

EPCR SHORT JUDGMENT FORM

Match	Harlequins	Vs	Wasps
Club's Country	England	Competition	European Rugby Champions Cup
Date of match	13 January 2018	Match venue	Stoop Stadium, London
Rules to apply	EPCR Disciplinary Rules 2017/18		

PARTICULARS OF OFFENCE

Player's surname	Haskell	Date of birth	02/04/1985
Forename(s)	James	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Wasps		
SELECT: Red card <input checked="" type="checkbox"/>	Citing <input type="checkbox"/> Other (specify) <input type="checkbox"/>		
Offence	Breach of Law 9.13, Dangerous Tackle		
Summary of Sanction	4 week suspension		

HEARING DETAILS

Hearing date	17 January 2018	Hearing venue	Sofitel, Heathrow
Chairman/JO	Jennifer Donovan (Ireland)	Panel member 1	Rod McKenzie (Scotland)
Panel member 2	Becky Essex (England)	Disciplinary Officer	Liam McTiernan
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, Barrister

Kevin Harmon, Head of Recruitment, Wasps R.C.

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

Video Footage of Incident
 Letter from Mr. McTiernan to Mr. Simon Thomas
 Notification of Hearing to Player
 Report of Roman Poite, Referee
 Statement of AR1, Thoms Charabas
 Statement of AR2, Vincent Blasco Baque
 Statement of TMO, Eric Briquet-Campin
 Report of Dr. Courtney Kipps, Walrequis, dated 15/01/2018
 Email from Graeme Bowerbank, Harlequins dated 16th January re medical update.

Player response to Standing Directions
 Note to Panel of Richard Smith (encl player disciplinary record)
 Summary of Charitable Organisations/Projects with which player is involved
 Testimonial for Player by Eddie Jones
 Testimonial for Player by Steve Borthwick
 Testimonial for Player by Dai Young
 Fixture List for Wasps

SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

The Report of the referee indicated that the player had made a high tackle on Harlequins 12. He reported that the tackle was made without use of the arms and resulted in contact being made, with force and at speed, to the head of Harlequins 12, Mr Jamie Roberts ("the injured player"). The report of AR1 indicated that he had detected a tackle made by the player which was "high with no arms" but AR1 reported being unsure initially about whether or not contact had been made with the injured players head. AR2 also reported having seen the tackle which he described as "high with no arms" and involving contact directly to the head of the injured player. AR2 flagged the incident to the referee in order that it could be checked by the TMO. The report of the TMO indicated that the player had carried out a tackle that was high, without arms and directly to the head of the injured player.

The DVD footage shows a clear view of the incident which occurred in the 76th minute of the match. The player explained the incident from his point of view with reference to the DVD footage. He explained that he was part of the defensive line, that he had read the opposition play at quite an early stage and that he had anticipated that the ball would be passed to the injured player. The player explained that he has accelerated towards the injured player with the intention of making a 'man and ball' tackle. He said that he had a relatively long run up to the tackle and that he was moving at pace. His intention was, he said, to target the knee or thigh area of the injured player. He believed that he had dropped his height going in to the tackle whilst also turning his head and taking his eye off of the injured player. The player initially thought that he had made contact with the chest area of the injured player. He argued that he had used his arms in the tackle and had attempted to 'wrap' the injured player but that the force of the collision resulted in the injured player bouncing off of him. He denied, when asked, that he had in anyway jumped into the tackle as the footage appeared to show. The player explained that his tackle technique involved getting his feet as close to the feet of the ball carrier as possible and to accelerate through the tackle.

ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

A report dated the 15th January, 2018 was received from Dr. Courtney Kipps, Consultant Sports Physician at Harlequins R.C. Dr. Kipps reports that the injured player received a blow to the jaw and that he lost consciousness, following which he was permanently removed from the field of play. On assessment in the medical room he displayed symptoms consistent with acute concussion. HIA protocols were followed. The HIA 2 assessment was carried out after the game and Dr. Kipps reports that the players symptoms were "slowly resolving". The HIA 3 assessment was carried out on the 15th January and it was reported that the injured player remained symptomatic. An email dated 16/01/2018 from Graeme Bowerbank, Head of Rugby Operations, Harlequins indicated that the injured player remained symptomatic. It was understood at the time of the hearing that the injured player would not be fit to play on the following weekend

FINDINGS OF FACT

The player accepted and the Committee found that the player had carried out a dangerous tackle contrary to Law 9.13 which resulted in contact between the shoulder of the player and the head of the injured player. The committee accepted that the player had not acted intentionally and that the offending was reckless. The use of arms in the tackle, or any lack thereof, was not a deciding factor. With or without use of the arms, the tackle was above the line of the shoulders and involved direct and forceful contact with the head of the injured player.

DECISION

The breach was admitted by the player at the outset. The decision for the committee was in respect of sanction only.

