

EPCR SHORT JUDGMENT FORM

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|----------------|--|-------------|-------------------------|
| Match | Leicester Tigers | Vs | ASM Clermont Auvergne |
| Club's Country | England | Competition | EPCR Champions Cup |
| Date of match | 16 April 2022 | Match venue | Welford Road, Leicester |
| Rules to apply | EPCR Disciplinary Rules 2021/22 | | |

PARTICULARS OF OFFENCE

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| Player's surname | Chessum | Date of birth | 31 August 2020 |
| Forename(s) | Ollie | Plea | Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/> |
| Club name | Leicester Tigers | | |
| SELECT: | Red card <input checked="" type="checkbox"/> Citing <input type="checkbox"/> Other (specify) <input type="checkbox"/> | | |
| Offence | Law 9.13 - A player must not tackle an opponent early, late or dangerously. Dangerous tackling includes, but is not limited to, tackling or attempting to tackle an opponent above the line of the shoulders even if the tackling starts below the line of the shoulders. | | |
| Summary of Sanction | 3 weeks (with 1 week being capable of being substituted by successful completion of the Head Contact Process Coaching Intervention) | | |

HEARING DETAILS

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| Hearing date | 20 April 2022 | Hearing venue | Zoom video conference call |
| Chairman/JO | Pamela Woodman (Scotland) | Panel member 1 | Donal Courtney (Ireland) |
| Panel member 2 | Pat Barriscale (Ireland) | Disciplinary Officer | Liam McTiernan, EPCR |
| 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:

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| John Shea, Lewis Silkin LLP | Leigh Jones, General Manager, Leicester Tigers Maria Gyorcsos, EPCR, clerk to the Disciplinary Committee |
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List of documents/materials provided to player in advance of hearing:

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| <ol style="list-style-type: none"> 1. EPCR Disciplinary Rules 2021-2022 (with effect from 1 February 2022) ("Rules") 2. Letter from EPCR Disciplinary Officer to Chairman of EPCR Disciplinary Panel dated 18 April 2022 3. Notice of hearing issued by the Chairman of the EPCR Disciplinary Panel on 18 April 2022 4. Red card report dated 17 April 2022 issued by Andrew Brace, referee ("Red Card Report") 5. Match official report dated 17 April 2022 issued by Joy Neville, television match official ("TMO Report") 6. Report by e-mail dated 18 April 2022 issued by Peter Martin, assistant referee ("AR1 Report") 7. Report by e-mail dated 18 April 2022 issued by Oisin Quinn, assistant referee ("AR2 Report") 8. Medical report in respect of Samuel Ezeala ("C23") issued by Dr Remi Gaulmin, team doctor, ASM Clermont Auvergne ("Medical Report"), together with translation 9. Player's responses to standing directions provided by the Player's Representative by e-mail on 19 April 2022 10. Reference from Steve Borthwick, Leicester Tigers 11. Confirmation of no previous disciplinary record – forwarded e-mail from Rebecca Morgan, RFU 12. Video footage provided by EPCR 13. Video footage provided on behalf of the Player 14. Screenshots of video footage provided on behalf of the Player |
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SUMMARY OF ESSENTIAL ELEMENTS OF CITING/REFEREE'S REPORT/FOOTAGE

In the Red Card Report, the referee recorded that a red card was issued in respect of an act contrary to law 9.13 in the 2nd half of the Match in respect of an incident which occurred after 63 minutes had elapsed. The description given by the referee was as follows:

“Following a good attacking passage of play by Clermont, my AR1 flagged an act of foul play against Leicester No.6 on Clermont No.23 for a high tackle. I stopped the game and following AR1’s description it was clear we had foul play on field but needed to check level of sanction which I formally reviewed with my TMO. From the footage shown and TMO’s confirmation of shoulder to head contact I deemed this to be a high level of danger with Leicester No.6 never looking to adjust his tackle height; upright and always high, had a clear line of sight coming from distance and at speed making shoulder to head contact. Based on these facts it warranted a red card.”

The TMO Report was in the following terms:

“I witnessed what I believed to be a high tackle by Green 6 which was confirmed on the delay screen. AR2 flagged the incident and referee Andrew Brace requested a formal review. I agreed with the outcome of Red card.”

The AR1 Report was in the following terms:

“I was the close AR and flagged the incident, it was clear to me that we had a high tackle against Leicester. After the flag I recommended Andy to go a formal review with the TMO. Andy then led this review. I agree with the footage shown and the TMOs confirmation of shoulder to head contact.”

The AR2 Report was in the following terms:

“I did not see the incident live however from the footage shown and the TMOs confirmation of shoulder to head contact, I agreed with Andrew's description and that this tackle warranted a red card.”

