

# NORTHUMBERLAND RUGBY UNION

## DISCIPLINARY HEARING

### WALLSEND RFC

### JUDGMENT

Constituent Body: Northumberland

Venue: Northern FC

Date: 24<sup>th</sup> November 2022

#### Attending

**Andy McDonough** (President, Wallsend RFC) (AMcD)

**David Metcalfe** (Chair of Discipline, Wallsend RFC) (DM)

**Craig Wrightson** CB Representative, Wallsend RFC) (CW)

**Drew Hayton** (Former Coach, Wallsend RFC) (DH)

Panel: **Alan Beddis** (Chair)

**Martin Page**

**Andy Blyth**

Secretary: **Kingsley Hyland (KH)**

#### 1. BACKGROUND

1.1 The CB Disciplinary Secretary (CBDS) explained that this case had come before a Disciplinary Panel by reason of a charge brought pursuant to RFU Rule 5.12 (conduct prejudicial to the interests of the Game or Union). The charge was brought against the club and not against any named individuals. The Club faced a single charge alleging that a 17 year old boy, (referred to in this judgment as KD in view of his age), had played for an adult men's team without the requisite consents required by RFU Regulation 15.6 being obtained.

1.2 The process had been triggered by notifications from the RFU who confirmed the match in which the boy had played and sought confirmation from the Northumberland RFU Administrator that the requisite consents had been obtained.

#### 2. CHARGES AND PLEAS

2.1 The Club was charged as follows:

## Statement of Offence

**Conduct prejudicial to the interests of the Game or Union.** Contrary to Rule 5.12 of the Rules of the Rugby Football Union.

## Particulars of Offence

Wallsend RFC, on Saturday 3<sup>rd</sup> September 2022, permitted a 17 year old, Kane Deakin, to play in an adult rugby match in breach of RFU Regulation 15.

2.2 The Club confirmed in writing in advance of the hearing that they would be pleading guilty to the charge.

## 3. THE FACTS

3.1 The CB's case was set out in a Summary which had been provided to the Panel and all parties. The basic facts were as follows:

On 21<sup>st</sup> October 2022 the Disciplinary Secretary for the Northumberland Rugby Union ('NRU'), Kingsley Hyland (KH), received notification from the NRU County Administrator ('CA') to the effect that on one occasion Wallsend RFC ('the Club') had played a player aged 17 in an adult rugby match for in an apparent breach of RFU Regulation 15 as the necessary consent of the Constituent Body (NRU) had not been obtained. The details are as follows:

3<sup>rd</sup> September – Wallsend v Bishop Auckland    Player: KD

### Regulation 15.6

The relevant provisions are as follows:

#### **15.6 Playing Adult Rugby**

15.6.1 Subject to 15.7 a male and female player can play and train in adult contact rugby when they reach their seventeenth birthday provided the following conditions are met:

1. (a) the player does not train or play in the front row of the contested scrum. Once a player has reached the age of 18, the player may play in any position;
2. (b) the RFU Safeguarding Policy and RFU Regulation 21 are complied with;
3. (c) the Club has an appointed Safeguarding Officer and is approved by its Constituent

Body to play 17 year olds in adult rugby for the season by completing the Playing Adult Rugby – Club Approval Form and process;  
<https://www.englandrugby.com//dxdam/5b/5b85772d-d269-4b57-816b-8cdff401949b/Playing%20Adult%20Rugby%20Club%20Approval%20Form%202019.pdf>

4. (d) the player has been assessed, as capable of playing with adults and the assessment has been countersigned and approved by the Constituent Body to play adult rugby until their 18<sup>th</sup> birthday by completing the Playing Adult Rugby – Player Approval Form and process; <https://www.englandrugby.com//dxdam/fd/fd1b4a99-46fe-408c-bb56-4d9a24a2da18/Playing%20Adult%20Rugby%20Player%20Approval%20Form%202020%2019.pdf>
5. (e) approval is required as follows: [Constituent Body].

