

NORTHUMBERLAND RUGBY UNION DISCIPLINARY PANEL

JAMES BIRD ('The Player')

JUDGMENT

1. Introduction

1.1 The Player was charged as follows:

Dangerous tackle.

Particulars of Offence

James Michael Bird, on Saturday 17th September 2002, in a match between Alwick RFC and Billingham RFC, tackled an opponent dangerously making contact with the opponent's head.

Contrary to Law 9.13 of the World Rugby Laws of the Game.

1.2 The charge was brought as a result of a red card being shown. The Player pleaded not guilty to the charge on the basis that whilst he admitted that he had been guilty of foul play he contended that on a proper application of the World Rugby Head Contact Process the referee had been wrong to issue the red card.

1.3 The hearing was held on Thursday 29th October 2022 at Northern Football Club.

1.4 The Panel consisted of Alan Beddis (Chair, Northumberland Disciplinary Panel), Richard Stubbs and Martin Page.

1.5 The Player confirmed that he had received the case papers in advance and that he had no objection to the composition of the Panel.

1.6 The following were present at the hearing:

The Player.

Andrew Bell – Chair of Discipline and President Alwick RFC (the Player's representative)

Kingsley Hyland – CB Disciplinary Secretary ('CBDS')

Malcolm Jarvie – Northumberland RFU Referees' Society (observer)

1.7 The Panel and all parties were provided with the following in advance of the hearing:

1. Video footage of the incident.
2. Referee's Report.
3. The Player's written account.
4. The World Rugby Head Contact Process.
5. Document headed 'Bird's eye view.
6. 5 x still frames submitted by the Player.

2. Facts alleged

2.1 The basic facts of the case were set out in the Red Card Report and can be summarised as follows:

Billingham were attacking in the Alnwick 22.

B4 received a pass and took the ball into contact roughly in the centre of the field.

The Player attempted to tackle B4; in doing so the Player was upright and his head made direct contact with the head of B4.

The Player wrapped his arms during the tackle.

B4 was upright whilst carrying the ball and did not significantly drop his height.

2.2 In a document provided by the Player in advance of the hearing he indicated that he took issue with the Referee's Report in the following respects:

1. B4 did not receive treatment for a head injury.
2. B4 was not upright – he has lowered his height and was leaning forward.
3. There was no direct contact with the head – the direct contact was between the left shoulder of the Player and the right side of the chest area of B4 who is leaning into contact with the right side of his body after turning in slightly to receive a pass from the left. Therefore the head contact was not direct.

3. The evidence

3.1 The Referee gave oral evidence via Zoom. His report was treated as his evidence-in chief and he was then questioned by the Player.

3.2 It was put to the referee that B4 had not received treatment for a head injury but for an injury to his body. The referee stated that B4 went to ground following the collision and took a little time to gather himself. The referee had assumed that the Physio was assessing whether a head injury had occurred.

3.3 The Player suggested to the referee that he might not have been able to see the incident clearly and that B4 had not been upright as he had claimed in his report. The referee said that this was not the way that he had seen it: what he had seen was upright tackle resulting in head on head contact.

3.4 The Player then put to the referee that B4 had been leaning forward in the contact and had not been upright. The referee stated that there had been no significant change in B4's height in what he described as a bent over carry.

3.5 The Player's representative suggested to the referee that the head contact had been indirect but the referee disputed this reiterating that the head on head contact had been direct.

3.6 At this stage there were no questions from the Panel and the video footage of the incident was viewed. There being no further questions for the referee arising from the showing of the video he was released from the hearing.

4. The Player's Evidence

4.1 The Player stated that he accepted much of what the referee had said in his report. He said that he gone into the tackle wanting to make a dominant hit. He claimed that his left shoulder had made initial contact with B4's right chest area before there was contact with the head. B4 had gone down and received treatment after which the referee had called him over and said that he had committed serious foul play and so would be shown a red card.

4.2 The Player then introduced an overhead diagram depicting the positions on the pitch of himself, B4 and the referee. It also showed the location of the video camera. He referred the Panel to the five stills taken from the video footage between 27 and 31 seconds which showed his contact with B4 and provided the Panel with a commentary of what he contended they depicted.

4.3 He began by acknowledging that level 5 fixtures were challenging for referees as the games were played at a fast pace and the referee did not have support from Assistant Referees. He expressed his remorse for making head contact and his relief for the fact that B4 was not injured and was unable to carry on playing. He reiterated his claim that B4 had not received any treatment for a head injury and that the Physio was focussing on B4's chest.

4.4 In relation to Frame (1) the Player contended that this showed B4 to the left of his centre and that he was leading into contact with his right shoulder. He claimed that both Players were at roughly the same height

4.5 He said that he believed that Frame (2) showed the start of the contact between himself and B4 and that B4's right shoulder was closer to the contact than his left shoulder. He produced his scrum hat which had a motif approximately one inch wide in the centre of the forehead and by looking at the motif it could be seen that his head was to the west of the head of B4. He did not believe that there was any head on head contact at this point but if there was it could not have been square on contact. In the Player's view this frame depicted the start of contact between his left shoulder and the right area of B4's chest and shoulder. He suggested that the fact that a patch of grass can be seen in front of his face supported his belief that his right shoulder was slightly lower than B4's shoulder/upper right chest.

4.6 In relation to Frame (3) the Player contended that this showed his head in line with B4's left shoulder and that whilst his head was at the same height as it had been in the previous frame B4's head was approximately six inches higher. He suggested that B4's back was straighter and not as crouched as in the previous frame. The Player believed that this change in B4's body position and head height was due to the impact of his left shoulder on the right side of B4's chest and shoulder. In support of this he suggested that his left shoulder being slightly lower than B4's shoulder/upper right chest area had caused B4's upward body movement and that this change in B4's body position from the previous frame could not have been caused by head contact. Had there been head on head contact he would have expected a reaction force to have moved B4's head in an easterly direction.

