

# RFU SHORT JUDGMENT FORM



|               |                   |             |             |
|---------------|-------------------|-------------|-------------|
| Match         | Bristol Rugby RFC | Vs          | Bath Rugby  |
| Club's Level  | 1                 | Competition | Premiership |
| Date of Match | 10/09/2022        | Match Venue | Bristol     |

| Particulars of Offence |  |               |  |
|------------------------|--|---------------|--|
| Player's Surname       | Annett                                     | Date of Birth | 07/05/1991   |
| Forename(s)            | Niall                                      | Plea          | Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/> |
| Club name              | Bath Rugby                                 | RFU ID No.    | 1742215  |
| Type of Offence        | Red Card                                   |               |  |
| Law 9 Offence          | 9.27 - Acts Contrary to Good Sportsmanship |               |  |
| Sanction               | 2 match suspension                         |               |  |

| Hearing Details   |   |                 |   |
|-------------------|---|-----------------|---|
| Hearing Date      | 13/09/2022  | Hearing venue   | via Zoom  |
| Chairmen/SJO      | Samantha Hillas KC  | Panel Member 1  | Oliver Kohn   |
| Panel Member 2    | Daniel Gore   | 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:  |
|---|---|
| Sam Jones (Counsel)<br>Fran Leighton, Bath Team Manager | Angus Hetherington, RFU Counsel in Discipline<br>David Barnes, RFU Head of Discipline |

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

- Bundle prepared by the RFU and comprising:
- Charge Sheet
  - Red Card report from the referee Tom Foley 12.09.22
  - 2020-2021 Gallagher Premiership Rugby: Values of the Game: End of Season Review
  - Appendix 2 to Regulation 19 (sanction table)
  - Email from Sam Jones, counsel for the Player dated 12.09.22 enclosing the Player's statement and character references from Johann Van Grann (Head of Rugby at Bath Rugby), Alan Solomons (Former Director of Rugby, Worcester Warriors) and Gerrit-Jan van Velze, player and former teammate at Worcester Warriors)
  - A further statement was provided from Joann Van Grann on the day of the hearing
  - Written Submissions as to sanction - Angus Hetherington, RFU Legal Counsel in Discipline

The following is taken from the Red Card report:

"Bristol 14 scored a try in the right hand corner. After he got up to celebrate, Bath 12 kicked the ball away. Bristol 14 reacted and some pushing and shoving ensued. Bristol 10 ran from distance and grabbed Bath 15 and threw him to the floor. This escalated the situation and there were two pods of players pushing and shoving. This broke into 3 pods, the third of which consisted of Bath 2 and 3 Bristol players. Bath 16 was wearing his substitute bib came from behind the in-goal area and grabbed Bristol 4 by the shirt. Bath 16 attempted to push the face of Bristol 4 but Bristol 4 grabbed his arm and prevented it.

The pushing and shoving went on for a period of time despite repeated calls to Bath 16 to move away. There was significant shouting of expletives from both players. We separated the players and spoke with both captains. I decided that the initial actions of Bristol 10 escalated the situation and as such issued Bristol 10 with a yellow card.

I decided that the actions of Bath 16 although not serious in themselves were unwarranted and unnecessary from a substitute and therefore decided that a red card was the most appropriate course of action."

The Panel viewed the match footage which reflected the referee's description of the incident as set out above.

The additional documents provided on behalf of the Player are summarised below:-

1. The text of a tweet put out by the Player at 8.07pm on the evening of the game in which he apologises to players, staff and fans and explains how deeply embarrassed he is and disappointed in himself.
2. A character reference from Johann Van Graan, Head of Rugby at Bath Rugby dated 12.09.22 which refers to the Player's exemplary character and standards as a professional and confirming the remorse he has shown in relation to the incident.
3. A character reference from Alan Solomons, former DOR at Worcester Warriors (the Player's former club) dated 12.09.22 which refers to the Player as a man of impeccable character whose integrity is beyond reproach.
4. A character reference from Gerrit-Jan van Velze (undated) who played with the Player at Worcester Warriors and talks of his high level of dedication and enthusiasm for rugby and how he is considered a leader amongst his peers.
5. A further statement from Johann Van Graan received on the day of the hearing which confirms that it was intended the Player would have been brought on between minutes 50 and 60 of the game.

