

RFU SHORT JUDGMENT FORM



Match	Tupton RUFC	Vs	Mansfield RUFC
Club's Level	8	Competition	Midlands North East 3
Date of Match	19 January 2019	Match Venue	Tupton

Particulars of Offence			
Player's Surname	Kirk	Date of Birth	29.02.1976
Forename(s)	Lee	Plea	Admitted <input checked="" type="checkbox"/> Not Admitted <input type="checkbox"/>
Club name	Mansfield RUFC	RFU ID No.	179589
Type of Offence	Punching or Striking		
Law 9 Offence	9.12		
Sanction	52 weeks, reduced to 26 weeks by way of mitigation.		

Hearing Details			
Hearing Date	15 January 2020	Hearing venue	By telephone
Chairmen/SJO	Gareth Graham	Panel Member 1	Mitch Read
Panel Member 2	Nick Garling	Panel Secretary	Rebecca Morgan
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:
Andy Foster (Mansfield RUFC)	David Barnes, RFU

List of documents/materials provided to player in advance of hearing:
Charge Sheet RFU Regulation 19, Appendix 2 Spreadsheet of cases involving Top End entry points Documents from Tupton RUFC, including the citing and a number of witness statements Documents detailing the injury suffered by the Victim Player Newspaper article (Derby Telegraph), dated 3 December 2019 Video footage of the incident

This matter came before an RFU Disciplinary Panel following a citing by Tupton RUFC ("Tupton").

The information provided on the Citing Report was limited. The citing reported as follows:-

"Tupton number 5 suffered a fractured jaw requiring surgery to insert a plate into his jaw. The surgery was undertaken at Sheffield's Northern General Hospital on Tuesday 22 January 2019."

The following statements were provided by Tupton to support the citing:

- statement of Max Adlington

"I was stood on the decking outside the club house about 10 m from where the incident took place. After James Blakey cleared out a ruck he got up from the ruck and ran to follow the play. Mansfield's number 16 ran after and hit James from behind with his right fist. James fell to the ground and the 16 ran off. James left the pitch in pain. The punch was a cheap shot James could not have seen it coming and was unprovoked a cowardly act."

- statement of Tom Carley

"I was stood at the end of the decking around 15m from the incident. The game was close and hard fought with both sides going for it. After a ruck close to the near side in front of the club house James Blakey Tupton's second row had been involved got to his feet and was jogging off to follow play. The Mansfield Number 16 ran after him and punched James on the jaw from behind, James fell to the floor and then left the field to seek medical aid. I was angry as the incident was unprovoked and was a cowardly attack from behind and the referee hadn't seen it and the Mansfield player ran off. Rugby is a hard game I have played for years but this was just a cowardly assault totally unjustified."

- statement of Rob McGehcan

"I am part of the coaching team at Tupton and I video the games from in front of the club house so I was very close to the incident. Mansfield 16 followed Tupton player James Blakey from a ruck and from behind Mansfield 16 punched James with his right fist to the right of James' jaw. James fell to the ground and left the field to seek medical advice."

Video footage of the incident was supplied to the Panel. The footage clearly showed a strike by the Player to the jaw of the Victim Player from behind.

The Panel was told that the Player had pleaded guilty to a criminal charge of inflicting grievous bodily harm and had received the following sentence:

- a 12-month custodial sentence suspended for 12-months;
- a community order of 80 hours;
- a curfew from 8pm to 8am until 1 May 2020;
- £2,000 compensation.

The Panel was also presented with medical evidence from the Victim Player.

Mr Blakey suffered a fractured jaw which required internal fixation by way of surgical procedure.

The Panel received somewhat contradictory evidence as to when Mr Blakey had returned to playing rugby:

- Tupton reported that Mr Blakey returned to playing rugby on 28 September 2019;
- it was said by the Player that Mr Blakey had informed the Crown Court in December 2019 that he was no longer able to play rugby;
- it was said on the Player's behalf that Mansfield RUFC had received reports that Mr Blakey had in fact played rugby on 14 September 2019 and possibly much earlier on in the year in a charity match on 4 May 2019.

The Panel was unable to resolve when Mr Blakey had returned to playing rugby. It was agreed by the Club that Mr Blakey had suffered an injury and had missed a significant number of matches as a result of the strike.

The Panel also received a considerable number of character references for the Player which spoke of the Player in glowing terms.

Summary of Player's Evidence

The Player provided two witness statements and gave evidence to the Panel.

The Player accepted the charge. He said that he had struck the victim player in retaliation because he had seen him kick one of his teammates to the face.

The Player accepted that he should not have acted in that way and he apologised profusely for his conduct. He said that he had played rugby for over 30 years and he had only ever received one red card before (for receiving two technical yellow cards in one match).

He stated that this one-off incident had had severe ramifications for both him and his family, although he also accepted that the incident had had severe consequences for Mr Blakey who had to undergo surgery as a result of the injuries he suffered.

The Player stated that he had continued to coach rugby at the Club and was committed to returning to playing, if possible.

He also stated that he had not played rugby since the match against Tupton on 19 January 2019 (aside from a charity match in June 2019) and that he had missed 30 matches in that time.

Findings of Fact

The central facts of this case were largely agreed. The Panel record the following matters as its findings of fact:-

1. The Player struck the Victim Player from behind.
2. This single strike to the jaw caused a significant injury.
3. As a result of that injury, the Victim Player required surgery to his jaw to insert a metal plate and missed a significant number of matches.
4. The Player received a custodial sentence (suspended for 12 months) for the strike.
5. The Player has not (and will not) appeal that sentence.
6. The Club did not cite the Victim Player for any purported acts.

