

## **RUGBY FOOTBALL UNION**

### **DISCIPLINARY HEARING**

**At:** Holiday Inn, Filton, Bristol

**On:** Tuesday 11 January 2011

### **JUDGMENT**

**Player:** Matthew Payne

**Club:** Henley RFC

**Match:** Ealing RFC v Henley RFC

**Venue:** Ealing

**Date of Match:** 11 December 2010

**Panel:** Rick Charles (Chairman), John Doubleday and Nigel Gillingham

**Secretary:** Liam McTiernan

**Attending:** The Player.  
Nigel Dudding (Henley 1st XV Team Manager)

Noel Armstead (President, Henley RFC )

Peter Tolan (Assistant Referee) – by telephone.

#### **Preliminary**

1. The Player had no objection to the composition or constitution of the Panel.

#### **Charge and Plea**

2. The Player was charged with stamping contrary to Law 10(4)(b), in that he stamped on an opponent during (29<sup>th</sup> minute of the first half) of the match Ealing v Henley. He denied the charge.

#### **The Facts**

3. The Panel read the RFU Discipline Report dated 19 December 2010 and signed electronically by the Assistant Referee, Mr Peter Tolan. The report describes an incident 29 minutes into the game during the first half and in addition to stating that he had an unobstructed view of the incident states

as follows:

“The game got off to a feisty start with Henley initially the stronger attacking side. There had been one or two minor off-the-ball incidents, dealt with correctly by the Assistant Referees with details fed into the referee for his information. One yellow card had been given to a Henley player by the referee. Ealing came more into the game and were attacking strongly before the incident. The Ealing player involved in the incident was treated for some time for a bleeding wound to the mouth. The AR(2) was approx 10m from the incident.

Ealing were in the Henley 22 on the opposite side to the clubhouse, and attacking their line, when the referee blew his whistle for an infringement. The Ealing 11 was on the ground and held on to the ball after the whistle, as the Henley No 8 tried to take it from him. I clearly saw the Henley No 8, Mathew Payne, who was on this feet, glance down over his shoulder, at the Ealing player on the ground. I then saw him stamp, with a clear and deliberate downward motion, on the face of the prone Ealing player. This provoked a reaction from the Ealing players, but this was quickly controlled by the prompt action of the referee, resulting in no further foul play. The referee ordered the players back towards their own goals whilst the Ealing No 11 was treated for a bleeding facial injury. The referee then acknowledged my flag for foul play. After the player had been treated the referee came to me and I reported what I had seen. He ordered the player off the field with a red card.”

4. Mr Tolan was telephoned and stated that he had nothing to add to his report. He was asked by the Panel whether the Ealing No.11 continued to play after treatment. Mr Tolan confirmed that this had occurred. When questioned on behalf of the Player, Mr Tolan stated that the Player did not maintain eye contact with the referee when moving away from the Ealing No.11. He stated that the Player looked down at the Ealing No.11 before stamping on him. Mr Tolan did not agree that the referee had been in a better position to see what happened. The referee did not see the incident and relied on his report.

5. The Panel then viewed the DVD recording of the incident at normal speed. The incident takes place in the Henley 22 with Ealing attacking. The Ealing No.11 moving at speed fails to take a pass and knocks on, retrieves the ball and goes to ground, lying across the pitch. The Player arrives first and stands on the Henley side of the Ealing No.11. He bends down to take the ball but the Ealing No.11 hangs on to it. The referee can be seen moving towards the 2 players and other players come into view. The referee is about 5 metres from the 2 players and his arm is initially outstretched indicating an advantage to Henley and then moves towards his mouth. The recording then stops but starts again as the Player is shown a red card by the referee.

#### The Defence Case

6. The Player gave evidence. He accepted that his right foot had come into contact with the face of the Ealing No.11 but explained that the contact had been accidental. He thought that Henley had been awarded a

penalty by the referee and wanted to get hold of the ball quickly. The Ealing No.11 held on to the ball but the Player got hold of it. The Player said that he looked towards the referee and asked where the penalty could be taken from. The referee replied that it was a scrum not a penalty. They had eye contact throughout, including when the Player moved towards the referee. The Player stated that as he did so the Ealing No.11 who was still on the ground grabbed his left leg destabilising him. He brought his right foot down and it came into contact with the face of the Ealing No.11. It was an accidental contact not a deliberate stamp. The Player stated that he spoke to the referee after the game who told him that he had not seen the incident and had relied on the report of the Assistant Referee

