

## **RUGBY FOOTBALL UNION**

### **DISCIPLINARY HEARING**

**At:** Holiday Inn, Junction2, M6

**On:** 31<sup>st</sup> January 2011

### **JUDGMENT**

**Player:** Michael Ellery

**Club:** Moseley RFC

**Match:** Moseley v Neath

**Venue:** Moseley

**Match Date:** 22<sup>nd</sup> January 2011

**Panel:** HHJ Sean Enright, John Brennan and Geoff Payne.

**Attending:** Michael Ellery (the Player)  
Tony Thomas (Player's Representative)  
Peter Howard (Observer)  
William Harbage QC (Observer)

### **Charge and Plea**

1. The Player is charged with an offence, contrary to Law 10(4)(a), alleging that he had struck an opponent with his head during the 33<sup>rd</sup> minute of the second half during the game Moseley v Neath.
2. The Player admitted striking an opponent with his fist, he denied using his head.

### **Preliminary Matters**

3. The Player did not object to the composition of the Panel.

### **Evidence as to Fact**

4. We considered the followed evidence:
  - a) The report of the assistant referee, Mr Simon McConnell, dated 23<sup>rd</sup> January 2011. This report was amplified by oral evidence over a

telephone conference line. Mr McConnell told us the incident took place about 10 metres infield. He saw two players on their feet tussling. The Player thrust his head into the head/face of an opposition player. It appeared to connect but he was uncertain as to whether there was a second strike with the head. He did not see any injury. As a result of his intervention the referee sent the Player from the field.

- b) The Player told us that he had been involved in a scuffle with another player who had initiated the incident by grabbing his testicles after clearing him out of a ruck. He responded by throwing a short punch. He agreed there was inadvertent contact between his head and the other man's head as he doubled up as a reaction to having his testicles grabbed.

### Findings

5. We were satisfied that the Player had struck his opponent with his head once, and that this was an intentional act. There may have been provocation. There was no evidence that his actions affected the outcome of the game and his opponent suffered no injury. This was not a case where his opponent was vulnerable. The offence was completed and is best described as intentional but unpremeditated. We identified no aggravating features. We identified low end as the appropriate entry point which means our starting point was a 4 week suspension.
6. We were told that the Player had one red card on his record for striking (imposed in 2010). The Player told us this was for charging. He was 21 and he was regarded by his club as a model young professional. We found this hard to accept given that this was his second red card in a relatively short space of time. The Club had conducted internal disciplinary proceedings and accepted his account. They took the view that the sending off was sufficient punishment. We were told that he had expressed remorse although this rang a little hollow since he admitted punching his opponent but not striking him with his head in accordance with our findings.

### Sanction

7. The Player is banned from playing rugby for four weeks. He is free to play again on 28<sup>th</sup> February.

### Costs

8. We made an award of £250 costs against the Club.

Right of Appeal

9. The Player is hereby advised of his right to appeal. Any such appeal must be lodged with the RFU Disciplinary Office not later than 10am on the 14th day following receipt of this judgment.

**Signed:** Sean Enright, Chairman.

**Date:** 31<sup>st</sup> January 2011.