocked and preventing it from wrapping around G11 as might have been expected.
9. The Player's right shoulder forcefully struck the advancing head of G11.

Conclusion in relation to the facts

In summary, we concluded that Melani Nanai carried out a dangerous and reckless act which caused Jonny May to fall to the ground and suffer a concussion. This was not a deliberate act and nor did Nanai intend to cause Jonny May to suffer in the way that he did. This incident and the consequences were borne out of poor technique: at the hearing, it was identified that the Player's balance, feet and body position were not as they ought to have been. Moreover, he ought to have anticipated that Jonny May would very likely change his running line and dip as he braced himself for the tackle.

It is a worrying feature of the Game that over the last decade concussion rates have increased: those being tackled have to be protected. Players at any level (let alone professionals) owe it to their fellow players to ensure that their technique does not increase the risk.

Decision

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

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:

This was borne out of poorly executed technique which failed to anticipate a change of running line and dipping action to brace for the tackle.

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

See our comments above

Nature of actions - Reg 19.11.8(d)

Poorly executed attempt at a tackle which resulted in the Player's right shoulder making direct and forceful contact with the head of his opponent.

Existence of provocation - Reg 19.11.8(e)

Not applicable

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)

See medical evidence above

Effect on match - Reg 19.11.8(i)

Player sent off at an early point of the match. No fracas or reaction from others. Player walked off in an uneventful way

Vulnerability of victim - Reg 19.11.8(j)

Most injuries to the head is likely to have resulted from the victim being in a relatively vulnerable position but here, the victim was no more vulnerable than any player about to be tackled

Level of participation/premeditation - Reg 19.11.8(k)

Not pre -meditated

Conduct completed/attempted - Reg 19.11.8(l)

Attempted tackle

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

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	<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:

The reckless nature of this matter together with other relevant matters persuaded us that this was properly a mid-range matter falling far short of the type of case that might fall into the upper bracket.

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)

The Player has a clean disciplinary record.

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

None identified.

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

No

Number of additional weeks: 0

Relevant Off-Field Mitgating 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 at the earliest opportunity.	The Player has a clean disciplinary record. He is of good character and is a credit to his club and local community - we had due regard to a glowing reference from Mr Hewitt.
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
Not applicable.	Exemplary
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
The Player apologised to his victim immediately after the game and gave a public apology via twitter the day after the match and in advance of the hearing.	

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:

The Player expressed his remorse immediately and made clear from the outset that he accepted both the nature the allegation and the red card that resulted. Given this and all other factors, he was entitled to the maximum allowance of 50% credit.

Games for meaningful sanctions:

If this case had been decided in times prior to the present COVID19 global pandemic, the effect of our decision would, in the normal course of events, be that the Player would not be allowed to play for 3 weeks. As is well known, the delayed resumption of the Premiership has been accompanied by a compressed fixture list which means that the Player falls to miss 4 matches (which fall within the next 3 weeks). This would be the equivalent of a 4 week suspension in normal times. That is plainly not our intention. In accordance with submissions made by the RFU, we direct that the Player is suspended from playing for 3 matches, namely, 21.08 v Wasps, 26.08 v Harlequins and 30.08 v Exeter Chiefs. If there is any change in the fixture list then the Panel may have to reconsider this to ensure the sanction remains a meaningful one.

The decision to apply this sanction in matches is not intended to create any precedent outwith the resumed 19/20 Premiership Season.

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	18.08.2020		
Sanctions concludes	31.08.2020		
Free to play	01.09.2020		
Final date to lodge appeal	20.08.2020		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Ian Unsworth QC	Date	19.08.2020
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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