

**RUGBY FOOTBALL UNION**

**DISCIPLINARY HEARING**

**Judgment**

**At:** Holiday Inn, Leeds, Brighouse  
**On:** 22<sup>nd</sup> September 2008  
**Player:** **RICHARD OXLEY**      **Club:** Manchester RFC  
**Match:** Plymouth Albion Warriors v OPM  
**Venue:** Plymouth Albion Warriors  
**Date of Match:** 4<sup>th</sup> May 2008  
**Panel:** Antony Davies (Chairman), Barry O'Driscoll and David McInnes  
  
**Secretariat** Bruce Reece-Russel, Brenda Parkinson, RFU Disciplinary Department  
  
**Attending:** None from Club  
  
**Referee :** Simon Davies (by telephone conference)

**Charge and Plea**

1. The Player had attended a previous hearing (8<sup>th</sup> September 2008) and pleaded not guilty to Match Official abuse contrary to Law 10(4)(k), the particulars being that the Player whilst playing for Plymouth Albion Warriors (but now Manchester RFC) did use foul and abusive language to the Referee, Simon Davies, during the above match.

**Preliminary Matters**

2. There was no appearance by the Player or his Director of Rugby. The Panel caused enquiries to be made, resulting in the following findings.

3. On 21<sup>st</sup> August 2008, a charge sheet had been sent to the Player/Manchester RFC, containing details of the listing of the case on 8<sup>th</sup> September 2008. That notice

indicated that an indication as to plea was required by 26<sup>th</sup> August 2008. No such indication was given and separate e-mail confirmation of the listing was sent to and acknowledged by Jenni Deakin, Manchester RFC Administrator, on 1<sup>st</sup> September 2008.

4. On 8<sup>th</sup> September 2008, the Player and Manchester Director of Rugby, Dave Baldwin, attended the hearing. The Player pleaded not guilty and stated that he was unaware in that eventuality that he should have notified the Disciplinary Department of his intention so the Referee could be available to give evidence.

5. The Panel, sitting on 8<sup>th</sup> September 2008, concluded that it would not be in the interests of fairness or justice to proceed with the case and adjourned it so that the Referee could be available to give evidence. The Player and Mr. Baldwin were informed specifically that the case would be heard on the next scheduled sitting of the RFU Panel in the North, i.e. 22<sup>nd</sup> September 2008, or in the eventuality that there was no other business for the Panel that evening, there was a possibility that the case may be re-listed for 13<sup>th</sup> October 2008.

6. The Panel Secretary had spoken with Jenni Deakin at Manchester immediately it was noted the Player was not present at the scheduled time for commencement of his case. On behalf of Manchester RFC, Jenni Deakin confirmed receipt of notification of re-listing for 22<sup>nd</sup> September and confirmed that she had passed that to the Director of Rugby, Mr. Baldwin, to deal with.

7. In the circumstances, the Panel is satisfied that the Club/its Director of Rugby/the Player knew or should reasonably have known of the hearing. The Referee was available to give evidence and the Panel elected to proceed in the absence of the Player.

8. The Panel considered the following :

- (i) The sending off report of the Match Referee, Simon Davies.
- (ii) Oral evidence from Match Referee, Simon Davies.
- (iii) Undated letter from Graham Steele submitted by the Player/his Club.

9. The Match Referee, Simon Davies, gave evidence by telephone conference in

which he confirmed the contents of his written sending off report and supplemented the information contained therein in the following manner.

10. The tournament he was refereeing was a 7's competition, which took place in early May on a warm, overcast day. Overall it was an enjoyable and committed tournament. This was the fourth game that day that he had refereed and he had noticed as the temperature rose on an increasingly hot day, the players had become rather more fractious and before this particular game he had given a warning specifically to both Captains about verbal altercations with Officials.

11. At around six minutes into the first half of the game, the Plymouth Warriors team, known as Bobby's team, were penalised for playing the ball on the ground and holding on. The Referee stated that once he blew the whistle, number 17 (Richard Oxley) began to use foul language in disgust at his decision. His response to this was to give another 10 metres penalty. As he began to move up, the Player began to use foul language directed at him. At the time he was about 3 metres away. He heard specifically the following which were prefaced with the word "Ref" :

"That's fucking ridiculous", "fucking joke", "you're fucking useless".

12. The Referee blew his whistle to stop any quick penalty and to take action in response to this. He stated that he asked the Player to come over, but instead he simply walked away. He had no hesitation in getting out his notebook and showing a red card. He asked the Captain and the Player to come over and he believed the Player knew he was getting a card as he was getting his wallet out. He accepted that the Player would not have seen the red card. The first the Player would have known about this was when he was told by a team mate that it was a red card and he then came to ask the Referee to confirm that it was red.

