

3. In advance of the hearing we viewed the DVD match footage. What it shows is set out above. On our analysis of the footage and the Laws of the Game, none of the Laws referred to hitherto seemed to meet the facts
 - a. The Player did not tackle his opponent nor attempt so to do.
 - b. He certainly 'played' an opponent without the ball but Law 10(4)(f) states that the player must not "hold" (he did not), "push" (he did not) or "obstruct" (he did not).
 - c. The act did not involve a breach of Law 10(4)(g) – the opponent did not have the ball.
4. We informed the parties that in our view this was properly characterised as an act of dangerous charging but it could not be contrary to Law 10(4)(g) because at the material time the player did not have the ball. We suggested it should be charged as an act contrary to good sportsmanship in that the Player dangerously charged or shouldered an opponent who was not carrying the ball. They agreed. The charge was so amended and the Player admitted the said act of foul play.
5. On the basis of the Player's admission we upheld the citing, found the act of foul play proved and it was one which warranted a red card (RFU Disciplinary Regulations, Appendix 4, para 4.11) .

Facts

6. The citing letter included an extract from the statement of the injured player, Ben Turner which stated:

“Not long into the game, probably 10-15 minutes in, we had a breakdown on the right hand side of the pitch and had called a play involving sending our 12, Pale Nonu straight up the middle to set up a midfield ruck. The ball was passed to Nonu, Ryan Westren (13), ran a support line a couple of metres outside him (to his left). I came up with the attack line but was holding my depth and width on the chance of a half break if the ball was offloaded to Westren, or waiting for the ball from the next phase. Nonu took the ball to the line and took the tackle. I was at least 10 metres wider and running up in the line when suddenly I got hit from the left side by a shoulder. As I was falling to the ground I saw it was number 12, Chris Anderson (blonde highlights). I was a long way behind the ball and far too wide to ever receive a pass. I remember hitting the floor and feeling in a fair bit of pain, I was winded but it felt like my kidneys and back too. I stayed down for a while, whilst the Launceston Physio tended to me. The referee and assistants all said they didn’t see the offence, yet one did apologise to me after the game.”

7. Ben Turner’s statement continued that he managed to play on but he “constantly had the urge to be sick or as if I had a full stomach”. He left the pitch at half time and was replaced. He was admitted to hospital later that day. Unchallenged medical evidence following a CT scan diagnosed a “splenic injury (laceration to the upper splenic pole)”. He was advised to take three weeks off work for “bed rest” and to abstain from contact sport for three months. He has not played rugby since.
8. A statement from M S Roberts, Player/Joint Head Coach of Launceston RFC stated that the the Player “came out of his defensive line and beelined for Ben Turner, he hit him from the side with his shoulder with no attempt to use his arms”. He observed that Ben Turner fell to the floor and “was in a great deal of pain”. He opined that it was a “total cheap shot”.
9. A statement from James Hawken, Launceston RFC player gave similar account.
10. Match footage of the incident was consistent with the eye-witness evidence. It showed the Player clearly and with force ‘shouldering’ Ben Turner, who did not have and was some distance from the ball. The force of the contacted was such that Turner was ‘bounced’ backwards and went heavily to ground.

11. The Player did not dispute the facts or the medical evidence. He said that he anticipated Ben Turner receiving the ball and approached, intending to tackle him. When he did not receive the ball, he pulled out and made contact, as he turned away from him. He admitted committing an act of foul play but said he had no intention of causing him injury. He denied “flying up” intending to hit him. Before the hearing he sent a letter of apology to Ben Turner, a copy of which was before us.

12. He is twenty-nine years of age. He has played senior Rugby Union at a good level for ten years, in England, Wales and Ireland. We were told and accepted that he had never received a yellow or red card. Mr Wood spoke of him as a man in his first year with Cinderford but one who had already developed into a good clubman.

