EPCR SHORT JUDGMENT FORM

Match	Glasgow Warriors	Vs	Exeter Chiefs
Club's Country	Scotland	Competition	Heineken Champions Cup
Date of match	January 11, 2020	Match venue	Scotstoun Stadium, Scotstoun, Glasgow, Scotland
Rules to apply	**EPCR Disciplinary Rules 2019/20**		

PARTICULARS OF OFFENCE

Player's surname	Gibbins	Date of birth	N/C
Forename(s)	Callum	Plea	Partially Admitted ☒
Club name	Glasgow Warriors		
SELECT: Red card ☐ Citing ☒ Other (specify) ☐			
Offence	9.20 (b) – Dangerous play in a ruck or maul. A player must not make contact with an opponent above the line of the shoulders.		
Summary of Sanction	2 weeks		

HEARING DETAILS

Hearing date	January 15, 2020	Hearing venue	Bird & Bird, London
Chairman/JO	Philippe Cavalieros (France)	Panel member 1	Donal Courtney (Ireland)(via video call)
Panel member 2	Tony Wheat (England)	Disciplinary Officer	Liam Mc Tiernan
Appearance Player	Yes ☒ No ☐	Appearance Club	Yes ☒ No ☐

Player's Representative(s):	Other attendees:
Kenneth Brown (Glasgow Warriors Team Manager)	David Rennie (Glasgow Warriors Head Coach) via telephone. Maria Gyolcsos (EPCR)

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

- Notice of Hearing dated January 13, 2020
- EPCR's letter to the Chairman of EPCR's Disciplinary Panel dated January 12, 2020
- Citing Report by Citing Commissioner Eugene Ryan dated January 12, 2020.
- Yellow Card report from Romain Poite, Match Referee dated January 11, 2020
- Statement from Adrien Descottes, Assistant Referee dated January 13, 2020
- Statement from Vincent Basco Baque, Assistant Referee dated January 13, 2020
- Statement from Dr Lewis Jones, Exeter Chiefs Team Doctor dated January 13, 2020
- Disciplinary Officer's directions statement and exhibits (Flannery Appeal Decision, Leo Decision, World Rugby's decision-making framework for high tackles, and a link to the presentation given by EPCR's Head of Match Officials, Joel Jutge, to all clubs participating the tournaments.
- Statement of the TMO, Denis Grenouillet dated January 13, 2020.
- Video clip of the incident: https://drive.google.com/file/d/1oO23a5XGpDaKAu9FtRMAx91yYDAZ2dBJ/view?usp=sharing

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

- The Citing Commissioner's Report provides in relevant parts:

« *G10 takes the ball into contact on the Exeter 10m line and is simultaneously tackled by E14 and E7. Both G10 and E7 go to ground as a result of the tackle momentum and a ruck is formed as E1 joins. E7 ends up sitting on the deck with the left side of his body and head facing the oncoming G7 who is seen running towards the breakdown to join it. G7 is seen to tuck his right forearm into his side and to present his left shoulder prior to making contact with E1 who is on his feet and to E7 who is in a seated position. The right shoulder of G7 makes contact with the chest of E1. However, the right forearm/elbow of G7 makes direct contact with the left side of the head of E7. The contact is with force and is potentially dangerous. G7 makes no attempt to grasp or bind with his right hand/arm. Upon making contact, the head of E7 is seen to appreciably move to his right in a dangerous manner. I consider the actions of G7 to be dangerous as his forearm/elbow made contact with the head of E7 and posed a risk of injury. Consequently, based on the video evidence, I am satisfied that these actions merited a Red Card and accordingly, I cite G7 (Callum Gibbins) for striking with the Forearm/Elbow to the head of E7 (Jacques Vermeulen) contrary to Laws 9.12 (Striking with the Forearm/Elbow) and Law 9.20 (Dangerous Play in a Ruck or Maul - A player must not charge into a Ruck and a player must not make contact with an opponent above the line of the shoulders)* ».

