

RFU SHORT JUDGMENT FORM



Match (home)	London Irish	Vs (away)	Saracens RFC
Club's Level	1	Competition	Gallagher Premiership
Date of Match	23/12/2022	Match Venue	Brentford Community Stadium

Particulars of Offence			
Player's Surname	EARL	Date of Birth	07/01/1998
Forename(s)	Benjamin	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Saracens RFC	RFU ID No.	1052350
Type of Offence	Red Card		
Law 9 Offence	9.13 - Dangerous Tackle		
Sanction	Charge dismissed		

Hearing Details			
Hearing Date	29/12/2022	Hearing venue	Remote
Chairmen/SJO	Jeremy Summers	Panel Member 1	Olly Kohn
Panel Member 2	Dr Julian Morris	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:
Neil Golding, solicitor Mark McCall, DoR Warrick Lang, Team Manager	Angus Hetherington, RFU David Barnes, RFU (observing)

List of documents/materials provided to player in advance of hearing:
Charge Sheet Red Card Report Match footage Medical report dated 26/12/22 RFU Regulation 19 World Rugby HCP

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

The Referee's (Mathew Carley) report recorded:

"LI 7 received the ball to the left of a breakdown and ran the ball forward back toward the before mentioned breakdown. He was tackled from behind by S3 and he fell also tackled by S7. Live I saw clear head contact to LI 7 by S7 with force and stopped game with concern for LI7. TMO RK then asked to review the actions of S7. On review we deemed no wrap of the right arm by S7 and this was the shoulder he hit LI7 in the head with. So we had head contact, we had foul play, and high force and although the LI7 was falling and there was an additional tackler the action of S7 to tuck his arm and not wrap did not allow us to apply mitigation and we decided to issue a red card to S7."

The incident occurred in the 29th minute (1st half) at which the point the score was 13-3. The match was described as physical with issues of game values arising from both sides.

The match footage was reviewed, which was consistent with the above report.

1. LI 7 attacks at pace into the S 22 on a line that cuts back in towards the Player.
2. He is tackled from behind by S3, and then collides briefly with LI 4 who is coming towards him from the opposite direction. At the point of S3's tackle, LI 7 is broadly upright, although his upper body is seen to angle down slightly towards the oncoming defenders.
3. LI11 is in the vicinity of the tackle area with his back to the Player and impacting the Player's line of sight to S3.
4. As a result of S3's tackle, L17 drops in height, quite significantly and almost immediately before contact his left knee can be seen to be on the ground and bent at about 45 degrees.
5. As the Player closes in on LI7 his right arm is tucked into his chest with the effect that his right shoulder rotates slightly leading into the contact with LI7.
6. The Player's left arm does lift and partially wrap around LI7 but there appears to be no attempt to by the Player to wrap his right arm before contact.
7. At 0:39 on the footage, the Player's right shoulder has made contact with LI7, and his right hand appears to be hanging loose and not in contact with LI7 or the ball.
8. The Player's right shoulder makes direct and forceful contact with LI7's head although the precise point of impact cannot be clearly identified.
9. The Referee immediately stops play and there is some brief reaction from LI4. Following a foul play review a Red Card is issued.
10. From audio footage provided by the Club, it is clear that the Referee's initial assessment of the incident is that it had not involved foul play

Written submission were helpfully lodged in support of the Player and these were expanded upon during the course of the hearing by Mr Gilding. He noted that there was much common ground between the parties, and that the key issue, which the Panel would have to determine, was whether the Player had made a legitimate attempt to effect a tackle, in which case mitigation was available to him under the HCP.

The RFU also provided helpful written submissions in advance of the hearing, the key elements of which were:

"16. The RFU accept that if there was a legitimate attempt to tackle the player and that that legitimate attempt was not highly reckless to foul play (if intentional foul play it could not be a legitimate attempt), then mitigation under the HCP should apply and the red card test will not be met.

17. However, the issue in the case between BE and the RFU relates to whether this was 1) a legitimate attempt to carry out a tackle and; 2) whether if it was a legitimate attempt whether the action was reckless or highly reckless to foul play occurring.

18. At paragraph 14 of BE's written submissions it states: "BE attempts to wrap around TP with his left hand and uses his right hand to wrap under the ball. We submit that this is a very common way for a player to tackle an opponent."

