RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: Holiday Inn, Bloomsbury, London

DATE: 15 March 2010

Player: Oliver BROWN Club: London Scottish RFC

Match: Wharfedale v London Scottish

Venue: Wharfedale Date of match: 13 February 2010

Panel: Jeremy Summers (Chairman), Peter Budge and Dr Julian Morris ("the Panel")

Secretary: Liam McTiernan

In Attendance:

Oliver Brown ("the Player") Martin Goudie – Counsel Paul McFarlane – Assistant Secretary LSRFC

DECISION

1. The Player was found guilty of an offence of stamping on an opponent contrary to Law 10.4 (b) of the iRB Laws of the Game 2009/2010. He was suspended from playing rugby for a period of 4 weeks from 15 March to 12 April 2010 inclusive. He is to free to play again on 13 April 2010.

PRELIMINARY ISSUES

- 2. The Player did not object the composition of the Panel and no other preliminary issue arose.
- 3. The Player pleaded not guilty to a single charge of stamping in the 37th minute (1st half) of the match.

EVIDENCE

- 4. The Panel considered:
 - a) The Sending Off Report.
 - b) The match recording.
 - c) Oral evidence from the Assistant Referee.
 - d) Oral testimony from the Player.
 - e) Oral Submissions on behalf of the Player.
 - f) E-mails sent from Chris Malherbe and Mark Bedworth both of Wharfedale RFC dated 17 February 2010.

- 5. The incident was only seen by the Assistant Referee and his Sending Off Report recorded as follows:
 - "LS were attacking the Wharfedale line following a passage of play that took LS team to within 5 metres of the Wharfedale goal line. A ruck had developed which had formed post tackle, LS had secured their own ball and were in the process of moving it away from the base of the ruck infield and towards the Wharfedale posts. Mr Brown, who was on the right hand side of the ruck, raised his right boot and brought the same down studs and heal first onto the back of the head and neck of a Wharfedale, player, who was lying prone on the ground. This was a deliberate action, aimed at the Wharfedale player and an act of foul play. The ball was nowhere near the Wharfedale player at the time and the action by Mr Brown was not an attempt to play or ruck the ball. Immediately after the match Mr Brown approached the referee and apologised for his actions and expressing regret for what he had done."
- 6. The match recording was then viewed, which was generally consistent with the sending off report.
- 7. The Assistant Referee gave evidence by telephone. He had not seen the match recording and did not have access to his report. He gave clear evidence that he had been standing about 5 metres from the incident and had an unobstructed view. He had seen the Player raise his foot to about knee height and stamp down once on the victim with his studs making contact with the back of the head/neck area. The ball had left the breakdown at the point of impact. He had then alerted the Referee, who had not seen the incident, to stop play. Following his report the Referee had dismissed the Player from the field of play.
- 8. Happily there had been no injury but a minor scuffle had broken out involving Wharfedale players who he understood knew the Player. When asked if he was clear as to his recollection of the incident he said that he did not have a shadow of doubt about what he had seen. He confirmed that the Player had spoken to the Referee after the game but he had not participated in that conversation.

DEFENCE CASE

- 9. The Player gave evidence and indicated that he was trying lawfully to free up the ball that had been improperly slowed down by Wharfedale players trying to arrest the London Scottish attack. His actions, which amounted to normal rucking, had been directed towards the ball. He claimed he had made 2 stamping motions and not one as the Assistant Referee had claimed. He also pointed to the fact that ball was still in the ruck, and not away from it, at the point at which the Assistant Referee had raised his flag to indicate foul play.
- 10. He denied stamping on any part of any opponent. He however accepted on questioning from the Panel that something had caused Wharfedale players to react and he was not able to explain what that was.
- 11. On further questioning it became apparent that one of the players to react was Mr Bedworth who had sent an e-mail in support of the Player's case. The Player agreed that Mr Bedworth appeared to have broadly the same view as the Assistant Referee. There was also no reference in Mr Bedworth's e-mail to his reaction to the Player's

- actions. He confirmed that he knew Mr Bedworth (and Mr Malherbe) having previously played with them in various representative sides.
- 12. Mr Malherbe in a brief e-mail indicated that he had no recollection of having been stamped upon. It was indicated that he was at the bottom of the ruck concerned, and thus the player who would have been stamped upon if that event had occurred.

FINDING

- 13. The Panel carefully considered the evidence and reminded itself of the weight to be attached to a match official's evidence and of the requisite standard of proof.
- 14. The Panel made the following findings:
 - a) The Assistant Referee had an unobstructed view and gave clear and compelling evidence.
 - b) The reaction of the Wharfedale players was unexplained by the Player.
 - c) The match recording did not assist the Player in his claim that he had been engaging in normal rucking.
- 15. In light of these findings, the Panel was satisfied to the standard required that an act of foul play had occurred, and found the Player guilty of the charge brought against him.

MITIGATION

16. The Player is 29. He has no previous disciplinary record. He has played for Scotland U.18, U.19 and U.21's. He had 4 seasons with the Scotland 7's squad and has also represented Barbarians FC. He has led various coaching clinics and is highly regarded by LSRFC.

SANCTION

- 17. As required the Panel undertook an assessment of the seriousness of the offending having regard to the criteria set out in Regulation 8.2.5 of the RFU Disciplinary Regulations. In this regard the Panel found as follows:
 - a) The Player had intentionally committed the act of foul play as charged.
 - b) He had however only been reckless as to the risk of injury.
 - c) The offending consisted of at least one stamp to the head/neck of a prone player. There was no provocation.
 - d) No injury was sustained.
 - e) There was some minor reaction but no material effect on the game.
 - f) There was vulnerability

- g) There was no premeditation.
- h) The conduct was complete.
- i) There were no other relevant factors constituting the Player's offending.
- 18. In light of these findings, the Panel categorised the offence as being at the MID RANGE. Had there been any injury it is highly likely that the Panel would have been inclined towards a top end entry point. The mid range entry point for this offence is a suspension of 5 weeks.
- 19. There were no aggravating features.
- 20. The Player contested the hearing and thus could not be said to have shown any remorse. In light of his previous record the Panel considered that a reduction of 1 week was merited by way of mitigation.
- 21. The Player was therefore suspended for a period of 4 weeks as set out at paragraph 1 above.
- 22. The Panel wishes to thank LSRFC for its efforts in relation to this case. No criticism is intended or to be inferred from the fact that the Panel reached a different decision on the evidence available.

COSTS

23. The Player and/or his club is ordered to pay costs of £150

APPEAL

24. The Player was advised of his right of appeal which must be exercised within 14 days of receipt of this judgment.

Jeremy Summers

Chairman 16 March 2010