- The Referee's Report provides in relevant parts:

« *7G cleaning out an opponent at ruck with shoulder charge and hitting the opponent head in the second with no Force* »

- The Assistant Referee 1's report provides in relevant parts:

"*At 24.34 , Denis decided to check the charge from 7G at the breakdown. In the review, Romain thought the target from 7G with the shoulder charge was 1E and as in the second time 7G elbow touch with no force 7E who was on the ground. There wasn't any violence or force during the contact. Romain balanced the decision as YC because 7G missed 1E and it was a bad picture about the clean out. It will be definitely a RC if he went straight as a clean out to 7E on the ground. I agreed with Romain decision for YC as a result of this check.* »

- The Assistant Referee 2's report provides in relevant parts:

« *At 24.34 after Romain awarded a PK for holding on, Denis decided to check the charge from 7G at the breakdown. We could see as well 1E was totally accidental. In the review, Romain thought the target from 7G with the shoulder charge was 1E and as in the second time 7G elbow touch with no force 7E who was on the ground. There wasn't violence or force at the contact. Romain balanced the decision as YC because 7G missed 1E and it was a bad picture about the clean out. It will be definitely a RC if he went straight as a clean out to 7E on the ground. I agreed with Romain decision for YC as a result of this check* ».

- The TMO's report provides in relevant parts:

« *At 24.34 after Romain awarded a PK for holding, I decided to check the charge from 7G at the breakdown. I could see as well 1E was totally accidental. In the review, I thought the target from 7G with the shoulder charge was 1E and as in the second time 7G elbow touch with no force 7E who was on the ground. There wasn't violence or force at the contact. Romain balanced the decision as YC because 7G missed 1E and it was a bad picture about the clean out. It will be definitely a RC if he went straight as a clean out to 7E on the ground. I agreed with Romain decision for YC as a result of this check* ».

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

- Exeter's medical report provides in relevant parts:

« *There were no injuries to Jaques as a result of this incident* ».

SUMMARY OF PLAYER'S EVIDENCE

The Player accepts that his actions warranted the Yellow Card which he was shown during the Match, he has sincerely apologised for the unintentional consequence of his actions and asked the Panel to take into account the following matters:

a. the incident occurred as the Player was attempting to clear a tackling player from a breakdown.
b. the Player's focus was at the Exeter No 1, who was competing on his feet. The Player made contact with the torso of Exeter No 1 in an attempt to allegedly legally clear the player from the breakdown.
c. in carrying out the above tackle the Player inadvertently made contact with the Exeter No. 7 who was on the ground in a seated position.
d. the Player's sole intent and focus was to make contact with the Exeter No 1.
e. the Player was not aware of the Exeter No 7's positioning and did not become aware that he had made any contact with the Exeter No 7 until he reviewed the incident after the game.
f. as stated by the referee. there was little force associated with the Player's contact with Exeter No 7, as is highlighted in the Yellow Card Report.
g. the Player did not intentionally make contact with the Exeter No. 7.
h. the Player fully accepts that his actions were somewhat reckless and that he should have been shown a yellow card
i. the Player is glad to note that no injury was sustained by the Exeter No 7. The Player apologised to the Exeter No 7 following the Match and the Exeter No 7 confirmed no injury had been sustained.
j. the Player accepted a Yellow Card for the incident on the night.

During the Hearing, the Player further clarified that he indeed committed foul play with respect to the initial clean-out of Exeter's n°1, in a reckless manner, by way of a shoulder charge. However, in no way did the Player consider that his intention was to strike Exeter's n°7 with the arm or elbow.

FINDINGS OF FACT & DECISION

1. It is not disputed that the Player's clean-out action toward Exeter's n°1 resulted in a contact with the head of Exeter's n°7.

2. All evidence on the record, including the footage of the incident, indeed show that there ultimately was contact with the head of Exeter's n°7 and the Panel is satisfied therefore that there may be a breach of the rules of the game in this respect.

3. What is disputed is both (i) the intentionality of the Player whose aim was, as he submitted, solely to perform a clean-out on Exeter's n°1 and (ii) the force with respect to the contact between his arm and Exeter n°7.

4. The Panel therefore needs to assess whether the contact with the head warranted a red card.

5. The Disciplinary Officer argued that World Rugby's Decision Making Framework for High Tackles (the "**Framework**") should be applicable in this case although he acknowledged that such Framework was primarily intended to apply to situations affecting a ball carrier, contrary to the case at hand in which neither Exeter n°1 nor n°7 carried the ball at the moment of the incident.

6. The Disciplinary Officer considered that the ultimate objectives of player protection and welfare warranted the application of the Framework in this respect. According to the Disciplinary Officer therefore, pursuant to the Framework, the unambiguous decision making tree would lead to an automatic red card, considering that the mitigating factor mentioned by the Referee (namely force) is not a mitigating factor under the Framework. The Disciplinary Officer therefore considered that the Referees and TMO were wrong in their assessment.

