

RFU SHORT JUDGMENT FORM



Match	Gloucester Rugby	Vs	Sale Sharks
Club's Level	1	Competition	Gallagher Premiership
Date of Match	2 January 2021	Match Venue	Kingsholm, Gloucester

Particulars of Offence			
Player's Surname	Du Preez	Date of Birth	5 August 1995
Forename(s)	Daniel	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Sale Sharks	RFU ID No.	
Type of Offence	Reckless or Dangerous Play		
Law 9 Offence	Law 9.11		
Sanction	3 weeks		

Hearing Details			
Hearing Date	6 January 2021	Hearing venue	By video
Chairmen/SJO	Gareth Graham	Panel Member 1	Martyn Wood
Panel Member 2	Guy Lovgreen	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:
Hugh Jenner (Sale Sharks)	Scott Needham (Sale Sharks) Angus Hetherington (RFU) David Barnes (RFU)

List of documents/materials provided to player in advance of hearing:
- Charge Sheet - Report from the Citing Commissioner (John Byett) - Medical Report from Gloucester Rugby

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

The Player had been charged with an offence of striking with the shoulder, contrary to Law 9.12. The particulars of offence were that in the match between Sale Sharks and Gloucester Rugby on 2 January 2021 “as the Gloucester 13 is sitting on the ground, drove in and made contact with his right shoulder to the back of the neck of the Gloucester 13. The incident occurred in the second half of the match.”

The Player was also charged in the alternative with an act of reckless or dangerous play, contrary to Law 9.11. The particulars of the offence were that in the match the Player “committed an act of foul play that was reckless or dangerous. The incident occurred in the second half of the match.”

In advance of the hearing, the Player accepted the alternative charge contrary to Law 9.11.

At the outset of the hearing, there was a discussion as to the basis upon which the Player accepted the charge. It was said on his behalf that the Player accepted he had committed a reckless act of foul play that passed the red card threshold. The Player did not accept that he had struck the Gloucester Player with his shoulder as he was attempting to carry out a legitimate tackle and was wrapping his right arm correctly. The Player did not accept that he had made contact to the Gloucester Player's head or neck.

The Report from the Citing Commissioner, John Byett, stated as follows:-

“From a chip ahead by Sale in the midfield, the ball is caught by Gloucester No 13 Chris Harris. He is tackled by Sale No 21 who wrestles Harris to the ground. As the Gloucester player is sitting on the ground, Sale No 8 Daniel Du Preez drives in and makes contact initially with his right shoulder to the back of the neck of Harris. The Sale No 8's right arm makes a wrap of Harris only after initial contact as shown again at Play Clock 72:58 and 75:05 when Harris was withdrawn. Using the Decision making framework, the shoulder charge was to the Head/Neck. The degree of danger was high. There are no clear and obvious mitigation factors. The Gloucester player was sitting on the ground when contact is made. As a result, I am citing the Sale player Daniel Du Preez under law 9.12.”

The Panel was provided with video footage of the incident which it viewed in slow motion and at full speed.

Essential Elements of Other Evidence (e.g. medical reports)

The Panel was provided with medical evidence which noted that the Gloucester Player was removed from play for a HIA 1 assessment on request of the independent match day doctor. The Gloucester Player failed both his HIA 1 and HIA 2 assessments.

After an assessment by the Gloucester Club Doctor, the Player was deemed not to have suffered from a concussive injury and has returned to full training and will be available for selection for the Club's next fixture.

Summary of Player's Evidence

The Panel heard brief live evidence from Mr Du Preez.

The Player said that he saw his teammate holding up the Gloucester Player and came in to finish off the tackle. As he did so, he saw the Gloucester Player go to ground. By that time, he was already engaged in the tackle.

The Player stated that he attempted to drop his height and made contact with the Gloucester Player's upper back / shoulder area. He wrapped his right arm and carried out a tackle.

Mr Du Preez added that he had contacted the Gloucester Player by social media to apologise for his conduct.

On behalf of the Player, it was said that the contact was not to the head and/or neck. The fact that the Gloucester Player failed the HIA assessment could not necessarily be attributed to any contact to the head or neck. The Player wrapped his arm and attempted to carry out a legitimate tackle. It was accepted that this was a reckless tackle that was dangerous, but that the incident took place at speed and that the Player did not have much time to change his height.

