

RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: Park Inn, Heathrow

DATE: 8 December 2009

Player/Coach: Mark PICKERING
Leatherhead RFC

Club: Effingham and
Leatherhead RFC

Match: London Irish Amateurs 1st XV v Effingham & Leatherhead 1st XV

Venue: Sunbury

Date of match: 17 October 2009

Panel: Jeremy Summers (Chairman), Peter Budge and Jonathan Dance ("the Panel")

Secretary: Liam McTiernan

RFU Presenter: Gerard McEvilly

In attendance:

Effingham and Leatherhead RFC ("E&F")

Mark Pickering ("MP")
Samuel McGee - Counsel for MP
Robin Page - Hon Sec
Graham Fawcett - President
Nigel Maycock
Euros Jones - Solicitor

London Irish Amateurs RFC ("LIA")

James Balls - Head Coach
Bosco McAuliffe - President
Terry Long - Hon. Secretary
Chris Magowan - Director of Rugby
Michael Hayes - solicitor
Liam Prescott - player

DECISION

1. **The Player/Coach was found guilty on his own admission of an offence contrary to Law 5.12 of the Laws of the Rugby Football Union. He was suspended from having any involvement with the playing, coaching or**

administration of rugby football from 8 December 2009 until 30 June 2010.
He is free to resume his involvement with the game on 1 July 2010.

PRELIMINARIES

2. The Panel convened to hear the following matter:

STATEMENT OF OFFENCE

Conduct prejudicial to the interests of the Union and/or the Game contrary to Rule 5.12 of the Rules of the Rugby Football Union 2009 – 2010.

PARTICULARS OF OFFENCE

On the 17th October 2009, Mark Pickering, Coach Effingham & Leatherhead RFC struck a non-playing member of the London Irish Amateurs RFC squad during the half time interval of the match London Irish Amateurs RFC v Effingham & Leatherhead RFC.

3. MP had previously indicated an intention to plead guilty to the charge brought against him and submitted a basis of plea. Whilst the basis of plea did not necessarily reflect the full extent of the evidence, the RFU had advised MP that, in order to facilitate a prompt determination of the matter, the basis of plea was acceptable.
4. MP formally entered a plea of guilty to the charge which was read to him by the Secretary to the Panel.
5. It was noted that in March 2009 Mr Summers and Mr Dance had sat on a previous matter involving MP. No objection was however taken by MP to the composition of the Panel.
6. In light of the guilty plea and the number of witnesses from whom statements had been taken, the Panel determined to proceed on the basis of the papers with MP thereafter being able to make oral submissions and/or call evidence in mitigation.

7. The Panel was aware that both E&F and LIA had complaints as to each others conduct during the first half of the match and/or concerns as to the way in which the game had been officiated. However, as is set out below, the matters for determination by the Panel in effect began shortly after the half time whistle had been blown. As such the Panel was of the view that a detailed analysis of events prior to that point was unlikely to be of material assistance in determining the issues, and all parties were asked to focus their submissions accordingly.
8. No other preliminary matter arose
9. The Panel considered:-
 - a. The 73 page bundle prepared by the RFU
 - b. The written basis of plea submitted on behalf of MP
 - c. The opening by Mr McEvelly
 - d. Submissions by Mr McGee

OVERVIEW

10. On 17 October 2009 LIA played E&F in a London SW2 league fixture. The referee was a Mr Chaitanya Sinh who was on exchange from the Indian RFU. It is clear that the first half was played in an ill-disciplined manner. Both captains were spoken to on two separate occasions. Two yellow cards were issued, one to each team, for a high tackle (LIA) and a punch (E&F) respectively. At half time a deeply disturbing brawl broke out involving players, officials and supporters of both clubs.
11. It is not necessary at this juncture to set out the full detail of what transpired, but the Referee's report is recorded as follows:

“What I saw was a group of people pushing, jostling and fighting whilst others were trying to break it up. When the fight did stop, it seemed as though the game could not continue in the second half because of the extreme volatility of the situation. The E&L coach had been punched in the jaw and had collapsed. There were a number of players with bruised faces and bleeding noses as well as a number of supporters screaming profanities from the sideline

12. The events as described by the Referee are a matter of the greatest regret and have no place whatsoever in the game of rugby football.
13. The Referee spoke again with both captains and made it clear that any further incident, however slight, would lead to the abandonment of the match. Happily the game concluded without further difficulty.
14. Both clubs initially lodged citings against each other with Surrey RFU. Having regard to the seriousness of the incident, the matter was handed back to the RFU who determined that a number of charges, including the one against MP, should be heard before this Panel.

OPENING

15. Mr. McEvilly reviewed the Referee's report and noted that the ball had been kicked out of play bringing the first half to a close. Players were leaving the pitch. MP then left his technical zone and entered the LIA technical zone. The evidence suggested there was a distance of about 8 metres between each zone.
16. It was accepted by MP (see basis of plea below) that he had been angered by an LIA water carrier, Charlie Connor. It appears that Mr Connor had been engaging in "verbals" with the E&F hooker who he knew. Once in the LIA technical zone MP confronted Mr. Connor and struck him in the upper body area. The Panel noted that there appeared to be inconsistencies in the written statements provided by MP (page 48) and the E&F hooker (page 36) as to the precise nature of the exchange between Mr. Connor and the E&F hooker.
17. These actions by MP were plainly the catalyst for the disgraceful scenes that then followed. Most immediately, Liam Prescott, a LIA player, ran some distance and struck MP knocking him to the floor with a heavy blow that required hospital treatment following the game.
18. It appeared that MP had been sufficiently disorientated by the blow that he at one stage, in continuing to try and fight, struck the LIA physio who was tending to him. There is no suggestion that this was anything other than unintentional, and MP apologised to the lady concerned after the game.

