RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

At: Brighouse Holiday Inn, Leeds.

On: Tuesday 29th March 2011.

<u>JUDGMENT</u>

Match: Harrogate v Huddersfield

Venue: Harrogate

Match Date: 15th January 2011

Panel: Clif Barker (Chairman), Mike Hamlin and David MacInnes

Secretary: Liam McTiernan (RFU)

Attending: Graham Siswick (Chairman of Rugby/1st Team Manager,

Harrogate RUFC - Representing the Player)

Regarding: The Panel was convened to consider the sending off of Christopher Wilson of Harrogate RUFC for an act of kicking (amended during the course of the hearing to stamping on) an opponent during (25th minute of the second half) the match between Harrogate and Huddersfield on 15th January 2011, contrary to Law 10(4)(c) (amended to 10(4)(b)).

Charge and Plea

1. The Player (by proxy) pleaded Not Guilty to both kicking an opponent and stamping on an opponent.

Preliminary Matters

- 2. Mr Siswick had no objection to the composition of the Panel.
- 3. The Player did not attend the hearing because he was working away in France. He was, however, represented by Mr Siswick, who confirmed that the Player had no objection to the matter being dealt with in his absence and on the basis of the written statement submitted by him. However, telephone contact could be made with the Player, if the Panel wished to receive oral evidence from him. The Panel subsequently decided that it was not necessary for them to receive oral testimony from the Player but pointed out to Mr Siswick that, whether or not he wished to call the Player to give oral evidence by telephone link was a matter entirely for him. Mr Siswick decided not to do so.

- 4. The Panel also pointed out to Mr Siswick that the Assistant Referee, David Winthrop, on whose intervention the Player had been sent off, was not in attendance at the hearing nor was he available to give oral evidence by telephone. In that respect, the Disciplinary Department of the RFU had attempted to make telephone contact with Mr Winthrop but without success. Mr Siswick confirmed that he was content for the matter to proceed in the absence of any oral testimony from Mr Winthrop by Mr Winthrop's statement being read.
- 5. In advance of the hearing, the Panel had been provided with a copy of the Charge Sheet and the written Sending Off Report. At the outset of the hearing, Mr Siswick produced a written statement from the Player, together with an entry on a website posted by a player from Huddersfield, who took part in the game. The Panel noted that this posting was anonymous but Mr Siswick asked that its contents be taken into consideration.
- 6. Mr Siswick did not wish to raise any further preliminary matters.
- 7. It should be noted, however, that, having seen the DVD during the course of the hearing, the Panel concluded that the charge ought to have been one of stamping on an opponent contrary to Law 10(4)(b), and not kicking an opponent, contrary to Law 10(4)(c). At that juncture, Mr Siswick was informed that the Panel intended to amend the charge accordingly. Mr Siswick confirmed that he was not taken by surprise by this amendment and that he did not require an adjournment in order to consider that aspect of the matter.

Evidence as to Fact

- 8. The Panel considered:
 - a) The Sending Off Report, signed by both the referee, Tom Davis, and the Assistant Referee, David Winthrop;
 - b) A written statement of evidence from the Player;
 - c) The posting on the website by a Huddersfield player; and
 - d) A DVD of the incident, produced by the Harrogate Club.

The Facts

9. In his Report, the Assistant Referee, David Winthrop, describes the incident as follows: "Huddersfield 6 carried ball into contact, midfield near Harrogate 10m line, went to ground and a ruck formed. Harrogate counter rucked and drove past White 6 who still had the ball near his body. Harrogate 7 rucked backwards, on the first occasion he narrowly missed the player on the ground's head and on the second ruck backwards the sole of his boot connected with the top of the grounded player's head. Player struck not injured".

