

## **EPCR SHORT JUDGMENT FORM**

Match	Ulster Rugby	Vs	Bath Rugby
Club's Country	Ireland	Competition	Heineken Champions Cup
Date of match	18 January 2020	Match venue	Kingspan Stadium
Rules to apply	<b>EPCR Disciplinary Rules 2019/20</b>		

### **PARTICULARS OF OFFENCE**

Player's surname	TREADWELL	Date of birth	6.11.95
Forename(s)	Kieran	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	Ulster Rugby		
SELECT: Red card <input type="checkbox"/> Citing <input checked="" type="checkbox"/> Other (specify) <input type="checkbox"/>			
Offence	Law 9.13 – Dangerous Tackling		
Summary of Sanction	Citing dismissed.		

### **HEARING DETAILS**

Hearing date	6 February 2020 (adjourned from 23 January 2020 with the agreement of all parties).	Hearing venue	New Fetter Lane, London.
Chairman/JO	Jeremy Summers (England).	Panel member 1	Marcello d'Orey (Portugal)
Panel member 2	John Greenwood (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:

Jonny Petrie, Chief Executive Ulster Rugby.  
Bryn Cunningham, Head of Operations and Recruitment Ulster Rugby.

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

- Notice of Hearing.
- Citing Commissioner's Report.
- Video footage of the incident.
- Statement from Alex Ruiz, Referee.
- Statement from Luc Ramos, Assistant Referee.
- Statement from Patrick Dellac, Television Match Official.
- Statement from Tom Ellis, Bath Rugby player.
- Bath Rugby medical statement.
- World Rugby decision making framework for high tackles (the "**Framework**").

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

The detail in the Citing Commissioner's (Stefano Marrama, FIR) Report recorded an incident that had arose at 67:15 (2nd half) as follows:

*After a restart kick from Ulster, B6 gather the ball within his own 22m and charges the Ulster line. U19 is going to tackle him on the 22m line, but is not bent at the waist. When the tackle is made, U19 right shoulder is turned in and makes direct contact with some force with B6 neck/jaw without wrapping his right arm.*

The report further recorded that the match officials had not seen the incident and that the incident had not led to medical attention being required at the time or thereafter.

Short statements, by way of emails, from the match officials were in evidence and confirmed that had been aware of the incident now cited.

The match footage tendered by EPCR, which was available from a single angle only, and showed an Ulster restart fielded by B6 close to his right touchline some 5m inside the Bath 22.

Having caught the ball, B6 commences an attacking run angling in-field away from touch and towards the 22m line. His running line sees him attack the Player's defensive channel and both players come into contact on or very close to the 22m line.

B6 has the ball in left arm and dips slightly to his right leading into the contact with his right shoulder.

At the point of contact the Player is slightly bent at the knees, but is otherwise is upright with his right arm appearing to be almost fully extended down towards the ground. It is not possible from the footage to determine accurately the positioning of the Player's left arm, although it appeared to be extending slightly in front of his body.

The Player goes forward into the contact at a controlled pace leading slightly with his right shoulder. As he does so, the shoulder makes contact with the right side of B6's body, which as noted is dipping into the Player with some momentum. Again the footage did not enable a precise assessment, but Initial contact seemed likely to have been shoulder to shoulder/chest. B6's head then turned inwards towards the Player, and there is then contact with his right neck/jaw area. That contact (with the head) can clearly be seen with the Player's back as B6's run sees him continue through the tackle. It is however, not possible from the footage to determine with precision whether there been any prior contact between the Player's shoulder and the head of B6.

Having gone through the tackle, B6 goes to ground slightly beyond the initial point of contact.

The footage stops at that point, with nothing being shown as to how long B6 takes to get up and re-join play.

The Referee and Assistant Referee appear to have a clear lone of sight from around 7-8m away and neither observe foul play. There is no reaction from any Bath player seen on the footage.

