

# EPCR SHORT JUDGMENT FORM

Match	Glasgow Warriors	Vs	Lyon OU
Club's Country	France	Competition	Heineken Champions Cup
Date of match	15 December 2018	Match venue	Scotstoun Stadium
Rules to apply	EPCR Disciplinary Rules 2018/19		

## PARTICULARS OF OFFENCE

Player's surname	OOISTHUIZEN	Date of birth	
Forename(s)	Etienne	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Lyon OU		
SELECT: Red card <input checked="" type="checkbox"/>	Citing <input type="checkbox"/>	Other (specify) <input type="checkbox"/>	
Offence	Law 9.12 – striking with the arm		
Summary of Sanction			

## HEARING DETAILS

Hearing date	19 December 2019	Hearing venue	Sheraton, CDG, Paris
Chairman/JO	Jeremy Summers (England)	Panel member 1	Rory Bannerman (Scotland)
Panel member 2	Val Toma (Romania)	Disciplinary Officer	Liam McTiernan
Appearance Player	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appearance Club	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Player's Representative(s):

Other attendees:

Yann Roubert – President Lyon OU

Maria Gyolscos - EPCR

List of documents/materials provided to player in advance of hearing:

1. Notice of Hearing dated 17.12.18;
2. Red Card report dated 15.12.18;
3. Statement of Gwyn Morris, Assistant Referee 1 (email dated 17.12.18);
4. Statement of Aled Evans, Assistant Referee 2 (Report dated 17.12.18);
5. Medical Statement from Francesco Fronzoni, Glasgow Warriors Team Physiotherapist (letter dated 17.12.18); and
6. Statement from Adam Hastings (email dated 19.12.18).

## SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

The incident occurred in the 70th minute of the match with the score at that juncture being 21-10.

The Red Card Report submitted by the Referee (Ben Whitehouse), who had been positioned 5m from the incident read as follows:

*On the 70th minute, On the Glasgow 22m area, Glasgow were in possession. I saw a charge down by Lyon 4 Oosthuizen on Glasgow 10 as he kicked, which ended up in the Glasgow 10 being down injured with blood coming from his nose. The TMO then showed me the incident on the screen and i asked for all the available angles so that i could see what had happened.*

*I saw that L4 (EO) charging down the kick with one hand but then i saw that he had forcefully thrust his other arm up towards the face of the G10. He then made contact with his forearm area to the top of G10's shoulder then continued the dynamic action and thrust the forearm towards the face of the G10, forcefully making contact to the face of G10. This was not an action of a tackle, this was not an act within the laws of the game, so i deemed it foul play. The forearm was always thrust upwards, and always towards the face of G10.*

*Once i had decided it was a Red card, I explained what I had seen and my decision to Lyon Capt and Oosthuizen, I then*

*issued a red card to the offending player. He politely accepted the decision and left the field without any dissent*

A statement from AR1 recorded:

*In regard to the red card for Etienne Oosthuizen Lyon*

*Following the TMO check and Ben review of the footage on the screen Ben asked if I was seeing anything different to his explanation of the events and his sanction - I said I agreed with his explanation and sanction for the incident this was relayed over the communication system we had for the game*

In a formal Report AR2 noted:

*This incident of foul play occurred in the 70th minute of this fixture between Glasgow and Lyon. A ruck was formed around the Glasgow 22m line, around 20metres in from the touch line. The ball was passed back by the Glasgow scrum half to the Glasgow number 10 who attempted a clearance kick. The ball was charged down by the right arm of Lyon number 4, Etienne Oosthuizen. After preventing the clearance with his right arm, the Lyon no.4 raised his left forearm and struck the opposing player, making contact to the head with force. The incident was brought to the attention of the on field team of match officials by the Television Match Official. After watching the incident several times on the screen, the referee concluded that the player had "thrusted a forearm towards the face of the Glasgow number 10 with force". I was asked by the referee if I saw anything differently to how he and the TMO had described the situation. I agreed with what he had said and confirmed that I didn't have anything to add. The referee issued the red card and play restarted with a penalty kick to Glasgow. I confirmed that the mark was just inside the 22m, and after the Glasgow number 10 had received treatment from their medics, Glasgow opted to kick to touch*

The Panel viewed, and carefully considered, the match footage (without sound).

