

**IN THE MATTER OF A CHARGE PURSUANT TO REGULATION 6 OF WORLD RUGBY REGULATIONS**

**B E T W E E N:-**

**WELSH RUGBY UNION**

**-and-**

**ROBERT HOWLEY**

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**DECISION**

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**Introduction**

1. We have been duly appointed as a Judicial Committee to consider and determine a charge brought by the Welsh Rugby Union (“WRU”) against Mr Robert Howley pursuant to Regulation 6.3 of World Rugby Regulations (“the Regulations”) and, if we find the charge proved, to impose such sanction as appears to us to be just and proportionate. An oral hearing took place at the Principality Stadium on 9 December 2019 at the conclusion of which we announced that we would provide our decision and the full reasons for that decision in writing.
2. Mr Howley was present at the hearing together with his wife, Mrs Ceri Howley. He was assisted at the hearing by Mr David Huw Williams QC. As we understand it, Mr Williams QC was not formally instructed; nonetheless he made submissions on Mr Howley’s behalf and, in the main, it was he who spoke about all matters relevant to the Committee’s task. As we explain below, however, Mr Howley, himself made short submissions of his own to the Committee.
3. WRU was represented by Ms Julie Paterson. Her role in this case will become clear as this decision unfolds.

4. The charge against Mr Howley is specified in a letter sent by WRU to him on 5 October 2019. The statement of the charge reads “*Betting on the outcome and/or any aspect of an event by a Connected Person and receiving part or all of the proceeds of such Betting*”. Particulars of the charge are as follows:

*“During the period of 13<sup>th</sup> November 2015 and 7<sup>th</sup> September 2019, as the Welsh Rugby Union National Squad Assistant Coach, you placed 364 bets on rugby union, featuring 1,163 matches in total, using accounts held with Betway, William Hill and Ladbrokes, registered in your name, and received the proceeds (or part of the proceeds) of the successful bets.”*

5. At the commencement of the hearing on 9 December 2019 the number of bets specified in the charge was reduced from 364 to 363. Mr Howley then confirmed that he accepted the charge laid against him without qualification. In the light of Mr Howley’s admission we indicated that the focus of the remainder of the hearing would be upon determining an appropriate sanction.

### **The Facts**

6. Mr Jeremy Rogers is employed by WRU as its Policy and Integrity Manager. On 10 September 2019 he received information from an employee of Betway to the effect that Mr Howley had placed bets on matches involving Welsh national teams. In consequence, Mr Rogers contacted Ms Julie Paterson, then, as now, employed by WRU as its Operations Director. They agreed that a formal investigation should be instituted and that the investigating authority would be WRU. They also agreed that Ms Paterson would be appointed as the Anti-Corruption Officer pursuant to Regulation 6.7.
7. As at this time, Mr Howley was an employee of WRU. He was the assistant coach of the national squad and he was with the squad in Japan preparing for the World Cup Competition which was then due to begin imminently. A decision was made that Ms Paterson and Mr Martyn Phillips (the Chief Executive of WRU) would travel to Japan to inform Mr Howley of the nature and scope of the investigation which would take place into his betting activities.

8. On 16 September 2019 Ms Paterson and Mr Phillips met Mr Howley in Japan. He was accompanied by the Team Manager Mr Alan Philips. Without being prompted, Mr Howley acknowledged that he had been engaged in betting in breach of the Regulations. Thereafter, Ms Paterson explained that an investigation would take place and that, very likely, a disciplinary panel would be convened under the Regulations. Mr Howley was, then and there, given a letter explaining the disciplinary process under the Regulations.
9. It was during this meeting that Mr Phillips informed Mr Howley that he would be suspended with immediate effect from his employment as assistant coach to the Welsh team. That would mean that he would be required to leave Japan and return to Wales. He was also given a letter setting out in detail the consequences of the suspension.
10. Mr Howley left Japan on 17 September 2019. Unsurprisingly, there was considerable publicity surrounding this event. At no stage did Mr Howley seek to avoid giving accurate reasons for his leaving Japan.
11. On 23 September 2019 Mr Howley and his wife attended a meeting with Ms Paterson and Mr Rogers. The principal purpose of the meeting was to explain the process surrounding the investigation into Mr Howley's betting and the processes which WRU was required to follow under Regulation 6. Mr. Rogers made notes of the meeting which were provided to us. Ms Paterson describes Mr Howley as being "*visibly upset throughout*" and she records him as saying "*I'm putting my hands up*" and "*If I was being evasive, I wouldn't have used my works mobile phone and email account*".
12. On 4 October 2019 Mr Howley and his wife attended a further meeting with Ms Paterson and Mr Rogers. This meeting was recorded and we have been provided with a transcript of what was said. This meeting was formal in nature. It was a question and answer session which was intended to elicit detailed information from Mr Howley about the extent of his betting activities. In a report compiled by Ms Paterson dated 29 November 2019 she summarised the information which emerged in that interview.
13. Not surprisingly, Mr Howley was asked a number of questions relating to bets he had placed upon the Welsh team and about a bet which he had placed upon an individual within the team to be the first try scorer in the match against Ireland in March 2019. Mr

