

RUGBY FOOTBALL UNION
DISCIPLINARY PANEL
JUDGMENT

Club: Blackburn RFC
Panel: Matthew Weaver KC (Chairman), Meg Gardiner & James Pretsell
Secretary: Rebecca Morgan-Scott

HEARING

Date: 16th October 2023
Venue: By video
Attending: David Farley (Counsel for Blackburn RFC)
Ian Holcroft (Blackburn RFC)
Dino Radice (Blackburn RFC)
Denise Newman (Blackburn RFC)
Will Leney (RFU)
David Barnes (RFU)

SUMMARY OF DECISION

1. The Panel considered that the appropriate sanction was as follows:
 - a. An immediate 5-point deduction for the Club's first XV; and
 - b. A suspended 5-point deduction for the Club's first XV to be activated should the Club be found guilty of a further Regulation 7 breach in seasons 2023/2024 or 2024/2025.

2. The Panel also ordered the Club to pay £125 of costs.

PRELIMINARY MATTERS

3. The members of the Panel identified themselves. There were no objections to the composition of the Panel.

THE CHARGE

4. The Club was charged as follows:

Blackburn RFC failed to submit an accurate Declaration, in accordance with RFU Regulation 7.4.1, during the submission window commencing 1 March and closing 30 June in respect of any Gross Payments of Material Benefits paid or payable between 1 June 2022 and 31 May 2023 by or on behalf of Blackburn RFC (directly or indirectly) to any third party in respect of playing rugby union.

5. The Club admitted the Charge.

THE RELEVANT REGULATIONS

6. This hearing concerned regulation 7.4 of the RFU Regulations which reads as follows:

“Gross Payments” means all Material Benefits paid or payable to any third party in respect of playing rugby union (including any payments in respect of England Academy Players, Centre of Excellence players and Loan Players) plus all payments payable in respect of such Material Benefit which includes, by way of example, national insurance contributions, income tax and agents fees.

“Material Benefit” means money (including salaries, match fees, bonus fees etc), consideration, gifts or any other monetary or non-monetary benefits whatsoever contracted, promised or given to or by a person or any other individual, body corporate, partnership (or any other entity or body whether incorporated or not) at their direction in respect of such person’s participation in the Game.

The types of expenses that fall outside the definition of Material Benefit are more particularly set out below:

- (a) the provision of sporting facilities and reasonable provision and maintenance of club-owned sports equipment, personal protective equipment and club/club sponsor branded apparel (including training, playing and formal apparel);
- (b) the provision of suitably qualified coaches and the provision for reimbursement of the costs of coaching courses for those that coach at the club;
- (c) the provision of certain insurance cover and certain medical treatment related to injuries suffered whilst playing or training for the club and/or whilst undertaking club duties;
- (d) the reimbursement of necessary and reasonable out of pocket travel and/or subsistence expenses incurred by players, match officials, coaches, first aiders, club officials and accompanying individuals travelling to away matches and/or to locations other than the home club for the performance of club duties;
- (e) In respect of individuals who are amateur by virtue of being unpaid and nonsalaried, the reimbursement of necessary and reasonable out of pocket travel expenses incurred by players, match officials, coaches, first aiders, club officials and accompanying individuals travelling to home matches, training and/or to the home club for the performance of club duties;

Note:

If a player/player coach/other club individual is paid any travel expenses to any home match or training for any purpose in addition to another Material Benefit (such as a salary, match fee, pay-to-play fee etc), such payment of travel expenses will:

- be classified as a Material Benefit;
- will contribute towards the Payment Threshold set out in Regulation 7.2.6; and
- may give rise to a taxable benefit and subject to income tax legislation.

(f) reasonable provision of match and training refreshments for players and match officials; and

(g) The sale or supply of food or drink as a social benefit which arises incidentally from the sporting purposes of the club.

For the purposes of the above:

- 'Subsistence expenses' means food, drink and temporary overnight accommodation and further clarification can be found in the FAQs.
- 'Accompanying individuals' means someone who accompanies a person who has a disability for the purposes of the Equality Act 2010 and is a player or match official
- 'Reasonable out of pocket travel expenses' means mileage allowance based on the HMRC rates in force from time to time, and subject to prior agreement by the club treasurer, second class rail travel, internal UK economy flights and communal vehicle hire if considered the most economical mode of transport.

Further clarification can be found in the FAQs.

7.4.1 All clubs whose men's first XV team plays at: (a) National League Rugby to Counties 1 (formerly Level 3 to Level 7 (inclusive)); or (b) Counties 2 (formerly Level 8) and below who provide Material Benefits to players; and in each case who wish to be entitled to RFU Benefits, will be required to:

- (a) submit an annual Declaration every season;
- (b) during the submission window commencing 1 March and closing 30 June (or by other such date specified by the RFU);
- (c) in respect of any Gross Payments of Material Benefits paid or payable between 1 June of the previous year and 31 May of the current season;
- (d) by or on behalf of the club (directly or indirectly) to any third party in respect of playing rugby union.