4.7 The Player contended that Frame (4) shows a continuation of the movement of B4's body from that shown in the previous frame. He said that there had been no significant movement of either's player's head in the X axis but that B4's head continues to move in an upwards direction along with his upper body.

4.8 In relation to Frame (5) the Player contended that this showed his left shoulder driving into B4's chest causing his body to twist towards the camera. It was his case that the head contact occurred after this initial contact.

4.9 The Player went on to suggest that his case could have been supported had there been an Assistant Referee on the eastern touchline to confirm that the initial contact had been shoulder on chest. If it was determined that the head contact had been indirect then the degree of danger would not have been sufficiently high to justify a red card.

4.10 Questioned by the Panel, the Player said that B4's head was thrown back at the point of initial contact as a result of the contact between his shoulder and B4's chest and that any head on head contact was with the side of his head. It was suggested to the Player that he had been going for the ball and there had been no attempt to tackle or wrap his arms. The Player disputed this and pointed to the fact that the referee had referred to him wrapping in his report. He said that it was his intention to hit B4 in the chest in the hope of dislodging the ball. When asked by the Panel if he felt that the head on head contact that the Player conceded might have occurred in the initial contact albeit with the side of his head warranted a red card the Player stated that any head on head contact was low force as there had been no reaction force.

4.11 On behalf of the Player Andrew Bell said that he had been running touch and did not see any foul play. He said that it had been a full spirited but clean game.

5. Directions to the Panel

5.1 In the presence of the Player the CBDS referred the Panel to RFU Regulation 19.11.1 and advised them that they should uphold the red card if they were satisfied on the balance of probabilities that, on a proper application of the Head Contact Process, the referee had not been wrong to show the red card. He

reminded the Panel of the four elements of the HCP that had to be considered. In this case the Player conceded that there had been head contact and that it involved foul play. The Panel therefore had to consider whether there had been a high degree of danger so as to warrant a red card as a starting point and, if so, whether there were any mitigating factors which might have justified a lesser sanction. The question of whether the head on head contact had been direct or indirect was important but not determinative in assessing whether there had been a high degree of force.

6. Decision

6.1 Whilst the Panel gave careful consideration to the detailed interpretation of the video footage that the Player had advanced they were satisfied on the balance of probabilities that the initial contact between the two players was head on head in the course of what the Player conceded had been intended as a dominant hit. The fact that immediately following initial contact B4's head was thrown backwards was compelling evidence to support this conclusion. Although neither player could be described as bolt upright there was no significant lowering of their body positions and B4 could be described as leaning forward into the contact. The footage does show that the Player's head was turned slightly to the right but not to the extent as to support the Player's contention that any head on head contact involved the side of his head. The Panel did not accept the Player's submission that the head contact was of low force.

6.2 Having concluded that there had been direct head on head contact which constituted a high degree of danger the Panel had considered whether there was sufficient mitigation to have warranted a lesser sanction than a red card. They found that the Player had had a clear line of sight, there had been no sudden or significant drop in height on the part of B4 or any clear attempt by the Player to change his height, the Player was clearly in control of his actions in the course of an active tackle. On that basis the Panel upheld the decision to issue a red card.

7. Submissions as to Sanction

7.1 On behalf of the Player who is aged 30 Andrew Bell stated that he had been at the club for over 20 years. He was a committed club member and could not be considered to be a dirty player. This was his first appearance before a disciplinary panel.

7.2 The CBDS confirmed that there were no relevant previous disciplinary findings and, in the presence of the Player, reminded the Panel of the three stage process which they must follow in determining the appropriate sanction.

8. Sanction

8.1 The Panel found that the Player had not intended to make head contact with B4 but that his actions were properly categorised as reckless. There was no suggestion that the Player had been provoked, was retaliating or been acting in self defence. His actions did not have a significant impact on the victim who fortunately was uninjured and able to complete the game. There had been no obvious impact on the

match. The Player's actions were pre-meditated in that he had intended to make a dominant tackle albeit that there had been no intent to make head on head contact. The Player's actions were complete.

8.2 Starting point

The opening Note to Regulation 19, Appendix 2 effectively mandated that the Panel would have apply a minimum of a mid-entry starting point in the light of the head contact. Having considered all of the relevant criteria in Regulation 19.11.8 as summarised above the Panel concluded that there was no basis for a top end starting point and so the starting point was a suspension of **six matches**.

8.3 Mitigating features

Given that the Player had never sought to deny that he had committed an act of foul play and having regard to his previous good record, the remorse that he had expressed in the course of the hearing and the manner with which he had conducted himself at the hearing the Panel concluded that the starting point sanction should be reduced by the maximum amount permitted which in this case was **three matches**.

8.4 Aggravating factors

There were no off the field aggravating factors.

8.5 The Panel therefore ordered that the Player be suspended for **three matches** backdated to the date of the offence. The Panel decreed that this would cover the following matches:

September 24th – Paviers
October 1st – Cleckheaton
October 15th – Sandal

8.6 The Player is therefore free to play again on or after Sunday 16th October.

9. Costs

9.1 The Player was ordered to pay an Administration Fee of £100

10. Appeal

10.1 The Player was advised that he had a right of appeal against the findings as to guilt and/or sanction provided that notice is given within 14 days of receipt of this written judgment.

Alan Beddis
Richard Stubbs
Martin Page

29th September 2022