

EPCR SHORT JUDGMENT FORM

Match	London Irish	Vs	DHL Stormers
Club's Country	England	Competition	EPCR Champions Cup
Date of match	15 January 2023	Match venue	Gtech Stadium, London
Rules to apply	EPCR Disciplinary Rules 2022/23		

PARTICULARS OF OFFENCE

Player's surname	Loader	Date of birth	8 November 1998
Forename(s)	Ben	Plea	Admitted <input type="checkbox"/> Not Admitted <input checked="" type="checkbox"/>
Club name	London Irish		
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.		
Summary of Sanction	3 weeks suspension		

HEARING DETAILS

Hearing date	18 January 2023	Hearing venue	Via video link
Chairman/JO	Simon Thomas (Wales)	Panel member 1	Marcello D'Orey (Portugal)
Panel member 2	Tony Wheat (Ireland)	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:

Alex James, London Irish Team Manager
Declan Kidney, London Irish Director of Rugby

Maria Gyolcsos, EPCR Governance and Regulations Executive

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

1. Referee's report on an ordering off
2. Assistant referees' reports x2
3. TMO report
4. Video footage
5. Medical report on Manie Libbok (DHL Stormers player)
6. Player's response to standing directions
7. Player's disciplinary record and list of fixtures

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

The disciplinary committee ("the Committee") had been appointed by Mr Mike Hamlin, EPCR Independent Judicial Panel Chairman to hear the case relating to Ben Loader ("the Player") following the ordering off of the Player for an alleged act of foul play during the match played between London Irish and DHL Stormers on 15th January 2023 at the Gtech Stadium, Brentford, London ("the Match").

The rules applicable to the hearing were contained in Schedule 4 to the 2022/2023 participation agreement of the European Professional Club Rugby Competition ("the Rules"). As part of the participation agreement, each participating team and player of the team agrees to be bound by the Rules.

Pursuant to the Rules, at a disciplinary hearing following the ordering off of a player, a hearing is convened before a disciplinary committee to consider the matter. At that hearing, the function of the committee is to review the case and to determine what sanction (if any) should be imposed upon a player for the act of foul play. A player is, however, entitled to seek to persuade a judicial committee, on the balance of probabilities, that the referee was in error in issuing a red card. Pursuant to Rule 7.2.10, the burden of demonstrating the referee was in error rests with the player.

In accordance with the Rules, all factual determinations made by disciplinary committees are to be made on the balance of

probabilities.

This written judgment is the unanimous decision of the Committee following consideration of all of the evidence it had seen and heard and following oral submissions by the Player's representative at a hearing on 18th January 2023. It is not intended to be an exhaustive record of all the evidence at the hearing and the absence of a reference to some evidence or submission is not to suggest that such evidence or submission was not taken into account by the Committee at the hearing.

The Hearing

At the commencement of the hearing, the chairman of the Committee identified himself and his fellow panel members and all of the participants present at the hearing. He reminded the parties that the hearing would be conducted in accordance with the Rules and outlined the procedure to be followed.

Referee's Report

The referee, Mr Ludovic Cayre, had ordered off the Player in the 18th minute of the Match for an offence of dangerous tackling contrary to Law 9.13 which states as follows:

"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 tackle starts below the line of the shoulders".

The narrative description of the incident in the referee's report stated:

"TMO called me to check a potential forward pass on this try situation. There is a forward pass, but we also check a head clash after the pass. There is contact head-to-head, high speed, high degree of danger, lack of control, he is always upright, no mitigating factors, so red card."

The Player's Position Prior to the Hearing

In response to the standing directions, the Player had indicated the following :

- a) *I confirm I was the player who was red carded; London Irish v The Stormers min 17:08 Sunday 15 January 2023*
- b) *Points to note around the incident:*
 - *Apology to Manie Libbok - I checked on Manie at half-time and apologised for the incident*
 - *I have no intention of hurting any player when I step onto the field of play*
 - *I am making a passive covering tackle*
 - *There is a clear effort to wrap – see arms coming up*
 - *Initial contact is shoulder on shoulder*
 - *Indirect contact to head – shoulder on shoulder initial point of contact*
 - *Dynamic nature of the high-speed collision creates indirect contact head-to-head, due to the whip lash motion*

See below statement from Ben Loader surrounding the incident,

"From a quick tap, Stormers break the line and attack down the right-hand side of the field. In my fullback position, I track across the field attempting to close the space of Stormers 10. As I shut the space down, I attempt to tackle S10; my arms coming up to wrap, knees bending to lower height. At this moment S10 steps into me before releasing the pass, due to the speed he is travelling, the velocity of his direction means the collision is sooner than I anticipate. My head ends up on the wrong side and contact is made my chest onto S10 shoulder; the speed of S10 colliding with myself creates a whip-lash effect and we unfortunately hit heads.

