

DISCIPLINARY DECISION



Match	Scarlets v Benetton Rugby		
Player's Club	Benetton Rugby	Competition	Guinness PRO14
Date of match	15 September 2018	Match venue	Parc y Scarlets, Llanelli, Wales
Rules to apply	Guinness PRO14 Disciplinary Rules 2018/19 Season		

PARTICULARS OF OFFENCE			
Player's surname	Herbst		
Forename(s)	Irne		
Referee Name	Lloyd Linton	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	9.12 - A player must not physically or verbally abuse anyone. Physical abuse includes, but is not limited to, biting, punching, contact with the eye or eye area, striking with any part of the arm (including stiff-arm tackles), shoulder, head or knee(s), stamping, trampling, tripping or kicking.	SELECT:	Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other <input type="checkbox"/>
Summary of Sanction	Player suspended for two weeks up to the 30 th September 2018.		

HEARING DETAILS			
Hearing date	19 September 2018	Hearing venue	PRO14 Offices, 3 rd Floor Millbank House, Arkle Road, Sandyford Industrial Estate, Dublin 18
Chairman/JO	David Martin		
Other Members of Disciplinary Committee	George Spotswood Kim Moloney		
Appearance Player	(By Skype) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Appearance Union	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Player's Representative(s)	Marius Goosen (Coach), Benetton	Disciplinary Officer and/or other attendees	Amy Monaghan, PRO14 Rugby
List of documents/materials provided to Player in advance of hearing	<ul style="list-style-type: none"> - Referee report - Assistant referees and TMO reports - Scarlets player and medical statement - Notice of Hearing/Standing Directions - Video footage - Disciplinary Rules 		

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

A ruck developed in the Scarlets 22 with Benetton attacking. The TMO saw Benetton No. 4 dive off his feet and make contact with Scarlets No. 2 who was lying on the ground having made a tackle. The TMO then brought this to the attention of the referee and following review on the screen in the ground concluded that the Scarlets No. 2 was struck with a leading forearm to the face by the player.

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

The Scarlets No. 2 provided a statement to the Committee in which he stated that he made a tackle on a Treviso player. He landed on the ground whilst making the tackle. As the Scarlets player was moving to roll away from the tackle he felt someone make hard contact to his face and didn't see this coming. He was unable to protect himself. He took the full force of the player's forearm/elbow to his face pushing him into the floor. The Scarlets player was examined by the medical team and a statement from the Scarlets head of medical services confirmed that the player did not suffer an injury as a result of this incident.

SUMMARY OF PLAYER'S EVIDENCE

The player accepted that he had committed an act of foul play which warranted a red card. He also accepted the contents of the referee's report, those from the assistant referees of the incident and the TMO. The player explained that he was the first player to arrive at the breakdown following a tackle on his player by the Scarlets No. 2. The player stated that he thought that the tackler was going to stand up and contest the ball and that it was his intention to ensure that this did not happen. With this in mind he went off his feet and explained that his shoulder slipped over his own player and that as a result his forearm made contact with the Scarlets No. 2 on the face. The player accepted that he could not use his shoulder and that he must bind in against a player in the circumstances. He said he had no intention to harm the Scarlets No. 2 and had found it difficult to stop his momentum.

FINDINGS OF FACT

Video clips of the incident were shown at full speed without sound from a number of angles. The incident occurred in the 25th minute of the first half. Following a ruck in midfield the ball was passed to the right inside the 22 to Benetton No. 2 who is tackled by Scarlets No. 2. Both players go to ground with the Scarlets No. 2 lying on his back. The Benetton No. 2 placed the ball on the ground with his back to the Scarlets goal line. As he does this the player arrives at the breakdown at the right hand side and dives off his feet going to ground without making any effort to bind. He makes some contact with his own player before sliding over this player and making contact with the Scarlets No. 2 head with his forearm which is in a bent position whilst that player was lying on the ground. The player received a red card for striking with the forearm. The Committee had some concern that the strike may have been with the elbow but on a closer review of the video evidence were satisfied that the strike to the player's head was with the forearm. It is clear from the video clip that the player made no effort to stay on his feet or to bind. Whilst a ruck had not formed at this stage the player nevertheless was reckless in the manner in which he arrived at the scene and endeavoured to secure the ball. It was clear from the video evidence that his intention was to ensure that the Scarlets No. 2 got nowhere near the ball following the tackle.