Howley did not deny placing such a bet; indeed he accepted that he had placed the bet. He was at pains to point out, however, that he had placed the bet as part of a “treble” bet and that the bet was part and parcel of his normal recreational betting activity. That said, Mr. Howley conceded that he knew that it was in breach of the Regulations for him to bet on matches involving Wales and, indeed, that it was also a breach for him to bet on other rugby matches.

14. In the formal interview of 4 October Mr Howley answered every question which was put to him. He did not seek to avoid responsibility for what he had done. He was clearly remorseful and very anxious about the effect his actions was having on his family.
15. As we have said, WRU formally charged Mr Howley with a breach of Regulation 6 on 5 October 2019. On the same date, Mr Howley was served with a “*written demand*” pursuant to Regulation 6.7.5 which required Mr Howley to make available to WRU for investigative purposes information including his bank statements and betting account details and electronic devices including a WRU laptop, a WRU mobile phone and “*any other electronic information storage devices in your possession such as mobile phones, laptops, ipads etc*”. Mr Howley complied with the “*demand*” in full.
16. On 7 October 2019 a Judicial Officer duly appointed by WRU (Mr Owen Rhys James) provisionally suspended Mr Howley pursuant to Regulation 6.8 of the Regulations. The terms of the suspension are set out at page 1 of the decision of the Judicial Officer.
17. As was to be expected the investigation carried out by WRU was thorough and wide-ranging. Information was obtained from three betting companies with whom Mr Howley placed bets on rugby matches, namely William Hill, Betway, and Ladbrokes. It was established that during the period specified in the charge Mr Howley had placed 200 bets with William Hill, 150 bets with Betway and 13 bets with Ladbrokes. These bets were sometimes placed as single bets (168 occasions) but on the other occasions they were placed as parts of “doubles”, “trebles” and “accumulators”. In total, bets had been placed upon 1,163 matches. Of the 363 bets, 24 were placed on “connected events” as defined in the Regulations. Some of those bets involved matches in which Wales was participating and 2 of the bets were placed upon two individuals representing Wales. The first such bet in time was that a named player would be a try scorer during the course of

a named international match. The second bet in time was that a named player would be the first try scorer during the course of a named international match.

18. Both the players who were the subjects of the bets were interviewed by Ms Paterson. In one of the interviews she was accompanied by Mr Rogers. They both denied any knowledge of the bets and there is no reason to think that their denials are not genuine. Mr Howley, himself, is adamant that the players had no knowledge of the bets and that the bets themselves formed part of his increasing recreational betting on sports events. Having heard the submissions of Mr Williams QC and briefly from Mr Howley himself we have no reason to doubt that these bets did, indeed, form part of an increasing pattern of recreational betting. The first bet in time formed part of an “accumulator” of 15 bets. The second bet was part of a “treble”. The stake in each case was no more than a few pounds.
19. We should also say that having obtained information and electronic devices from Mr Howley WRU instructed experts to assess the information and “interrogate” the devices. No material was discovered which incriminated Mr Howley to an extent greater than that which he had already admitted. We should record that in her report of 29 November 2019 to which we made reference above Ms Paterson expressed herself to be satisfied that *“the breach is limited to prohibited betting and that there is no evidence to suggest that RH has supplied, sourced or misused any information pertaining to Rugby Union.”*
20. We are satisfied that the picture uncovered by WRU is of a man who placed a very significant number of prohibited bets during a period of about 5 years. Of those bets a comparatively small percentage was placed upon matches involving Wales and on two occasions bets were placed on players representing Wales. We are also satisfied that Mr Howley made no gains, overall, from these bets. In fact WRU assess that overall Mr Howley made losses of approximately £4,000. It is also clear that Mr Howley’s betting on rugby was part of a “hobby” of betting on sporting events. We use the word “hobby” with some caution because it seems that a trigger for Mr Howley’s betting activity was a family tragedy involving the death of his sister. Nonetheless, Mr Howley’s behaviour was presented to us as being part of his recreational activities and, so far as we can discern, there is no reason to doubt that is so.