The Panel was reminded that the medical evidence demonstrated the Gloucester Player was not concussed.

Findings of Fact

The Panel reminded itself that this was a citing and that it was for the RFU to prove the charge on the balance of probabilities.

The Panel noted that it had heard live evidence from Mr Du Preez and that it had not received any evidence (documentary or live) from the Gloucester Player.

The Panel made the following brief findings of fact, on the balance of probabilities:-

1. The Player approached the Gloucester Player, who was being held up in a tackle.
2. The Gloucester Player had his back turned towards the Player and was in a highly vulnerable position. The Gloucester Player started falling towards the ground as Mr Du Preez approached.
3. The Player attempted to make a legitimate tackle and wrapped his right arm around the waist of the Gloucester Player. At the time of contact, the Gloucester Player was very low to the ground. His left knee was already on the ground, with his back upright (perpendicular to the floor).
4. The Panel noted that Mr Du Preez had based his account of the point of contact on the video footage. The Panel also noted that it had not heard evidence from the Gloucester Player as to the point of contact. On reviewing the footage a number of times, both at full speed and in slow motion, the Panel could not determine with clarity as to where the point of contact was.
5. On that basis, the Panel was not in a position to find, on the balance of probabilities, that there was contact to the Gloucester Player's head and/or neck.
6. However, regardless of the precise point of contact, the tackle was forceful and highly dangerous, and carried a significant risk of injury to the Gloucester Player.

Decision

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

The Player admitted that he had committed an act of foul play contrary to Law 9.11, in that this was a reckless act of foul play that passed the red card threshold.

In light of the Player's admission, the Panel had no hesitation in finding the alternative charge, contrary to Law 9.11, proven.

As set out above, the Panel did not make a finding as to the precise point of contact. The Panel noted that the RFU had not proven on the balance of probabilities that there was contact to the head and/or neck of the Gloucester Player.

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 Panel accepted the Player's evidence that he had attempted to carry out a legitimate tackle and that this was a reckless act of foul play.

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

The Player made forceful contact to the Gloucester Player when he was in a highly vulnerable position. As set out above, this was a highly dangerous act of foul play, and carried a significant risk of injury to the Gloucester Player.

Nature of actions - Reg 19.11.8(d)

As described above.

Existence of provocation - Reg 19.11.8(e)

There was none.

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)

The Gloucester Player failed the HIA assessment; he has subsequently been found not to be concussed and is available for selection for the upcoming fixture.

Effect on match - Reg 19.11.8(i)

There was none.

Vulnerability of victim - Reg 19.11.8(j)

The Gloucester Player was in a highly vulnerable position.

Level of participation/premeditation - Reg 19.11.8(k)

There was no premeditation.

Conduct completed/attempted - Reg 19.11.8(l)

The conduct was completed.

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

Not applicable.

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:

This was a reckless act of foul play where the Gloucester Player was in a highly vulnerable position; there was a significant risk of injury.

The Panel did not find that there was contact to the head and/or neck such that the offence carries the mandatory mid-range entry point. However, weighing up all the circumstances of the case, the Panel concluded that such was the dangerous nature of this incident that a mid-range entry point was appropriate.

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)

Not applicable.

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

Not applicable.

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

Not applicable.

Number of additional weeks: 0

Relevant Off-Field Mitigating 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 good disciplinary record.
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
The Player is highly experienced and has played at a high level, including Super Rugby.	Exemplary.
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
The Player expressed remorse and had sent a message to the Gloucester Player after the match to apologise for his actions.	There is none.

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:

The Player had accepted the charge at the earliest opportunity and has a good disciplinary record.

In all the circumstances, the Panel had no hesitation in finding that the Player ought to receive the maximum reduction of 50% by way of mitigation.

Games for meaningful sanctions:

The following matches are to be taken into account by way of meaningful sanctions:

1. v Worcester (8 January 2021)
2. v Edinburgh (16 January 2021)
3. v Toulon (22 January 2021).

The Panel noted that in the event any of these fixtures do not take place, the matches taken into account for the purposes of the sanction may have to be revisited.

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 weeks	Sending off sufficient	N/a
Sanction commences	5 January 2021		
Sanctions concludes	25 January 2021		
Free to play	26 January 2021		
Final date to lodge appeal	08 January 2021		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	<i>E J Graham</i>	Date	7 January 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