

NORTHUMBERLAND RUGBY UNION

DISCIPLINARY HEARING

ASHINGTON JW RFC

JUDGMENT

Constituent Body: Northumberland

Venue: Northern FC

Date: 24th November 2022

Attending

Paul Tanney (President, Ashington RFC) (PT)

Ian Blacklock (Management Committee Chair, Ashington RFC) (IB)

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 charges brought pursuant to RFU Rule 5.12 (conduct prejudicial to the interests of the Game or Union). The charges were brought against the club and not against named individuals. The Club faced five charges which related to five occasions in September and October 2022 on which two 17 year old boys, (referred to in this judgment as TL and JF in view of their ages), 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 matches in which the boys had played and sought confirmation from the Northumberland RFU Administrator that the requisite consents had been obtained. The Club had been invited to provide an explanation for the apparent breaches of Regulation 15. The Club had provided a detailed and helpful response (see below).

2. CHARGES AND PLEAS

2.1 The Club was charged as follows:

1. 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

Ashington JW RFC, on Saturday 3rd September 2022, permitted a 17 year old, JF, to play in an adult rugby match in breach of RFU Regulation 15.

2. **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

Ashington JW RFC, on Saturday 24th September 2022, permitted a 17 year old, TL, to play in an adult rugby match in breach of RFU Regulation 15.

3. **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

Ashington JW RFC, on Saturday 1st October 2022, permitted a 17 year old, TL, to play in an adult rugby match in breach of RFU Regulation 15.

4. **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

Ashington JW RFC, on Saturday 15th October 2022, permitted a 17 year old, JF, to play in an adult rugby match in breach of RFU Regulation 15.

5. **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

Ashington JW RFC, on Saturday 15th October 2022, permitted a 17 year old, TL, to play in an adult rugby match in breach of RFU Regulation 15.

2.2 The Club confirmed in writing on 3rd November that they would be pleading guilty to both charges.

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 21st 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 five occasions Ashington JW 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 five occasions were as follows:

3 rd September – Ashington v Winlaton Vulcans	Player: JF
24 th September– Ashington v Gateshead	Player: TL
1 st October– Ashington v North Shields	Player: TL
15 th October– Ashington v Redcar	Player: JF
15 th October– Ashington v Redcar	Player: TL

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-8cdf401949b/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 18th 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%202019.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 17th 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 1st 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 or before 31st August the County Administrator received consent forms pursuant to Regulation 15.6.1(d) in respect of JF and TL but did not receive a form in respect of the Club pursuant to 15.1.6(c). The County Administrator contacted the Club's Chairman of Rugby, Ian Storey ('IS'), to point out that the player forms could not be considered until the Club form had been received and approved. In response the Club submitted what purported to be the Club form but it only contained one of two pages and the page that was provided was an illegible copy.

On 3rd September JF played in a Counties 2 Durham and Northumberland League match against Winlaton Vulcans. He did not play in the front row and was not injured.

On 7th September the County Administrator emailed the Club (IS) requesting re-submission of the Club form in a complete and legible manner.

On 24th September TL played in a Counties 2 Durham and Northumberland League match against Gateshead. He did not play in the front row and was not injured.

On 1st October TL played in a Counties 2 Durham and Northumberland League match against North Shields. He did not play in the front row and was not injured.

On 13th October the CB Administrator emailed the Club (IS) in the following terms:

"Any update on this – I can't get the player forms signed off until the Club form is approved and at the moment we are unable to do this as a page is missing and the one page we do have is not readable."

On 15th October JF and TL played in a Counties 2 Durham and Northumberland League match against Redcar. Neither played in the front row and neither was injured.

The information as to which player had played in which match was provided by the RFU.

On 19th 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 21st October.

On 3rd November the CB Secretary signed off forms in respect of the Club and both players.

