### **RUGBY FOOTBALL UNION**

## **DISCIPLINARY HEARING**

**At:** Office of the Judge Advocate General

On: Tuesday 22 March 2011

**JUDGMENT** 

Player: Ollie Kohn

Club: Harlequins FC

Match: Harlequins v Newcastle Falcons

Venue: The Stoop

Match Date: 11 March 2011

**Panel:** Jeff Blackett (sitting as a single Judicial Officer)

**Secretary:** Bruce Reece-Russel

**Attending:** The Player

Connor O'Shea – Harlequins Director of Rugby Geraint Ashton-Jones – Harlequins Technical Adviser

### The Citing Complaint

1. The Player was cited for making contact with the eye or eye area of an opponent. He denied the offence. The citing report stated: "At 20:01, NF9 was tackled into touch on the nearside of the pitch about 4 metres outside the NF 22m line. NF9 was on his side holding the ball, H11 (Monye) bent down and tried to take the ball from him; then the NF6 (Swinson) grabbed H11 from behind and pulled him away from NF9. H11 started to wrestle with NF6. At this stage H4 (Kohn) became involved and tried to separate NF6 and H11. H4 and NF6 then separated from the other players and grabbed each other.

At 20:14 the camera angle changed and it showed that NF6's left arm was around H4's neck and his right arm was under H4's left side, and NF6 was backed against the hoarding; H4's left hand was in contact with NF6's face. By 20:15 H4's left thumb and forefinger had moved onto NF6's scrum-cap and his other 3 fingers were still in contact with NF6's face in the area of his right eye; their heads were close together at this stage and H4 was pushing NF6's head away from him. As H4 pushed NF6's head away from him his middle finger moved up onto NF6s' scrum-cap but his little finger and third finger remained in contact

with the area of NP6's right eye, at this time H4 was looking at NF6. H4 continued pushing NF6's head until they both went out of shot; when they re-appeared NF6 was bent over the hoarding but managed to stand up and avoided falling over the hoarding. When they parted there didn't appear to be any injury to NF6's face. He received no treatment by the medical staff and he played on for the remainder of the match."

- 2. The Citing Officer consulted the match officials. The referee saw some pushing and shoving between players but did not see the Player make contact with Swinson's eyes. He confirmed that nobody on the pitch made any complaint to him and neither of the Assistant Referees saw any foul play. The DVD footage of the incident was consistent with the citing complaint.
- 3. Tim Swinson provided a written report which was not disputed. He said he was grabbed from behind by the Player who had hold of him by his scrum cap. He then grabbed the player to prevent him from being able to swing punches at him. A few players from both sides entered the tussle and the Harlequins players then attempted to force him over the advertising hoardings, but he maintained his balance by holding onto the Player. He said: "During the whole event Ollie Kohn had hold of me by the scrum cap, I do not directly recall my eyes being interfered with during the shoving which ensued."
- 4. The Player said that he and his teammates were becoming increasingly frustrated in the match because Falcons were spoiling their quick ball, often illegally without being penalised by the referee. On this occasion the ball went into touch and Ugo Monye was prevented from taking a quick throw-in by Swinson. He went to intervene by pulling off Swinson and they started to struggle. He pushed Swinson's head away by placing the palm of his left hand onto his face – contact being around the chin and mouth area. His fingers were obviously above his palm and may have been near the eye area, but he did not recall any contact with them. He then moved his hand upwards and grabbed hold of Swinson's head guard. The Player said that he would never target an opponent's eye – that is disgraceful behaviour. This incident was a genuine attempt to push Swinson away by applying force through the palm of his hand on his cheek and jaw. Mr Ashton-Jones provide still photographs of the moment of contact which showed Swinson's mouth and the skin around it compressed under the force of the push but no alteration of the skin in the area around his eye.

#### Decision

5. This case is very similar to Duncan Bell (21 February 2011). Although the DVD appears to show that the Player's fingers were near to Swinson's right eye, on examination of all of the other available

evidence it is more likely that there was no contact. The Player pushed Swinson away with the palm of his hand, 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. This citing was correctly made by the Citing Officer. He only had one angle on a DVD to work from and, given the distance from the camera, the appearance of compression of space, he was right to refer the matter to a disciplinary panel. However, the additional evidence of the alleged victim, the Player himself and the photograph provided by Harlequins persuades me that, on the balance of probabilities, there was no contact with the eye or eye area in this incident. The citing is, therefore, dismissed and the Player is free to play with immediate effect.

## <u>Costs</u>

6. There is no order for costs.

# Comment

7. We are detecting an increased incidence of players grabbing other players by their head guards and then pulling them to gain control. This provokes reaction and can lead to further on-field violence. Such conduct – that is the pulling of head guard – is clearly contrary to good sportsmanship and therefore foul play under Law 10.4(m). Whether such conduct passes the red card test depends on the degree of violence used, but referees would be entitled to penalise a player for such an act.

**Signed:** *Jeff Blackett*, Chairman

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**Date:** 23 March 2011