

EUROPEAN RUGBY CUP**DECISION OF DISCIPLINE COMMITTEE**

Held at Huguenot House 35 – 38 St Stephen's Green Dublin

Thursday 11th December 2008

IN RESPECT OF:-

Ross Rennie ("the Player")

AND

The citing complaint brought by Brian Fowler (WRU) that the Player had breached Law 10.4(e) of the Laws of the Game in the match between Edinburgh and London Wasps played on the 5th December 2008

MEMBERS OF THE DISCIPLINE COMMITTEE:- ("*the Committee*")

Roger Morris (WRU)
Dr Barry O'Driscoll (IRFU)
Robert Williams (WRU)

DECISION OF THE COMMITTEE:

- (i) The Committee found that the Player had committed an act of Illegal and/or Foul Play which merited a Red Card (Ordering Off).
 - (ii) The Player is suspended from taking part in the game of rugby up to and including 21st December 2008. This represents a 2 week suspension.
 - (iii) The Committee ordered the Player should pay the costs of the Disciplinary Offer (including legal costs) in relation to this hearing and one half of the costs of convening the Committee.
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INTRODUCTION

This Committee was convened by Professor Lorne D Crerar, the Chairman of the ERC Discipline Panel pursuant to the discipline regulations of ERC in respect of a citing complaint made by Mr Brian Fowler. The citing complaint concerned the conduct of the Player during a Heineken Cup round match between Edinburgh and London Wasps ("Wasps") played at Edinburgh on the 5th December 2008. The citing complaint alleged the Player had committed a dangerous tackle on the Wasps' No 14 player Paul Sackey ("Sackey") so infringing Law 10.4 (e).

Present at the hearing in addition to the members of the Committee were:-

Roger O'Conner (Disciplinary Officer, ERC)

Max Duthie (Solicitor – for the Disciplinary Office)

The Player

Michael Nicholson (Solicitor – for the Player)

Andy Robinson (Coach, Edinburgh)

HEARING

At the commencement of the hearing the Chairman confirmed the identities of all present and established that the Player was before the Committee to answer a citing complaint. The Chairman outlined the procedure to be adopted by the Committee for the hearing and confirmed that the provisions of the ERC Disciplinary Regulations 2008/2009 would apply. The Player and all present agreed to proceeding on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing that all parties were in possession of the relevant paperwork and that all parties had received it in good time. It comprised:

- (i) the Citing Form
- (ii) the Hearing Notice & Directions
- (iii) email from the Citing Officer
- (iv) email from the Referee and his Assistant
- (v) the Player's response to standard directions
- (vi) 2005 email from IRB ruling about dangerous tackles
- (vii) Email from Paul Sackey

The Chairman then confirmed what video footage had been received in advance by the Committee and that it had also been seen by the Player and Mr Nicholson.

PRELIMINARY ISSUE

The Committee had received shortly before the commencement of the Hearing notification that the Player would seek to introduce additional video evidence, namely two clips of the relevant incident (from Edinburgh's own video recording) and a clip of an incident in a different match. The Committee agreed, and Mr Duthie did not object, to the introduction of the clips from the Edinburgh v Wasps match. However, in the absence of any compelling argument from Mr Nicholson to persuade them to the contrary, the Committee was not prepared to allow the introduction of evidence of any video footage from a different game.

CITING COMPLAINT

Mr Nicholson on behalf of Player confirmed the replies given to standard directions and that the Player was guilty of foul play insofar as he had committed a dangerous tackle. He objected however to the use in the citing report of the term "spear tackle" as in the Player's view the tackle in question was not a "spear tackle" in the commonly accepted interpretation of the phrase because there was no element of the tackled player being driven to the ground. In any event the term "spear tackle" is not a term contained or referred to in the Laws of the Game. Further, although the Player accepted he had committed a dangerous tackle, he maintained that the Yellow Card given by the referee was sufficient sanction. In these circumstances it was agreed by both parties that the first issue for the Committee to decide was whether or not the tackle merited a Red Card.