7. The Panel does not entirely share the Disciplinary Officer's views that the Framework is applicable herein. As it is currently drafted, such Framework clearly refers to situations in which a ball carrier is affected, as notably evidenced by its very title which contains the expression: "for high tackles".

8. Moreover, the definition of "shoulder charge" of the Framework, relied upon by the Disciplinary Officer, also contains a reference to the "ball carrier".

9. Therefore, a literal reading of the Framework in its current drafting precludes its application in matters not involving a ball carrier. Moreover, in the present situation, the shoulder charge was in fact performed during the prior attempt to clean out Exeter n°1, and the contact with the head of Exeter n°7 may therefore not amount to a "shoulder charge" as defined in the Framework.

10. Notwithstanding the above, the Panel also considers that the ultimate objectives of player protection and welfare underlying the Framework are still relevant. Therefore, the Panel is minded to rely on the objectives and guidance of the Framework as *reference* points in order to determine whether the incident constituted foul play amounting to a red card.

11. With this in mind, from a formalistic perspective however, given that the Framework is inapplicable, the Panel is at liberty to consider (as also submitted by the Disciplinary Officer) *any* mitigating factors it considers appropriate, including for instance force, as relied upon by the Referees.

12. In the case at hand, the Panel considers (with the benefit of hindsight and having heard all stakeholders involved) that, contrary to the Referees' on-field assessment, force was exercised.

13. In considering the same, the Panel however shares the Player's position that his action affecting Exeter n°7 was not intentional. However, by virtue of the speed used to clean out Exeter n°1, the Player made contact with Exeter n°7 with force.

14. Having established the above, the Panel ought to determine whether this non-intentional incident was accidental or reckless.

15. The Disciplinary Officer provided precedents, notably the *Leo* case, that the Panel considers compelling. Applied to the present matter, the Panel considers that the Player could and should have avoided entering into contact with Exeter n°7, despite the latter's relatively awkward seating position in the ruck.

16. Consequently, the Panel determines that the Player's action was reckless, and warranted a red card.

17. With respect to the qualification of the offence under the Rules that best describes the incident, the Disciplinary Officer considered in the alternative Rules 9.11, 9.12, 9.13, or 9.20.

18. The Citing Commissioner considered both Rules 9.12 and 9.20.

19. The Panel ultimately determines that Rule 9.20 (b) is the most relevant one given that it concerns "*dangerous play in a ruck or maul*". In the present matter, the Panel indeed considers that the incident arose out of a ruck, rather than constituted an isolated incident such as a strike with the arm falling into the "*physical abuse*" category (under Rule 9.12).

20. More specifically, the Panel considers that the incident is best encapsulated under 9.20 (b), namely, "*A player must not make contact with an opponent above the line of the shoulders*").

21. Considering that there ultimately was contact with the head, it being non-disputed, a mid-range entry point of 4 weeks ought to apply, as further described below.

DECISION

Breach partially 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
Whilst the intention of the Player was clearly not to cause any harm or even strike Exeter's n°7, his charge on Exeter's n°1, resulted in a strike on Exeter's n°7. Based on the evidence available and having heard the Player and EPCR, the incident does not qualify as purely accidental according to the generally accepted definition thereof. The Player's actions were therefore reckless.
Gravity of player's actions – R 7.8.32 (c)
N/A
Nature of actions – R 7.8.32 (d)

The forearm was used
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)
None
Effect on match – R 7.8.32 (i)
None beyond yellow card
Vulnerability of victim – R 7.8.32 (j)
N/A
Level of participation/premeditation – R 7.8.32 (k)
None
Conduct completed/attempted – R 7.8.32 (l)
N/A
Other features of player's conduct – R 7.8.32 (m)
N/A

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point					
Top end*	Weeks	Mid-range	Weeks	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)
N/A

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 immediately apologised to and enquired about Exeter's n°7's health.	Clean disciplinary record. Exemplary character.
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)
N/A	Remarkable conduct.
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)

Immediate remorse to the extent foul play was admitted (see above)	N/A

Number of weeks deducted: 2 (50%, full mitigation)

Summary of reason for number of weeks deducted:
The Player's outstanding disciplinary record and conduct during the proceedings.

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)	2 weeks	Sending off sufficient ☐	
Sanction commences	January 15, 2020	Costs	
Sanction concludes	February 16, 2020		
Free to play	February 17, 2020		

Signature (JO or Chairman)		Date	January 16, 2020

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