## Summary of Player's Evidence

The Player filed a written statement for the hearing in which he confirmed that, as a new member of the Bath Rugby squad (this was his first game for them), he was nervous and anxious to make a positive impact. He was apologetic, remorseful and ashamed of his actions, which had no malicious intent. He confirmed this was out of character and something he would not repeat.

During the hearing the Player reiterated the above. This match was a big day for him, for his family and the club and he feels he has let them all down. He has played over 100 games in England and this is the first time he has been involved in any unacceptable action.

## Findings of Fact

The Player admitted the offence and it appeared to be common ground between the Player and the RFU that, subject to the Panel's view, the incident likely merited a low end entry point and the Player would likely receive full mitigation.

The key issue for the Panel's determination was whether, as submitted on behalf of the Player, the outcome of that assessment of seriousness and mitigation (a starting point of four weeks' suspension reduced to two) resulted in a sanction which was wholly disproportionate to the level of offending as set out in Regulation 19.11.12. The summary below focuses on that issue: assessment of seriousness and mitigation will be dealt with in detail on the following pages.

The RFU's position was set out by Mr Hetherington in written submissions and supplemented orally during the hearing. The thrust of the RFU's position that this case could be distinguished from the Mitch Eadie 2015 case, where the low end entry point was at such a high level that, in certain circumstances, the unintended consequence was a disproportionate sanction. Following amendment, the low end entry starting point has been reduced to four weeks. Whilst 9.27 covers a wide range of offending, in this particular case, the 9.27 offence relates to the core values of the game. The Player had time to consider his actions and his involvement served only to prolong the melee. The offence should not be dismissed as minor, the Player was a substitute and should not have been on the field of play. This was not one of those rare cases where the sanction was wholly disproportionate. It was irrelevant that the Player had not had any game time as a substitute.

On behalf of the Player, Mr Jones submitted that a two-week suspension is wholly disproportionate. It is an unusual case in that (1) the Player was not on field of play and (2) his conduct - when looked at in isolation - was not foul play. 9.27 is an extremely wide offence - a catch all in the regulations to cover all manner of sins and a wide spectrum of offending. One of the examples of a 9.27 offence - hair pulling or grabbing - merits a 2 week low end starting point. Mr Jones reiterated the mitigating factors and the fact the Player had been punished already by the fact he missed his opportunity to debut for Bath. Although the Mitch Eadie 2015 judgment was dealing with a much longer suspension, the Panel should not lose sight of the fact that the difference between one or two weeks' suspension is 100%. Turning to the 2020-2021 Gallagher Premiership Rugby: Values of the Game: End of Season Review document (bundle page 17) the most analogous reference is to a substitute who makes contact with a ball kicked to touch to prevent a quick throw in, for which the suggested sanction entry point is two matches. This would be reduced to one week with full mitigation. It would be unfair for the Player to receive a suspension which was double that.

The Panel took the view that Mr Jones made some very persuasive points on behalf the Player which the Panel considered fully, however it was not persuaded ultimately that a sanction of two weeks' suspension for this offence was wholly disproportionate for the following reasons:

1. The Player's mitigation was impressive. The Panel was easily persuaded that this should afford the Player the maximum reduction. However, these factors had already been taken into account in the mitigation exercise.
2. The Panel did not accept that the fact the Player was a substitute and had not played in the game was relevant to the sanctioning process. He was a member of the squad and had been red carded. The minutes of game time 'lost' as a consequence could not form part of his overall suspension. A player sent off in the first minute of a game could not claim any credit for missing the remainder of their game.
3. The Panel did not agree that the Player's actions were analogous with a substitute who makes contact with a ball kicked to touch to prevent a quick throw in. This was an offence which went to the core values of the game. The Player's involvement in the melee was not incidental; he was nowhere near the incident when it started. He made a conscious decision to enter the field of play to join the melee and travelled some distance to do so when other substitutes closer to the incident stayed out of it.
4. The 9.27 'other' category into which this offence falls is a deliberate sanction level imposed by World Rugby. There was nothing about this case which led the Panel to consider this was an exceptional situation which required them to alter the prescribed sanction.