THE VIDEO EVIDENCE

The video clips provided by the Disciplinary Officer and by the Player were viewed in real time, in slow motion, in freeze frames and repeatedly. The broad picture painted was of an attacking scrum near the centre of the field on the Edinburgh 22 metre line. The Player was packed down as wing forward on the left of the Edinburgh scrum. The Wasps' No 9 fed the scrum, ran behind the scrum and made towards the Wasps' right touchline. The Wasps' No 8 picked the ball from the base of the scrum and passed it to the Wasps' No 9 who by now was a few metres to the right and rear of the scrum. He ran some further metres across field until he passed the ball in a scissor pass to the Wasps' No 14 (Paul Sackey) who had cut back inside from his right

wing position. In the meantime, the Player had tracked the Wasps' No 9 across the field but, as the scissors pass was performed, the Player stopped and tackled Sackey within a metre or two of Sackey receiving the pass. It was this tackle that was cited as dangerous. The Player grasped Sackey around the thighs and lifted. Almost simultaneously, the Edinburgh No 8 ("Hogg") tackled Sackey around the upper body. Sackey was turned upside down and landed with his arm and upper body making ground contact first.

Mr Duthie gave his view of the video footage and pointed out that Sackey was grasped by the Player around the thigh and that the Player's left arm could be seen holding and lifting Sackey. He noted the presence of Hogg who also tackled Sackey. Hogg had tackled high while the Player had tackled low. Mr Duthie noted that at one point Sackey was in a position where his foot was almost vertically pointing skyward. He further noted that Sackey's left arm was the first part of his body to make contact with the ground, followed by his head.

The Player gave his version of the incident by reference to the video footage. Edinburgh were defending a score of 16 – 15 with 10 minutes remaining. Wasps were awarded a scrum near Edinburgh's 22. The Player described his mindset as wanting to play within the law. He had urged his fellow players not to concede any penalties. Wasps won possession from the scrum and the scrum half (No 9) broke to the right. The Player was the flanker on the left of the Edinburgh scrum i.e. on the side to which the Wasps No 9 broke. The player tracked the Wasps' No 9 towards Edinburgh's left hand touchline until he realised that Sackey was cutting back at an angle into the channel the Player should have been defending. The Player had felt himself isolated from his supporting defenders because he thought he had overrun his defence channel. As such he made to tackle Sackey thinking he was a lone tackler. He aimed to tackle Sackey below the hips, leading with his right shoulder and with the intention of lifting and driving through the tackle pushing Sackey to Sackey's left and the Player's right. He was unaware that Hogg was also about to tackle Sackey. The Player grasped Sackey, lifting to the right intending only to lift Sackey's leg to hip height. However, because Hogg was simultaneously tackling Sackey around the upper body, the effect was to make Sackey suddenly "become very

light", causing the Player to lose control of the lift and tackle and to lift him higher than intended. When he realised this he tried to crumple under Sackey to bring him more safely to ground.

In response to questions from Mr Duthie the Player repeated that his intention was to lift only as far as his hip and then to drive. The fact that Hogg was tackling higher meant that Sackey flipped unexpectedly and quickly. When he realised what had happened he tried to crumple underneath Sackey. The Player confirmed that if two players tackled together, one would go low and the other high so as to increase the chances of stealing the ball. However in this instance he was unaware that Hogg was tackling at the same time. The Player repeated that he was adopting the approach of a single tackler. He had returned to the pitch after his Sin Bin suspension ended and a few minutes before the end of the game. At the final whistle he shook hands with Sackey and offered his apologies.

Dr O'Driscoll asked if there was any coaching of the technique of lifting in a tackle.

The Player responded that in tackling practice the aim was to learn to grab low and drive through but players were not coached in the technique of bringing a player safely to the ground if they found themselves in the position of needing to do so.

OTHER EVIDENCE FROM THE DISCIPLINARY OFFICER

Mr Duthie then presented the remaining elements of the evidence to be put before the Committee by the Disciplinary Officer.

An email from Sackey confirmed he was the tackled player. It did not add anything of significance to the evidence other than to confirm he suffered no injury as a result of the tackle.

Mr Duthie then referred to the Referee's Report and that of the Referee's Assistant. He pointed out that the reports were evidential only and that in dealing with this case, under ERC Regulations, the Committee was not bound by the provisions of IRB Regulation 17.11.4.

Mr Duthie also referred to the IRB Ruling in respect of dangerous tackles referred to in an email dated 30th September 2005 written by the IRB Head of Council and Member Services, a copy of which had been submitted to the Hearing by the Player with his responses to standard directions.

