

DISCIPLINARY DECISION



Match	Cardiff Blues v Dragons		
Player's Club	Dragons	Competition	Guinness PRO14
Date of match	21/12/2018	Match venue	Cardiff Arms Park
Rules to apply	Guinness PRO14 Disciplinary Rules		

PARTICULARS OF OFFENCE			
Player's surname	Fairbrother		
Forename(s)	Lloyd		
Referee Name	Frank Murphy	Plea	<input checked="" type="checkbox"/> Admitted <input type="checkbox"/> Not admitted
Offence	Law 9.20 – Dangerous play in a ruck.	SELECT:	Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other <input type="checkbox"/> If "Other" selected, please specify:
Summary of Sanction	3 weeks		

HEARING DETAILS			
Hearing date	27/12/2018	Hearing venue	Radisson Blu, 80 High Street The, Royal Mile, Edinburgh EH1 1TH, Scotland
Chair	Sheriff Kathrine Mackie (Scotland)		
Other Members of Disciplinary Committee	Robert Milligan QC (Scotland) Jennifer Rae (Scotland)		
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)	Ceri Jones, Dragons	Disciplinary Officer and/or other attendees	Martin Malone, PRO14 Rugby
List of documents/materials provided to Player in advance of hearing	Hawk-Eye footage Letter Notifying Player of Hearing Referee's Report TMO Report Medical Report from Cardiff Blues, Dr. Dan Jones Player Statement from Dillon Lewis, Cardiff Blues Player's response to the Standing Directions		

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

The referee reported that at 31 minutes a ruck formed on the Cardiff Blues 5 metre line. The player charged into the ruck striking a Cardiff Blues player (Dillon Lewis) to the head with his elbow with force. The TMO reported that he had drawn the referee's attention to the incident. After viewing the footage

the referee issued a red card to the player.

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

Dan Jones, Head of Medical Services, Cardiff Blues, reported that the victim player had not complained of any injuries and had not received any treatment on the pitch or after the match.

Dillon Lewis, the victim player, stated “I was over the ball a player cleaned me out as I got cleaned out Lloyd come in leading with the elbow and made contact with my head. No treatment was needed and injury/symptom free today (22 December 2018)”.

The Discipline Committee (the Committee) viewed the match footage of the incident from various camera angles at real speed and in slow motion. In particular the Committee viewed the incident from camera 6 Near Left Corner. In the opinion of the Committee the footage showed the following:-

- The player getting to his feet following the collapse of a maul and a ruck being formed on Cardiff Blues’ 5 metre line near to their goal line;
- Cardiff Blues no 3 “jackalling” over a Dragons player with both arms wrapped round and underneath the player preventing the ball being released;
- Cardiff Blues no 3 not supporting his own body weight and instead lying over the back of the Dragons’ player with his head on that player’s lower back;
- The player and Dragons no 9 gesticulating and apparently complaining to the referee about the unlawful position of Cardiff Blues no 3;
- Dragons no 8 entering the ruck and using his right shoulder and arm lifting Cardiff Blues no 3 under his ribs and rolling him to the side of the ruck;
- At about the same time as Cardiff Blues no 3 is rolled over the ball is released and appears at the feet of the player and the player launches himself off both feet into the middle of the ruck with his left arm extended in front of him and his right arm bent at the elbow and close to his body.
- As his body enters the ruck his right elbow comes up and strikes Cardiff Blues no 3 on the top of his head.

SUMMARY OF PLAYER’S EVIDENCE

At the beginning of the hearing at the request of the Chair the player clarified the terms of his response to the Standing Directions. He confirmed that he accepted that he had committed an act of foul play contrary to Law 9.20 and that it warranted the issue of a red card. He explained that after getting up from the maul and moving to the back of the ruck he noted the Cardiff Blues (CB) no 3 in an illegal position preventing the ball being released. Dragons were in a good attacking position on the CB goal line and this was slowing the ball down and denying them a scoring opportunity. Both he and his no 9 expressed their feelings to the referee by holding out their arms. The referee had shouted at the CB no 3 on two occasions to get out but he did not move. The referee did not take any action such as awarding a penalty advantage. The player was aware that his no 8 was trying to roll the CB no 3 off his position but he was also aware that if he did not succeed they were not going to gain possession. Before he entered the ruck he did not see that his no 8 had succeeded nor that the ball was in fact released. He entered the middle of the ruck intending to “clear out” CB no 3 by using his right shoulder to strike CB no 3 around the midriff to lift him off the ball and move him back. He accepted that there was a risk of contact with CB no 3’s head but suggested that there was always such a risk present in any ruck situation. He had not intended to cause any injury.

Mr Jones on behalf of the player expressed disappointment that the referee had not taken any action in respect of the CB no 3 which led to the player’s decision to enter the ruck to try to remove him and release the ball to allow the team to continue its attacking move. The action of the player was “clumsy” in its execution and in fact no injury resulted. It was accepted that there had been contact with the head. However it was suggested that the issue of the red card was sufficient sanction because the absence of the player had led to Dragons losing the game which they would have been expected to win.

