RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: The Offices of Russell Jones & Walker 50-52 Chancery Lane, London

DATE: 3 May 2011

Player: Delon ARMITAGE Club: London Irish RFC

Match: London Irish v Northampton Saints

Venue: Madejski Stadium, Reading Date of match: 23 April 2011

Panel: Jeremy Summers (Chairman), Peter Budge and Philip Evans ("the Panel")

Secretary: Rebecca Morgan

In Attendance:

Delon Armitage ("the Player") Neal Hatley – London Irish Forwards Coach

Liam McTiernan - RFU Dave Barton - RFU

DECISION

1. The Player was found guilty, on his own admission, of striking an opponent contrary to Law 10.4 (a). For the reasons set out below he was suspended from playing rugby for a total period of 3 weeks. The suspension will commence on 4 May and continue until 10 May. The suspension will not run between and 10 and 23 May, but will resume between 24 May and 6 June. The Player is accordingly free to play between 11 and 23 May¹ and then again on 7 June 2011.

PRELIMINARY ISSUES

- 2. The Player did not object the composition of the Panel, and no preliminary issues arose.
- The Panel convened to consider a citing by Alan Mansell alleging that Player had struck an opponent in the 75th minute of the above game played in the Aviva Premiership.

CHARGE AND PLEA

4. The Player admitted that he had struck an opponent contrary to Law 10.4 (a).

¹ During which time the Player has no games.

THE CITING

- 5. The Panel considered:
 - i. The Citing Report.
 - ii. The match recording.
 - iii. Oral evidence from the Player.
 - iv. Submissions on behalf of the Player
- 6. The Citing Report read as follows:

London Irish are attacking close to the Northampton goal line between the touchline and five metre line through their 14 (Topsy Ojo). He is first held by Northampton 11 (Chris Ashton) and then additionally by Northampton 10 (Stephen Myler). Ojo has sufficient momentum and continues to gain ground when London Irish 15 (Delon Armitage) engages with the action by binding onto Stephen Myler's body to add his weight to the attack on the goal line. The joint efforts of the Northampton players however succeed in taking the attacking ball carrier (Ojo) to ground into touch adjacent to the corner flag. Ojo remains in possession of the ball on the ground and as Myler and Ashton also hit the ground they release their grasp on him. From the recording it can be seen that Delon Armitage also goes to the ground partially behind and on top on Stephen Myler and as the play comes to a stop he raises his right arm and in an arcing movement appears to deliberately strike Stephen Myler on the right side of his face with his right hand. Delon Armitage raises himself to his knees and whilst doing so looks directly down at Stephen Myler. He then gets to his feet and leaves the scene. Stephen Myler is left stunned by the force of the blow and is treated where he lies by his team physio. After treatment he resumes playing.

I have spoken with the referee, David Rose, who confirms that neither he nor his assistant referee, Andy Watson, saw the incident of foul play at the time. He confirmed to me having now viewed the SKY recording that had he seen the incident in play at the time he would have awarded Delon Armitage a yellow card. For my part I see Delon Armitage's offence as a gratuitous act of foul play worthy of a full citing.

- 7. The match recording was viewed in full and reduced speed. This was fully consistent with the Citing Report, and showed that the back of the Player's right hand had made contact with Myler's right jaw/lower cheek. The Player agreed that this had been the point of contact. The Panel was told that some brief treatment had been administered but that Myler had been able to finish the game. There was no evidence of further treatment having been administered after the game.
- 8. In light of the Player's plea the citing was upheld. The Panel was advised that the Player had been suspended for 1 week for striking an opponent in March 2007. More recently he had received an 8 week suspension for conduct prejudicial to the interests of the RFU and the game and had only returned from that suspension on March 17 2011.²
- 9. The Player had been subject to an internal club disciplinary process in consequence of which he had been suspended for a period of 2 weeks from 27 April 2011. This would lead to him missing a single fixture against Leicester on 7 May 2011.

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² Judgment 20 January 2011 (upheld on appeal)

MITIGATION

- 10. The Player gave evidence. He explained that the game was at a crucial stage with there being under 5 minutes remaining and his team needing a converted try to take the lead. As reflected in the Citing Report, he had attempted to assist London Irish 14 (Ojo) getting over the try line. He had not really appreciated that he was already in touch at the point he had gone to ground and stated that he then had tried to swing his arm round and on top of Myler in an attempt to regain his feet and clear Myler out. This he said was a technique known as the "spider" which was coached in training. He had not intended to hit Myler and was simply trying to clear him out of the way. Because of the stage and closeness of the game, everything he had done had been aimed at keeping the game moving.
- 11. He did not go so far as to directly claim accidental contact, and such would have been inconsistent with his plea and the suspension imposed by his club. To the extent that he claimed that contact had been unintentional his case was, in effect, that contact had been reckless, although he did not express that in clear terms.
- 12. He appreciated that he had let himself and his team down. There had been no malice in his action and his actions were not "what [he was] about" as a Player. He had tried to speak in person with Myler and was sad that his calls to him had not been returned. He had however spoken in person with the Northampton captain and had apologised for his actions. He recognised that this offence could jeopardise his chances of selection for the England Rugby World Cup squad and was "gutted" to have placed himself in that position.
- 13. He is 27 years old and has been a professional rugby player for 8 years playing for London Irish throughout that time. He has represented his club on 152 occasions and gained 19 caps for England.
- 14. Mr Hatley submitted that, judged across his career, the Player could not be said to have a poor disciplinary record. He also questioned whether his suspension in March 2011 for off-field misconduct could be considered when determining whether the Player should be viewed as offender of the laws of the game for the purposes of RFU Regulation 19.8.2.7.
- 15. London Irish had considered the Referee's comment (above) that, had he seen the incident, he would have (only) awarded a yellow card, but had nevertheless taken the view that a strike had occurred which required sanction. The club however believed that there been no premeditation or malice. Taking into account that there had been no injury and no effect on the game the club had therefore assessed the incident as being at the low end of the scale of seriousness.
- 16. Mr Hatley noted that the club was badly affected at present by injuries to its back three playing squad. The game at Leicester was vital for the club's aspirations of competing in the Heineken Cup next year, and as such the loss of the Player (through its own suspension) was a significant sanction.
- 17. He noted the Player's commitment to the Academy and youth side of the club, but felt that his plea and remorse were more pertinent for the purposes of mitigation. The Player had apologised in person to the management and the entire squad and fully recognised that he had let both down.