Mr Duthie suggested that the dangerous element of this tackle was the fact that it caused the tackled player to come into contact with the ground head first or upper body first. That was danger that could merit a Red Card whether the tackle was intentional or reckless or even merely careless.

THE PLAYER'S CASE

Mr Nicholson prefaced the Player's case by repeating that, whilst the Player accepted his involvement in an act of foul play contrary to Law 10.4 (e) he did not accept it warranted a Red Card. He did not accept it was a "spear tackle" nor that he had dropped Sackey and therefore the tackle was outside the description of a dangerous tackle as described in the IRB email referred to previously dated 30th September 2005.

Mr Nicholson said the tackle performed by the Player was not intentionally or recklessly dangerous. The consequences of the tackle were inadvertent and caused by circumstances beyond the Player's control.

Mr Nicholson referred to the reports of the Referee and his Assistant. He accepted the Committee was not bound by the IRB Regulations in considering their evidence but urged that this evidence should be given particular weight. Both Officials thought the tackle unintentional and Mr Nicholson suggested the foul play had been dealt with appropriately by the issue of a Yellow Card. He reminded the Committee that Sackey had not been injured.

Mr Nicholson then questioned the Player. In response to these questions he confirmed there had been no earlier issues with Sackey or for that matter with any other player. He went on again to explain the circumstances of the tackle. He had left the scrum to track the Wasps No 9 across the field towards the Player's left. He did not realise Hogg was so close behind him. He had felt isolated and thought he had left open the channel he should be defending. Sackey cut back inside and the Player attempted to tackle him to what was now the Player's right. He intended a normal tackle, grasped Sackey around the thigh and aimed to drive through. If Hogg was out of the equation it would have been a normal tackle with Sackey's leg lifted thigh high and driven to the ground legitimately. But Hogg had also tackled Sackey who became unexpectedly light and that was what caused him to flip over in the air. At the same time Sackey was twisting in an attempt to make the ball available for his team and this made the situation worse for him. The Player maintained he was not trying to lift Sackey above thigh or hip height but only trying to hold him there. This was not a pre planned double tackle. The Player further maintained he was trying to break Sackey's fall. He fully understood his duty to a player held in the air and felt he could have done nothing else.

Mr Nicholson went on to ask what if anything was said by the Player to the Referee immediately after the incident and asked the Player to explain the gesture (apparent from the video) made by the Player to the Referee. The Player said that he was trying to indicate that Sackey had flipped unexpectedly.

The Player said he had apologised to Sackey at the end of the game and expressed his further remorse to the Committee for having been involved in "putting a player on his head".

Mr Nicholson then asked Mr Robinson to give his view of the incident. Mr Robinson said that the Player had overrun the ball and as a result was not in a position to tackle and drive through in the ideal way. He was tackling from a "planted" position i.e. with both feet on the floor without forward momentum. He tried to drive through but Hogg intervened in the tackle and destabilised it. Hogg went for the ball and Sackey was out of balance. Sackey tried to twist and to avoid falling the wrong way in the sense of making the ball

available to his own side. The three problems were: the Player being “planted”; Hogg’s intervention; and Sackey’s efforts to twist. Mr Robinson accepted the tackle looked bad and that it was dangerous. The Player had tried to break Sackey’s fall. He accepted the Yellow Card. He confirmed the Player was not a reckless or dirty player. He had no concerns about his discipline and explained his team always tried to work with the law.

Mr Nicholson then made further submissions in summary of the evidence. He emphasised there was no dropping or spearing of Sackey and that there was no injury. The Referee and his Assistant both mentioned their view that the offence was not intentional and weight should be given to what he described as their “unchallenged evidence”.

In response to this final point Mr Dutrie explained his view that the citing itself was a challenge to that evidence.

When all the evidence had been heard the Player and his representative were given the opportunity to make final submissions. The Player had nothing further to add.

DECISION

At this point the Committee retired to deliberate in private whether or not the tackle merited punishment beyond the Yellow Card issued by the Referee. The Committee considered all the evidence presented and in particular the video footage. The Committee noted that it had had the opportunity of watching the incident from a variety of angles and at a variety of speeds from real time through slow motion and even freeze frame. It had been able to watch the video over and over again. This was not a luxury available to the Referee and his Assistant who had had to make a virtually instantaneous decision based on one sight at full speed of what had happened.

