

to right. Shaylor followed a free kick from the Henley 22 and fielded it, whereupon the Chinnor No 7 tackled him lifting him shoulder high and then threw him down to the ground so he landed on the ground head first. Shaylor was attended to by the Henley physio, Jane West and treated for a neck injury. He was able to continue to play after treatment.”

The Panel viewed the DVD of the incident from Henley RFC. Following a free kick tapped and taken on by the Henley No 8, the ball is passed to the Henley No 14 who is almost immediately tackled by Angus Neilsen. The players were facing each other. The tackle is carried out at around waist level. The left arm is placed around the back of the tackled player and the right under the tackled player's left knee. The tackling Player drives forward lifting the Henley No 14 off the ground. The Player then raises his right arm turning Mr Shaylor so that he is vertical with his head down. Mr Shaylor falls headfirst to the ground, breaking his fall with his right arm. At the moment of the tackle the referee appears to be behind a supporting player and may not have had a clear view of the incident. The assistant referee was on the touchline by the incident, appears to have had an unobstructed view and did not indicate foul play. No action was taken in respect of the incident.

3. Mr Forster said that he had spoken to the referee who was unaware of the incident. The Panel considered the written report by Jane West, the physiotherapist who treated Mr Shaylor on the pitch. She found him knelt on the floor holding his neck. He was complaining of a pain in the neck region and reported hearing a crunching sound. Mr Shaylor was deemed fit to continue playing. He has been treated on 2 further sessions for ongoing neck and shoulder joint stiffness and musculature tension. Mr Forster submitted that had the referee seen the tackle, a red card would have been awarded

4. The Panel were satisfied that the evidence produced by Henley RFC established a case for the Player to answer.

The Defence Case

5. The Player gave evidence on his own behalf. He stated that as he went to make the tackle his right ankle rolled a bit and he lost his footing. He intended to put the Henley No 14 on his back but as Mr Shaylor was being tackled he twisted round but managed to break his fall by landing on his arm. Mr Neilsen stated that he knew the tackled player was head down but had no worries that he would get to the ground safely. He said that he had not intended the tackled player should fall head first to the ground.

6. Mr Walsh showed us the DVD taken by Chinnor RFC. The angle was very similar to the DVD produced by Henley RFC and was taken from close by. The Chinnor DVD showed the same incident as the DVD produced by Henley but also showed Mr Shaylor getting up from the ground immediately after the tackle and walking back. Mr Walsh stated that Chinnor RFC had held a disciplinary hearing in relation to the allegation but had conclude that there was no case to answer as the match officials had not taken any action. In addition the Player's account that the tackle had been unintentional was accepted by the Club. Mr Walsh suggested that although it was "not a great tackle", it did not justify the award of a red card.

Decision

7. The Panel considered all the evidence placed before it and reminded themselves that the Citing Procedures set out in Appendix 7 to the RFU Disciplinary Regulations, in particular that it was the responsibility of Henley RFC to establish on the balance of probabilities that the offence of dangerous tackling player took place as cited.

8. The Panel found the DVD evidence of the act in question established to the required standard that it was a dangerous tackle that should have resulted in the award of a red card. The Panel did not accept the Player's account and found the charge to be proved.

Mitigation

9. The Panel invited Mr Walsh and the Player to address the issue of the Entry Point for sanction and any matters of mitigation. Mr Walsh referred to the note of the Disciplinary Hearing by Chinnor RFC that includes the following:

“Angus stated “ I started playing rugby at the age of 4 and have been playing at representative level over the past few years with Western Australia at Under 19 and as skipper of the Under 20s, also representing Western Force Academy. In my whole playing career I have received one Yellow card two years ago for persistent infringing (technical offence)”.

Mr Walsh and the Player had no further representations to make.

Sanction

10. In 2005 the International Rugby Board in Ruling 5.2005 stated *“The act of lifting a player off his feet in a tackle and dropping or spearing that player so that his head and/or upper body comes into contact with the ground first is a dangerous tackle”*. The issue of such tackles has come before RFU Panels in the past. His Honour Judge Blackett in the decision of Stuart Abbott in September 2006 stated the following;

Medical advice from the IRB suggests that the risk of significant injury clearly exists where a player is driven head first into the ground (the classic spear tackle) but it also exists where a player is simply dropped head first onto the ground and, as Dr O'Driscoll states “gravity will do the rest”. As the risk of catastrophic injury flowing from such injury is high, a Player who turns his opponent upside down has an obligation to ensure that he lands safely by controlling his descent”.

HHJ Blackett also made it clear that the RFU supports the policy of the IRB in deterring tackles of this sort and concluded that any dangerous tackle that puts the victim head first into the ground is either Middle Range or Top End on the scale of seriousness because of the real risk of serious injury. We entirely agree with that conclusion.

11. In that context we went on to consider the features of the offending as set out in Regulation 8.2.5. We found that the offending was reckless and not intentional. We noted that, fortuitously, Mr Shaylor did not suffer any serious injury and was able to play on. As a result the effect of the act of foul play on the game itself was minimal. We considered that Mr Shaylor was particularly vulnerable in the process of the tackle and that the offending was completed. Having weighed up the various factors the Panel concluded that the offence merited a Medium Range Entry point. In a case of the offence of dangerous tackling the Mid Range of sanction is 6 – 10 weeks suspension with an Entry Point of 6 weeks.

12. We went on to consider whether any aggravating or mitigating features were present as set out in Regulations 8.2.7 and 8.2.8. We noted that the Player has not expressed any remorse or contrition in relation to the incident and although the effect of the foul play on Mr Shaylor was relatively slight, we viewed this as an aggravating feature. We regarded Mr Neilsen's previously excellent disciplinary record as the only mitigating feature. Accordingly having taken both features into account, we concluded that the appropriate sanction is a period of 6 weeks suspension.

13. The Player is suspended for 6 weeks, running from 6 October 2008 to 17 November 2008 inclusive. The Player is free to play again on 18 November 2008.

Costs

14. The Panel makes an award of costs of £200 against the Player.

Right of Appeal

15. The right of, and procedure on, appeal is set out in the RFU Disciplinary Regulation 11.

**Signed: Rick Charles
Chairman**

Date: 8 October 2008