SANCTION

- 18. The Panel undertook an assessment of the seriousness of the offending having regard to the criteria set out in RFU Regulation 19.8.2.5. In this regard the Panel found as follows:
 - a) That the Player had acted deliberately in striking an opponent. Having carefully reviewed the match footage and considered the oral testimony the Panel was not persuaded by the Player's argument that contact had occurred as the result of a legitimate attempt to execute a "spider" movement. In the view of the Panel the Player had lost control of his discipline at a crucial stage of the game.
 - b) The Player may not have intended to make contact with the head but had, at the very least, been reckless in that regard.
 - c) The offending involved the Player somewhat cynically striking out an opponent who was not in position to defend himself. There was no provocation.
 - d) There was no injury of any note, although Myler had required some brief treatment.
 - e) There was no effect on the game.
 - f) Myler was to a certain extent vulnerable in that he would not have been expecting to have been struck in the way that he was.
 - g) There was no premeditation.
 - h) The conduct was complete.
 - i) There were no other relevant factors constituting the Player's offending.
- 19. In light of its finding in relation to the Player's intent and Myler's vulnerability, the Panel gave serious consideration as to whether this offence should have been categorised as being at the mid range of the scale of seriousness. However, having regard to the totality of its findings, the Panel assessed the offending as being at the **LOW END** of the scale of seriousness.
- 20. The low end entry point for this offence is a suspension of 2 weeks.
- 21. As required, the Panel then considered the aggravating features set out Regulation19.8.2.7, not least the question as to whether, given that the Player had only returned from an 8 week suspension on 17 March 2011, he should be deemed an offender of the laws of the game³. In this regard it was satisfied that, notwithstanding that the offence concerned involved off-field misconduct⁴, the offending properly fell to be considered for the purposes of that determination. Both that offence, and the matter before this Panel, also demonstrated a similar loss of control and discipline.
- 22. In the Panel's view the suspension therefore warranted an increase of 1 week (50%) from the entry point. The suspension was therefore increased to a total of 3 weeks before mitigation was considered. The Panel would not have taken the Player's 2007 suspension in isolation as necessitating this additional sanction.
- 23. The Panel noted the guilty plea. Although the Player asserted that he was remorseful in effect his claim, which was rejected by the Panel, that contact had not

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³ Regulation 19.8.2.7 (b)

⁴ Abusive behaviour towards a Doping Control Officer following a match played on 1 January 2011.

been intentional was inconsistent with full remorse actually being shown. In those circumstances the Panel did not feel able to reduce the suspension by way of credit for mitigation.

24. The Panel was conscious of the impending close season and the need for any sanction imposed to be meaningful in effect. Regulation 19.8.2.12 provides as follows:

Any period of suspension imposed by a Disciplinary Panel may:

- a) Be back-dated to start at such date as it thinks fit, if it wishes to take account of any effective disciplinary action taken by the Club of which the player or other person to whom the report relates is a member, arising out of the same incident; or
- b) Include or exclude the whole or any part of the closed season, taking into account any tours or other games to which the player or other person to whom the report relates is committed. (Underlining added)
- 25. The Player and his club have no games after 7 May 2011. Conversely, the Player would be eligible for selection for an England XV against the Barbarians to be played on 29 May 2011 and for the opening round of the Churchill Cup (England Saxons) on 4 June 2011.
- 26. In the absence of such fixtures the suspension would have been carried over until the start of the 2011/2012 season. However, and having taken into account these fixtures, the Player was suspended from 4 to 10 May 2011 and then again from 24 May to 6 June 2011. For the avoidance of doubt during those periods the Player is prohibited from any on field match day participation including but not limited to acting as a water carrier.
- 27. It should though be noted, in particular in the context of the Player's record, that the total period of suspension is one of 3 weeks.

COSTS

28. The Player and/or his club are ordered to pay costs of £500.

APPEAL

29. The Player was advised of his right of appeal, to be exercised by 10.00 on Thursday 5 May 2011.

Jeremy Summers
Chairman
4 May 2011