

RFU SHORT JUDGMENT FORM

Match	Exeter Chiefs	Vs	London Irish
Club's Level	1	Competition	Gallagher Premiership
Date of Match	13 February 2021	Match Venue	Sandy Park

Particulars of Offence			
Player's Surname	Matu'u	Date of Birth	30 April 1987
Forename(s)	Motu	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	London Irish	RFU ID No.	2069968
Type of Offence	Dangerous Tackle		
Law 9 Offence	9.13		
Sanction	6 Weeks		

Hearing Details			
Hearing Date	16 February 2021	Hearing venue	Zoom
Chairmen/SJO	Mike Hamlin	Panel Member 1	Matthew O'Grady
Panel Member 2	Mitchell Read	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:
Declan Kidney (DOR) Alex James (Team Manager)	David Barnes (RFU Head of Discipline) Angus Hetherington (RFU Legal Counsel) Bobby Graham (RFU Panel Member)

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

1. Composite footage
2. Charge sheet
3. Referee's report dated 14 February 2021
4. World Rugby decision making framework for high tackles
5. Appendix 2, RFU Regulation 19 (sanctions table)
6. Email (Alex James to Angus Hetherington) dated 15 February 2021 admitting charge
7. Email chain from Exeter Chiefs to Panel Secretary on condition of Ian Whitten
8. Composite clips of high tackles prepared by World Rugby (submitted by London Irish)

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

The relevant part of the referee's report reads:

"The incident was (sic) took place in the Exeter 22 just to right of the center (sic). L16 made a dominant tackle in an upright position which resulted in a head on head contact. This contact was direct with force and I found no mitigation. E23 was removed for concussion and didn't return. The game was stopped due to injury. The incident was then reviewed via TMO and red card issued."

Email Jamie Fulton (Exeter Chiefs' Lead Physiotherapist), 16.02.21 at 11:50:

"[Ian Whitten's condition] will be subject to GRTP progressions, however at this stage he has no symptoms."

Email Jamie Fulton, 16.02.21 at 11:35:

"During this weekend's game (London Irish) [Ian Whitten] received a direct blow to his jaw/head. This was deemed an incident resulting in loss of consciousness. As a result an immediate removal from play was called. [Ian Whitten] was reviewed this morning by the medical team and placed on the Graduated Return To Play protocol (GRTP). [Ian Whitten] also reported hip pain as a result of falling following the collision. This has resulted in reduced [range of movement] and an impingement capsular pattern."

The Panel viewed the available video footage in detail before the hearing and again during the hearing.

Mr Kidney and Mr James told the Panel that the Player's actions were not deliberate. They disputed the commentary given by the referee whilst he reviewed the TMO footage that the Player was "always high". They submitted that there was a drop in height by both the Player and Mr Whitten and were unwilling to concede on the Player's behalf that he was in an upright position throughout the incident. They said that Mr Whitten stepped back in and changed directions when he was immediately in front of the Player. As that happened, Mr Whitten dropped his right knee and feinted to his right. They suggested that the Player dropped his knee into a bend. They accepted there was then a clash of heads, but that it was a matter of millimeters that resulted in that contact.

We were told that since RWC 2019 when the player was sent off for a similar offence the Player has been working on his tackling technique. Referring to the clips prepared by World Rugby, it was suggested to the Panel that this incident bore similarity with a number of those shown and they suggested an offence of lower seriousness in this case.

Summary of Player's Evidence

The Player gave an impressive and candid account to the Panel. He was forthcoming in his answers.

The Player started by saying that he was sorry for what he had done to Mr Whitten. He had gone up to Mr Whitten on the pitch and found him after the match to reiterate his apology. He wished Mr Whitten a speedy recovery. The Player said he had no intention to hurt Mr Whitten or make contact with his head.

Turning to his actions at the time, the Player told the Panel that he was folding around the corner and drifting leftwards. He said Exeter had numbers on his left and as they were attacking Exeter were drifting to their right. We were told by the Player that as he drifted he had Mr Whitten and two other players outside him drifting laterally. The Player said he had Mr Whitten in his defensive channel and he had a good sight of Mr Whitten with the two other attackers on the outside.

The Player said that at the last moment Mr Whitten stepped in and that was when he knew he had to make an upright tackle. The Player said that he took Mr Whitten's force, tried to wrap his arms and go with Mr Whitten's momentum. The Player said he did not realise there was a head-on-head clash at the time.

As a result of his two red cards in the last 15 months since RWC 2019 the Player has been working "week in, week out" to improve this aspect of his tackling technique. His focus has been keeping his head up and maintaining eye contact. The Player accepted that on this occasion Mr Whitten's change of direction had left him (the Player) in a vulnerable position.

The Player agreed he had over chased in defending his channel, that he did not want to be beaten on the outside and that the only thing he could then do was execute a chest/dominant tackle.