### Decision

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

## 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:

The Player was not involved in the original incident leading to the melee. He was a substitute player, wearing a substitute's vest and was not on the field of play. He could see the incident and the subsequent melee from his position behind the in-goal area. He had time to consider his options before becoming involved and took a conscious decision to join the melee.

Nature of actions - Reg 19.11.8(c)

The Player entered the field of play to become involved in a melee that had nothing to do with him. The Panel accepts that the Player may have considered that he was attempting to diffuse the situation but his presence served only to prolong the melee.

Existence of provocation - Reg 19.11.8(d)

N/A

Whether player retaliated - Reg 19.11.8(e)

N/A

Self-defence - Reg 19.11.8(f)

N/A

Effect on victim - Reg 19.11.8(g)

N/A

Effect on match - Reg 19.11.8(h)

The melee had already developed by the time the Player entered it.

Vulnerability of victim - Reg 19.11.8(i)

N/A

Level of participation/premeditation - Reg 19.11.8(j)

The Player was the only participant in the offence. The Panel accepts in terms of premeditation that his decision to become involved may have occurred in the moment, but he did have time to consider his options before becoming fully involved.

Conduct completed/attempted - Reg 19.11.8(k)

The Player's offending conduct was completed.

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

N/A

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 checked="" type="checkbox"/> | 4            | <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:

This was an unfortunate incident which, although contrary to good sportsmanship, involved no injury to any player. As such, the Panel accepted the offence merited a low end entry point as was common ground between the Player and the RFU.

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)   |
| The Player admitted the offence at the earliest opportunity and expressed his embarrassment and remorse in a tweet put out on the evening of the game. | The Player has a clean disciplinary record.  |
| Youth and/or inexperience of player - Reg 19.11.10(c)  | Conduct prior to and at hearing - Reg 19.11.10(d)  |
| N/A  | Exemplary. He expressed himself eloquently both in his written statement and his evidence to the panel. His regret that this incident occurred was palpable. |



| Remorse and timing of Remorse - Reg 19.11.10(e)   | Other off-field mitigation - Reg 19.11.10(f)   |
|---|--|
| See above with regard to the tweet the same evening and his admission of the offence at the earliest opportunity. | The Panel took into account the character references which spoke of the Player's impeccable character and integrity. |

Number of weeks deducted: 2

| Summary of reason for number of weeks deducted:   |
|---|
| The Panel took the view that the Player merited the maximum reduction by way of mitigation. |

| 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)  |
| N/A  |
| Need for deterrent to combat a pattern of offending - Reg 19.11.13(b)  |
| N/A  |
| 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) |
| N/A  |

Number of additional weeks: 0

Games for meaningful sanctions:

17.09.22 v Sale Sharks  
23.09.22 v Wasps

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   | 2 weeks/matches | Sending off sufficient |  |
| Sanction commences   | 11.09.22        |                        |  |
| Sanctions concludes  | 26.09.22        |                        |  |
| Free to play   | 27.09.22        |                        |  |
| Final date to lodge appeal                                       | 15.09.22        |                        |  |
| Costs (please refer to Reg 19, Appendix 3 for full cost details) | £500            |                        |  |

|                            |               |      |            |
|----------------------------|---------------|------|------------|
| Signature (JO or Chairman) | Sam Hillas KC | Date | 13/09/2022 |
|----------------------------|---------------|------|------------|

**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