

Decision of Independent Disciplinary Panel

EPCR Champions Cup 2016/17

**Held at the Sofitel Hotel, Terminal 5, Heathrow Airport, London on the
30th of January 2017**

In Respect of:

Ed Slater (the Player) and the citing complaint (complaint) brought by J N Mark, the Citing Commissioner appointed to the match between Leicester Tigers and Glasgow Warriors played on the 21st of January 2017 at Welford Road, Leicester (the match) alleging that during the match the Player committed an act of foul play contrary to 10.4(a) of the Laws of the Game, a player must not strike an opponent with the fist or arm including the elbow, shoulder, head or knee(s)

Committee

David Martin (Ireland) Chairman

David Hurley (Ireland)

Roddy Dunlop (Scotland)

Decision

1. The Player having accepted that he had committed an act of foul play and that his act warranted the issue of a red card, the citing complaint was upheld.
2. The Player is suspended from taking part in the game of rugby union for a period of two weeks from the 21st day of January 2017 up to and including Sunday 5th of February 2017.
3. There being no application for costs the Committee made no Order as to costs.

Introduction

The Committee was appointed by Professor Lorne Crerar, Chairman of EPCR Disciplinary Panel to consider the complaint made against the Player for his

alleged offending act in the match played in the EPCR Champions Cup (the tournament) arising from a citing complaint made by J N Mark on the 22nd day of January 2017 that the Player had committed a breach of Law 10.4(a) of the Laws of the Game.

In addition to the Disciplinary Committee, the following were present at the hearing:-

The Player

Sam Jones, Counsel of Guildhall Chambers

Jed Glynn, Leicester Tigers

Liam McTiernan, Disciplinary Officer EPCR (the Disciplinary Officer)

Danny Rumble, EPCR

The parties were advised that the hearing would be dealt with in accordance with the provisions of the Tournament Disciplinary Rules applicable for season 2016/17 (the Disciplinary Rules).

Preliminary matters and procedures

At the commencement of the hearing the Chairman noted the identities of all present and narrated the complaint reminding the Player that the complaint was in respect of an allegation that the Player had committed an act of foul play contrary to Law 10.4 (a), namely punching or striking.

The Chairman reminded all the parties that EPCR Disciplinary Rules found in the Participation Agreement for the season 2016/2017 would apply. The Chairman outlined the procedure to be followed to determine the matter. The Player and all present agreed to proceed on that basis.

The Chairman established what evidence had been placed before the Committee prior to the hearing and enquired as to whether all present had received same in good time. The Chairman enquired as to whether there

was any additional evidence to be presented before him. The evidence for consideration was as follows:-

1. Letter from Liam McTiernan to Professor Lorne Crerar dated the 22nd of January 2017.
2. Citing Commissioners Report dated the 22nd of January 2017.
3. Email from Professor Lorne Crerar to the Player and Mr McTiernan dated the 25th of January 2017.
4. Report from Mathieu Raynal, Referee, dated the 23rd of January 2017.
5. Report from Philippe Bonhoure, Assistant Referee, dated the 24th of January 2017.
6. Report from Thomas Charabas, Assistant Referee, dated the 23rd of January 2017.
7. Two colour photographs of Glasgow number 3.
8. Audio recording citing commissioner with Glasgow player.
9. Player's response to standing directions.
10. Responses to pre-hearing directions.
11. Video evidence of the incident.

Further to the standing directions contained in the Disciplinary Rules of EPCR Tournament 2016/17, the Player and his representative confirmed at the hearing:-

- a) The Player accepts that he is the player named in the citing complaint.
- b) The Player will not argue any preliminary issues.
- c) The Player accepts that the citing complaint report sets out the factual basis upon which the citing complaint is founded. The Player contends that the first contact between himself and G3 cannot properly be described as a strike but accepts at least two strikes in the heat of the moment thereafter.
- d) The Player accepts that he committed an act of foul play.
- e) The Player also accepts that the act warranted a red card.
- f) N/A

- g) The Player will be represented at the hearing by Sam Jones of Guildhall Chambers.

Submissions as to sanction

Further to the disciplinary rules the Player having accepted that he had committed the alleged act of foul play and that it warranted a red card, the Disciplinary Committee moved to hear from the Player and the Disciplinary Officer as to their explanation of the act of foul play in order that the Committee could consider the appropriate entry point relating to an assessment to the seriousness of the Player's conduct in committing the act of foul play.

By way of introduction Mr Jones, Counsel on behalf of the Player, in advance of the video of the incident being shown submitted that the initial contact was not a strike and that the Player's arm was around the Glasgow player's shoulder as he was going to ground. He submitted that the foul play took place on the ground when the first of two or three blows occurred. Mr Jones accepted that there were two strikes and submitted at this time that the entry point was midrange for striking and not top end. He submitted that a feature of the incident was retaliation on the part of the Player.

The video of the incident was shown (without sound) at normal speed and slow motion. The Player was taken through his explanation by Mr Jones. The Player sought to explain the alleged act of foul play. He said that his fellow teammate, Tom Youngs, had gone to ground with Glasgow number 4 on top of Tom Youngs. The Player wanted to remove Glasgow number 4 from on top of Mr Youngs and whilst doing this he saw the Glasgow player looking to hit Tom Youngs. He said his initial reaction was to try to roll the Glasgow player away but failed to do so. He said that when he fell to the ground he was frustrated by the failure of his efforts to do so and also due to the way in which the match was going against his team at that time. He explained that his team had just received a yellow card with which he did not agree.