7.4.2 If a club fails to submit an accurate declaration in accordance with 7.4.1 above, or is paying above the Payment Thresholds set out above, the club will no longer be eligible for the RFU Benefits in respect of the entirety of the following season. For the avoidance of doubt, non-submission of a Declaration or clubs accurately declaring to be paying over the Payment Threshold will not constitute of breach of regulations.

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7.4.7 If any party (including any club or person) is alleged or suspected to be in breach of these Regulations (whether as a result of a single breach or persistent breaches, failure to cooperate or providing false or inaccurate information or declaration or such other breach), such action would be considered as a breach of Regulations and dealt with pursuant to Regulation 19.

7.4.8 Any breach, allegation or suspicion of a breach, and such other disciplinary matter arising in relation to this Regulation 7 shall be referred to the RFU Head of Discipline. If the RFU Head of Discipline decides that there is a case to answer and that a charge should be brought against any party, the matter will be dealt with in accordance with RFU Regulation 19. Subject to any right of appeal, the RFU Disciplinary Panel will be entitled to impose such sanctions and penalties against any such party as it deems necessary in respect of any breach of these Regulations.

7.4.9 In event that any party (including club or person) is found to have breached these Regulations in any way (including the provision of an inaccurate Declaration or information, non-cooperation with the Regulations or such other reason), the RFU has the power to claw back and/or withhold further funding and RFU Benefits. Any failure by any party to pay back any misappropriated RFU Benefits constitutes a regulatory breach of these Regulations.

THE FACTS

7. The relevant facts concerning the Charge were not in issue. The Club submitted a declaration on 21st June 2023, showing gross payments of material benefits for the period 1st June 2022 to 31st May 2023 in the sum of £49,120. The threshold for a club playing at the same level as the Club is £50,000.
8. The RFU contacted the Club on 26th July 2023 to seek further information in respect of its declaration. The Club provided documentation on 13th August 2023.
9. On 21st August 2023, the RFU contacted the Club and queried deductions made from the figure for gross payments for material benefits which were for pre-season and friendly matches and for colts or camp coaching. The Club responded on the same day stating that:

The Rugby Management team have interpreted Regulation 7 to be wages in respect of playing for the league and therefore any pre-season or payment for playing cup games, would be excluded from the calculation. This is also the approach taken in relation to the payment of coaching wages. This has no impact on playing rugby and therefore would not expect this to be included in the calculation towards the cap.

THE CLUB'S SUBMISSIONS

10. The Club provided written submissions and supplemented those submissions orally at the hearing.
11. The Club submitted that the figure it ought to have entered into its declaration was £55,850.93. It has never had any disciplinary issues previously and, indeed, was subject to a spot check in respect of its previous declaration which raised no issues.
12. The Club is not dependent on RFU assistance and is not a "wealthy" club. This was a simple error brought about by the fact that the Club had never previously had to pay players for pre-season games or cup matches and so had not had to address what was meant by "material benefits". When it did have to address this point, it got it wrong. There was no intention to deceive and no attempt to obtain benefits to which it was not entitled.
13. The Club asked the Panel to consider not imposing an immediate sanction.

THE RFU'S SUBMISSIONS

14. The RFU provided written submissions and made oral submissions at the hearing.
15. The RFU acknowledged that there was no dishonesty in this case. They only differed on what ought to have been the correct figure by £840. The RFU relied on the two previous decisions on breaches of Regulation 7¹ to identify the appropriate sanction here. The RFU accepted that this case was less serious than the previous two decisions and, as such, suggested a starting point of a 10-point deduction for the Club's first XV.

CONCLUSIONS &

DECISION OF THE PANEL

16. The Panel accepted without reservation that the Club's error was precisely that, an error based on a genuine belief that the deductions it made on the declaration were proper and that the declaration was, therefore, accurate. There was no attempt to mislead the RFU or to obtain benefits to which the Club was not entitled.

¹ *RFU v Rams RFC*, 12th February 2020 & *RFU v Plymouth Albion RFC*, 30th April 2020

17. Having regard to the above and to the previous two decisions for breach of Regulation 7, the Panel concluded that the appropriate sanction was an immediate 5-point deduction from the Club's first XV and a further 5 point deduction suspended until the end of season 2024/2025, such deduction to be activated should the Club be found guilty of a further breach of Regulation 7 in season 2023/2024 or 2024/2025.
18. An immediate sanction was considered appropriate in order for there to be an immediate sanction for the breach of Regulation 7 and as a deterrent to other clubs to reinforce the need to take care when submitting declarations. The Panel also took into account that pursuant to regulation 7.4.2, due to this breach the Club would be ineligible for RFU benefits for the following season.

COSTS

19. The Panel determined that it was appropriate to order the Club to pay costs of £125.

RIGHT OF APPEAL

20. The Club has the right to appeal this decision pursuant to regulation 19.12.1, such appeal to be lodged with the RFU Head of Disciplinary by no later than 14 days from the date when this judgment is sent to the Club.

Matthew Weaver KC
Chairman
16th October 2023