RUGBY FOOTBALL UNION

DISCIPLINARY HEARING

VENUE: The Holiday Inn, Bloomsbury

DATE: 21 May 2012

Player: Ben BROSTER Club: London Wasps

Match: London Wasps v Newcastle Falcons

Venue: Adams Park, High Wycombe **Date of match:** 5 May 2012

Panel: Jeremy Summers (Chairman), Gerard McEvilly and Dr Julian Morris ("the Panel")

Secretary: Rebecca Morgan

In Attendance:

Ben Broster ("the Player") Kevin Harman – Team Manager

DECISION

1. The Player was found guilty on his own admission of dangerously tackling an opponent contrary to Law 10.4 (e). For the reasons set out below, he was suspended from playing rugby from 23 July until 30 July 2012 inclusive. He is free to play again on 31 July 2012.

PRELIMINARY ISSUES

2. The Player did not object to the composition of the Panel, and no preliminary issues arose.

CHARGE AND PLEA

3. The charge was read to the Player who admitted that he had dangerously tackled an opponent contrary to Law 10.4 (e).

THE CITING

- 4. The Panel considered:
 - i. The Citing Report.
 - ii. The match recording.
 - iii. Oral evidence from the Player.

- iv. Submissions on behalf of the Player
- 5. The Citing Report of Mr Bayliss read as follows:

Wasps attacking just inside their own half. Ball lost in tackle and retrieved by Newcastle No 9 (Stringer) who immediately passed to his No 7 to start a counter attack. Following the pass Stringer was taken out late with a swinging arm to his head by Wasp No 3 (Broster). Stringer immediately went to ground needing lengthy treatment. He did continue to play following treatment.

- 6. The incident occurred in the 3rd minute of the first half at which point there had been no score by either side. The Referee had been contacted by the Citing Officer and had confirmed that he had not seen the incident.
- 7. The match recording was viewed and was corroborative of the Citing Officer's Report. The Player was plainly late with a challenge that he had been legitimately committed to, with his arm initially making contact and about shoulder height and then rising up to the head/neck area.
- 8. Newcastle Falcons confirmed that no injury had been sustained.

MITIGATION

- 9. The Player gave evidence. He accepted without hesitation that he had been guilty of an act of foul play which he felt was clumsy, and expressed his regret at his actions. He is 30 years of age and has been playing rugby for 12 years 6 of which as a professional player. He is a prop forward who has played some 175 first class games with a previously unblemished disciplinary record. Although he will be playing for Biarritz in the French Top 14 in the 2012/2013 season he is well regarded by Wasps who supported him fully at the hearing. Mr Harman spoke highly of the Player and indicated that the incident had been very much out of character.
- 10. The French Top 14 season begins on 17 August 2012 and there are pre-season fixtures on each of the three preceding weekends commencing on 27 July 2012.

SACTION

- 11. As required the Panel undertook an assessment of the seriousness of the offending having regard to the criteria set out Regulation 19.11.9 of the RFU Regulations. In this regard the Panel found as follows:
 - a) That the Player had not acted intentionally and had been clumsy in effecting a tackle.
 - b) He had though plainly been reckless as to the risk of foul play, and injury, arising.
 - c) The offending consisted of a swinging slightly bent arm that eventually made contact with an opponent's neck/head.

- d) There was some temporary ill effect which required on field treatment but there was otherwise no injury.
- e) There was no effect on the game.
- f) Vulnerability was not a material consideration in all the circumstances although inherent in such a situation.
- g) There was no premeditation.
- h) The conduct was complete.
- i) There were no other relevant factors constituting the Player's offending.
- i) There were no other circumstances that the Panel felt were relevant.
- 12. In light of its findings the Panel assessed the offending as being at the LOW END of the scale of seriousness. The low end entry point for this offence is a period of two weeks.
- 13. None of the aggravating features prescribed by Regulation 19.11.11 were found to be present.
- 14. There was however significant mitigation which in view of the Panel's merited a reduction of one week from the entry point. The Player was accordingly suspended for one week as set out at paragraph 1 above having regard to the dates of next year's French pre-season commitments.

COSTS

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

APPEAL

16. The Player is advised of his right of appeal, to be exercised within 48 hours of receipt of this judgment.

J_{eremy} Summers Chairman 21 May 2012