19. The RFU accepts that if the Panel were to accept this explanation then on the balance of probabilities 1) it would be a legitimate attempt at a tackle and 2) it would in the circumstances only be a reckless tackle (i.e. not highly reckless).

" [24] d. Was there any mitigation available? – Under normal circumstances where there is a sudden or significant change in height or the dynamics of the tackle, mitigation is available to reduce an offence down one level. In this case under normal circumstances due to the ball carrier being tackled before the contact with BE, mitigation would be available. However, if the Panel are not persuaded on the balance of probabilities that the Referee's finding that BE's right arm did not wrap and therefore the tackle was always illegal, then in the RFU's submission the note to mitigation that "Mitigation will not apply for intentional or highly reckless acts of foul play", applies here.

It is the RFU's submission that in failing to wrap the right arm, his action was always illegal and therefore intentional/highly reckless to an act of foul play occurring."

Medical evidence form London Irish indicated:

"Tom was assessed on the pitch during first half of game on 23/12/22 following an impact at a ruck. He was assessed by myself and Club Doctor Vicann During. We were both satisfied that Tom had not suffered a head injury and cleared to continue the game. Tom was again assessed at half time and post-game and Tom did not show any effects from the impact. Tom will be available for selection for our game this week."

Summary of Player's Evidence

The Player gave evidence and was clear, detailed and credible when doing so.

His description of the incident and what he was intending to do focused on the period 0:32- 0:34 of the footage.

At 0:32 the Player had seen LI7 with the ball and had not thought that he would attack his channel. His view had been slightly blocked.

By 0:33 he had realised that he would have to tackle LI7, but by then his view was almost fully blocked by LI4 and LI11.

S3 was about to tackle LI7 but he could not see this. He still (0:33) thought he was in good position to tackle, would have to go low and that a chop tackle would be correct.

The collision with LI4 had changed the angle so LI7 was now attacking his right shoulder, but again he had been unable to see this.

When he realised (still 0:33) that LI7 was almost on his knees he calculated he would have to adjust his tackle selection.

Because of LI7's drop he would have to go higher, but he had thought that if he had wrapped he would contact with LI7's head. He had therefore decided to wrap with his left arm and choke the ball with his right arm. LI7's angle had changed and the ball was now exposed.

His head had been facing down and there was an element of self-preservation in his actions.

His left arm had been lifting to wrap and his right arm had been attacking the ball.

There had only been a glancing blow between his shoulder and LI7's head.

He had ended up wrapping the ball and there had been no time to open his palm before contact.

He had made a legal attempt to bend at the waist, and he did not think he could have done anything else.

In answers to cross examination from the RFU, he stated that he had been trying to steal the ball (with his right hand) or at least slow its presentation and so control the breakdown.

He repeated that he had not had time to turn his palm upwards, and that if he had wrapped with his right arm, contact with the head would have been worse.

He rejected the Referee's assessment that he had not attempted to wrap and pointed to his left arm clearly attempting to do so.

He had been trying to hold the ball up with his right arm, which had made the action look more pronounced, and the height and angle of LI7 had forced his hand to be closed. LI7 had then fallen on his right shoulder, further inhibiting his ability to move his arm.

He had been trying to get under the ball, but the dynamics had prevented him doing so. He accepted he had been reckless but asserted that he had not been highly reckless.

In submissions from Mr Golding and Mr McCall it was stated that the right arm did not have to wrap for there to be a legitimate attempt to tackle.

The Player could not see what was happening to LI7, could not have gone any lower and had a split second to react to the changing angle and height of LI7. In their view the Player was entitled to the benefit of mitigation and a Yellow Card should have been awarded.

