

DECISION OF THE INDEPENDENT DISCIPLINARY COMMITTEE
EPCR
Held at Hilton Hotel, Heathrow Airport, London on 27 April 2016

In respect of:-

Owen Farrell of Saracens (“the Player”)

and

The citing of the Player arising out of the match played between Saracens –v– Wasps on 23rd April 2016 for an allegation of a dangerous tackle contrary to Law 10.4(e) of the Laws of Rugby Union.

Disciplinary Committee Appointed to Hear the Case

Simon Thomas (Wales) (“Chairman”)
Antony Davies (England)
H Patrick Barriscale (Ireland)

Decision of the Disciplinary Committee:

- i. The Player denied committing an act of foul play. The Disciplinary Committee found that the Player had committed an act of foul play contrary to Law 10.4(e) thereby upholding the citing complaint.
- ii. The Player is suspended from taking part in the game of Rugby Union up to and including 8th May 2016. This represents a two week suspension commencing 25th April 2016.

Introduction

1. The Disciplinary Committee was appointed by Professor Lorne D Crerar, Chairman of the EPCR Independent Disciplinary Committee pursuant to the Disciplinary Rules found in the Participation Agreement of the Champions Cup 2015/2016. The Disciplinary Committee was appointed to consider the citing complaint (“the Complaint”) against the Player in the match played between Saracens and Wasps on 23rd April 2016.
2. Mr Stefano Marrama was the Citing Commissioner appointed to the match and had cited the Player for an allegation of a dangerous tackle upon Wasps No. 9 (Dan Robson). Contrary to Law 10.4(e), of the Laws of the Game
3. Present at the hearing in addition to the Committee were the following persons:-
 - i Mr Liam McTiernan, Disciplinary Officer, EPCR.
 - i Owen Farrell (“the Player”).
 - i Mr Richard Smith QC, Counsel for the Player.
 - i Mr Mark McCall, Director of Rugby, Saracens
 - i Mr Paul Gustard, England National Team Defence Coach

Preliminary Matters & Procedures

4. At the commencement of the hearing, the Chairman noted the identities of all present and reminded the Player that the Complaint was in respect of an allegation that he had committed a dangerous tackle upon Dan Robson (Wasps 9).
5. The Chairman reminded all parties that the EPCR Disciplinary Rules found in the participation agreement for the Champions Cup 2015/2016 (“the Disciplinary Rules” and “DR” in the singular) would apply.
6. The Chairman outlined the procedure to be followed to determine the matter. The Player and all present agreed to proceeding on that basis.
7. The Chairman established what evidence had been placed before him prior to the hearing and enquired as to whether all present had received the same in good time. The Chairman then enquired as to whether any additional evidence was to be presented before him. The evidence for consideration was as follows:
 - i The citing complaint:
 - i Statement of Dan Robson (Wasps 9).

- i Referee report of Roman Poite.
- i Assistant referee report of Jerome Garces.
- i Assistant referee report of Pascal Gauzere
- i Television match official report of Eric Gauzins.
- i Statement of Ali James, Wasps Physiotherapist.
- i Photograph of Dan Robson's forehead.
- i Player's response to standing directions.
- i Disciplinary Officer's response to standing directions.
- i Match footage containing 8 angles Presented by the Disciplinary Officer.
- i Match footage presented by the Player.

8. The Chairman noted the terms of the Player's response to the standing directions found at Appendix 6 of the Rules which were:

"(a) Owen Farrell is the player named in the citing.

(b) It is not presently anticipated that any preliminary matters will need to be argued. There is no objection to the Panel.

(c) It is not accepted that the citing complaint as documented by Mr Marrama in his "brief report of the incident" is an accurate account of the incident.

The brief report does not accurately describe the nature of the tackle effected by the Player. In short, it will be contended that the Citing Commissioner has misinterpreted the factual circumstances of the tackle in a way that suggests the Player was at fault, when he was not.

The Panel will be invited to watch and consider the tackle in its component parts and have regard to the speed of the events, the lack of opportunity for the tackling player to change his approach in the face of the opposing player significantly and unexpectedly changing his height from the ground, and the fact that the tackle was effected with established and sound technique. To assist the Panel, a further video clip of the incident is attached herewith in addition to the footage apparently considered by the Citing Commissioner.

In particular it is not accepted as is suggested that Farrell;

- commenced the tackle in any sense '*high*'.

Farrell sets and commences the tackle at a legally safe and technically correct height and position. The point of eventual contact was determined not by an illegal height of the tackling player, but by the sudden change in height of the player to be tackled;

- used a *straight arm*.

