

RFU SHORT JUDGMENT FORM



Match	Bath Rugby	Vs	Wasps
Club's Level	1	Competition	Gallagher Premiership
Date of Match	30/10/2021	Match Venue	Recreation Ground

Particulars of Offence			
Player's Surname	WILLIAMS	Date of Birth	4/11/1991
Forename(s)	Michael	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Bath Rugby	RFU ID No.	1587585
Type of Offence	Red card		
Law 9 Offence	9.20(b) - Dangerous Play In A Ruck Or Maul		
Sanction	4 weeks suspension		

Hearing Details			
Hearing Date	02/11/21	Hearing venue	Remote
Chairmen/SJO	Jeremy Summers	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:
Richard Smith QC Sophie Bennett, Bath Rugby	Angus Hetherington, RFU David Barnes, RFU (observing) Matthew Barnes, counsel (observing)

List of documents/materials provided to player in advance of hearing:
Charge sheet Red card report World Rugby Head Contact Process (HCP) March 2021 RFU Regulation 19 Appendix 2 Medical report from Wasps dated 1 November 2021 Match footage

The Referee's report recorded the incident as follows:

"I stopped play as I observed Wasps 12 down on the pitch with what I believed to be a serious head injury. Due to the lengthy stop my TMO informed me that I needed to review the incident as he believed the head injury was as a result of foul play.

Once the incident was on the screen we observed the following:

- 1) Head / neck contact had occurred on Wasps 12 as a result of the clearout by Bath 5;
- 2) We deemed it as foul play as the incident was avoidable and Bath 5 had a clear line of sight;
- 3) the contact was direct to the neck/chin with significant force as Bath 5 arrived from distance;
- 4) we didn't see any mitigation and as a result sent Bath 5 off."

The incident occurred in the 47th minute (2nd half) of the match at which juncture the score was 10-13 and was drawn to the Referee's attention by the TMO.

The Referee further noted:

"Wasps 12 required lengthy urgent medical attention on field and played no further part in the match. He left the match on a stretcher."

Whilst it was common ground that the Referee had only been able to access one television angle, taken from the left hand side of the ground towards the corner flag, the Panel was able to consider the incident from three further angles that had not been seen by the Referee.

The footage showed Bath attacking just beyond the Wasps 10m line within the 15m channel on their left hand side of the pitch.

The Bath ball carrier is tackled and taken to ground by W12. W12 immediately gets back on his feet and forms a jackal over the ball carrier competing for possession remaining on his feet as he does so. B11 legally joins the breakdown and is seen competing with W12 for the ball, which is on the ground. As they do so, B5 attacks from the right hand side of the breakdown running in at pace from a distance of about 5m.

B5's left arm goes over the back of B11. His right arm appears to connect with force to the left hand side of W12's face before sliding down onto W12's chest with his forearm hooking up towards W12's neck and/or chin of W12.

The force of the impact knocks W12 backwards onto the ground, where he appears to lie prone and unconscious. W12 receives immediate on-field medical attention and the Referee stops the clock.

W12 is treated for a number of minutes and is given oxygen.

A report from Ali James, Head of Medical Services at Wasps stated:

"The player was attended to on the field of play following a collision whilst in a ruck. The initial assessment was that the player was unconscious. He gradually regained consciousness and orientation to support his extrication. Due to some dizziness on rising he was extricated in a basket stretcher and then observed by the paramedics for a period of 30 minutes.

The nature of the player's immediate and permanent removal due to being rendered unconscious means that he has a confirmed concussion.

The player will be reviewed by the club Doctor and a concussion specialist to inform his progress through a GRTP. At this stage he is unable to commence this as he remains symptomatic, his return to playing will need to be signed off by Professor Belli, a World Rugby approved concussion specialist, due to this being his second concussion within a 3-month period."

The Referee was available to give evidence but was not called by the Player or the RFU.

The Panel had the benefit of receiving helpful written submissions from the parties, which it carefully considered together with the oral evidence and submissions.

During the course of the hearing, on behalf of the RFU Mr Hetherington took the Panel to the footage at 0:22; 0:34; 1:16 and 2:08, which in his submission showed that the Player had made contact with W12's head.

The RFU recognised what the Player was trying to do, but he had been technically imperfect in a situation that only had a small margin for error.

The Panel should not be guided by the injury to W12, but there was sufficient evidence available from the footage to be satisfied, to the standard required, that there had been contact with the head and/or neck of W12.

