EPCR SHORT JUDGMENT FORM

Match	Dragons	Vs	Worcester Warriors
Club's Country		Competition	European Challenge Cup
Date of match	13 December 2019	Match venue	Rodney Parade
Rules to apply	**EPCR Disciplinary Rules 2019/20**		

PARTICULARS OF OFFENCE

Player's surname	Waller	Date of birth	13. 08. 1992
Forename(s)	Ethan	Plea	Admitted ☒ Not Admitted ☐
Club name	Worcester Warriors		
SELECT: Red card ☒ Citing ☐ Other (specify) ☐			
Offence	9.13 – dangerous tackling		
Summary of Sanction	3 weeks		

HEARING DETAILS

Hearing date	18 December 2019	Hearing venue	Bird & Bird 12 New Fetter Lane London
Chairman/JO	Sheriff Kathrine EC Mackie (Scotland)	Panel member 1	Roger Morris (Wales)
Panel member 2	Andrea Caranci (Italy)	Disciplinary Officer	Liam Mctiernan
Appearance Player	Yes ☒ No ☐	Appearance Club	Yes ☒ No ☐

Player's Representative(s):

Simon Pritchard Blackstone Chambers
Martin Hewitt Team Manager

Other attendees:

Maria Gyolcsos EPCR

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

Referee's report
AR's report
Statement from Dragons player
Medical Report
Video footage

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

The referee reported that in the 71st minute of the match the player shoulder charged Dragons no 6 with contact to the neck/head.

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

Dragons 6 provided a written statement in which he stated that as he received the ball he lowered his body to drive into contact and met W17 on the gain line. W17's head made contact with his head as W17 attempted to make a tackle. Dragons 6 described this as accidental. Dragons 6 received treatment on the field but suffered no injury.

Ben Stirling, Head of Medical, Dragons, confirmed that Dragons 6 had suffered no injuries as a result of the incident.

SUMMARY OF PLAYER'S EVIDENCE

The player accepted that he had committed an act of foul play contrary to Law 9.13 and that it warranted the issue of a red card. He did not seek to show that the referee was wrong except that he denied that it was a shoulder charge. He explained that he had returned to the defensive line following a ruck. He lowered his body position to get off the line to tackle the attacking player. As coached he put his head on the right hand side of Dragons 6. He tried to keep low and was bent at the hips. Dragons 6 caught the ball and then turned to the side and tucked his body in ready for contact. The player said that he was preparing to wrap his arms round but as a result of their respective body positions his head collided with the head of Dragons 6. Both their heads recoiled backwards in the impact. The player accepted that he should have positioned his body lower. He had anticipated that Dragons 6 would bend his knees but had not anticipated that he would crouch down and turn his body. He did not have time to change his angle of approach.

FINDINGS OF FACT

The Discipline Committee considered all the evidence including the video footage which was played several times at full and reduced speed. The Committee found that

1. The player intended to tackle Dragons 6 when the ball was passed to him. As he approached he lowered his body slightly but was still mainly upright. When he received the ball Dragons 6 crouched down and turned to his left in anticipation of the tackle.
2. The player attempted to wrap his arms round to tackle Dragons 6 but his body position was too high relative to that of Dragons 6. As a result his head made contact with the head of Dragons 6.
3. The player's tackle of Dragons 6 was dangerous.
4. Dragons 6 fell to the ground and received treatment. Thereafter he was able to resume play. No injury was sustained.
5. A number of other players from each team reacted to the incident but separated on being requested to do so by the referee.
6. The AR signalled an act of foul play and the referee stopped play. Thereafter the referee issued a red card.

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 player intended to effect a legal tackle and had his arms out ready to do so but he failed to lower his body sufficiently or to take account of the likely anticipatory actions of Dragons 6.
Gravity of player's actions – R 7.8.32 (c)
Contact with head could potentially have serious consequences including concussion
Nature of actions – R 7.8.32 (d)
High tackle involving contact with head on head
Existence of provocation – R 7.8.32 (e)
N/A
Whether player retaliated – R 7.8.32 (f)
N/A
Self-defence – R 7.8.32 (g)
N/A
Effect on victim – R 7.8.32 (h)
Treated briefly on field. No injury sustained
Effect on match – R 7.8.32 (i)
Prompted initial reaction from number of players. Overall no effect on match.
Vulnerability of victim – R 7.8.32 (j)
Victim was braced for contact.
Level of participation/premeditation – R 7.8.32 (k)
Only player involved. No premeditation.
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		
Top end* Weeks ☐	Mid-range Weeks ☒ 6 The player's representative submitted that the note at the beginning of the sanctions in Appendix 3 to the effect that any act of foul play which results in contact with the head should result in at least a mid range sanction was not applicable in this case where contact with the head was incidental to the act of foul play. He sought to draw a distinction from cases in which the head had been targeted in the act of foul play. He relied upon a decision of the RFU relating to Ashton dated 27 August 2018. The Committee decided that that decision was of no assistance. In Ashton the offence was a contravention of Law 9.18. For foul play to occur contrary to that Law one of the requirements is that the head and/or upper body make contact with the ground. An offence contrary to Law 9.13 can occur without contact with the head. However where there is such contact in the act of foul play World Rugby has determined that sanction should be at least mid range. The Committee considered that they had no discretion in this matter.	Low-end Weeks ☐

*****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

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

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

N/A
Need for deterrence – R 7.8.34 (b)
N/A
Any other off-field aggravating factors – R 7.8.34 (c)
None

Number of additional weeks:

RELEVANT OFF-FIELD MITIGATING FACTORS

Acknowledgement of guilt and timing – R 7.8.35(a)	Player's disciplinary record/good character – R7.8.35 (b)
The player acknowledged culpability immediately and apologised to the victim after the match.	The player has no disciplinary record other than a Yellow Card for a technical offence in October 2019.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
He is aged 27 years and has played rugby since the age of 13 years.	Exemplary
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)
The player was remorseful and expressed this to the victim player following the match.	He is described as a hardworking and passionate rugby player, well liked by players and coaches. He contributes to the community and other clubs. He is a board member of the Rugby Player Association and is concerned with player welfare.

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:
The Committee considered that all of the above factors amounted to mitigation and determined that sanction should be reduced by 50%. It was noted that the player had failed to respond to the Standing Directions. Mr Hewitt and Mr Pritchard explained that they had had difficulty in accessing the relevant rules until the morning of the hearing. The Club did not hold a copy as part of the Participation Agreement nor could they find a copy on the official website of EPCR. While the player should know the rules the Committee decided that the player should not be penalised where he had relied upon his club and legal representative to assist him with this procedure.

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 (weeks)	3		
Sanction commences	From conclusion of match on 13 December 2019	Costs	Awarded in sum of 750 euros
Sanction concludes	Midnight on 5th January 2020 A schedule of fixtures was produced. It was argued, without much conviction, that had the player not received a red card on 13 December he "could have" played in a Premiership Shield match on 16 December as some of his other team mates had. However Mr Hewitt confirmed that the team for that match had been selected before the match against Dragons and the player was not selected or "expected" to play. For this reason the Committee took the view that the match on 16 December should be excluded from calculation of meaningful matches.		
Free to play	From and including 6 January 2020		

Signature (JO or Chairman)	*Kathrine EC Mackie*	Date	19 December 2019

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