Findings of Fact

Having considered all the evidence carefully, the Panel made the following findings of fact on the balance of probabilities:

1. Mr Whitten was in possession of the ball. The attack was drifting right.
2. The Player had folded around the breakdown and was drifting to his left.
3. Mr Whitten feinted to his right when he was approximately 2m in front of the Player . He moved a further step forwards and stepped off of his right foot.
4. The Player had a clear line of sight of Mr Whitten.
5. The Player was in motion up until Mr Whitten stepped off his right foot.
6. As Mr Whitten stepped off his right foot the Player stepped off his left foot.
7. The Player raised his arms to grasp/wrap Mr Whitten.
8. What drop in height there was by both players was very modest and entirely consistent with the predictable actions of an attacking player approaching a tackle.
9. The Player remained in an upright position.
10. The heads of the two players contacted with force.
11. Mr Whitten was rendered unconscious by the collision and had to be removed from further participating in the game.
12. The Player was reckless in not sufficiently lowering the height of his tackle. The actions were foul play and meet the Red Card test.

Decision

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

At the start of the hearing the Player admitted that his actions amounted to foul play and justified a Red Card. The only issue for the Panel to decide was the sanction to be imposed for the foul play.

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 Player got his tackling technique wrong. He did not intend to collide with Mr Whitten's head, but he was reckless in how he executed his tackle (being in an upright position and overchasing) that such contact would take place.

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

Foul play to the head, especially dangerous tackles involving speed and force, are inherently dangerous. The Player did not intend to commit the foul play.

Nature of actions - Reg 19.11.8(d)

A reckless tackle that resulted in a head-on-head collision.

Existence of provocation - Reg 19.11.8(e)

Not relevant.

Whether player retaliated - Reg 19.11.8(f)

Not relevant.

Self-defence - Reg 19.11.8(g)

Not relevant.

Effect on victim - Reg 19.11.8(h)

Mr Whitten was rendered unconscious. He could not resume playing and is currently on the GRTP protocol for suspected concussion. There was no evidence before the Panel that Mr Whitten is unable to play his next fixture. He is currently asymptomatic. The Panel concluded that the ambiguity on Mr Whitten's prognosis had to be resolved in the Player's favour.

Effect on match - Reg 19.11.8(i)

The match had to be stopped whilst the Player was treated.

Vulnerability of victim - Reg 19.11.8(j)

Contact with a vulnerable part of the body, but not otherwise vulnerable. Mr Whitten was going into contact and will have expected to be tackled.

Level of participation/premeditation - Reg 19.11.8(k)

Not relevant.

Conduct completed/attempted - Reg 19.11.8(l)

Completed.

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

No other features.

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 weeks	<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 Panel found this a difficult and finely balanced exercise. On the one hand Mr Whitten was rendered unconscious and removed from the game. Those facts speak to a serious incident and there is an ongoing requirement to treat foul play to the head seriously because of its implications for player welfare. However, sat against those considerations are the facts that the Player's actions were reckless, rather than deliberate (and sat at the lower end of recklessness given the facts we have found), and there is no evidence Mr Whitten is suffering any ongoing difficulties or will be unable to resume playing his next fixture. On balance the Panel concluded that the foul play justified Mid-range Entry point of 6 weeks.

Note World Rugby mandatory minimum Mid-range entry point for foul play to the head precludes any consideration of Low-end Entry.

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)

Samoa v Russia (24.09.19, RWC 2019) - dangerous tackle - 3 weeks
Worcester Warriors v London Irish (28.12.19) - dangerous tackle - 5 weeks

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

Not relevant.

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

Not relevant.

Number of additional weeks: 2 weeks

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)
Admission of the charge at the earliest opportunity.	The Player's disciplinary record for this type of foul play is poor.
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
An experienced player, who has attended two RWCs and has multiple caps for his country.	Consistent with the standards expected of a professional player.
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
Immediate remorse on the field followed by finding the player after the game and reiterating his apology at this hearing.	The Player is a Community Ambassador for his club. He worked with the NHS in preparing and delivering meals during lockdowns in 2020 when rugby was postponed.

Number of weeks deducted: 2 weeks

Summary of reason for number of weeks deducted:

The Player admitted his actions as soon as possible, which meant there was no dispute over the facts, and he was genuinely remorseful for his actions and the impact they had on Mr Whitten.

Games for meaningful sanctions:

Bristol Bears (21.02.21)
Wasps (27.02.21)
Leicester Tigers (05.03.21)
Worcester Warriors (14.03.21)
Sale Sharks (21.03.21)
Bath Rugby (27.03.21)

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	6 weeks	Sending off sufficient	
Sanction commences	14 February 2021		
Sanctions concludes	28 March 2021		
Free to play	29 March 2021		
Final date to lodge appeal	18 February 2021		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Mike Hamlin	Date	17 February 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