

backward motion. His forearm, just below the elbow, made contact with Briggs across his face around the nose/cheek area. Briggs immediately fell backwards onto the ground as the referee blew the whistle again. After the Player had been sent off Briggs continued to play for the rest of the match. Inquiries were made before the hearing about any injuries to Briggs. Sale reported that he suffered a slight head ache but was not injured.

4. The Player said that he thought that the tackle which occurred just before the incident had been dangerous and he thought the referee was going to award a penalty to London Irish. The gesture with his arms indicated that this was in his mind. The match score was close and he had received instructions to increase the pace of the game. As soon as the referee blew the whistle he picked the ball out of the back of the ruck intending to take a quick penalty, but he was stopped by Briggs. He thought that Briggs was preventing him from taking a quick penalty and he reacted instinctively to push him out of the way so that he could tap and go. He said that contact was not very hard, the blow was glancing and with insufficient force to cause any injury.

Mitigation

5. Mr Booth said that he had given instructions to the players to pick up the tempo of the game. He opined that Briggs had fallen backwards after the Player made contact to make the incident look worse than it was to seek an advantage from the referee. He said that this had been a reflex action after a London Irish player had been “upended”, the Player thought he could take a quick tap penalty and Briggs had no entitlement to get hold of the ball.

6. Mr McCartney sought to persuade the panel that there were exceptional circumstances (as described in Disciplinary Regulation 8.2.9) in this case which would allow the panel to conclude that Sending Off was sufficient penalty for this offence. He submitted that this was a very minor offence which, had Briggs not fallen over may have been dealt with by the award of a Yellow Card. The Player is 31 and has 13 caps for England. He has been a professional rugby player since the age of 18 and this was the first time he had ever been subject to any disciplinary proceedings. This is the Player’s sixth season with London Irish and his conduct and behaviour has been exceptional throughout that time.

Sanction

7. The panel undertook an assessment of the seriousness of the player’s conduct. It decided that although the Player’s action was not premeditated, it being instinctive, he did intend to strike Briggs when he lashed out with his arm. Contact was not very forceful, although striking a player in the face with a backward swinging arm is serious because the offender does not know precisely where the strike will land and there is a greater risk of injury to the victim. Briggs was also in a vulnerable position in that he would not have seen the strike coming, and he was clearly attempting to get the ball legitimately as the referee had awarded a lineout to Sale. In some ways the Player was lucky that his elbow did not make contact with the victim’s nose, in which

case he may have fractured it. There was some provocation in the Player's mind as he thought he was being prevented from taking a quick penalty in a very pressured part of the game. There was no effect on the victim player, nor on the game itself. In those circumstances the panel decided that this was properly categorised as being the least serious type of this sort of offending and categorised it as being at the LOWER END of seriousness.

8. The panel considered that there were no aggravating features and noted that all of the normal mitigating features listed in RFU Regulation 8.2.8 were present. The panel further considered whether this was an exceptional case which merited further reduction in sanction under RFU Disciplinary Regulation 8.2.9. Although the panel accepted that the Sale player probably overreacted to try to gain an advantage – a practice which itself could attract sanction – there was nothing in the case which was so exceptional that could justify a sanction of Sending Off Sufficient. The referee may not have awarded a Red Card had Briggs not fallen backwards, but there was contact and Briggs could have been injured. The referee acted entirely appropriate and the panel wished to support him – Sending Off Sufficient would mean that the Player would miss three minutes of rugby and that would clearly be unduly lenient. This sort of reaction must be discouraged. In those circumstances the panel decided that the mitigation could be adequately reflected by reducing the sanction from the Lower End entry point of 2 weeks to 1 week. **The Player is, therefore, suspended for one week until 12 October 2009. He may play again on 13 October.**

Costs

9. Costs of £250.00 are awarded against the Player/club.

Right of Appeal

10. The Player is reminded of his right of appeal against this decision – any appeal must be lodged with the RFU Disciplinary Manager by 1700 on Wednesday 7 October.

Signed: **Jeff Blackett**
Chairman

Date: **5 October 2009**