21. Towards the conclusion of the proceedings Mr Howley addressed us to stress his remorse for his behaviour and his feelings that he had let down WRU, his former colleagues in that organisation and above all his family. We have no doubt that Mr Howley was entirely genuine about his feelings. He also confirmed to us that he had not bet at all since his suspension on 16 September and that with the help of a consultant psychologist he was confident that he would desist from betting in the future.

### **The Regulations**

22. WRU has adopted Regulation 6 as part of its own disciplinary code. In this decision it suffices to deal with the content of Regulation 6 quite shortly. It is common ground that by virtue of his senior position with WRU, Mr Howley was prohibited by the terms of Regulation 6.3 from betting on rugby matches. Every bet he placed on rugby matches during the period of the charge (363 in total) constituted a breach of the regulation.
23. Regulation 6 is intended to be a self-contained code having as its primary aims the preservation of the fundamental character of sporting competition as an honest test of skill and ability and the prevention of corrupt gambling practices from undermining the integrity of the game of rugby – see regulation 6.1.1. Regulation 6.1.3 sets out what are described as “*fundamental imperatives of the Game*”. One such imperative is the need to impress upon all concerned with the game that “*public confidence in the authenticity and integrity of the sporting contest is of paramount importance.*” The regulations are to be interpreted and applied by reference to the “*fundamental sporting imperatives set out in ....Regulation 6.1.3 in preference to any strict legal and/or technical interpretation which may be proposed.*”
24. Sanctions for breach of the Regulation are dealt with at Regulation 6.10. Paragraph 6.10.1 reads as follows:-

*“Where it is determined that an Anti-Corruption Breach has been committed the Judicial Committee..... Shall impose an appropriate sanction ....from the range of permissible sanctions described in Regulation 6.10.2. In order to determine the appropriate sanction applicable in each case, the Judicial Committee..... in determining the relative seriousness of the offence shall take the aggravating and mitigating features of offending set out in Regulation 6.10.3 and 6.10.4*

*into account and shall detail the effect of such factors on the final sanction in the written decision.”*

25. Regulation 6.10.2 is in tabular form. No purpose would be served by reproducing the table. It suffices that we say that in respect of the offence of “*Prohibited Betting contrary to Regulation 6.3.1*” in which the bet is placed upon a connected event (e.g. a match involving Wales) the “*range of sanctions per offence*” is a minimum suspension of 6 months and a maximum suspension of 5 years.
26. Regulations 6.10.3 and 6.10.4 contain non-exhaustive lists of aggravating and mitigating features.
27. 6.10.3(a) specifies as an aggravating feature that “*the connected person has a high degree of fault in relation to the anti-corruption breach*”. There is a footnote to this subparagraph which provides two examples of “*a high degree of fault*”. The examples read “*a high degree of fault may be an orchestrated Fix or passing of inside information for Benefit.*” For reasons to which we shall return, WRU submit that Mr Howley’s breach of Regulation 6.3 did involve “*a high degree of fault*”. It is accepted, however, that none of the other aggravating features specified in 6.10.3 are present in this case.
28. WRU accept that many of the mitigating features specified in paragraph 6.10.4 are present. Specifically, it is accepted that Mr Howley acknowledged his breach of the Regulation at the first available opportunity, that he has demonstrated deep felt and genuine remorse, that he has an exemplary character and an exemplary disciplinary record (both as a player and coach), that his breach of the regulation caused no damage to the commercial value and/or the public interest in any match or tournament, that his breach did not affect the result of any match and that he had suffered the very significant penalty of being suspended from his employment thereby precluding him from participating in the preparation and coaching of the Welsh team in the World Cup. Mr Williams QC did not go so far as to suggest that Mr Howley’s degree of fault was “*low*” (mitigating feature 6.10.4(a)) but he disputed that it was properly to be described as “*high*” as had been alleged by WRU. He agreed that WRU had correctly identified a number of mitigating features but he stressed that we should also take account of additional features which he listed as being (a) Mr Howley made no gain from his betting; (b) there was no suggestion of dishonesty or misuse of confidential information involved;