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

An email statement from Tom Ellis (B6) read:

*This is my recollection of the incident.*

*As I carried the ball in, I recognised the point of contact was to my neck. However did not have an injury so I didn't think anything else of it, nor did I receive any treatment.*

*Myself and Kieran had no interaction post tackle or post match.*

Medical evidence was received from Bath as follows:

*Tom was reviewed post the incident though required no treatment.*

*He had no issues at the time. On review this morning he has no issues related to the incident. He has mild neck stiffness though full range. It's difficult to assess whether from the incident in question or related to normal contact incidence within the game.*

In opening the case, Mr McTiernan noted that the citing had followed a referral from Bath, which fact had not previously not been apparent. No complaint had been made to the Citing Commissioner immediately after the match and the referral had been made by email the following day at around noon (this email was not in evidence).

Of note, the footage which had been sent to the Citing Commissioner in support of the referral, included the following annotations made by Bath as follows: "Direct contact to Head/Neck" and "No attempt to wrap arms".

Ulster was concerned to learn of these annotations, and submitted that the Citing Commissioner could have been unfairly influenced such that the citing should not be allowed to proceed.

The Panel asked for evidence from the Citing Commissioner and was grateful to him for making himself available to join the hearing by telephone conference. He confirmed that the incident had not been raised at the ground either by Bath or by the match official team. Having left the ground by the time he received the referral (the following day), he had only been able to consider the incident from the single angle footage submitted by Bath. He had been aware of the annotations, which he had ignored. His decision had been reached on the basis of his views alone.

Having heard his evidence, the Panel was entirely satisfied that the Citing Commissioner had in no way been influenced by the Bath annotations,

and in those circumstances ruled that the hearing should proceed.

[**Comment:** The Panel was concerned that Bath had included its own interpretation on the material submitted to the Citing Commissioner as evidence. In the view of the Panel, the citing process might be further enhanced through the issue of a short protocol detailing the way in which a referral to a Citing Commissioner should be made and supported.]

Mr McTiernan took the Panel to the written evidence and the match footage. In his submission this showed that the Player's head had been at the same height as B6's head and that he had not dropped his height to effect a safe tackle. He had attempted to make a dominant tackle and his shoulder had then made contact with the head of B6. He reviewed the Framework, pointing to factors that in his view established a high risk of danger. Both Players were in open play, the Player had a clear line of sight and so the mitigating factors that might not otherwise have been relevant could not be applied. He accepted that contact with the head might have been secondary, but in his view it was not. However, and in any event, a dangerous tackle that constituted foul play and met the Red Card threshold had occurred.

## SUMMARY OF PLAYER'S EVIDENCE

In his response to the Standing Directions, the Player noted that he wished to challenge the citing, and in so doing disputed that an act of foul play had occurred, noting that, contrary to the Citing Commissioner's Report, *"initial contact was not to the head or neck of the ball carrier"*.

In support of his case, the Player also helpfully submitted a short video presentation analysing the incident by reference to the features referred to in the World Rugby *decision making framework for high tackles*, which is found on the following link: <https://we.tl/t-Pt0UNFwOO9>.

The Player gave evidence before the Panel. He denied foul play and asserted that he had not made contact with B6's head. He explained that he had gone up in the defensive line to make a soak tackle as B6 returned the kick-off. As he closed down on B6 he had been "paddling" in order to assess what B6 was going to do and then make a decision based on his actions. He wanted to make a soak tackle so that he could quickly re-join the defensive line and felt that it would have been difficult to have effected a dominant tackle given the forceful run being made by B6. He recalled being shoulder to shoulder with B6 but was clear in his position that at no time had he made contact with B6's head.

Mr Petrie took the Panel to the Ulster footage, which included a behind the post angle from the club's own camera (Bath had apparently not made any inquiry as to whether additional footage was available that might have assisted the Citing Commissioner). In his view, this did not show that there had been foul play that would have engaged the Framework: there was no clear contact with B6's head; B6's head had not visibly moved backward after contact; and there had been no need for a HIA.