The Player has his arms positioned to make a fair and effective tackle at a safe and correct height, until such time as the opposing player quickly and unexpectedly significantly lowers his body position upon fumbling the ball;

- failed to close his arms.

The unexpected collision of heads consequent upon the sudden change of body dynamics and positions causes Farrell to fail to *complete* the wrap where otherwise he would have.

(d)(e) It is not accepted that the Player committed an act of foul play. Accordingly, it is not accepted that the tackle warranted a red card.

(f) The sense of the Players position is set out in introductory form in response to paragraph (c) above, the tackle, on careful analysis, was legal. It was, the Player will contend, a fair tackle that resulted in an unfortunate collision as a result of a last second change of position by the opposing player at a time after Farrell was irreversibly committed to a legal tackle position.

Owen Farrell will give evidence as to the nature and execution of the tackle. Paul Gustard (England defence Coach) had been asked to attend to give evidence as to the technique and application of the tackle.

9. The Player confirmed that he maintained his denial of an act of foul play.
10. Both the Disciplinary Officer and the Player confirmed they had no preliminary issues that they wished to raise.
11. The Chairman reminded those present that pursuant to DR 7.8.11, the burden was on the Disciplinary Officer to satisfy the Committee, on the balance of probabilities, that the act of foul play specified in the Complaint had occurred.

Citing Complaint

12. The Complaint stated that at approximately 51 minutes into the match at a time when the score was Saracens 14, Wasps 7 the following occurred:

“Owen Farrell high tackles D Robson (9 Wasps) with a straight arm and makes contact with the head area. He does not close his arms in the tackle. Just before the tackle, 9W was off balance and slightly low at the point of contact, trying to catch a pass. 10S (the Player) gets a bleeding injury to his ear in the tackle. 9 Wasps remains on the ground injured.

The Complaint continued “Wasps 9 had been stretchered off and replaced. After the final whistle the Citing Commissioner noticed that Wasps 9 was walking back to the changing rooms with his team mates. At the post match function the Wasps, Team Manager informed the Citing Commissioner that Wasps 9 had been concussed.”

Video Footage of the Incident

13. The match footage shown from 8 different angles showed that in the 51st minute of the match, Wasps are in possession of the ball and recycle the ball at ruck 5 metres from Saracens 22 metre line in the centre of the field. Only a few players are committed to the ruck and the Saracens players can be seen evenly spread in the defensive line either side of the ruck.
14. The ball is passed to Wasps right by Don Robson (W9) to Wasps 8. Wasps 8, in turn, passes the ball back to Wasps 9 who runs behind him across field in a looping movement. The return pass by W8 to W9 is not accurate as the ball is received by W9 low and towards his right-knee. He fumbles and tries to gather it. As the ball drops in height towards the floor, W9 stoops to try and catch it and extends his right leg in front of him, seemingly beginning to fall. The Player could earlier be observed noticing the W9 looping run accelerates out of the defensive line and drives very forcefully towards W9 with both of his knees bent and his arms outstretched. He drives into W9 to effect a tackle and as he does so the right side of his head appears to connect with the left side of W9's head. The Player rotates beyond W9 and onto the floor. Immediately after the collision between the head of the Player and W9, the Player's right arm appears to be outstretched and swings around the back of W9. As he rotates the Player's left-hand comes under the chin of the W9 and appears to drag him, as he continues to rotate to his right. He immediately holds his ear and appears to be in considerable pain. W9 is knocked to the ground on his back and appears to be unconscious. The referee immediately calls a halt to play and both players are attended to by their team mates and medical staff.
15. The Disciplinary Officer played the various angles once in silence and then replayed it once more highlighting what he considered to be the relevant dynamics of the incident as set out above.

Other Evidence supporting the Complaint

16. The referee report of Roman Poite stated:

“10 Saracens was in a tackle position to catch 9 Wasps. 9 Wasps slide after losing ball possession. 10 Saracens hit the player head to head when they came down and drove his arm on 9 Wasps’ neck in the end of the tackle. This was his second dangerous tackle which required a yellow card (sic).”

The Referee also commented that there had been an earlier high tackle at 47.18 minutes of the match by the Player and that he had spoken to him about this.

17. The assistant referees, Garces and Gauzere had not observed the tackle from their positions on the field.

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18. Mr Gauzins stated that although he had seen the incident live on television he had not been involved in any recommendation to the referee because Mr Poite had not sought his assistance.