On taking the video through slow motion he sought to show that his first contact with the Glasgow number was not a punch but an effort to roll the Glasgow 4 away. The Player accepted that when he went to ground he did strike the Glasgow player with what he described as short jabs and not a "Haymaker". He accepted that the punches were not from a distance.

In the audio recording between the citing officer and the Glasgow number 4, there was a description of three punches. The Player denied that there were three punches and stated that the third movement which could be seen on the video of the incident was an effort on the part of the Player to stabilise himself after he had struck two blows to Glasgow number 4. The Player drew attention to the other players who were landing on top of him at that time.

Mr Jones then addressed the Committee and asked the Committee to consider his responses to disciplinary rule 7.8.32 as follows;

- (a) The offending by the Player was intentional and was stupid. The Player's team was losing 10-0 at the time and his actions were in frustration to protect his player.
- (b) Recklessness was not an issue.
- (c) The gravity of the Player's action were that the punches were in the form of short jabs whilst the player was on the ground.
- (d) The Player used a closed fist.
- (e), (f), (g) As to the existence of provocation the Player had retaliation in mind as a result of what he considered to be the efforts of the Glasgow player to punch Mr Tom Youngs. His actions were an effort to protect his teammate and not in self-defence.
- (h) There was a minor injury to Glasgow number 3 in that he suffered a cut to his lip which was not visible after the game. No on field attention was required by Glasgow number 3.
- (i) The Player's actions had no effect on the game.
- (j) It was accepted that Glasgow number 3 was in a somewhat vulnerable position but he was not on the ground and rather was

on top of his own teammate and would not have been in a position to defend himself.

- (k) Mr Jones maintained that there was no pre-meditation
- (l) The action was completed.

Mr Jones further stated that the incident caused a minor injury which did not result in the player's removal from the pitch. He described the punches as jabs rather than strikes and that there was no effect on the game.

It was submitted that there were no off field aggravating factors.

Mr Jones turning to paragraph 7.8.35 explained:-

- a) The Player has acknowledged that he had committed an act of foul play and that it merited a red card. He further stated that the timing of the Player's acknowledgment was immediate.
- b) The Player had an exemplary record and was very highly regarded within the club.
- c) The Player is now aged 28 years and is a Professional Player with Leicester Tigers for seven seasons having previously played rugby on a part time basis in Sydney. The Player had been captain on four occasions for England Saxons and had toured New Zealand with the full England team and had captained the England team in a mid-week game.
- d) The Player conducted himself wholly properly before and during the hearing. He accepted responsibility for his actions in an open and honest manner and in no way sought to diminish his responsibility. In this regard his behaviour at the hearing was exemplary.
- e) The Player was fully remorseful for his actions.
- f) Mr Jones requested permission that the Committee hear reference from Mr Jed Glynn of Leicester Tigers. Mr Glynn is the operations manager in Leicester Tigers and stated that he had known the Player since he joined Leicester Tigers at the same time. He said the Player is an established and highly respected member of the club who is a

young player mentor within the club. He said that the Player's off field activities involved fund raising for the homeless by making speeches, that he was an ambassador for disabled sports people for whom he also helped to raise funding. He said the Player's actions were not in keeping with his character.

The Committee considered the seriousness of the Player's offending and noting that World Rugby require that a strike to the head shall result in at least a mid-range entry point. The committee determined that this should be the appropriate entry point

In assessing the seriousness of the conduct which constituted the offending the Committee found that as the Player's offending was intentional. Recklessness was not an issue in the case. The Glasgow Player was in a vulnerable position but fortunately sustained a minor injury. The punches were described as jabs which were delivered without force. They were delivered at a time when the Player was lying on the ground and not with great force. There were no off field aggravating factors and there was no reaction from the Players on the pitch. The Committee did not in the circumstances consider that there were aggravating factors and that the Player had an exemplary disciplinary record.

The Committee noted that there were compelling mitigating factors including the Player's early acknowledgment of his offending and the manner in which he conducted himself at the hearing and his clean playing record prior to this offence. In the circumstances the Committee decided to afford the Player full 50% mitigation from the entry point of four weeks.

The Committee made enquiries as to the Players playing schedule. The Committee was told and accepted that the Player had been eligible for selection the previous weekend in a match involving Leicester against Northampton in the Anglo Welsh Cup for which the Player was not selected (this hearing not taking place the week immediately following the citing).

The Committee were advised that the next fixtures over the following involving Leicester were against Saracens and Gloucester in the Anglo Welsh Cup, Gloucester and Bristol in the Aviva Premiership. The Committee were advised that Leicester Tigers intended putting the strongest team out against Saracens as they had not beaten them and that the Player would be eligible for this match. The match is of importance for the club in the Anglo Welsh Cup. The Committee accepted that the forthcoming matches are meaningful matches for the purposes of the sanction and accordingly impose a two week sanction from the 21st of January 2017 to Sunday the 5th of February 2017.

There being no application for costs the Committee made no Order as to costs.



David Martin

Chairman

2 February 2017