The links incorporated within the regulation as set out above set the criteria which must be satisfied before the CB can give its consent to a Club to select 17 year olds to play in adult matches. The separate forms required in respect of the Club and the players concerned also set out these criteria and are designed to ensure that certain safeguarding measures are in place and risk assessments undertaken before consent can be given. An application for consent in respect of a player cannot be considered unless and until that player's club has received consent pursuant to Regulation 15.6.1(c).

On 17<sup>th</sup> August the County Administrator emailed all of the clubs in the County in respect of a number of matters pertinent to the start of the 2022-23 season. The email included the following:

*"One section that will be of interest to you is here:*

<http://northumberlandrugbyunion.com/season-2022-23/forms>

*a section for all of our favourite forms!*

**Please destroy any old versions you have of the playing up form, playing down form and combined teams form** – all three have been re worked for season 2022-23 and the new versions are in this section. Old versions of these forms will not be accepted and any received will be returned to club with a request to complete the new version.

*It should be noted that all **playing up/down and combined teams** forms for 2021-22 have been destroyed as they are only applicable for one season – so my office file is now empty – as of Monday 1<sup>st</sup> August, no one is signed off to play up / down and there are no combined teams forms signed off. I am flagging this now so if you have teams starting to come back for pre season, you have time to get the relevant forms for 2022-23 completed and signed off before the players are on a pitch."*

On 3<sup>rd</sup> September Kane Deakin played in a Counties 2 Durham and Northumberland League match against Bishop Auckland. He did not play in the front row and was not injured.

On 19<sup>th</sup> October the County Administrator notified the CB Director of Governance of the apparent breaches of Regulation 15. The Director of Governance subsequently advised that the facts be reported to the CB Disciplinary Secretary and KH was duly informed on 21<sup>st</sup> October.

#### 4. REGULATORY PROVISIONS

4.1 KH drew the Panel's attention to the relevant regulations:

**RFU Rule 5.12**

*'The Union shall have power to discipline any*

*(a) Member;*

*(b) Rugby Body;*

*(c) Non-voting member of the Union;*

*(d) Any player, official, member or employee of a Member or a Rugby Body; or*

*(e) Any other person or body that submits to the Union's jurisdiction to discipline them*

*for any infringement of these Rules, the RFU Regulations, the Laws of the Game or the World Rugby Regulations and/or for **any conduct which is prejudicial to the interests of the Union or the Game** or which amounts to cheating. The Union may terminate or suspend membership of the Union or impose any other appropriate punishment for any such offence....'* [emphasis added].

## 5. THE HEARING

5.1 The Club confirmed that they had no objections to the make up of the Panel and that they wished to plead guilty to the charge. They confirmed the facts as set out above. On behalf of the Club the following points by way of explanation and mitigation were advanced by AMcD and DM:

KD's date of birth was 24<sup>th</sup> February 2005 and he had had a long association with rugby league having played in Cumbria and for Newcastle Thunder's second team. He had been approved to play open age rugby league. He was studying for a BTEC in Newcastle and one of his teachers was DH who introduced him to the Club which he joined on 11<sup>th</sup> March 2022. He was recorded on GMS as an 'affiliated adult registered player'. He was over 6 feet tall and weighed in excess of 18 stones so that to an outsider he would pass for someone older than 17. The Club were aware that formal approval from the CB was required but had not considered seeking approval for KD to play adult rugby as they were a small club who realised that they could not at this stage in their development meet the challenging criteria set out in Regulation 15 and the accompanying guidance. At the relevant time the only Club officials who were aware that KD was only 17 were the Secretary who had overseen his registration and DH. The Secretary had not been aware that KD had played in the adult side until some time after the event.

AMcD stated that there had been a lot of changes in personnel at the Club including a change of Club Secretary in the summer. The coach had resigned at the end of the 2021-22 season and DH had taken over although he too had since left the Club. Running a rugby club placed a significant administrative burden on a small number of volunteers. The Club was currently struggling for players.