Although there was no injury to the tackled player the Committee considered there to be no more vulnerable a position for a rugby player to be in on the field of play, and no position that exposes him to as wide a variety of serious, even catastrophic, injury than to be landing from a height on his head or upper part of his body. The fact is that Sackey found himself in mid air with his feet pointing to the sky and his head to the ground with little or no control of where or how he was going to land.

The Player had admitted committing an act of foul play and that he had made a dangerous tackle. In the Committee's view the danger in the tackle was the fact that Sackey was lifted. The Committee was satisfied the Player, on his own testimony, had initially tackled Sackey with the intention of lifting him. The driving and lifting, as described by the Player, had the effect he wanted and Sackey was lifted from the ground. Had it not been for the Player's actions, even if the height to which he was elevated might have been greater than intended and even if other factors may have contributed to the ultimate height, Sackey would not have been exposed to the danger of serious injury.

In all of these circumstances the Committee concluded that the citing was correct and that the act of foul play warranted a Red Card.

SANCTION

The hearing reconvened and the Committee's decision was given to the parties. The Committee then heard from the parties whether there should be further sanction.

Mr Nicholson addressed the Committee on sanction by reference to the ERC Regulation 6.7.31 to 6.7.35 inclusive. He urged that, in the spectrum of such offences, this stood as the less serious end and that the Committee should consider a "Low End" entry point, as described in the Regulations, appropriate. He asserted there were no aggravating factors but that all the possible mitigating factors were present. In

particular the Player is of good character. He had no previous record of foul play (a fact confirmed by the Disciplinary Officer).

Mr Nicholson went on to say that in his view the Committee should allow the discount contemplated in exceptional circumstances by Regulation 6.7.36 even to the point where the Committee could say a Red Card was sufficient sanction in itself.

Mr Duthie confirmed that the Disciplinary Officer accepted there were no aggravating factors. However he also said that, if a Low Entry point was chosen, then only truly exceptional factors would allow mitigating circumstances to reduce the period of suspension.

Mr Duthie made application for costs against the Player which application was resisted by Mr Nicholson.

The Committee retired to consider in private what sanction should be imposed.

In determining the sanction appropriate to this case the Committee is required to have regard sequentially to Disciplinary Rules 6.7.32, 6.7.34 and 6.7.35 and the current IRB table of sanctions set out in Appendix 3 of the Disciplinary Rules.

With respect to Disciplinary Rule 6.7.32, and the aspects of the Rule it considered relevant to this case, the Committee found the act of foul play, the tackle, to have been committed intentionally. Fortunately there was no injury, but the vulnerability of the tackled player to serious, even catastrophic, injury in a tackle such as this led the Committee to consider seriously that mid range was the appropriate level of entry on considering sanction. However the Committee accepted the Player's assertion that his initial intention was not to lift Sackey as high as he actually went. The Committee also accepted that it would probably not have been so

serious if Hogg had not been involved as a second tackler. For these reasons the Committee concluded that the Lower End entry point was appropriate.

The low end figure, per Appendix 3, for a dangerous tackle is two weeks suspension.

In considering Rule 6.7.34, the Committee determined there was no aggravating features.

In considering Rule 6.7.35 the Committee considered there were the following mitigating features: an acceptance (at least partial) of guilt; a clean record; remorse; and an excellent demeanour at the hearing. However the Committee did not consider the mitigating features to be so compelling as to fall within Rule 6.7.36 (b) and to allow the period of suspension to be reduced.

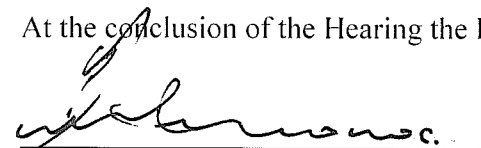
Applying Rule 6.7.43 the Committee determined the period of suspension should commence on the 8th December and end on the 21st December so that he would be free to play again on the 22nd December.

COSTS

The Committee awarded costs against the Player in relation to the Disciplinary Officer's costs of the hearing (including legal costs) and, because another hearing had taken place on the same day with the same Committee, one half of the costs of convening the meeting.

RIGHT OF APPEAL

At the conclusion of the Hearing the Parties were advised of their right to Appeal pursuant to Regulation 7.



Roger Morris
Chairman
Discipline Committee

Date: 15.12.08