MITIGATION

19. On the evening prior to the hearing MP submitted the following basis of plea that, as noted, was acceptable to the RFU:

i. Mr Pickering accepts having a verbal exchange with Mr Connor following the half time whistle regarding Mr Connor's behaviour from the sidelines

ii. Mr Pickering accepts being angered by Mr Connor who had been verbally abusing Effingham players during the match

iii. Mr Pickering accepts becoming frustrated with Mr Connor leading him to strike Mr Connor to the upper body with the flat of his hand. He accepts that he was unjustified in doing so, however this was the extent of his actions

iv. Mr Pickering was then struck heavily from behind by a London Irish player wearing a number 12 jersey, causing him to be knocked unconscious, as a result of which he suffered injury and concussion.

20. Mr McGee submitted that MP had pleaded guilty at the earliest realistic opportunity, and should receive full credit accordingly. Whilst MP accepted his culpability as set out above, and that his conduct was not excusable, Mr McGee argued that the offending should be viewed as being at the low end of the scale of seriousness.

21. MP had then been the victim of a cruel and wicked assault that had been out of all proportion to his actions.

22. MP regrets his actions and has apologised for them. He had previously been suspended for a period of 2 weeks by E&F and was grateful to his club for the support shown to him since the incident.

23. MP is 39 and has played a high standard of rugby union and rugby league for a number of clubs. He also has a highly noteworthy record as a coach in both codes. In addition to coaching E&F he currently coaches 2 schools on a pro bono basis. He also has a long association with Army rugby and is currently coaching the Coldstream and Irish Guards. Although this is his third disciplinary

offence, he had no record prior to 2008 despite having played the game for many years.

FINDINGS AS TO SANCTION

24. There is no prescribed tariff for a breach of Rule 5.12, and any sanction accordingly lies within the discretion of the Panel.

25. In exercising that discretion the Panel nevertheless had regard to the procedure set down in the RFU Disciplinary Regulations to be followed when determining any appropriate sanction for on-field foul play.

26. The Panel carefully considered all the evidence and made the following findings:

- I. As the E&F coach, MP had an obligation to do all possible to reduce the ill-feeling generated in the first half;
- II. In contrast to what reasonably should have been expected of him, he entered the LIA technical zone in a confrontational manner, thereby inflaming an already volatile situation;
- III. On his own admission he had then struck Mr Connor, a non-playing member of the LIA back-up team;
- IV. There appears to have been no significant contact (if any) between MP and Mr Connor until MP entered the LIA technical zone;
- V. Mr Connor was carrying water bottles and thus unable to defend himself, and therefore vulnerable;
- VI. There was no evidence that Mr Connor struck MP either before or after the incident;
- VII. Mr Connor was not injured;
- VIII. However, the strike by MP to Mr Connor then led to a deeply disturbing melee involving, players, officials and supporters from both clubs;
- IX. The incident was witnessed by a crowd including a number of young children and plainly brought the game into disrepute;
- X. This is the third time MP has appeared before a disciplinary panel in 12 months. One matter involved match official abuse and two of bringing the game into disrepute;
- XI. The second offence of the three was committed at a time when the suspension imposed on MP for the first offence was still current;

- XII. MP was suspended for 12 weeks in March 2009 in relation to 3 offences contrary to Law 5.12 with that suspension expiring on 6 June 2009, and so in the close season;
- XIII. This further offence has now occurred within 6 weeks of the commencement of the current season;
- XIV. One of the offences for which MP was suspended in March 2009, involved his striking an opposition coach in an off-field confrontation;
- XV. MP has again struck a non-playing participant in an off-field confrontation;
- XVI. It is clear that in the last 12 months MP has become a persistent offender of the laws of the game. There is the need for a strong deterrent to combat this pattern of offending.
- XVII. Points X to XVI above, were viewed by the Panel as being highly significant aggravating features.

SANCTION

27. Taking into account all of the above, and in the exercise of its discretion the Panel determined that the Player/Coach should be suspended from all rugby, whether as a player, coach or administrator for any club, including but not limited to E&F, for the period 8 December 2009 to 30 June 2010.

28. The Panel considered that it is beyond coincidence that there have been three separate, but worryingly similar, incidents during the past 12 month's where MP's passion for the game has clearly gone far beyond what is acceptable. In so doing he has done great disservice to the reputation of himself, the clubs concerned and the game in general. It is very much hoped that he will reflect on that fact with great care.

COSTS

29. The Panel made no order as to costs.

RIGHT OF APPEAL

30. The Player was advised of his right of appeal. Such appeal must be lodged with the RFU Discipline Department by not later than 10.00 hours on the 14th day following receipt of this judgment.¹

Jeremy Summers

Chairman

10 December 2009

¹ Regulation 11.2.3