The footage was available from three angles (side, front and rear), and showed the match being played in driving rain.

G10 takes a pass from G9 about half way inside his 22m and G10 then attacks to his left towards the 22m line/left hand touch. As the Player closes in on him, G10 executes a clearance chip with his right foot having shaped to do so.

The Player continues to close in on G10 and is able to use his right arm to effect a legal charge down. The charge down sees the ball knocked to the ground with some force close to both players before bouncing away slightly to the right.

Shortly after the ball hits the ground, and so after the charge down, the Player is seen to continue into G10 leading into G10 with his left forearm.

The left forearm initially connects with G10's right shoulder before continuing upwards to go into and across G10's face.

G10's head is forced backwards by the impact, which appears to cause him to rotate away from the contact to his left. As he does so he momentarily stumbles and moves his right hand briefly towards his face consistent with checking for injury before regaining his composure and moving back into position to support a team mate who had regained possession of the ball.

The footage stops following an ensuing tackle and breakdown. It does not show G10 receiving medical attention thereafter or the subsequent discussion between the match officials.

This narrative was reviewed by the Player and his representative during the hearing. Save for the fact that the Player wished to assert that he had not led upwards with his forearm, the detail as set out was otherwise agreed.

## ESSENTIAL ELEMENTS OF OTHER EVIDENCE (e.g. medical reports)

The Panel received and considered a statement from the victim player (G10), which read as follows:

*I went to chip the ball over the defensive line and as I was charged down the player made contact to the base of my nose/top lip with his elbow. I was bleeding from the nose and lip but did not have concussion symptoms*

This was augmented by a medical report received from the Glasgow team physiotherapist, which indicated:

*During the game I saw [G10] getting down on one of his knees and I was the first one to attend. His nose was bleeding, therefore I applied compression. He did not have any concussion signs or symptoms. He successfully answered all the Maddocks questions, footage was reviewed by the Hawk-eye Doctor and he was deemed fit to continue to play.*

*He did not have any concussion signs or symptoms after the game. He will be non-contact training at the beginning of the week, but will be fit for selection on Saturday.*

## SUMMARY OF PLAYER'S EVIDENCE

The Player gave evidence. He accepted that he had committed an act of foul play and that it had warranted his being issued with a Red Card.

He stated that following the charge down he had not known where the ball was, and had wanted to try and regain possession whilst stopping G10 from doing so. He had been braced for the contact with G10 that would inevitably follow from the charge down and had instinctively used his arm to block that contact. He then tried to push G10 away and, because his arm was already bent to resist the impact, he had used that rather than his hand to effect that push.

He noted the extreme (driving rain) weather conditions the match was being played in. His arm had initially made contact with G10's right shoulder but, probably because it was so wet, it had then slipped off that contact and up into G10's face.

He was aware that it was unlawful to strike an opponent with a forearm, but had not intended to cause any injury to G10. He had checked on him after the incident but had not spoken to him after the game, due to the need for all players to get warm.

He was shortly to celebrate his 26<sup>th</sup> birthday and had been playing professional rugby for 7 years without any disciplinary issues beyond Yellow Cards having previously arisen.

M. Roubert supported the Player's position and noted that the incident had occurred in the 70<sup>th</sup> minute of the match by which time natural game fatigue would have been added to by the adverse weather. In his submission, these factors would have contributed to the dynamics of the incident.

## FINDINGS OF FACT

The Panel carefully considered all the evidence and noted that the Player accepted that he had committed an act of foul play that had warranted the issue of a Red Card.