Sanction

13. Initially, we undertook an assessment of the seriousness of the Player’s conduct (RFU Disciplinary Regulation [‘Regulation’] 19.8.2.5). We concluded
 - a. It was deliberate act of foul play (19.8.2.5(a)).
 - b. We did not find an intention to commit injury but the deliberate act created an obvious risk of so doing.
 - c. It was a deliberate charge or barge, contact being made with his shoulder/side (19.8.2.5(c)(i)).
 - d. There was no provocation nor was it was a retaliatory act (19.8.2.5(c)(ii)).
 - e. It caused serious injury and although the opponent player carried on playing, ultimately he was forced to leave the field and later was admitted to hospital. He is out of the game for three or so months (19.8.2.5(d)).
 - f. It had no effect on the game (19.8.2.5(e)).

- g. The opposing player vulnerable in that he did not see contact coming and was in not in any position to defend or prepare himself for the contact (19.8.2.5(f))
- h. It was not premeditated, save for the thought necessary to decide to commit the act (19.8.2.5(g))
- i. It was a completed act of foul play (19.8.2.5(h))
- j. There is no other relevant feature (19.8.2.5(i))

14. This was a deliberate act of foul play which caused serious injury. In light of the factors set out above, we were comfortably satisfied that the offence could only properly be categorised as being at the TOP END of the scale of seriousness.

15. Pursuant to Regulation 19.8.2.6 we carried out a further assessment of an appropriate entry point between the length of suspension specified in Appendix 2. There is no recommended sanction point for this particular act contrary to good sportsmanship in Appendix 2. By parity of reasoning, the closest and in our judgment most appropriate range is that provided for offences contrary to law 10(4)(g), namely dangerous charging. The top end entry point for such an offence is nine+ weeks with a range up to fifty-two weeks.

16. Some assistance is to be found in Appendix 5 to the Regulations. RFU Guidance Note 3 'Sanctions for Foul/Illegal Play – Top End Entry Points – Practical Guidance for the Application of Regulation 8.2.6'² therein, suggests (its purpose is to provide guidance, not to be prescriptive) a starting point of eighteen+ weeks where the "victim is injured and cannot play for a few weeks".

² The predecessor of the present Regulation, namely Regulation 19.8.2.6

17. We gave anxious consideration as to whether this case fell into the next bracket, “victim is badly injured (e.g. broken jaw requiring surgery)” with the suggestion of “thirty six+ weeks”. However, in our judgment, in assessing the seriousness of an act of foul play, there must be a proper balance between the culpable act (here a shoulder or charge), the offending player’s state of mind (here there was no intention to injure) and the consequence of the act of foul play. Seriousness is not judged solely by the outcome or the result. In our judgment (and that is what assessment of seriousness involves) the appropriate starting point was 18 weeks.

18. We were satisfied that there were no aggravating features within Regulation 19.8.2.7.

19. As for mitigating factors (Regulation 19.8.2.8), we determined that he was entitled to credit for the following features:

- a. his acknowledgement of culpability (19.8.2.8(a))
- b. his good record (19.8.2.8(b))
- c. his good character – we accept what we were told about his work for his club (19.8.2.8(b))
- d. His conduct before and at the hearing: as one would expect (19.8.2.8(d))
- e. His remorse: he apologised for his actions (19.8.2.8(d))
- f. His age and experience we considered to be neutral (19.8.2.8(e))

20. In our judgment those factors warranted a reduction of nine weeks from the starting point of eighteen weeks.

21. Accordingly, we imposed a period of suspension from playing rugby union for nine weeks (eighteen minus nine). His Club had suspended him for two matches which we resolved should count towards his suspension. Therefore, he will serve seven weeks suspension which starts on 26 November 2010 and

runs up to and includes 13 January 2010. He is free to play again on 14 January 2010.

Costs

22. Costs of £200.00 are awarded against each Player/club.

Right of Appeal

23. The Player is reminded of his right of appeal against this decision.

A handwritten signature in black ink, appearing to read 'Chris Quinlan', written in a cursive style.

Christopher Quinlan (Chairman)

26 November 2010