Findings of Fact

The Panel gave careful consideration to all the evidence and submissions, and came to the following findings:

1. The Player had been tracking L17 who had initially been attacking the Players' left hand side before he changed line. The Player was initially set to make a legitimate and passive tackle, and was clearly bent at the knee to do so.
2. The change of L17's line was further added to by his collision with L14.
3. This meant that as he approached the Player, L17 was now attacking the right shoulder.
4. L17 was nearly upright before he was then tackled from behind by S3.
5. The Player's line of sight to L17 was further impeded by the positioning of L14 and L111.
6. The effect of S3's tackle saw L17 drop significantly in height and just before impact with the Player, his right knee was fully on the ground bent at 45 degrees. His left knee hit the ground shortly after the contact with the Player.
7. Prior to contact, the Player's left arm had raised and attempted to wrap around L17.
8. Whilst the Player's right arm appeared to be tucked into his chest, the Panel accepted that the Player had not tried to also raise his right arm as to have done so would have resulted in worse contact with L17's head.
9. Whilst the Panel was not wholly convinced that, at the time and given the speed of the incident, the Player had attempted to bring his right arm up to grab the ball as he had claimed, the Panel was satisfied that, in light of the overall dynamics, the Player could have done nothing further to prevent the ensuing contact with L17's head.
10. The key elements of the incident occurred within 0:33 of the video footage, reflecting the speed at which it evolved and the very limited time available for the Player to have reacted.
11. The Panel noted that the Referee's initial view was that the contact had not involved foul play.
12. In the foul play review that followed the incident, the issue of mitigation under the HCP was not fully considered. In coming to that finding, the Panel was able to consider the detail of the incident in a time frame that had not been available to the Match Officials.
13. Taking all factors into consideration the Panel concluded that the Player had attempted to effect a legitimate tackle, and so as conceded by the RFU, the Player was entitled to the mitigation available under the HCP.

Decision

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

The Panel found that the Player had attempted to effect a legitimate tackle.

As accepted by the RFU, in that event the HCP allowed the Panel to consider whether mitigating factors were present, which could reduce what would otherwise have been a Red Card to a Yellow Card.

In the view of the Panel mitigating factors were present:

a) There had been a late and significant change in direction by LI7, which was added to by the collision with LI4

b) The Player's line of sight was obstructed by the positioning of LI4 and LI11.

c) LI7 was tackled by S3 shortly before contact, which resulted in his dropping significantly in height, and just before contact his knees were almost fully on the ground.

In view of those mitigating factors the Panel determined that, on the balance of probabilities, the Referee had been incorrect in issuing a Red Card, and that this should have been reduced to Yellow.

The charge was accordingly dismissed, and the Red Card was directed to be removed from the Player's record and substituted with a yellow card.

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8

PLEASE TICK APPROPRIATE BOX

19.11.8(a) Intentional

19.11.8(b) Reckless

Reasons for finding as to intent:

Nature of actions - Reg 19.11.8(c)

Existence of provocation - Reg 19.11.8(d)

Whether player retaliated - Reg 19.11.8(e)

Self-defence - Reg 19.11.8(f)

Effect on victim - Reg 19.11.8(g)

Effect on match - Reg 19.11.8(h)

Vulnerability of victim - Reg 19.11.8(i)

Level of participation/premeditation - Reg 19.11.8(j)

Conduct completed/attempted - Reg 19.11.8(k)

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

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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 type="checkbox"/>		<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 the above assessment, the Panel should consider the RFU Practice Note as set out in Appendix 5 to Regulation 19. Significant weight should be given to RFU regulation 19.11.8(a), 19.11.8(h) and 19.11.8(i).

Reasons for selecting entry point:

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Relevant Off-Field Mitgating Factors - Reg 19.11.10

Acknowledgment of the commission of foul Play & timing - Reg 19.11.10(a)	Player's disciplinary record - Reg 19.11.10(b)
Youth and/or inexperience of player - Reg 19.11.10(c)	Conduct prior to and at hearing - Reg 19.11.10(d)

Remorse and timing of Remorse - Reg 19.11.10(e)	Other off-field mitigation - Reg 19.11.10(f)

Number of weeks deducted:

Summary of reason for number of weeks deducted:

Additional Relevant Off-Field Aggravating Factors - RFU Regulation 19.11.13
Player's status as an offender of the laws of the game - Reg 19.11.13 (a)
Need for deterrent to combat a pattern of offending - Reg 19.11.13(b)
Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate - (including poor conduct prior to or at the hearing) Reg 19.11.13 (c)

Number of additional weeks:

Games for meaningful sanctions:

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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	N/A	Sending off sufficient	
Sanction commences			
Sanctions concludes			
Free to play			
Final date to lodge appeal	01/01/22		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£0		

Signature (JO or Chairman)	Jeremy Summers	Date	30/12/2022
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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