For his part DH stated that he was aware from his personal knowledge of KD that he was only 17 but he (DH) was not aware of the requirement to obtain CB approval before a 17 year old could play in an adult team. He had spoken with the father of KD who was keen for his son to play with the adults. He had played in the second row and had not been injured.

In short, the Club's case was that whilst the majority of Club officials were aware of the requirements of Regulation 15 only the Secretary and DH were aware that he was only 17 and DH, who had selected him without the knowledge of the Secretary, was **not** aware of the Regulation 15 requirements.

5.2 Questioned by the Panel DM confirmed that the Club did have a Safeguarding Officer.

## 6. APPROACH TO SANCTION

6.1 The Panel were reminded that RFU Regulation 19, Appendix 2 provided a sanctioning framework for breaches of Regulation 15 but that as the charge had been brought pursuant to RFU Rule 5.12 sanction was at large. Applying Appendix 2 the circumstances of the offence amounted to a 'mid-level breach' of Regulation 15 for which the recommended entry point sanction, prior to consideration of mitigating and aggravating features, was as follows:

- i. Suspension of coach/person responsible for team selection for 3 months.
- ii. Team suspended from playing for 4 weeks.
- iii. Points deducted from club 1<sup>st</sup> XV equating to 2 wins (possibly suspended).
- iv. Club reprimanded.

6.2 Appendix 2 also provided examples of what might amount to mitigating and aggravating factors.

6.3 KH advised the Panel that instructions had been received from the RFU to disregard (ii). As for (i), KH advised the Panel that the coach had been requested to attend and he had done and given his explanation as to how the Regulation 15 breach had occurred. KH advised the Panel that in his view principal responsibility for the failures in this case rested with the Club's administration and that as no specific charge had been laid against the coach it would be inappropriate and contrary to the Rules of Natural Justice, to which Panels should have regard, to impose any sanction on the coach.

6.4 In respect of mitigating features, in addition to the additional matters advanced in the hearing by DM and AMcD the CB acknowledged that the following **mitigating features** were present:

- The Player did not sustain any injury.
- The Club had given early indication of its guilty plea.

6.5 KH submitted on behalf of the CB that the only **aggravating factor** that fell to be considered was the fact that the failure to secure the necessary consents before selecting this player potentially him and the Club at considerable risk. Had he sustained a significant injury when the Club was not in a position to demonstrate that the CB was satisfied that all necessary measures were in place and risk assessments undertaken the Club may have incurred civil liability and its insurance protection may have been avoided.

## **7. DECISION**

7.1 The Panel acknowledged the aggravating factor as set out by KH on behalf of the CB but did not consider that this warranted a more punitive sanction than that set out as an entry point in Appendix 2. In the light of the evidence they had heard the Panel concluded that they were therefore able to categorise the failure that had occurred in this case as an administrative error. That said, it was an error that had occurred from a lack of knowledge on the part of some as to the Player's age and on the part of others as to the requirements of Regulation 15. This exposed a worrying weakness in internal processes designed to ensure that such failures did not occur. The candid evidence presented on behalf of the Club raised doubts as to the effectiveness of safeguarding procedures at the Club.

## **8. DECISION AS TO SANCTION**

- i. The Club would be deducted 8 league points to be suspended until 24<sup>th</sup> November 2023. The effect of the suspension is that if the Club commits no further breaches of Regulation 15 during the next 12 months that will be the end of the matter. If any further breach does occur during that period the likelihood is that the points deduction will be applied in addition to any sanctions imposed for the new breach(es).
- ii. The Club is reprimanded.
- iii. The Club is prohibited for seeking playing-up approval for any other 17 year olds until the CB has conducted a Safeguarding Audit with particular attention to the processes in place to ensure compliance with Regulation 15.

## **9. COSTS**

9.1 Costs of £100 were awarded.

## **10. APPEAL**

10.1 The Club were advised that they had a right of appeal against the Panel's findings and that any Notice of Appeal must be lodged within 14 days of the receipt of this judgment.

**A.Beddis**

**M.Page**

**A.Blyth**

November 2022