- 10. In his written statement, the Player states as follows: "I arrived at the ruck and took up the position of guard. I then spotted the ball on the floor and proceeded to counter ruck in an attempt to win the ball. The Huddersfield number 6 was lying on the wrong side of the ruck and killing the ball. I was aware of a number of Harrogate players attempting to ruck him out of the way. I was the last player to come in and my intention was to continue rucking the Huddersfield player away from the breakdown in a backwards movement giving ourselves quick ball. In stepping over the Huddersfield player and focusing entirely on the ball I no longer had an awareness of his exact body position and as I put my foot down, without looking, I unintentionally made contact with the side of his head. The movement was extremely quick and I was unsure of my footing as the Player started to sit up. This only occurred on one occasion not twice as stated in the referee's report. The action was most certainly a backward rucking action and not a kicking action again as stated by the referee. I appreciate it was extremely unfortunate and I regret the outcome however I maintain that the action was not premeditated and accidental."
- 11. The website posting by the Huddersfield Player, who took part in the game, reads as follows: "Having been at the game on Saturday, I can confirm that the alleged stamping offence did occur, however I will add that there was in no way any intent on the Gate player's part to make contact with the head of the Field player. Wrongly, the Field player was killing the ball, the ref, ideally placed, gave Gate the advantage. The Field player was being persuaded to move with some legal rucking, as he exited the ruck on the Gate side, the active footwork caught the Field player's head. I would conclude that it was accidental contact with the Field player's head. I suggest the Gate player would agree! The most confusing thing in it all, the referee saw the incident, almost blew up, decided against it, then after a long debate with his touch judge, opted for red. Does accidental contact warrant a red card? I found it harsh and I was out on the pitch wearing a white shirt and about 5 feet from the incident! Ponder over that one!"
- 12. The incident was shown clearly on the DVD. There had been a knock on by Huddersfield and the referee signalled advantage to Harrogate. A ruck had formed with one player from each side on the ground, both on the wrong side of the ball, which was in between them. A Harrogate player entered the ruck from his own side and legitimately rucked over the two players on the ground without making contact with either of them. The Harrogate No.4 then entered the ruck and appeared to stamp with his left foot on the Huddersfield player's upper chest/left shoulder area. At this point, the Huddersfield player was lying on his back with his head on the Harrogate side of the ruck. The ball was clearly visible and available on the ground at the right hand side of the Huddersfield player. The Harrogate No.7 then entered the ruck. He placed his left foot just behind the head of the prone player, raised his right leg and stamped down in a clear stamping action, making contact

- with the right side of the Huddersfield's player's head. The Harrogate No.7 then bent down, picked up the ball and drove through the ruck. At that point, the Assistant Referee intervened.
- 13. In his submission, Mr Siswick contended that (i) the referee, who was much closer to the incident than his Assistant, was in a much better position but did not see fit to blow up, (ii) that the Assistant's report was inaccurate in that it maintained that the Player rucked backwards twice and (iii) the Player's action was clumsy and not intentional.

Decision

14. Having considered all the evidence available to it and having considered the submissions made by Mr Siswick on behalf of the Player, the Panel found the Player guilty of stamping on an opponent. In that respect, the evidence revealed by the DVD was both clear and compelling and, on that evidence, the Panel was satisfied that the act of stamping was neither accidental nor reckless, but intentional. The Assistant Referee was clearly mistaken in his contention that the Player rucked backwards twice. The first action, as revealed by the DVD, makes it clear that the act was committed by the Harrogate No.4, although the two acts followed each other quickly and the Assistant Referee could easily have been confused in view of the fact that, according to his Report, he was some 35m away from the incident.

Entry Point

15. The Panel assessed the seriousness of the Player's conduct in accordance with RFU Regulation 19.8.2.5. In that respect, the Panel concluded that the offending was intentional and unprovoked. The Huddersfield player was prone on the ground and was clearly vulnerable and unable to defend himself. This was a stamp to the head, which fortunately did not cause any injury but could quite easily have done. There was no adverse player reaction to the incident and, although the Panel was satisfied that the stamping was intentional, it was not premeditated and was on the spur of the moment. In all the circumstances, therefore, the Panel concluded that the appropriate Entry Point was mid range with a suspension of 5 weeks.

Aggravating Factors

16. Having considered RFU Regulation 19.8.2.7, there were none.

Mitigating Factors

17.Mr Siswick informed the Panel that Harrogate had held an internal disciplinary meeting on 18th January 2011 and suspended the Player

for 3 weeks. Mr Siswick explained that Harrogate took that view, not because they believed the Player to be guilty, but because the Club were annoyed that the Player had got sent off because they believed it had cost them the game. Furthermore, the Club had been proud of the fact that they had not had a player sent off since season 2005/2006. They believed that the Player had been clumsy and they had imposed the 3 weeks suspension without giving any consideration to the RFU Regulations on the basis that, if this Panel was to find him guilty of the charge in due course, then the minimum suspension was likely to be one of 3 weeks. Consequently, the Club had suspended him from playing from 18th January 2011 to 8th February 2011. The Panel applauds Harrogate for taking immediate action. However, in future, if they do so, we would recommend that they reach their conclusions by considering and applying the provisions of the RFU Regulations.

- 18. Although the Player had not acknowledged his guilt and could not, therefore, claim any discount for a guilty plea, this was the first time he had been sent off. He had played rugby since he was 5 years of age and joined Harrogate at the beginning of the 2007/2008 Season. He had played over 50 first team games and had only once received a yellow card in 2007/2008 for a technical offence.
- 19. In these circumstances, therefore, and having considered RFU Regulation 19.8.2.8, the Panel concluded that the suspension of 5 weeks ought to be reduced by one week.

Sanction

20. The Player is, therefore, suspended for four weeks, from 18th January to 8th February and from 29th March up to and including 5th April. The Player is free to play again on 6th April 2011.

Costs

21. The Panel made an award of costs against the Player/Club of £200.

Right of Appeal

22. The right of and procedure on, appeal is set out in RFU Regulation 19.10.

Signed: Clif Barker, Chairman

Date: 6th April 2011