DECISION

Breach admitted Proven Not proven Other disposal (please state)

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 17.19.2(a)-(b) (or equivalent Tournament rule)
Intentional/deliberate <input type="checkbox"/> Reckless <input checked="" type="checkbox"/>
State Reasons
As the player arrived at the tackle situation he lowered his body moving towards the direction of the tackle breakdown before launching himself off his feet without seeking to bind. The player did not take care to ensure this action would not result in an act of foul play. He must have known by leaving his feet he would lose control of any further actions and that he could not control the consequences of his actions. Whilst going through this motion the player did make contact with his own player on the ground before travelling further forward and making contact with the head of the Scarlets No. 2. In view of the fact that the player first came in contact with one of his own team on the ground satisfied the committee that the act was not a deliberate intention to injure.
Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule)
The consequence of the player's action was that his forearm struck the Scarlets No. 2 on the face. The Scarlets player was lying on the ground in a prone position and unable to defend himself. He was lifting his head from the ground when he was struck. Not only was the player open to suffering injury to his face but also to the back of his head which impacted with the ground. Fortunately there was no injury to the player.
Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
Scarlets No. 2 was struck with the forearm by the player who was in an uncontrolled movement off his feet. The strike was with a leading forearm and there was no other movement of the arm other than leading in front of the player as he travelled off his feet and downwards.
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)
There was no provocation. The Scarlets No. 2 was lying on the ground having completed a clean tackle and not attempting to play the ball.
Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule)
There was no retaliation involved in this incident.
Self-defence – R 17.19.2(g) (or equivalent Tournament rule)
There was no issue of self defence arising in this case as the Scarlets No. 2 was lying prone on the ground and not involved in any action having completed the tackle.
Effect on victim – R 17.19.2(h) (or equivalent Tournament rule)
Fortunately the player was not injured.
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)

The incident had no effect on the match, there was no reaction from the players on the pitch and the referee dealt with the matter immediately.
Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)
The victim player was lying prone on the ground and unable to defend himself. He was in a position where his head was exposed and unprotected.
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)
There was no premeditation in the action which was reckless.
Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule)
The player completed an impact with the Scarlets No. 2's head with his forearm.
Other features of player's conduct – R 17.19.2(m) (or equivalent Tournament rule)
There were no other relevant features.

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"/>	4	<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
N/A

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player's status as an offender of the Laws of the Game – R 17.19.4(a) (or equivalent Tournament rule)
There are no off-field aggravating factors.

Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule)
There is no need for deterrence.
Any other off-field aggravating factors – R 17.19.4(c) (or equivalent Tournament rule)
None.

Number of additional weeks:

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 17.19.5(a) (or equivalent Tournament rule)	Player’s disciplinary record/good character – R 17.19.5(b) (or equivalent Tournament rule)
The player accepted immediately the red card and did not dispute any issues.	The player has a clean disciplinary record.
Youth and inexperience of player – R 17.19.5(c) (or equivalent Tournament rule)	Conduct prior to and at hearing – R 17.19.5(d) (or equivalent Tournament rule)
The player is aged 25 years and a professional player for 4 years. He played 3 years professionally in South Africa and 1 year in Italy.	The player’s conduct was exemplary.
Remorse and timing of remorse – R 17.19.5(e) (or equivalent Tournament rule)	Other off-field mitigation – R 17.19.5(f) (or equivalent Tournament rule)
The player indicated he had no intention of causing injury and immediately accepted that he had committed an act of foul play.	None.

Number of weeks deducted:

Summary of reason for number of weeks deducted:

The player had an unblemished record prior to this incident which did not cause injury to the Scarlets player. He accepted in full the consequences of his actions and did not seek to dispute any issues or any facts. He explained the reasons for his actions and accepted that his actions were reckless.

SANCTION

NOTE: PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 17.14.5(f) (or equivalent Tournament rule)

Total sanction	2 weeks	Sending off sufficient <input type="checkbox"/>
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Sanction commences	16 th September 2018
Sanction concludes	30 th September 2018
Matches/tournaments included in sanction	2 matches

Costs	Nil
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Signature (JO or Chairman)		Date	20 September 2018
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NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIRMAN/JO TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – R 17.22.2(a) (or equivalent Tournament rule) (see Page 6)

[Standard Appeal Directions to appear on this page]