I had no intention of hurting Manie Libbok (DHL Stormers No.10). I am trying to make a legal tackle, I admit my height should be lower, due to this indirect contract head on head is made, and I apologise.

- c) *Ben Loader contests the referee report – direct contact to head, initial contact is shoulder to shoulder*

- d) *Ben Loader accepts that he committed an act of Foul Play; Law 9.13, but contests that it did not reach the red card threshold.*
- e) *Ben Loader contests the warrant of a red card, as the action did not reach the red card threshold”*

Evidence relating to the act of foul play

Statement of Assistant Referee – Pierre Baptiste Nuchy

Mr Nuchy stated that he had seen the head clash between the two players during the referral from the television match official and that following discussion with the referee he confirmed that the incident warranted a red card.

Statement of Assistant Referee, Stephane Crapoix

Mr Crapoix stated that he had not observed the foul play live, but that he agreed with the referee’s decision following review.

Television Match Official report

Mr Eric Briquet Campin had stated as follows:

“I called Ludovic Cayre to check a potential forward pass on this try situation. We also check a head clash after the pass. Contact head-to-head, speed, high degree of danger, the player never stopped, he is always upright, no mitigating factors for me.”

Medical evidence

A medical report had been provided by Dr Jason Suter, Chief Medical Officer and Professional Team Physician of DHL Stormers.

He stated as follows:

“Manie Libbok sustained a concussion as well as a neck C5 facet joint sprain. He failed his HIA protocol and based on this, he will be out for a minimum of 12 days, but owing to our travel schedule, this will translate into a minimum of two games missed as he will be unable to fly with the team to Ulster as he will not have finished his return to play protocols.”

Video Evidence

The video evidence showed the incident from various angles both in real time and slow-motion.

It showed that at a scrum, Stormers were awarded a penalty which is taken by a “quick tap” by Stormers 9. S9 passes the ball to S13. S13 manages to create a line-break at the London Irish 10 metre line between London Irish 1 and London Irish 13. L13 manages to tackle S13 from behind by grasping the back of his jersey preventing him continuing to run up-field. As S13 is held he passes the ball to the outside (his left) to Manie Libbok who is running in support. Libbock catches the ball and runs about five paces before he too passes the ball outside him to the Stormers left wing. As he releases the pass he moves his body angle slightly in what may have been an attempt to draw the tackler at the time of passing. Libbok is tackled by the Player who appears to have run in a diagonal direction towards Libbock.

The Player and Libbock are both in a relatively upright position as heavy contact is made between them. The upper bodies of the Player and Libbock appear to collide, as do their heads. Libbock is knocked off his feet sideways by the impact and the Player is knocked off his feet backwards.

Libbock is then seen receiving treatment from his team medical officer following the next stoppage in play.

Player’s oral evidence to the Committee

The Player stated that from his recollection of the incident, a Stormers player took a quick tap penalty and the team created a line break. He was playing at full back and had tracked across the pitch. He ran to “shut the space down” and as he was trying to make a tackle, he described how Libbok “tipped” into him to make a pass. He said that the contact between he and Libbok had been quicker than he had anticipated. He admitted that there was head contact. He said the first contact was between shoulder and chest. He said that the effect of that initial contact caused a whiplash effect with Libbok’s head coming into contact with his head. He admitted that in the tackle his head was on the wrong side of Libbok (i.e. in front of him).

The Chairman put to him the following questions:

- Did he accept that he had a clear view of Libbok as he approached him? – he accepted that he did.
- He was asked whether he accepted that there was very little time lapse between the impact of the shoulder/chest of the two players and their heads making contact. - He agreed but said that the velocity of Libbok had been very high.
- He was asked whether the contact with his head to the head of Libbok had been avoidable. He accepted it was because his head was in the wrong position. However, he said that the velocity and change of direction of Libbok had contributed to the overall incident.
- The Chairman put to the Player that he had been running at some speed into the tackle and therefore challenged him as to whether his tackle could properly be regarded as “passive”.

In response to this question, Mr Alex James stated that the Player’s GPS match statistics demonstrated that he had been running at only 58% of his maximum speed and was doing so in a controlled manner. Therefore, his view was that the Player’s conduct was passive rather than dominant.

- The Chairman highlighted by reference to the video that immediately before the point of contact, the Player’s body appeared to be seen moving in an upwards direction into the tackle rather than remaining lower.

The Player stated that he believed that he had been caught in two minds when Libbok had passed the ball and was attempting to pull out or pull up into the tackle but did not think that he had moved upwards particularly.