This amounted to foul play contrary to Law 9.20 (b). The Player had been at fault, had a clear line of sight and the contact could not be regarded as being accidental.

Applying the HCP, there had been a high degree of force and a high degree of danger. In the submission of the RFU, there was insufficient mitigation to have enabled the red card that was issued to have been reduced to a yellow card. Whilst it accepted that W12 had moved upwards and to his left, that change in his position had not been so material as to have altered the dynamics of the situation such as to have rendered the decision to issue the red card wrong.

If the Panel was against him on that, he agreed that the HCP needed to be followed and conceded that there had been a high degree of danger involved. However, there were mitigating factors present as prescribed by the HCP that enabled the red card to be reduced to yellow. In particular he referred to 0.33 on the tape, which showed that, a split second before contact, B11 had lifted W12, which resulted in W12 both rising and moving to his left. This had changed the dynamic of the situation and the Player had not seen that change. He questioned whether there would have been the contact that had arisen without that change in dynamic having occurred.

Summary of Player's Evidence

The Player gave evidence. He described how possession had been lost during Bath attack and how he had to realign his position in an effort to recover the ball. He had a clear line of sight and a target of where he needed to make contact. He had seen W12 very low over the ball. His right bicep had made contact with W12's left shoulder and he had then hooked his right arm under W12's chest to push him back over the ruck as he had been coached to do.

He had a very small space to effect that action but was confident he had done so successfully. He was clear that his bicep had contacted with W12's shoulder because he had noticed a "corker" on his bicep that had resulted from the incident. He did not feel that he had come into contact with W12's head or neck at any time and he had not grasped W12 in a headlock. He had effected a very dominant clear out and W12 had gone straight backwards. At no point had he acted illegally and he had attempted to wrap.

With the assistance of Mr Smith, he took the Panel to the footage at 01:02; 01:16; 01:53; 01:59 and 02:08, which he felt showed that contact had been bicep to shoulder and not bicep to head.

He had not been conscious at the time of W12 changing his position shortly before contact, but felt that had he not done so he would have connected over W12's back.

In response to questions from Mr Hetherington, he indicated that he felt had he had joined the contact through the and he was clear that the corker to his bicep had been caused by W12's shoulder. This was because he had a clear view of W12 and the only other place he could have made contact was with the top of W12's head. Had he done so, it would have resulted in much worse injury (to W12).

In response to questions from the Panel, the Player indicated that he had changed his technique to address the new laws relating to head contact. It was put to him that that the action he had deployed to clear out W12 was high risk and highly dangerous. In response, he stated that he had practiced the technique at low speed.

In his submissions on behalf of the Player, Mr Smith noted that on occasion video footage does not provide all the answers that might otherwise be wanted.

He questioned whether the Panel could be satisfied that the footage showed that there had been contact with W12's head. In his view the footage that had been available to the Referee did not show such contact and in fact showed that contact had been under the chest. If the footage did not allow safe conclusions to be drawn, the balance of probabilities should be weighed in favour of the Player.

He accepted that there were fine margins involved, but that did not create an offence if (the Player) got it right.

The Player had given clear evidence that he had not made contact with W12's head and should be viewed as a credible witness. There was nothing in the footage that allowed the Panel to discount his evidence. The rear view angle in particular supported the Player's case that contact was bicep to shoulder. There was insufficient evidence to safely conclude that there had been contact with W12's head.

He did not say that the Referee had been in error, but the Panel had been able to consider evidence that he had not had access to.

His primary submission therefore was that there had been no contact with the head.

If the Panel was against him on that, he agreed that the HCP needed to be followed and conceded that there had been a high degree of danger involved. However, there were mitigating factors present as prescribed by the HCP that enabled the red card to be reduced to yellow. In particular he referred to 0.33 on the tape, which showed that a split second before contact, B11 had lifted W12, which saw W12 both rise and move to his left. This had changed the dynamic of the situation and the Player had not seen that change. He questioned whether there would have been the contact that had arisen without that change in dynamic having occurred.

Findings of Fact

This is the reasoned decision of the Panel. Each member contributed to it and it represents our unanimous conclusions. Given the pressure of time, it is necessarily a summary. It is reached after due consideration of all the evidence, submissions and the other material placed before us. Nothing is to be read into the absence of specific reference to any aspect of the material or submissions before us. We considered and gave appropriate weight to it all.