The Panel made the following findings:

1. The incident had occurred following a lawfully executed charge down.
2. The Player had used his right arm in the charge down.
3. Following the charge down, the Player continued into G10 with his left arm, which was raised at around chest height in front of him and bent at approximately 90 degrees.
4. The initial contact was between the Player's left forearm and G10's right shoulder.
5. The wet conditions may have been likely to have contributed to the Player's forearm then moving off the shoulder, but the Player's arm was in any event moving upwards into G10.
6. Secondary contact with the forearm was across the front of G10's face.
7. The force of the contact was such as to result in bleeding to G10's nose and lip, but the injury was otherwise transitory.

## DECISION

Breach admitted  Proven  Not proven  Other disposal (please state below)

## SANCTIONING PROCESS

## ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)

**PLEASE TICK APPROPRIATE BOX** Intentional/deliberate  Reckless

State reasons

The incident arose from adynamic and legitimate charge down, and was likley to have been contributed to by the extremely wet weather conditions. The Panel was satisfied that the Player had not intended to make contact with G10's head.

Gravity of player's actions – R 7.8.32 (c)

Whilst there had been contact with some force to G10's head, the Panel did not consider that the incident in itself was particular serious.

Nature of actions – R 7.8.32 (d)

Bent forearm leading into an opponent and coming into contact with the head.

Existence of provocation – R 7.8.32 (e)

None.

Whether player retaliated – R 7.8.32 (f)

No.

Self-defence – R 7.8.32 (g)

Not relevant to the offending.
Effect on victim – R 7.8.32 (h) Minor short term injury sustained.
Effect on match – R 7.8.32 (i) None.
Vulnerability of victim – R 7.8.32 (j) No material vulnerability present.
Level of participation/premeditation – R 7.8.32 (k) No premeditation present.
Conduct completed/attempted – R 7.8.32 (l) Completed.
Other features of player’s conduct – R 7.8.32 (m) None.

**ASSESSMENT OF SERIOUSNESS CONTINUED**

Entry point					
<u>Top end*</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks 6</u>	<u>Low-end</u>	<u>Weeks</u>
<input type="checkbox"/>		<input checked="" type="checkbox"/>		<input type="checkbox"/>	

\*If Top End, the JO or Panel should identify, if appropriate, an entry point between the Top End and the maximum sanction and provide the reasons for selecting this entry point, below.

In making this assessment, the JO/Committee should consider World Rugby Regulations 17.19.2(a), 17.19.2(h), and 17.19.2(i) or the equivalent provisions within the Tournament Rules referred to above.

Reasons for selecting Entry Point above Top End
Mid-Range entry point having regard to the mandatory requirement for such assessment where the foul play involves contact with the head as set out at Appendix Three 3 of the Tournament Disciplinary Rules.

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**ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS**

Player's status as an offender of the Laws of the Game – R 7.8.34 (a)

Not relevant (clear record).

Need for deterrence – R 7.8.34 (b)

None.

Any other off-field aggravating factors – R 7.8.34 (c)

None.

Number of additional weeks: 0

**RELEVANT OFF-FIELD MITIGATING FACTORS**

Acknowledgement of guilt and timing – R 7.8.35(a)

Immediate and sincere.

Player's disciplinary record/good character – R7.8.35 (b)

Previously clean record.

Youth and inexperience of player – R 7.8.35 (c)

Not relevant.

Conduct prior to and at hearing – R 7.8.35 (d)

Befitting a professional player.

Remorse and timing of remorse – R 7.8.35 (e)

Player was duly remorseful and regretted the incident.

Other off-field mitigation – R 7.8.35 (f)

None.

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:

The Panel was satisfied that the mitigating features set out above, noting his plea and clear record, justified a reduction of 50% from the entry point.

**SANCTION**

**NOTE:** PLAYERS ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING – R 7.2.5

Total sanction	3 Weeks	Sending off sufficient <input type="checkbox"/>
Sanction commences	15 December 2018	
Sanction concludes	Midnight on Sunday 6 January 2019 (comprising the Player's next 3 Top 14 games).	
Free to play	7 January 2019.	

Signature (JO or Chairman)	<i>Jeremy Summers</i>	Date	20.12.18
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**NOTE:** YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 8.1 AND 8.2 OF THE EPCR DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 8.2.1 TO 8.2.4 OF THE REGULATIONS