- The Chairman asked the Player whether he ought to have anticipated a possible change in movement by Libbok at the time of passing the ball. The Player did not disagree.
- The Chairman also questioned the Player about his evidence that his tackle had been passive, by drawing his attention to the way in which Libbok had been knocked sideways in the impact.

In response to this, Mr James stated that the EPCR website indicated that Mr Libbok weighed 76 kilograms whereas the Player weighed 100 kilograms. There was therefore a significant disparity in weight which could have contributed to the

In relation to other questions from the Committee, it was put to the Player that if there had been initial contact between shoulder to shoulder/chest before head contact, this did not appear to have made any difference to reduce or dissipate the force of the impact between the Player and Libbok to prevent contact to the head of Libbok. In response, the Player stated that Mr Libbok had not braced for the tackle and was light.

In response to another question from the Committee the Player accepted that he did have a line of sight leading up to the tackle but said that immediately before the tackle he was in two minds and the collision had occurred sooner than he thought. He admitted that the way that he had approached the tackle was mistaken.

In concluding his evidence, the Player stated that performing a dangerous tackle was not in his nature. He said that following the incident he had immediately apologised to the Player as soon as he was able. He had also later had further enquired as to how he was.

Although neither the Disciplinary Office nor the Player had expressly mentioned it in the written material circulated before the hearing, the Chairman confirmed with Mr James that the Player understood this was a case where World Rugby’s Head Contact Process was relevant in determining the issues. Mr James confirmed this was understood.

The Chairman invited the parties to make any final submissions before retiring but the parties were satisfied the issues had been sufficiently dealt with in the evidence and discussions up to that point.

FINDINGS OF FACT

The Committee retired in private to consider the evidence and the submissions from Mr McTiernan and Mr James.

The Committee's findings of fact were as follows:

1. In the 18th minute of the Match, following a "tap and go" penalty by Stormers, and a line break by Stormers 13, the ball is passed to Manie Libbock who runs up-field between the London Irish 5 metre and 22 metre lines
2. The Player is positioned at full back and runs diagonally across field to tackle him.
3. Stormers left wing is seen running outside Libbock near the touchline and as the Player approaches Libbock, the ball is passed to S11. As he passes to his left, Libbock angles his upper body to his right, towards the Player in attempt to "draw" him.
4. The Player attempts to tackle Libbock who no longer has the ball.
5. The Player makes an attempt to wrap his arms around Libbock.
6. The Player approaches Libbock from a side on direction without bending at the waist or lowering his head. He miscalculates the timing of the attempted tackle and his head is the wrong side of Libbock i.e. in front of him rather than to the side or behind.
7. There is a heavy and powerful impact between Libbock and the Player
8. The first point of contact was between the chest or shoulder of the Player with the shoulder of Libbock.
9. Almost simultaneously with the chest/shoulder contact the heads of the Player and Libbock collide.
10. Despite running forward in a powerful manner, Libbock is knocked off his feet in a sideways direction due to the impact between he and the Player. He lands heavily on the ground
11. As a consequence of the incident, Libbock is removed from the pitch and sustains a concussion in addition to a C5 facet joint sprain.

The Committees' findings as to the seriousness of the foul play to include the World Rugby Head Contact Process were that

1. Head contact had occurred (this was admitted and was apparent from the footage)
2. The Player had committed a dangerous tackle contrary to Law 9.13 (the Player admitted this, and had admitted he had acted recklessly)
3. The degree of danger in the incident was high as (i) This was not a passive tackle. The Player had been moving into the tackle at some pace (around 58% of maximum speed) (ii) his body position was too upright and his head was at a similar height to that of Libbock at the point of contact (iii) whilst the initial contact was between the shoulder/chest of the Player and the shoulder of Libbock, there was thereafter immediate direct contact between the heads of both players. Although there may have been some whiplash caused to Libbock from the initial impact between the upper bodies of both players, the Player's head was at a similar height and so close to the head of Libbock that there was a significant risk that head contact would have occurred in any event.
4. The Player had a good line of sight at all times and had time to consider his approach to the tackle. He could have chosen to have attempted a lower side on tackle.
5. There was no significant and sudden drop or movement by Libbock. The change of body angle by Libbock to draw the Player as he passed ought not to have been unexpected and did not, in the view of the Committee, significantly affect the dynamics of the incident in any event.
6. The Player had not attempted to materially change his height in the tackle, and indeed he had moved slightly upwards into the tackle at the point of impact.
7. In the view of the Committee, the Player did not have a good level of control at the point of impact. His evidence was that he had been caught in two minds due to the ball being passed and he had admitted his head was on the wrong side (i.e. in front) of Libbock.

Taking these matters into account, the Committee concluded that the Player had not demonstrated that the referee's decision to award a red card was in error.