Whilst the Panel found the Player to have been a candid and credible witness, having carefully viewed the footage it was unable to accept his account and interpretation of the incident.

The Panel made the following findings:

1. W12 had been legally competing for possession having effected the tackle.
2. On his own admission, the Player had come in from distance, at pace and with clear line of sight.
3. The Player's right bicep initially struck the left hand side of W12's face, and the Player's position that the contact had been with the shoulder was rejected. Without limitation, the footage at 2:08 was of assistance in this regard.
4. The Player's right forearm had then hooked up and made contact with the neck and/or chin of W12, and the Player's defence that he had hooked across W12's chest was similarly rejected.
5. The contact with the head involved a high degree of force and a high degree of danger.
6. Whilst there was some movement in W12's position immediately before the contact due to the actions of B11, in the finding of the Panel such movement was not sufficiently material to alter the overall dynamics of the situation. The submission that the change in W12's position should have mitigated the sanction down to a yellow card was accordingly not accepted.
7. W12 lost consciousness and required emergency treatment over several minutes.

Decision

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

In light of the findings made above, the Panel was not satisfied, to the standard required, that the Referee's decision to issue a red card to the Player had been wrong, and the charge was accordingly upheld.

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:

After careful consideration, the Panel was satisfied that the Player had been attempting to lawfully clear out W12, as demonstrated by his actions. He had however committed to a high risk technique, which he had then executed imperfectly.

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

Contact with an opponent's head carries with it the risk of serious injury and the HCP has been adopted, and is enforced, to address that risk.

Nature of actions - Reg 19.11.8(d)

Dangerous clear out as described above.

Existence of provocation - Reg 19.11.8(e)

Not relevant to the offending.

Whether player retaliated - Reg 19.11.8(f)

Not relevant to the offending.

Self-defence - Reg 19.11.8(g)

Not relevant to the offending.

Effect on victim - Reg 19.11.8(h)

W12 lost consciousness, required quite lengthy on-field treatment and played no further part in the game. His return to play date is currently unknown.

Effect on match - Reg 19.11.8(i)

None.

Vulnerability of victim - Reg 19.11.8(j)

W12 was vulnerable given his position over the ball.

Level of participation/premeditation - Reg 19.11.8(k)

No premeditation present.

Conduct completed/attempted - Reg 19.11.8(l)

Completed.

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"/>	4	<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 gave close attention to the possible need to assess the offending as being at the Top End of the scale of seriousness. Absent the injury to W12, there was no other factor that pointed to the need for a Top End entry point and, on balance, the Panel agreed with the RFU's position that the Player's conduct had not been grossly negligent and so did not warrant a Top End finding.

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)

This is the Player's fourth disciplinary finding, the most recent of which having been recorded in February 2021. His first offence arose from three yellow cards and, on balance, the Panel concluded that no uplift was required at the present time. The Player however should be aware that a further offence may see a future panel conclude that this provision has been engaged.

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

None.

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

None

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)
Whilst not a frivolous defence, the Player contested the charge.	As above the Player has previous offences recorded against him
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
Not relevant.	Befitting a player of his standing.
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
Whilst the Player stated that he had spoken to W12 after the game, no remorse was expressed during the hearing.	None.

Number of weeks deducted: 0

Summary of reason for number of weeks deducted:

On behalf of the Player it was submitted that his good character, as evidenced by letters received from the Bath Rugby CEO and Director of Rugby should result in his receiving mitigation credit pursuant to RFU Regulation 19.11.11 (b). In the view of the Panel, what would have been a 25% discount from the entry point was not merited on the basis of good character alone.

The Panel however acceded to the submission that one week of the suspension imposed should be replaced by the Player's attendance at a World Rugby compliant Coaching Intervention Programme. (CIP)

Games for meaningful sanctions:

05.11.21 v Leicester Tigers

12.11.21 v Gloucester Rugby (Premiership Cup game expressly included having considered submissions from the Club and the RFU)

26.11.21 v Exeter Chiefs

04.12.21 v Northampton Saints

The final game may fall away subject to satisfactory completion of CIP. in which case a 3 week/match suspension will be served.

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	4 weeks (subject to CIP	Sending off sufficient	
Sanction commences	30/10/21		
Sanctions concludes	6/12/21		
Free to play	7/12/21		
Final date to lodge appeal	4/11/21		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£500		

Signature (JO or Chairman)	Jeremy Summers	Date	3/11/21
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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