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 CLUB'S RESPONSE

5.1 The written response to the charges provided by the Club stated as follows:

In response to your 3 questions regarding TL and JF:

1. Ashington confirm that both players played in the matches as detailed
2. Ashington confirm that CB consent was not obtained
3. Ashington confirm that TL played on the wing and JF played wing/back row

Neither player was injured.

Ashington confirm that both players as detailed above are registered with the club and on GMS.

We also confirm that the required documentation for each player was submitted as per the timeline detailed below, and acknowledge the replies received from the CB office, copies attached.

Detailed timeline:

31.08.22 Completed forms for both players were submitted to the CB office. Receipt of forms confirmed by the CB office but confirmed that the requisite Club Approval forms were not attached. Club approval forms were then submitted on this date (copies attached).

07.09.22 CB office emailed the club requesting resubmission of forms as one page was missing and a further page was illegible. Unfortunately this request was missed.

13.10.22 CB office emailed the club with a second request for submission of the required forms.

28.10.22 CB office confirm submitted forms had been received, reviewed and approved by the CB Safeguarding Officer and passed to the CB Hon Secretary for confirmation. The club have ensured that neither player has played since this date.

Completed forms for TL had previously been submitted and authorised by the CB, and the player was then eligible to play during the 2021/22 season.

Ashington recognise the importance and continue to implement and respect the principles of Safeguarding compliance throughout the club at all age groups, and have ensured that player safety, mental health and wellbeing are paramount.

The club has previously and continues to ensure that the appropriate safeguarding principles and operational requirements are in place with respect to under 18 players playing up to adult rugby, both for this season and on previous occasions where required.

In addition the following actions are taken:

- Parental consent and approval has been sought for each player.
- Separate showers and changing facilities are available, used and monitored by DBS approved club officials.
- Match day officials are informed pre game where players playing up are involved.
- Under 18 players are prevented from involvement and interaction in Senior players social media groups.

Player assessment both physical and mental health wellbeing are constantly monitored and the club remains confident that both of the players in question are well equipped to handle the pressures of playing adult rugby. In addition both players have played senior rugby league this summer.

The club continues to operate in full compliance with RFU regulations and Safeguarding standards, but accept that on this occasion emails were missed. Ashington, like the majority of rugby clubs, operate on a volunteer basis and do not employ paid officials to manage due process. Increasing pressures on volunteers to manage not only work/life balances, but support the detailed requirements to maintain compliance within clubs may present the opportunity for admin errors and an email to be missed, particularly against the volume of regulatory correspondence that each club has to maintain and address.

Ashington have neither endeavoured to circumvent the process to gain benefit, nor disregard the required process or compliance, but believe this is a genuine administrative error on behalf of the club.

6. THE HEARING

6.1 The Club confirmed that they had no objections to the make up of the Panel and that they wished to plead guilty to all charges. 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 PT and IB:

The Club wished to emphasise that they were a voluntary community club dependent on the goodwill of a relatively small number of key individuals some of whom were asked to perform multiple roles. IS was one of those individuals. All volunteers acted in good faith but inevitably mistakes were made from time to time. IS had since stood down as Chair of Rugby. The explanation that he had given for what had gone wrong in this case was simply that he had missed the chase up emails in relation to the club approval form confident in his belief that all of the relevant documentation had been submitted. At the relevant time he was also the Club's Fixture Secretary and his wife, who was pregnant, was suffering quite a severe case of covid-19. Nobody else in the Club had picked up on the failures as IS had assured them that everything was in place prior to the start of the season as was his honest belief.

6.2 Questioned by the Panel PT confirmed that JF was normally a prop but had played in the games in question on the wing or in the back row. TL had now reached 18 and both players had been playing adult rugby league in the summer under different regulations. TL had in fact been approved by the CB to play in the first team during the 2021-22 season. When asked by the Panel what the attitude of the player's was to playing in an adult side rather than with their own age group PT stated that they had both been, and remained, desperate to play.