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

It was confirmed in the Medical Report that C23 (as translated) had suffered a shock following a load on the shoulder but did not present with symptoms and trained normally.

The video footage provided was viewed by the Disciplinary Committee in advance of and during the hearing.

The EPCR Disciplinary Officer submitted that the referee did not fail to consider mitigating factors, rather the referee considered that the Player was always going to be in an illegal position and so no mitigation would be available. This was reflected in the language used by the referee in the Red Card Report – “high level of danger”, “never looking to adjust his tackle height”, “upright and always high” - it was a conscious decision on the part of the referee not to consider factors to take the outcome down from red card to yellow card

SUMMARY OF PLAYER'S EVIDENCE

At the outset of the Hearing, it was confirmed by the Player's Representative that:

- a. The Player accepted that he had committed an act of foul play; but
- b. The Player did not accept that that act of foul play warranted the issue of a red card; and
- c. Accordingly, the Player would seek to show that the referee's decision was, respectfully, wrong.

The submissions made by the Player or the Player's Representative on his behalf were, in summary, as follows:

1. It was accepted that there had been contact with the head of C23 but that contact was "glancing", "minor", "secondary" and "indirect", with low force, at low speed and the degree of danger was not high;
2. The referee had concluded that the contact was direct to the head which, respectfully, was wrong;
3. If there had been direct contact to the head, C23 would have suffered a head injury or at least needed treatment to his head or a head injury assessment (which C23 was not given); further C23 did not flinch or hold his head – he carried on playing – and the Medical Report referred to C23's shoulder and not his head;
4. Neither the Player nor C23 was at high speed – neither had had the opportunity to get up speed when contact was made;
5. Initially the Player thought that he would tackle the opposition number 8 but, as he got to him, the Player saw that the number 8 had offloaded the ball to C23;
6. The Player then thought that C23 would run around him on the outside but instead C23 stepped inside towards the Player, which the Player had not anticipated and resulted in the Player making the tackle earlier than anticipated;
7. The Player accepted that he was seeking to execute a dominant, legal tackle but not towards C23's head and that he failed to go low in the tackle and to tackle C23 legally and had reduced his height only a very little - this was the result of a sudden and unexpected change in direction of C23;
8. When the Player made contact with C23, C23 was off balance as could be seen from the angle of C23's legs in the video footage;
9. The initial contact had been between the Player's chest and the right hand shoulder of C23 and the contact moved up;
10. The three screenshots (in particular) showed the progression of the contact and a clear line of separation between the Player and the head of C23 until the eventual contact with the head – there had to be contact between the Player and C23 by screenshot 3 at the very least, when the Player's head was behind the back of the neck of C23;
11. The Player had not led with his head or arm and there was no swinging arm;
12. The Player was fully in control of his actions all the time; and
13. The referee was, respectfully, wrong not to find that there had been mitigating factors.

FINDINGS OF FACT

In terms of the EPCR Disciplinary Rules, the burden of proof was the balance of probabilities and the onus of proof was on the Player to show that the referee's decision was wrong.

On the balance of probabilities, the Disciplinary Committee found that:

1. The Player made direct contact to the head of C23 with his right shoulder – that may not have been the first contact between the Player and C23 in the tackle (which could not clearly be seen from the angles of video footage available) but was the first contact made by the Player's right shoulder to C23 and the first contact to C23's head;
2. The tackle was dangerous and, at least in part, was above the line of the shoulder;
3. The Player had committed an act of foul play, contrary to law 9.13;
4. There was no clear attempt by the Player to change his height and the Player remained relatively upright before and throughout the tackle;
5. The tackle would likely have been high even if C23 had taken an outside running line, which the Player stated was what he was anticipating;
6. The tackle was dynamic and not passive, with a high degree of danger;
7. The Player had a clear line of sight to C23;
8. The Player's line/angle of running suggested that he was not anticipating the step inside by C23 but there was no sudden and significant change in direction of C23 which could or should not reasonably have been anticipated by the Player – it was not unusual for a winger to step inside; and
9. There was no sudden and significant drop in the height of C23.

Accordingly, the Disciplinary Committee was not satisfied, on the balance of probabilities, that the referee's decision to issue a red card was wrong.

DECISION

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| Breach admitted <input type="checkbox"/> | Proven <input type="checkbox"/> | Not proven <input type="checkbox"/> | Other disposal (please state below) <input checked="" type="checkbox"/> |
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Red card upheld

SANCTIONING PROCESS

ASSESSMENT OF SERIOUSNESS

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

PLEASE TICK APPROPRIATE BOX Intentional/deliberate Reckless

State reasons

The Disciplinary Committee accepted that the Player had not deliberately or intentionally committed the act of foul play but that the Player knew or should have known that there was a risk of doing so.