Dan Robson (Wasps 9)

19. Mr Robson had provided a written statement to the Disciplinary Officer which read as follows:

“On Saturday, 23rd April 2016 I was playing in a rugby match at the Madejski Stadium. Just after half-time I was tackled and immediately knocked unconscious by a player on the opposite team, Owen Farrell. I do not remember much of the incident, just the tackle by Owen and then waking up on the pitch surrounded by team mates and medical staff. I was then given oxygen and despite my attempts to walk-off the field was stretchered off and received further medical treatment off field. Once-off in the medical room Owen Farrell was also receiving treatment and upon finishing this on his way out he came over to check if I was okay and apologised. Since the incident I have suffered continuous headaches, nausea and slight memory loss of the match prior to the incident however I am feeling a lot better and hope to return to training this week.”

Ali James, Wasps Physiotherapist

20. Ali James, the Head of Physiotherapy at Wasps had provided a statement as follows:

“At approximately the 50th minute of the European Champions Cup semi-final on 23rd April 2016 at the Madejski Stadium, Dan Robson sustained a clash of heads with an opposing defender. This resulted in a transient loss of consciousness. Dan was removed from the field of play by stretcher bearers and the Wasps medical team. On the basis that he had sustained

a concussive injury and was thus unable to continue. Post match medical examination confirmed that the player had sustained a concussion.

His management will be guided by the club physician and will proceed along the routine graduate return to play protocol once symptom free. If he remains symptom free throughout the protocol he will be able to return to training on Friday. If any symptoms are encountered he would be forced to miss this week's fixture."

Photographic Evidence

21. A photograph was also produced of Wasps 9 which depicted reddening to a significant area around his forehead approximately 2 inches above the left eyebrow.
22. This concluded the evidence in support of the Complaint.

Player's Defence

23. The Player then gave his evidence in conjunction with the footage.
24. He explained that when the relevant phase of play had begun he showed how the defence was organised so that there was man on man marking. He said that he had seen Robson pass the ball to W8 and continue his run behind W8. He anticipated Robson would receive the ball back and then approach the defensive line. Having "read it" early, the Player felt he was focused on Robson and knew that it was his responsibility to defend that channel. He said that he observed Robson juggle with the ball (having failed to grasp it when passed to him). He said that he saw Robson reduce in height. However as he then launched himself into the tackle he pointed out how Robson had dropped down much further so that his knee was almost on the ground. He said that Robson also fell across field whereas he would have expected Robson to have continued a run in a more forward manner. The Player illustrated that his body angle going into the tackle was not high or dangerous.. He showed from the video that his torso was lower than the chest height of Michael Rhodes (Saracens 7) and was about waist height to the Wasps player, Bradley Davies. He showed that his both arms were "cocked" to make a legal tackle. He said that when he launched himself into the tackle, the impact between the right side of his head and the left side of Robson's head had caused what he described as a "flash bang" in his head. He said that there was a piercing noise. The impact had caused his head to turn to his left and that his body rotate to the right. At this point he had no consciousness or control over what his body was doing and did not know what had happened. He explained that his right arm had then flung around and that he flipped over Robson. He landed on the ground and clutched his ear. He could offer no explanation why his left-hand appeared to grab Robson. There had been no conscious attempt to do so.

25. . He said that he had executed a legitimate tackle aimed at the lower chest area of Robson near where he would have expected the ball to have been held.
26. The Player answered questions from the Committee as to whether the speed, force and height of his tackle made his actions inherently dangerous. He did not agree. His explanation for what occurred was that Robson had dropped in height dramatically and unexpectedly across the field into the Player's path which was something he had not anticipated or expected.

Mr Paul Gustard, England Defence Coach

27. Having heard as to his experience and without objection by the Disciplinary Officer the Committee permitted Mr Gustard to give evidence in his capacity as an expert in tackle technique. He explained he had been a professional player for 20 years. He was the defence coach to the Senior England national team and provided evidence about the mechanics of the tackle. He opined that there was nothing illegal or unorthodox about the manner in which the Player had commenced the tackle. He explained that Saracens defended an "outside in" formation which explained why the Player's head would have been on the outside of Robson as he tackled. He explained that his arms had been cocked, his body angle was low and good and that there was nothing inherently dangerous about what the Player had done. He also said that it is important for players to try and achieve what he calls a "ring of steel" when completing the tackle so that when the arms are wrapped around the opposing player you try to bind your hands so that the tackled player is unable to free himself from the grip.

Submissions on whether to uphold the Complaint

28. The Chairman invited the Disciplinary Officer to make any submissions in relation to the Complaint. Mr McTiernan said that this was a very difficult case. He said that he was not going to positively advance that this had been an act of foul play. He said that it was a matter for the Committee to consider having regard to the evidence that it had seen and heard.
29. Mr Smith, on behalf of the Player, stated that it was not without some importance that the Disciplinary Officer was not positively advocating that the Player's actions had amounted to an act of foul play. He felt that the candidness of the Disciplinary Officer in this regard was important. He then took issue with the details in the citing complaints as follows:
 - i. The height of the tackle – Mr Smith argued that from the very close examination of the footage it could not be said that the Player had entered the tackle in a high manner. His body position had been low and the problem had occurred as a consequence of the

significant dropping of the head and falling across by Wasps 9 which had resulted in the clash of heads.