(c) the press intrusion upon the family which had occurred immediately after Mr Howley's suspension from employment; (d) the fact that Mr Howley had sought help from a psychologist who had diagnosed that the trigger for Mr Howley's recreational betting had been a family tragedy and (e) that Mr Howley had refrained from betting since his suspension. It is not disputed by WRU that all these features are properly to be regarded as mitigating features.

29. During the oral submissions advanced by Mr Williams QC some time was spent exploring whether we had any power under Regulation 6 to suspend the operation, either in whole or in part, of any of the period of suspension which was imposed upon Mr Howley. Mr Williams QC acknowledges that Regulation 6, itself, is silent upon the point but he submits that the power to suspend is implicit in the Regulation. He points to the fact that the table at 6.10.2 simply provides minimum and maximum sanctions which, overall, range from a reprimand to a life suspension (depending upon the nature of the breach) and suggests that it would be very strange if World Rugby intended to prohibit a sanction type which is often used by the governing bodies of other sports. If that was its intention, he asks rhetorically, why not prohibit such a sanction expressly. We also note that the table at paragraph 6.10.2 contains a column headed "*additional sanctions*". It seems clear to us from the layout of the table that such additional sanctions are those which a Committee might contemplate in addition to a period of suspension for breach of the Regulation. It is equally clear that these additional sanctions are varied in type and are not intended to be an exhaustive list.
  
30. In determining whether we have power to suspend any term of suspension either in whole or in part we have also taken account of Regulation 18.6. This Regulation governs the sanctions available to a Judicial Committee for all breaches of the Regulations which must include Regulation 6. Regulation 18.6 empowers a judicial committee to impose such sanction as it thinks fit (18.6.1) and then contains a non-exhaustive list of possible sanctions. While a suspended term of suspension is not mentioned specifically we regard the invitation to a judicial committee to impose such sanction as it thinks fit to be a clear indicator that a suspended term is permissible.

31. We should record that Ms Paterson indicated that in her view we were not precluded by the Regulations from imposing a suspended term of suspension. She did not offer a view as to whether such a course was justified in this case.

## **Discussion**

32. We are satisfied that Mr Howley's degree of fault in relation to his admitted breach is properly to be regarded as *high*. WRU submit that this categorisation is correct because Mr Howley was, throughout the whole of the relevant period, part of the senior management team of the national squad who was fully aware of his duties and responsibilities under Regulation 6. He knew that he was prohibited from betting on rugby yet he placed 363 bets on 1163 matches during the course of 5 years. In that same period he placed 24 bets on "connected events" (some of which involved the Welsh team) and 2 bets on two Welsh players who were representing Wales at the time. In our view the WRU is clearly correct in its assessment. We cannot accept the submission made by Mr Williams QC that since Mr Howley's conduct is not similar to the two examples given in the explanatory material provided with regulation 6 his conduct should not be treated as involving a "*high degree of fault*".
33. It is against that background that we consider the terms of Regulation 6.10.1 which specifies that we "*shall impose an appropriate sanction ...within the range of permissible sanctions described in Regulation 6.10.2*". It is common ground that the appropriate range of permissible sanctions prescribed by 6.10.2 for Mr Howley's breach is a minimum of 6 months suspension and a maximum of 5 years. While it may be possible to envisage cases which ostensibly fall within this sanction range which would cause a Committee to reflect long and hard about whether it had a discretion to depart from the range they must be very few and far between and we are completely satisfied that this is not such a case. As we have described, we regard Mr Howley's conduct as involving "*a high degree of fault*". While we are prepared to accept that the trigger for Mr Howley's betting on sporting events has its seeds in personal family tragedy it is much more difficult to understand why he chose to bet on rugby which he knew was prohibited rather than other sports exclusively which, of course, was perfectly permissible.

