RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Park Inn, Heathrow

On: Monday 21 February 2011

JUDGMENT

Player: Duncan Bell

Club: Bath Rugby

Match: Sale Sharks v Bath Rugby

Venue: Edgeley Park

Match Date: 12 February 2011

Panel: Jeff Blackett (Chairman), Robert Horner, Buster White

Secretary: Bruce Reece-Russel

Attending: The Player.

Dave Guyan - Bath Team Manager Thomas Shepherd – legal representative

The Citing Complaint

1. The Player was cited for making contact with the eye or eye area of an opponent. The citing report stated:

"At an attacking scrum close to the Sale Sharks goal line the referee awards a free kick to Sale to relieve a period of intense attacking pressure by Bath. As the scrum breaks up an exchange of words ensues between the props Imiolek of Sale and Bell of Bath. The issue between them escalates as Imiolek advances towards Bell and it becomes a potential flash point as other players also become aware of the altercation. Chris Jones of Sale Sharks intervenes with Bell and the two grip each other by the shorts with their left hands. It can be seen from the video that Duncan Bell then forces his open right hand (with fingers pointing upwards) into the face of Jones and pushes his head backwards. The upper extent of Bell's fingers are bent outwards and make contact with Jones' eye areas in a scraping movement across the face as Jones attempts to avoid the contact. Other players and the referee then intervene and the situation calms. I have spoken with Chris White, the referee, who confirms that although he was aware of the altercation he was not aware of Bell's actions with his fingers.

He further confirms that Chris Jones made no complaint to him after the event."

- 2. The Panel viewed the DVD footage of the incident a number of times and from two angles; we also asked the Player to explain what he did to help us interpret the DVD. The citing complaint describes events accurately up to the point when Jones and the Player confronted each other. The Player pushed his right hand upwards into Jones' face with the flat of his palm making contact around the jaw and cheek bone. The fingers covered the eye but without any pressure (the pressure being applied by the palm of the hand) with his little finger making contact with Jones' left eyebrow. His hand then continued upwards and the Player grabbed the right hand side of Jones' head guard, his fingers being near the holes around Jones' right ear. This is difficult to discern from the angle upon which the citing was based, but is clear from the reverse angle. Jones then grabbed the Players arm and pushed it away from his headguard. The Player's fingers were crooked at this point, having been in contact with the headquard, but they did not touch Jones's face as Jones pushed the arm away from him. From the angle upon which the citing was based it looked as though the crooked fingers may have scraped across Jones' right eye area but from the reverse angle no contact is discernible.
- 3. Chris Jones gave evidence by way of a written statement which was not disputed by the Player. He said:
 - "I can say with 100% certainty that at no point during the game between Sale and Bath did anyone make contact with my eyes. Had someone done so during the game I would have reacted and let the ref know immediately so he could deal with it. This did not happen and I'm sure the ref will confirm this. All I did feel was someone grab my scrum hat."
- 4. The Player said that when the scrum broke up his opposite prop (Imiolek) was "mouthing off" and they confronted each other. Jones came in from behind Imiolek and he thought he was going to hit him. They began to wrestle and he put his right hand upwards to hand him off and then to grab him by the headguard. Jones grabbed his arm as he held the headguard and pushed him away and a scuffle ensued with a number of Sale players confronting him. He said this was a defensive action because he thought he was going to be hit, he never made contact with the eye or eye area of Jones nor would he have done so as he is appalled by eye gouging.

Submissions on behalf of the Player

5. Mr Shepherd repeated the Player's version of events and said submitted that the Regulations forbidding contact with the eye or eye area did not envisage this sort of behaviour. As a matter of fact, he

said, there was no evidence that there was any contact with the eye area – that, in his submission, meaning the eye socket. He urged the Panel to dismiss the citing.

Decision

- 6. There is no definition of "eye area" in the IRB or RFU regulations, but the ERC Appeal decision in the case of Alan Quinlan, on 20 May 2009, provided a very helpful definition which we adopt. The judgment in that Appeal read:
 - "Contact by a player with an opposition player's eye area would occur in respect of "any area of the face in close proximity to the eye, where contact would cause a victim to fear for the safety of his eye or where there is substantial risk that there could be contact with the eye."
- 7. In this case we accept that the Player's initial movement was to push Jones head away in the manner one might hand another player off. The main force and contact was with the palm on the jaw and cheek. His right little finger did touch Jones' eyebrow at that point. Subsequently after he had grabbed Jones' headguard there was no contact at all on the face. The eyebrow is clearly part of the eye area, but in this case, particularly given the evidence of Jones, the victim did not fear for the safety of his eye and there was not a substantial risk that there would be contact with the eye. When a player legitimately hands off another player (although this was not a legitimate hand off because the Player was not in possession of the ball) there may be similar contact. However the force is applied by the palm of the hand and although the fingers may be near an opponent's eyes an offence would not be committed.
- 8. In those circumstances the Panel conclude that the Player did not make contact with either the eye or eye area of Chris Jones and we dismiss the citing. The Player is free to play again with immediate effect.

Comment

9. The Panel wishes to repeat its warning to all players that if they put their hands on the face of an opponent they risk being cited for contact with the eye or eye area. In this case the Player should have stepped away from the confrontation, but even if he believed he was about to be hit a more appropriate defensive action would have been to push his assailant away on his body.

Costs

10. No order for costs is made.

Signed: Jeff Blackett, Chairman.

Date: 22 February 2011