He noted that from the footage, B6's jersey could be seen immediately before contact, which he submitted was consistent with contact having been shoulder to shoulder or shoulder to chest. Immediately after contact, the head of B6 had then gone forwards not backwards. B6 had then used his right arm to leverage through the tackle, which could not have happened had his head have gone backwards. B6 had been dominant in the impact as reflected by the fact that I was the Player who had gone backwards after the impact rather than B6.

He disputed that there had been a high tackle and challenged the Citing Commissioner's view that the Player had not been bent at the waist. He noted that the Player's left arm could be seen in front of his body, indicating that he had been going for the wrap as he approached the tackle.

The Player had been going forwards and to his side but decelerating as he did so. This was consistent with his trying to make a soak tackle rather than dominant tackle. Whilst his primary submission was that there had been no foul play, if there had been, this had not passed the Red Card test.

In response, Mr McTiernan cautioned as to the effect of foreshortening, in terms of Mr Petrie's submission that one could see B6's jersey immediately before contact, noting that the footage then showed what he submitted had been clear contact with B6's head. However, he accepted that it was possible to interpret the contact he was relying upon, as having been with the Player's back, and not his shoulder, as B6 continued forward through the impact.

In EPCR's submission there had nevertheless been a high and dangerous tackle that had resulted in direct contact with B6's head. The Player had sought to make a dominant tackle. In doing so he had come in at a near upright position, which had meant that he had been unable to avoid the risk of foul play arising. Analysing the factors pointing to a higher risk of danger set out on the Framework, a Red card had been warranted.

## FINDINGS OF FACT

The Panel gave very careful consideration to all the evidence and submissions, and reminded itself that the burden of proof lay on the Disciplinary Officer to establish that foul play had occurred.

Having done so, the Panel was not able to be satisfied, to the standard required, that the Player's shoulder had come into contact with B6's head in a way that gave rise to foul play. From the footage, even on Mr McTiernan's helpful analysis, it was least plausible that contact with B6's head had been with the Player's back after the force of his run took him through the original contact. The limited evidence from Bath as to the point of contact did not assist in resolving this issue.

In those circumstances, the Panel concluded that Mr McTiernan had not been able to discharge the burden upon him of establishing that foul play had occurred, and the citing was accordingly dismissed.

To the extent that the Panel had erred on the side of caution and given the Player the benefit of the doubt from inconclusive footage, it was fortified in doing so having regard to the following factors:

- I. The on-field match officials had a good line of sight and had not thought it necessary to ask the TMO to check for foul play;
- II. Similarly, the TMO had not been concerned that foul play had potentially arisen from an incident that had occurred immediately after a re-start where no other issues could have obscured any possible foul play;
- III. There had been no player reaction; and
- IV. Bath had not referred the matter after the game, and the reasons for the delayed referral were less than clear.

## DECISION

Breach admitted <input type="checkbox"/>	Proven <input type="checkbox"/>	Not proven <input checked="" type="checkbox"/>	Other disposal (please state below) <input type="checkbox"/>
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## SANCTIONING PROCESS

## ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)

**PLEASE TICK APPROPRIATE BOX**

Intentional/deliberate ☐

Reckless ☐

State reasons

Gravity of player's actions – R 7.8.32 (c)

Nature of actions – R 7.8.32 (d)

Existence of provocation – R 7.8.32 (e)

Whether player retaliated – R 7.8.32 (f)

Self-defence – R 7.8.32 (g)



Need for deterrence – R 7.8.34 (b)
Any other off-field aggravating factors – R 7.8.34 (c)

Number of additional weeks:

<b>RELEVANT OFF-FIELD MITIGATING FACTORS</b>
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Acknowledgement of guilt and timing – R 7.8.35(a)	Player's disciplinary record/good character – R7.8.35 (b)
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)

Number of weeks deducted:

Summary of reason for number of weeks deducted:

## 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 (weeks)		Sending off sufficient <input type="checkbox"/>	
Sanction commences		Costs	
Sanction concludes			
Free to play			

Signature (JO or Chairman)	<i>Jeremy Summers</i>	Date	7 February 2020
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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