Decision

Breach admitted Proven Not Proven Other Disposal (please state below)

The Player accepted the charge; the Panel found the matter proven.

SANCTIONING PROCESS



Assessment of Seriousness

Assessment of intent - Ref 19.11.8

PLEASE TICK APPROPRIATE BOX

19.11.8(a) Intentional/deliberate



19.11.8(b) Reckless



Reasons for finding as to intent:

The Player struck the victim player from behind in what he said was an act of retaliation. It was obvious from the video footage of the incident that this was an intentional strike to the head.

Gravity of player's actions - Reg 19.11.8(c)

This was an abhorrent act of violence which caused a significant injury.

Nature of actions - Reg 19.11.8(d)

As above, this was a single strike to the victim player's jaw, from behind.

Existence of provocation - Reg 19.11.8(e)

There was none.

Whether player retaliated - Reg 19.11.8(f)

The Player said he retaliated for a purported kick to the face of a teammate.

Self-defence - Reg 19.11.8(g)

Not applicable

Effect on victim - Reg 19.11.8(h)

The victim player required surgery to fix his broken jaw. He missed a significant number of matches as a result although he has subsequently returned to playing rugby.

Effect on match - Reg 19.11.8(i)

None.

Vulnerability of victim - Reg 19.11.8(j)

The victim was facing in the opposite direction and was vulnerable.

Level of participation/premeditation - Reg 19.11.8(k)

There was no premeditation.

Conduct completed/attempted - Reg 19.11.8(l)

The conduct was completed.

Other features of player’s conduct - Reg 19.11.8(m)

Not applicable.

Assessment of Seriousness Continued

Entry point

<u>Low-end</u>	<u>Weeks</u>	<u>Mid-range</u>	<u>Weeks</u>	<u>Top-end*</u>	<u>Weeks</u>
<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>	52

*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 be consider RFU Regulation 19

Reasons for selecting entry point:

This intentional single-strike to the jaw, from behind, was an abhorrent act of violence. The Panel had no hesitation in finding that this was a top-end entry point.

The Panel had regard to other top-end entry point incidents when considering the appropriate entry point. The Panel concluded that such was the injury to the victim player (who required surgery to fix a broken jaw, missed a significant number of matches and, for a time, did not know if he would ever play rugby again), combined with the fact that this was a cowardly strike from behind, that an entry point of 52 weeks was appropriate in all the circumstances of the case.

Additional Relevant Off-Field Aggravating Factors - Reg 19.11.10

Player’s status as an offender of the laws of the game - Reg 19.11.10 (a)

Not applicable.

Need for deterrent to combat a pattern of offending - Reg 19.11.10(b)

Not applicable.

Any other off-field aggravating factor that the disciplinary panel considers relevant and appropriate -
Reg 19.11.10 (c)

Not applicable.

Number of additional weeks: 0

Relevant Off-Field Mitgating Factors	
Acknowledgement of guilt and timing - Reg 19.11.11(a)	Player's disciplinary record/good character - Reg 19.11.11(b)
The Player accepted the charge at the earliest opportunity.	The Player received a red card for two technical yellow cards and, in the Panel's view, should be regarded as having a good disciplinary record.
Youth and inexperience of player - Reg 19.11.11(c)	Conduct prior to and at hearing - Reg 19.11.11(d)
The Player is 43 years old and has played rugby at a good level for over 30 years. It is to his credit that he has had a good disciplinary record over that extensive playing career.	Exemplary.
Remorse and timing of Remorse - Reg 19.11.11(e)	Other off-field mitigation - Reg 19.11.11(f)
The Player was remorseful and had apologised to the Victim Player for his conduct.	The Player spends a considerable amount of his free time helping to coach at his Club.

Number of weeks deducted: 26

Summary of reason for number of weeks deducted:

The Player satisfies the requirements to receive the full 50% reduction by way of mitigation. He is a player of good disciplinary record who pleaded guilty at the earliest opportunity. It was obvious to the Panel that he had suffered considerably as a result of this one-off incident and that he was appropriately apologetic to the Victim Player, Tupton, his own Club and family as a result of his conduct.

Games for meaningful sanctions:

Aside from the charity match in June 2019, the Player had entirely stopped playing rugby after this incident pending resolution of the criminal charge and the rugby disciplinary process. He has missed 30 matches in that time.

In the Panel's view, it was appropriate to include those matches in the sanction. As a result, he would be free to play with immediate effect.

Sanction

NOTE: PLAYER ORDERED OFF ARE PROVISIONALLY SUSPENDED PENDING THE HEARING OF THEIR CASE, SUCH SUSPENSION SHOULD BE TAKEN INTO CONSIDERATION WHEN SANCTIONING

Total sanction	26 weeks	Sending off sufficient	
Sanction commences	19 January 2019		
Sanctions concludes	15 January 2020		
Free to play	with immediate effect		
Final date to lodge appeal	12 February 2020		
Costs (please refer to Reg 19, Appendix 3 for full cost details)	£125		

Signature (JO or Chairman)	<i>E J Graham</i>	Date	27 January 2020
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NOTE: YOU HAVE THE RIGHT OF APPEAL AGAINST THIS DECISION AS SET OUT IN REGULATION 19.12 OF THE DISCIPLINARY REGULATIONS. YOUR ATTENTION IS SPECIFICALLY DRAWN TO THE TIME LIMIT AND DIRECTIONS/REQUIREMENTS RELATING TO AN APPEAL SET OUT IN REGULATION 19.12.9