13. The awarding of the red card was not questioned at the time by the Player or his team. After the game, the Player made a point to come and talk to the Referee and to apologise for his reaction. The Player apologised again later in the tournament, stating that he did not mean what he had said.

14. When questioned by the Panel, the Referee stated that he did not like the language being used. He was unhappy about it, particularly as the game had gone well until that point. The Player had apologised twice to him, but on neither occasion did the Player mention that he had directed his words to someone else. The contents of the second paragraph of Mr. Steele's letter were read to the Referee. Mr. Steele (an opposition player) stated that he was about 10 metres away from the Player when the penalty was awarded against the Player's team. He stated that he began laughing at the Player, whose reaction was comical in that he threw his hands in the air and shook his head. He stated that the Player then "had a few choice words for me". The Referee considered this proposition, but was certain that the words were directed at him, mainly because they were prefaced with the word "Ref" and were in direct response to the awarding of a penalty and the moving on of that penalty 10 metres for initial dissent. He was only 3 metres away from the Player. Given the actual words used, he felt certain they were addressed to him and not to another player.

#### **Finding**

15. The Panel were mindful of Disciplinary Regulation 7.1.2 and found unanimously and without difficulty the charge proved. The main reasons for this finding, though not necessarily the only reasons, were as follows :

- (i) The Referee had given his evidence with clarity and cogency. His evidence was credible and unchallenged. Where he was not certain, he said so, and did not seek to embellish in any way. Where he was certain, his evidence was given with clarity.
- (ii) The words used were prefaced with the word "Ref".
- (iii) The comments attributed to the Player were consistent with a complaint addressed to a Referee over his decision and entirely at odds with the type of comments which may be addressed to a member of the opposition.
- (iv) The Player had apologised twice after the game. The first apology was immediately after the final whistle and the second later on in the tournament, but on neither occasion did the Player allege that the words were meant for someone else. It was inconsistent for him now to produce an undated letter from an opposition player making that allegation.

### **Entry Point**

16. The Panel considered that the words were used deliberately and the act of delivering them was completed. The actual words themselves were not in terms of the common vernacular the most heinous, upsetting or distressing and the Referee did not seem unduly upset or distressed by them. They were said as the Player was walking backwards away from the Referee and were not backed up with any physical intimidation or proximity of Player to Referee. Accordingly, the Panel felt the offence could properly be characterised as low end, with a recommended entry point of six weeks' suspension.

17. The Panel did not find any aggravating features, and with regard to mitigation gave credit for the Player's good record as confirmed by RFU Disciplinary Department and his apology on two occasions to the Referee after the incident. The panel felt the appropriate discount on account of mitigation was two weeks, resulting in a suspension of four weeks.

### **Sanction**

18. The Player is suspended from 22<sup>nd</sup> September 2008 to 19<sup>th</sup> October 2008. He may play again on 20<sup>th</sup> October 2008.

### **Costs**

19. The Player was ordered to pay the sum of £200.00 on account of costs, to be paid before he plays again.

### **Appeal**

20. The Player has the right of appeal, the details of which are set out in RFU Disciplinary Regulations.

## Comment

21. Manchester RFC are a Club playing First Division Rugby at Level 2. This is a professional or semi-professional League. The Club employs a permanent Administrator, a Director of Rugby and a Team Secretary. It has failed to indicate the Player's plea as required, or within the time limit, and to request the presence of the Referee in a contested Match Official abuse case. This resulted in the hearing on 8<sup>th</sup> September 2008 having to be adjourned.

22. The Club's Administrator acknowledges receiving and drawing to the attention of the Director of Rugby the re-listing of the matter to the 22<sup>nd</sup> September 2008, but neither the Player nor the Director of Rugby, nor indeed any representative from the Club, saw fit to attend and no satisfactory explanation has been given. This has resulted in the entirely unsatisfactory situation where the Panel has had to proceed in the absence of the Player.

23. Disciplinary Regulation 2.2 sets out clearly the responsibility of Clubs in the maintenance of standards of discipline within Clubs. There appears, to our significant concern, an abdication of responsibility in this case and an absence of proper administrative disciplinary procedures. We have not, on this occasion, sought to penalise the Club for its administrative failings. However, we do hope the Club will take note of our comments in this regard in the conduct of any future disciplinary matters.

*Antony Davies*

Antony Davies,

Chairman

24<sup>th</sup> September 2008