7. Three statements were produced on behalf of the Player and were read by the Panel. The content is summarised below.

a. Rowan Fuller (Henley Club Captain) states that he was on the bench about 15 metres from the incident. He saw the Player wrestle the ball from the Ealing winger who took umbrage. There was a dialogue between the Player and the referee who was close to both players. The Ealing Player was maintaining a grip on the Player's leg. *"Matthew stepped to his right whist maintaining eye contact with the referee. During this action his boot made contact with the Ealing player's head and Matthew's immediate reaction was of concern for and apology to the Ealing player."*

b. Nigel Dudding states that he was in the technical area about 15 metres from the incident. He saw the Player wrestle the ball from the Ealing player who would not give it up and had hold of the Player's leg. The referee moved in to diffuse a potential flashpoint. The Player maintained eye contact with the referee at all times. *"It was at this point that Matt Payne while trying to maintain balance moved to the side and his boot made contact with the Ealing Player."*

c. Steve Barnes (Henley Hawks Head Coach) states that his view of the incident was clear and unobstructed from about 15 metres. He saw the Player attempt to rip the ball from the arms of the Ealing player. After the referee's whistle went he managed to do so. The referee was looking directly at the Player as they exchanged words. The referee was about 10 metres away from the Player. *"As Matt had ripped the ball from his arms the Ealing Player retaliated by grabbing hold of Matt's leg non planted leg as he tried to walk away. It was due to this grabbing action the Matt seemed to lose balance and step backwards. It was at this point that Matt's boot made contact with the Ealing player. The action was not premeditated or calculated."* (sic)

8. Mr Armstead suggested on behalf of the Player that the delay in receipt of the match DVD from Ealing RFC and the lack of video coverage of the incident could be regarded as suspicious and that the DVD may have been edited to omit coverage of the incident as it did not confirm the account of the Assistant Referee. He also suggested that had the incident occurred, the referee was best placed to see it and he had not. Mr

Armstead submitted that the allegation of foul play was not established to the standard required.

#### Finding

9. The Panel considered all the evidence put forward at the hearing. The Panel did not accept that the lack of video evidence of the incident was sinister as the footage was recorded for coaching purposes and appeared to have been stopped when play was not taking place. The video coverage does not show what the referee was doing when the incident occurred, but the Player's own account that he had been told by the referee that he had not seen the incident and the referee's acceptance of the assistant referee's report to him indicated to the Panel that the referee's attention had been elsewhere at the time of the incident. The Panel noted that the Assistant Referee is an independent witness and as indicated in RFU Disciplinary Regulation 19.7.1.2 his report carries considerable weight. The Panel preferred the account of the independent Assistant Referee and accepted his evidence. The Panel was satisfied on the balance of probabilities and found that the Player had intentionally stamped on an opponent as alleged. The Player was found guilty of that offence.

#### Mitigation

10. Mr Armstead stated that the Player had been brought before the Disciplinary committee of Henley RFC on 14 December 2010 in relation to this incident and on the basis of the report of Mr Tolan had been suspended from playing for 4 weeks "*pending receipt of the video and in advance of an RFU disciplinary hearing*". Mr Armstead explained that the suspension had been imposed because the Player had been sent off not because of an act of foul play. He confirmed that the Player had not played since the award of the suspension.

11. Mr Armstead explained that the Player had played at Henley RFC for 7 years and described him as an outstanding stalwart of the Club. He had been Club Captain in 2007/8 and was involved with mini and junior rugby at the Club. The Player had apologised to the Ealing Player at the time and again after the game and had also apologised to the referee.

#### Sanction

12. The Panel considered the seriousness of the Player's conduct by reference to the factors set out in Regulation 19.8.2.5 of the RFU Disciplinary Regulations, including that the offending was deliberate, involved the use of the boot on the face of a player who was on the ground and in a vulnerable position. The stamp caused a minor injury and was completed. The Panel accepted that the single stamp was not premeditated and that there had been a degree of frustration on the part of the Player. The Panel concluded that the offence had little effect on the game in that the Ealing No.11 played on after treatment. Taking all the relevant factors into account we determined that the offending was at the

Mid Range.

13. The entry point for a Mid Range offence of stamping on an opponent is 5 weeks' suspension. We considered whether there were any aggravating features and any mitigating factors as described in Regulation 19.8.2.7/8. We noted that the Player came before an RFU Disciplinary Panel in 2008 and that a suspension of three weeks was awarded for an offence of striking with the head (head butt) but that his record since then has been unblemished. We gave the Player credit for his proper conduct at the hearing, his apologies at the time of the incident, his recent good record and character. We concluded that no aggravating features were present. On the basis of the mitigating features the Panel determined that the period of suspension should be reduced by one week to four weeks. Accordingly we determined that Matthew Payne should be suspended from playing rugby for four weeks. However, as the Player has already been suspended by the Disciplinary Committee of his Club for a period of four weeks, no additional sanction is appropriate and the Player was able to play again on 12 January 2011.

14. The Player's attention was drawn to his right to appeal against conviction and sanction.

#### Costs

15. An order for costs of £200 is made against the Player/Club

**Rick Charles (Chairman)**