DECISION

Breach admitted Proven Not proven Other disposal (please state below)

SANCTIONING

Disciplinary Decision

PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)
PLEASE TICK APPROPRIATE BOX Intentional/deliberate <input type="checkbox"/> Reckless <input checked="" type="checkbox"/>
State reasons
The Player intended to make a legitimate tackle on the injured player but erred in the execution on that tackle. The committee accepted the players explanation in that regard and found that the offending was reckless rather than deliberate or intentional.
Gravity of player’s actions – R 7.8.32 (c)
Nil of significance save, of course, contact to the head of the injured player which is considered below.
Nature of actions – R 7.8.32 (d)
The foul play resulted in direct and forceful contact between the shoulder of the player and the head of the injured player. World Rugby directions were taken into consideration in this regard.
Existence of provocation – R 7.8.32 (e)
N/A
Whether player retaliated – R 7.8.32 (f)
N/A
Self-defence – R 7.8.32 (g)
N/A
Effect on victim – R 7.8.32 (h)
The injured player was permanently removed from the field of play and suffered concussion as per the medical report submitted. He remains unfit to play at present.
Effect on match – R 7.8.32 (i)
The effect was a negative one in respect of the player’s team who conceded a try (resulting in the loss of the match) following the player’s ordering off.
Vulnerability of victim – R 7.8.32 (j)
The injured player was on his feet and in possession and was not in a particularly vulnerable position.
Level of participation/premeditation – R 7.8.32 (k)
Full participation but no premeditation.
Conduct completed/attempted – R 7.8.32 (l)
Complete
Other features of player’s conduct – R 7.8.32 (m)
Nil

Disciplinary Decision

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Low-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 consider World Rugby Regulations 17.19.2(a), 17.19.2(h), and 17.19.2(i) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 7.8.34 (a)
None.
Need for deterrence – R 7.8.34 (b)
None
Any other off-field aggravating factors – R 7.8.34 (c)
No

Number of additional weeks: 0

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a)	Player's disciplinary record/good character – R7.8.35 (b)
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Disciplinary Decision

The player acknowledged culpability at the earliest opportunity i.e. in his reply to Standing Directions.	The Player has on his record two previous matters – 1 week suspension for dangerous play in 2008 4 week suspension for striking in 2012 Three testimonials were submitted in support of the player. The player is heavily involved with a number of charitable organisations and is to be commended in that regard.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
The player is 32 years old and has played professional rugby for 16 years, appearing 75 times for England, 194 times for Wasps and having been capped and a British and Irish Lion.	Exemplary
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)
An apology was made to the injured player in person at the pitch side and further apologies were made via Twitter and through text messages exchanged between the players.	Nil
Number of weeks deducted: 2	

Summary of reason for number of weeks deducted:

It was submitted for the Player that he should be entitled to full mitigation i.e. a 50% reduction in the sanction imposed, having regard to all of the relevant considerations. The committee gave due consideration to all of the mitigating factors outlined on the players behalf and determined that the appropriate degree of mitigation of the entry point sanction of 6 weeks was 40% of that 6 week period. The player had much to his credit in respect of his off-field charitable work and other endeavours, all of which served to demonstrate his good character. However, the Player does not have an exemplary disciplinary record and his two previous disciplinary matters had to be taken into consideration in an overall assessment. It was acknowledged by the Committee that the first offending is of some antiquity and was sanctioned by a short period of suspension, but we were told that the second was for multiple ‘punching’ albeit in the context of provocation. However, at 4 weeks, and with mitigation already taken account of, it cannot be regarded as a *de minimis* disciplinary incident.

It was submitted on behalf of the Player that all of the positives applying to the Player should, effectively, outweigh the negative i.e. the existence of two previous suspensions for Foul Play.

In considering the degree of mitigation to be applied one does not seek to ‘balance off’ positives against negatives. The correct approach is to take all of the off-field factors that are considered as mitigatory, and then taken together determine the weight to be given to the totality of those factors which is then expressed as a % reduction, ‘x%’ from the entry point (or the entry point plus any aggravation where relevant).

DR 7.8.36 obliges the committee, in assessing the level of reduction (if any) to start at 0% and work upwards to x%, which is subject to a maximum of 50% and not *vice versa*. The committee considered all of the mitigating factors advanced on behalf of the Player and considered that, taken together, those merited a 40% reduction from the entry point. The committee determined that the appropriate reduction, in respect of mitigation, from the entry point period of suspension, was 40% of the entry point.

In determining that x%, the element of contribution considered appropriate by the Committee of the disciplinary record of the Player consequent upon the Player’s off-field mitigatory factors was less, i.e. the x% reduction from the entry point was less, than would have been the case had the Player had no recorded disciplinary record.

A period of six weeks suspension reduced by 40% would result, on a purely arithmetic basis, in a reduction of the six-week entry point period of suspension, to 3.6 weeks. In accordance with DR 7.8.38 the period of suspension falls to be rounded up to the next whole number of weeks resulting in a period of suspension of four weeks.

SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 7.2.5

Total sanction	4 Weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	13/01/2018	
Sanction concludes	Midnight 11/02/2018	
Free to play	12/02/2018	

Signature (JO or Chairman)	Jennifer Donovan	Date	17/01/2017
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NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 8.1 AND 8.2 OF THE EPCR DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 8.2.1 TO 8.2.4 OF THE REGULATIONS