# **RUGBY FOOTBALL UNION**

# **DISCIPLINARY HEARING**

At: Holiday Inn, Taunton

On: Monday 22 March 2010

### **DECISION**

Club: Sidmouth RFC

Match: Wellington RFC v Sidmouth RFC

Venue: Wellington

Date of Match: 5 December 2009

Panel: Rick Charles (Chairman), David Martin and Nigel Gillingham

Secretary: Bruce Reece-Russel

**Attending:** Terry O'Brien (Chairman Sidmouth RFC)

Colin Chesterton (Secretary Sidmouth RFC)

Terry Friend (Devon RFU Disciplinary Committee Secretary)

#### **Appeal**

- 1. Sidmouth RFC has appealed against the sanction imposed on 22 December 2009 by the Devon RFU Discipline Committee on Mr Colin Nice, a member of Sidmouth RFC, in relation to an admitted allegation that he abused the referee, Mr K Crampton, during and immediately after the match between Wellington Colts and Sidmouth Colts on 5 December 2010. Mr Nice did not attend the hearing and the Committee imposed a sanction set out in an email to Mr Chesterton in the following terms.
- "1. That Mr C Nice is suspended from all aspects of rugby (ie coaching mid week/weekends, management of any team at any time, playing or any kind of rugby administration) until he has appeared before the DFU Discipline Committee.
- 2. it will be the responsibility of Sidmouth RFC to ensure that this ban is adhered to at all times failure to do so could leave the club facing a charge under rule 5.12."
- 2. The Chairman and Secretary of Sidmouth RFC were requested to attend the next meeting of the Devon RFU Disciplinary Committee on 25 January 2010 accompanied by Mr Nice. Mr O'Brien and Mr Chesterton attended the meeting but Mr Nice did not. The suspension of Mr Nice was extended indefinitely until his attendance before the Committee.

- 3. The essence of the appeal is that the Devon RFU Discipline Committee acted outside the powers available to it under Regulation 6.1 of the RFU Disciplinary Regulations by imposing an indefinite suspension on Mr Nice at the hearing on 22 December 2009 and extending it at the subsequent hearing on 25 January 2010.
- 4. Mr Chesterton told the Panel that the agreement reached with Mr Friend was that the allegations against Mr Nice would be investigated and if appropriate dealt with by Sidmouth RFC. If the outcome was viewed at CB level as adequate the hearing on 22 December 2009 would not go ahead. The investigations took until 20 December 2009 when a hearing took place at Sidmouth. Mr Nice accepted that he referred to the referee as a "shit referee" and he was banned for the playing area for the month of January 2010. This result was communicated to Mr Friend by email on 21 December 20009. Mr Friend sought clarification by telephone call of what was meant by the playing area but did not come back. It was assumed at Sidmouth that the Devon Committee hearing the following day would not take place. Mr Chesterton added that the weather was bad on the day of the Devon hearing. He confirmed that the terms of the suspension imposed By the Devon Committee had been and were still being complied with.
- 5. Mr Friend told the Panel that in match official abuse cases it was the policy in Devon that all cases would be heard with the alleged culprit present. He accepted that Sidmouth RFC had not been explicitly informed that the sanction awarded by the Club was not regarded as appropriate as Mr Nice was no more that a spectator he should not be in the playing area in any event. Mr Friend explained that the Club should have known that the hearing on 22 December 2009 was going ahead as they had not been informed otherwise. He stated that the case had been dealt with on 22 December 2009 and was not adjourned. Despite the weather another Club had managed to attend the hearing from the same direction. The purpose of requiring the attendance of Mr Nice at a subsequent meeting was to explain the sanction to him in accordance with the Devon policy.

# **Conclusion**

- 6. The Panel regarded it as unfortunate that this matter had been brought to it and that it had not been resolved earlier. The absence of Mr Nice indicated to us that he was not as concerned about the matter as the Club. The Panel concluded that there had been a breakdown in communication and, to an extent, sensible relations between the Club and the Devon Discipline Committee as evidenced in the terse email exchanges between them.
- 7. Verbal abuse of match officials has no place in the Game and cannot be tolerated. While we understand what lay behind the stated policy of the Devon Discipline Committee to require "alleged culprits" in match official abuse cases to attend a hearing, there is a limit on the powers of any disciplinary committee to require attendance of a particular individual. While a failure to co-operate by attending at a hearing can lead to a case

being dealt with in the absence of an individual or Club and considered as an aggravating factor in the consideration of any sanction, an reasonable interpretation of the process set out in Regulation 6.1.4, 6.1.5 and 6.1.6 cannot empower a discipline committee to impose an indeterminate period of suspension. The Panel concluded that on 22 December 2009 the Devon Committee should either have dealt with the case in the absence of Mr Nice or adjourned it in order to make a reasonable attempt to secure his attendance. The Devon Committee has adopted a different and in our view extra regulatory approach of dealing with the case and imposing a sanction designed to secure the attendance of Mr Nice at the next meeting. This did not improve relations between the parties.

8. The unanimous view of the Panel was that a line needed to be drawn under this case. We agreed that the period of suspension already served by Nr Nice adequately met the legitimate view of the Devon Committee that a period of suspension was warranted. However, the Panel found that to allow the period of suspension to run on any longer would have been unfair and would amount to a disproportionate reaction in the particular facts of the case. To that degree we allow the appeal and therefore direct that the period of suspension imposed on Mr Nice by the Devon Committee ends with immediate effect and that no further action is taken against him in relation to this matter.

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8. No Order for Costs is made.

Rick Charles (Chairman)

25 March 2010