FINDINGS OF FACT

The Committee formed the impression that the player was frustrated by the inaction of the referee and was aggrieved at CB no 3 being allowed to slow down his team’s ability to attack. He wanted to remove that player and was oblivious to the fact that his no 8 was either in the process of doing so or had already done so and the ball had become available. Had his no 8 not succeeded in moving CB no 3, in the Committee’s opinion, the body position of the player, which was higher than CB no 3 who was lying tight to the back of another Dragons player, was such that there was a risk of serious injury to CB no 3.

The Committee considered all the material presented, the player’s explanation and submissions made by him and Mr Jones. On balance of probabilities they found as follows:-

1. Dragons were attacking near to the CB goal line.
2. After the collapse of a maul a ruck formed.

State Reasons
The player knew or should have known that by entering the ruck in the body position and manner in which he did there was a risk of committing an act of foul play.
Gravity of player's actions – R 17.19.2(c) (or equivalent Tournament rule)
Potential risk of injury to head and/or other parts of anatomy
Nature of actions – R 17.19.2(d) (or equivalent Tournament rule)
Charging or launching off both feet into ruck leading with elbow extended
Existence of provocation – R 17.19.2(e) (or equivalent Tournament rule)
Frustration of player at unlawful action of opponent does not amount to provocation
Whether player retaliated – R 17.19.2(f) (or equivalent Tournament rule)
N/A
Self-defence – R 17.19.2(g) (or equivalent Tournament rule)
N/A
Effect on victim – R 17.19.2(h) (or equivalent Tournament rule)
None
Effect on match – R 17.19.2(i) (or equivalent Tournament rule)
None other than team reduced to 14 men lost match expected to win.
Vulnerability of victim – R 17.19.2(j) (or equivalent Tournament rule)
Victim was in vulnerable position bending over the body of another player and with his head down would not see an approaching player although as he was rolled to the side his vulnerability was reduced.
Level of participation/premeditation – R 17.19.2(k) (or equivalent Tournament rule)
Only player involved. What transpired was not premeditated although the action, to "clear out" the victim was intended.
Conduct completed/attempted – R 17.19.2(l) (or equivalent Tournament rule)
The charge into the ruck was completed. The "clear out" was effected by another player.
Other features of player's conduct – R 17.19.2(m) (or equivalent Tournament rule)
None

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
Top end*	<u>Weeks</u>	Mid-range	<u>Weeks</u>	Low-end	<u>Weeks</u>
<input type="checkbox"/>		<input checked="" type="checkbox"/>	6	<input type="checkbox"/>	
The Committee noted the terms of clause 7.6.29 of the applicable					

	<p>Guinness Pro 14 Disciplinary Rules 2018/19 and that “in exercising its sanctioning authority against a player in a case of foul play the Disciplinary Committee shall (our emphasis) apply World Rugby’s sanctions for foul play (as set out in Appendix One to World Rugby Regulation 17...) in accordance with clauses 7.6.30 to 7.6.42 below. Set out at Appendix seven to these Disciplinary Rules is the version of World Rugby’s sanctions for foul play in force as at August 2017, but any amendments made by World Rugby to its sanctions will take immediate effect in the Championship. However and for the avoidance of doubt the version of World Rugby’s sanctions for Foul Play to be applied will be the version that is in force at the time that the act of Foul Play is committed.”. The Committee noted that the version of World Rugby’s sanctions in Appendix Seven of the Guinness Pro 14 Disciplinary Rules omits the preliminary explanatory note to the effect that “Any act of foul play that results in contact with the head shall (our emphasis) result in at least a mid-range sanction”. The Committee were of the opinion that where there was a difference between World Rugby’s sanctions and those of this tournament World Rugby’s sanctions took precedence. Accordingly, notwithstanding the omission of any reference in Appendix Seven to a mid range sanction for a contravention of Law 9.20 where there was contact with the head and where an act of foul play resulted in contact with the head, as in this case, a mid-range sanction required to be imposed. But for this mandatory requirement the Committee would have considered the seriousness of this incident to merit only a low end sanction.</p>	
--	---	--

*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 17.19.4(a) (or equivalent Tournament rule)
N/A
Need for deterrence – R 17.19.4(b) (or equivalent Tournament rule)
N/A
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)
Although his response to the Standing Directions appeared to be equivocal the player clarified at the commencement of the hearing that he accepted culpability and did not seek to challenge the referee’s decision.	The player had no 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 has played professional rugby for some 10 years and could not be said to be either young or inexperienced.	His 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)
He apologised to the victim player immediately after the match.	None

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:

The Committee gave significant weight to the player’s clean disciplinary record and when taken together with the other factors noted above and determined that he should be entitled to full mitigation of 50%.

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	[insert] 3 weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	The conclusion of the match	
Sanction concludes	Midnight on Sunday 13 January 2019 such that the player is free to play from Monday 14 January 2019	
Matches/tournaments included in sanction	3 matches	

Costs	
-------	--

Signature (Chair)	<i>Kathrine EC Mackie</i>	Date	27 December 2018
----------------------	---------------------------	------	------------------

NOTE: YOU HAVE 48 HOURS FROM NOTIFICATION OF THE DECISION OF THE CHAIR TO LODGE AN APPEAL WITH THE TOURNAMENT DIRECTOR – DISCIPLINARY RULES 8.1 (PAGE 4-32)

[Standard Appeal Directions to appear on this page]