DECISION

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

SANCTIONING PROCESS

Sanctioning Process

Following the announcement that the red card was upheld, the Chairman outlined the prescribed sanctioning process.

In accordance with Rules 7.8.32 to 7.8.37 the Committee was obliged to follow a three-stage process to determine the resultant sanction. Firstly, it must consider the on-field facts of the case against the “entry point criteria” (Rule 7.8.32) which is an assessment of the seriousness of the foul play.

Once it has decided the appropriate entry point, it then has to consider the existence of any “off-field” mitigating factors as prescribed under Rule 7.8.34 which might reduce the sanction. Finally, the Committee must consider the existence of any off-field aggravating factors under Rule 7.8.36 which could increase the sanction.

Rule 7.8.35 provides that the maximum reduction from the entry point suspension is limited to 50% but that committees must start at zero and then work their way up depending on the circumstances of the case.

Appendix 3 to the Rules provides the following entry point suspensions for acts of foul play contrary to Law 9.13 as follows:

Low end – 2 weeks

Mid-range – 6 weeks

Top end range – 10 + weeks (maximum of 52 weeks)

Submissions as to Sanction

The Disciplinary Officer and the Player’s representative both made representations as to sanction which were carefully considered by the Committee in private before delivering its decision.

ASSESSMENT OF SERIOUSNESS

Assessment of Intent – R 7.8.32 (a)-(b)		
PLEASE TICK APPROPRIATE BOX	Intentional/deliberate <input type="checkbox"/>	Reckless X
State reasons		
The Committee concluded the Player’s act of foul play was reckless rather than intentional		
Nature of actions – R 7.8.32 (c)		
The actions are described above but this was an act involving head on head contact		
Existence of provocation – R 7.8.32 (d)		
Not applicable		
Whether player retaliated – R 7.8.32 (e)		
Not applicable		
Self-defence – R 7.8.32 (f)		

Not applicable
Effect on victim – R 7.8.32 (g)
Libbok had suffered a concussion and a sprain of his neck C5 facet joint. He would be unavailable to play for a minimum of 12 days but may miss more matches due to travel requirements and Stormers' location of games.
Effect on match – R 7.8.32 (h)
Whilst Libbok and the Player had been removed from the match, there had been no breakdown of order between the other players.
Vulnerability of victim – R 7.8.32 (i)
Libbok's head had been unprotected and he was vulnerable, notwithstanding he was expecting to be tackled.
Level of participation/premeditation – R 7.8.32 (j)
The Player had participated in the offence but there had been no premeditation
Conduct completed/attempted – R 7.8.32 (k)
The conduct had been completed
Other features of player's conduct – R 7.8.32 (l)
None

ASSESSMENT OF SERIOUSNESS CONTINUED

Entry point		
<u>Top end*Weeks</u> <input type="checkbox"/>	Mid-range Six Weeks X	<u>Low-endWeeks</u> <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

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 had admitted he had committed the foul play at the earliest opportunity but had sought to argue a red card had not been warranted.	The Player had an unblemished record with no previous yellow cards, red cards, citations or suspensions. The Player also undertook voluntary work with a charity associated with his team called "Beat the Streets"
Youth and inexperience of player – R 7.8.35 (c)	Conduct prior to and at hearing – R 7.8.35 (d)

The Player is 24 years of age and had been a professional since he was 17. He had made his first senior appearance whilst still at school.	The Player had conducted himself very well during the hearing and had fully cooperated with the disciplinary process.
Remorse and timing of remorse – R 7.8.35 (e)	Other off-field mitigation – R 7.8.35 (f)
The Player had immediately expressed concern for Mr Libbok and had enquired as to his wellbeing after the match	Not applicable

Number of weeks deducted: Three

ADDITIONAL RELEVANT OFF-FIELD AGGRAVATING FACTORS

Player’s status as an offender of the Laws of the Game – R 7.8.36 (a)
Not applicable
Need for deterrence – R 7.8.36 (b)
Not applicable
Any other off-field aggravating factors – R 7.8.36 (c)
None

Number of additional weeks: Nil

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 The Player was deemed eligible to participate in the Coach Intervention Programme which, may replace the final week of suspension if successfully completed	Sending off sufficient <input type="checkbox"/>	
Sanction commences	15 January 2023	Costs	No order
Sanction concludes	12 February 2023 Matches taken into consideration: Week 1 -22 January 2023 (Montpellier v LI) Week 2 – 29 January 2023 (LI v Harlequins) Week 3 – 10 February 2023 (LI v Northampton Saints)		
Free to play	Monday 13 th February 2023. If the Player completes a satisfactory Coach Intervention Programme the suspension will end on 29 January 2023 and so he would be free to play on Monday 30 th January 2023.		

Signature (JO or Chairman)	Simon Thomas	Date	21 January 2023
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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