7. APPROACH TO SANCTION

7.1 The Panel were reminded that RFU Regulation 19, Appendix 2 provided a sanctioning framework for breaches of Regulation 15 but that as the charges had been brought pursuant to RFU Rule 5.12 sanction was at large. Applying Appendix 2 the circumstances of each 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 1st XV equating to 2 wins (possibly suspended).
- iv. Club reprimanded.

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

7.3 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 but had been unable to do so having

recently been released from hospital. In any event, 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.

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

- Neither player sustained an injury.
- The Players were very nearly 18.
- It is accepted by the CB that had correct procedures been followed formal CB approval would have been given to enable the players to play and had indeed been given since the last of these offences was committed.
- The Club had given early indication of its guilty pleas.

7.5 KH submitted on behalf of the CB that the following **aggravating factors** fell to be considered:

- The failure to secure the necessary consents before selecting these players potentially placed both the players and the Club at considerable risk. Had either or both players 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.
- The persistent failure to heed reminders from the County Administrator to submit **all** of the required paperwork. The Club may have believed, albeit mistakenly, that all of the paperwork had been **submitted** but cannot have been in any doubt that the players had not **received** the requisite consents to enable them to play in the matches in question.

7.6 Whilst each case must be determined on its own merits KH referred the Panel to a decision in an RFU hearing earlier in the year involving Bradford and Bingley RFC which might assist the Panel in determining the correct approach to this case. KH submitted that the Bradford and Bingley case contained the following features of similarity to the current case:

- That case involving breaches by more than one player on more than one occasion.
- The Club in that case continued to play under-age players after being warned that CB approval was required.
- None of the players in question had sustained injury.
- All players involved had parental approval.

7.7 By the same token there were the following factors in the Bradford and Bingley case that were not present in the current case:

- No club form had been completed in that case let alone submitted.
- Forms in respect of the players had been completed but never submitted.
- The names of certain of the players had not appeared on the Match Result Card giving rise to the inference that the club was seeking to cover up the breaches.
- The Panel in that case were not satisfied that all of the witnesses had been candid in their evidence.

7.8 The Panel in the Bradford and Bingley case stated that in determining sanction they had to consider whether what had occurred amounted to (a) an administrative error; (b) a wilful blindness as to the requirements of Regulation 15.6; or (c) a deliberate decision to ignore the requisite regulations. They concluded that there had been a deliberate failure or wilful blindness and the offending amounted to more than a simple administrative error.

8. DECISION

8.1 The Panel acknowledged the aggravating factors as set out by KH on behalf of the CB but did not consider that these warranted a more punitive sanction than that set out as an entry point in Appendix 2. They accepted the mitigating factors that the CB had conceded were present and in the light of the evidence they had heard concluded that the individual principally responsible for the failures was 'drowning' in his multiple responsibilities at the time. They were therefore able to categorise the failures as administrative errors albeit errors that should have been identified and corrected much sooner and which demonstrated a worrying weakness in internal procedures to ensure that such failures did not occur. Too much responsibility had been placed on a single individual with no checks in place. In particular, whilst the person responsible for picking the team might not be the person responsible for obtaining the necessary approvals he or she was under a duty to ensure that under-age players were not selected without sufficient proof that CB approval had been obtained. On this basis the Panel did not consider it necessary to impose sanctions of the severity of those imposed in the Bradford and Bingley case.

9. DECISION AS TO SANCTION

- i. In relation to each of the three offences involving TL the Club would be deducted 8 league points to be applied concurrently.
- ii. In relation to each of the two offences involving JF the Club would be deducted 8 league points to be applied concurrently but consecutively to the 8 point deduction in respect of TL making a total deduction of 16 league points.
- iii. The points deductions will be suspended until 24th 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 deductions will be applied in addition to any sanctions imposed for the new breach(es).
- iv. The Club is reprimanded.

- v. The Club is prohibited for seeking playing-up approval for any other 17 year old until the CB has conducted a Safeguarding Audit limited to the processes in place to ensure compliance with Regulation 15.

10. COSTS

10.1 Costs of £100 were awarded.

11. APPEAL

11.1 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