34. We have no doubt that we must impose upon Mr Howley a suspension which falls within the sanction range stipulated in Regulation 6.10.2.
35. In assessing the appropriate length of that suspension we have regard to the one aggravating feature which we have identified as well as the reasons why that feature exists. We also take full account of all the mitigating features which are accepted by the WRU to exist and the additional mitigating features which Mr Williams QC pressed upon us – see paragraph 28 above. We repeat, however, that we cannot accede to his suggestion that Mr Howley’s fault is less than “*high*”.
36. We should also record that we have taken full account of the views expressed by a range of character witnesses who have known Mr Howley at various stages of his life. They are on any view impressive testimonials and they demonstrate unequivocally that Mr Howley has conducted himself both as a renowned international rugby player and as an equally renowned international coach with the utmost professionalism and dedication. The letters from Sir Ian McGeechan, Mr Warren Gatland and Mr Johnathan Davies, the current international player, are very powerful. Finally, we also record the help and support which Mr Howley’s family has provided to him and the obvious anxiety and stress which these proceedings have brought upon him and we have taken those matters into account so far as we feel able.
37. In the light of all the information available to us about the circumstances of the prohibited betting and all the mitigating features to which we have referred we are satisfied that the length of the suspension which is proper and proportionate is a period of 18 months. In arriving at that length of suspension we have also borne in mind the need to ensure that public confidence is preserved both in the authenticity and integrity of sporting contests but also, and, just as importantly, that such confidence is preserved in the processes for dealing with those who breach rules relating to betting.
38. Finally, we consider an issue which has caused us some difficulty. Is this a case in which it would be justifiable to suspend the operation of the sanction either in whole or in part? Mr Williams QC urged us to the view that the sanction should be suspended either completely or, if partially, so as to permit Mr Howley to take up such opportunities as may exist to return to coaching at professional level in the near future. He supported that

submission on two bases. First, Mr Howley has already served a suspension of approximately 3 months by virtue of the combined effect of the suspension of his employment and the interim suspension imposed by the Judicial Officer. Additionally, he has suffered a very significant punishment in being excluded from participation in the World Cup. To insist that he serve a further immediate period of suspension before returning to coaching would, he submits, be disproportionate. Second, he submits that this whole process has been a very significant strain upon the health of Mr Howley and an extremely stressful time for his family. A further period of immediate suspension would be unduly punitive in his submission and it would likely impact adversely on Mr Howley's well-being.

39. We have considered this submission with considerable care. We are prepared to accept that proper grounds exist to suspend the operation of part of the term of suspension. We are not persuaded, however, that it would be appropriate to suspend the whole of the period of suspension or that the period already served (3 months) should be the only part of the period of 18 months which must be served immediately. In our view a period of immediate suspension which is below the minimum period of suspension specified in Regulation 6.10.2 cannot be justified. Rather, it is reasonable and proportionate that Mr Howley should serve 9 months of the suspension immediately. That will mean that he will be prevented from participating in rugby related activities, including coaching at all levels, during the season 2019/2020. The balance of the suspension, 9 months, will be suspended for a period of two years from the date hereof and will be served by Mr Howley only in the event that he commits any further breach of the Regulations during that two year period. For the avoidance of any doubt we direct that the number of days since Mr Howley's suspension from employment on 16 September 2019 shall count towards the period of suspension which we impose. He has currently served 87 days. That means that Mr Howley will be free to commence the rugby related activities from which he remains suspended as a consequence of this decision on or after 16 June 2020.
40. Accordingly, our formal decision is that Mr Howley is suspended from playing, training as part of any team or squad officiating, coaching, selecting, administering and/or otherwise participating or being involved in any capacity in the game of rugby or participating in any function event or activity that is authorised, organised sanctioned, recognised or supported in any way by World Rugby, an Association, a Union or Rugby

Body for a period of 18 months from the date hereof. In calculating the period of 18 months the number of days during which Mr Howley has been suspended since 16 September 2019 (87) shall be taken into account. Of the period of suspension of 18 months, 9 months thereof shall not take effect unless, during the period of 2 years from the date hereof, Mr Howley commits a breach of the Regulations and a judicial officer and/or committee directs that this period of suspension should take effect. In the absence of any such direction following breach, Mr Howley will be free to resume all rugby related activity on or after 16 June 2020.

41. By virtue of Regulation 6.11 of the Regulations any party named in that Regulation as having a right of appeal may do so by lodging a notice of appeal with WRU within 14 days of receipt of this decision.

Wyn Williams

Simon Thomas

Kerry Hagerty

11 December 2019