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

The Player's actions were less grave than they might have been and it was fortunate that there was no injury to C23.

Nature of actions – R 7.8.32 (d)

The Player made a dangerous tackle in an upright position, making contact with the head of C23.

Existence of provocation – R 7.8.32 (e)

There was none.

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| Whether player retaliated – R 7.8.32 (f) |
| The Player did not retaliate. |
| Self-defence – R 7.8.32 (g) |
| The Player did not act in self-defence. |
| Effect on victim – R 7.8.32 (h) |
| Based on the information available to the Disciplinary Committee, there was no effect on C23. |
| Effect on match – R 7.8.32 (i) |
| There was no effect on the match, other than that Leicester Tigers were reduced to 14 players for the remainder of the match but, in that respect, the Disciplinary Committee did not consider that this relevant to the assessment of the seriousness of the offending for the purposes of determining sanction. |
| Vulnerability of victim – R 7.8.32 (j) |
| The Player was not in a vulnerable position prior to the tackle. |
| Level of participation/premeditation – R 7.8.32 (k) |
| The Player fully participated in the offending and acted alone in that respect, but the Disciplinary Committee accepted that it was not premeditated. |
| Conduct completed/attempted – R 7.8.32 (l) |
| It was completed. |
| Other features of player's conduct – R 7.8.32 (m) |
| None. |

ASSESSMENT OF SERIOUSNESS CONTINUED

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

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| Reasons for selecting Entry Point above Top End |
| Not applicable. |

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

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| Player's status as an offender of the Laws of the Game – R 7.8.34 (a) |
| Not applicable. |
| Need for deterrence – R 7.8.34 (b) |

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| Not applicable. |
| Any other off-field aggravating factors – R 7.8.34 (c) |
| Not applicable. |

Number of additional weeks: 0

RELEVANT OFF-FIELD MITIGATING FACTORS

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| Acknowledgement of guilt and timing – R 7.8.35(a) | Player's disciplinary record/good character – R7.8.35 (b) |
| The Player accepted that he had committed an act of foul play at the earliest opportunity but not that a red card was warranted. | Based on the information available to the Disciplinary Committee, the Player had an excellent (clean) disciplinary record. An excellent character reference was provided by Steve Borthwick in respect of the Player. |
| Youth and inexperience of player – R 7.8.35 (c) | Conduct prior to and at hearing – R 7.8.35 (d) |
| The Player is 21 years old and has been capped for England (senior men's team). | The Player's conduct was excellent. |
| Remorse and timing of remorse – R 7.8.35 (e) | Other off-field mitigation – R 7.8.35 (f) |
| The video footage showed the Player shaking hands with C23 as he left the pitch following his red card. | Not applicable. |

Number of weeks deducted: 3

Summary of reason for number of weeks deducted:

In considering any reduction from the entry point suspension (as permitted in terms of EPCR Disciplinary Rule 7.6.35), the Disciplinary Committee was required to start at 0% and work up from there. Whilst the Player had not accepted the red card, he had acknowledged that he had committed an act of foul play, he had an excellent (clean) disciplinary record, he had promptly apologised to C23 and behaved very well in the hearing. Accordingly, the Disciplinary Committee decided to reduce the entry point suspension by the maximum allowed, namely 3 weeks.

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

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| Total sanction (weeks) | 3 weeks | Sending off sufficient <input type="checkbox"/> | |
| Sanction commences | At the conclusion of the hearing | Costs | No application for costs was made |
| Sanction concludes | Midnight on Sunday 8 May 2022 (or midnight on Sunday 1 May 2022 if the Player successfully completes the | | |

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| | <p>Head Contact Process Coaching Intervention) subject to the matches noted below within the relevant period being played (or being deemed to have been played with the points for the match being awarded to one team) and in the event that any of those matches is not played (or deemed played), Leicester Tigers must inform EPCR accordingly such that the dates of any sanction may be changed administratively by EPCR</p> <p>To include (in accordance with explanatory note (2) to EPCR Disciplinary Rule 7.8.44):</p> <p>23 April 2022 – Harlequins</p> <p>26 April 2022 – London Irish (Premiership Cup)</p> <p>30 April 2022 – Bristol</p> <p>7 May 2022 – Leinster Rugby (substituted if the Player successfully completes the Head Contact Process Coaching Intervention)</p> |
| Free to play | Monday 9 May 2022 (or Monday 2 May 2022 if the Player successfully completes the Head Contact Process Coaching Intervention) |

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| Signature (JO or Chairman) | <i>P S Woodman</i> | Date | 21 April 2022 |
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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