- ii. Secondly, he commented that immediately before the clash of heads the Player's arms had been "cocked" in an orthodox position entering the tackle and there was certainly no question of a "straight arm" being used. The only time when the Player's right arm appeared to go into an outstretched swinging motion is after the striking of heads and he reminded the Committee that at this point the Player had said a firecracker had gone off in his head.
- iii. The third criticism was that the Player had not closed his arms in the tackle. Mr Smith reiterated that as the dynamics of the tackle had unfolded the Player had lost control of his movement due to the collision of heads and that he had completely unable to wrap Robson..

Mr Smith concluded by stating that there was no reason for the Player to have predicted the unusual body dynamics of Wasps 9 who had dropped very low and across into his path. Accordingly, it could not be said that the Player's conduct was reckless. In light of the very fast dynamic of the situation it would be unreasonable to have expected the Player to have taken some kind of evasive action.

Decision as to whether or not the Citing Complaint should be Upheld

30. The Chairman stated that the Committee would retire in private to deliberate as to whether on the balance of probabilities the evidence satisfied the Committee that the Player had committed an act of foul play contrary to Law 10.4(e).
31. The Committee reviewed the match footage on many occasions and took into account all of the evidence that they had heard and read. It took regard of the Player's evidence which had been given in a clear and consistent manner.
32. Having taken all matters into account the Committee came to the following factual conclusions:
 - i. The Player had admitted that before he had committed to the tackle he had observed Robson fumbling the ball and dropping somewhat in height. The Committee was of the view that having observed this before he had committed to the tackle, he did or should reasonably have anticipated that Robson would have dropped further in height (as in fact he did) to regather the ball. Robson was running in an motion largely across field in any event and the Player had been reckless by committing to a chest height tackle when he knew, or ought to have known that there was a risk that Robson could have dropped further in height. Continuing therefore to attempt to effect the chest height tackle in those

circumstances was reckless with a risk of injury. Accordingly the tackle was high and dangerous.

- ii. The Committee accepted the Player's evidence that when he had entered the tackle he had done so in an orthodox manner which his arms cocked ready to grasp the Player. The Committee further accepted that he lost control of his arms when the clash of heads had occurred and accordingly made no adverse findings against the Player and in terms of the allegations that he had (i) used a straight arm or (ii) failed to wrap his arms in the tackle.
33. The Committee therefore reconvened the hearing and announced its decision to the Player informing him that the Complaint would be upheld and setting out the basis of its finding.
 34. The Chairman then explained that the Committee would now need to consider what sanction (if any) to impose.

Representations as to Sanction

35. The Disciplinary Officer did not make any submissions as to sanction however he highlighted that Robson had clearly suffered an injury as a consequence of the tackle and that he was vulnerable.
36. Mr Smith, on behalf of the Player, advocated that this was a case that required nothing more than a lower entry point sanction. He submitted that the incident had been reckless rather than intentional and based upon a split second decision. Whilst it was acknowledged that the victim had suffered an injury there was no real effect on the match. He submitted that Robson was not particularly vulnerable in that he reasonably would have expected to have been tackled because he was in possession of the ball.
37. As to aggravating factors, Mr Smith submitted that there were no such off field factors present and that the Committee should not apply any additional period of suspension as a consequence of the World Rugby Memorandum of 22nd May 2015. The basis of the submission was firstly that neither the memorandum nor the Rules suggest that it is mandatory to increase a period of suspension merely because the memorandum exists. Secondly, the particular circumstances of this did not fall into the type of tackle which the memorandum was meant to eradicate. It was, based upon the Committee's finding, a split second error whilst attempting a legitimate tackle.
38. Turning to mitigating factors, Mr Smith submitted that the Player was entitled to maximum credit. The Player gave evidence as to his background. He had been a professional rugby player since the age of 18 and was now 24. He had played 40 times for the England national

team and had never been before a Disciplinary Committee. In terms of his works outside of rugby playing he explained that he undertakes coaching clinics, camps and school visits. He was asked whether he did any work outside of contractual obligations with his employer. He said that he was actively involved in helping a young child with Duchenne Muscular Dystrophy and that every time he takes a kick at goal he makes a particular symbol to recognise the child and the charity.

39. Mr McCall also gave evidence as to the Player's good character and said that he had known him for around 7 years and that he was a model professional and a well liked and respected individual. He also pointed out that Mr Robson's statement had indicated that the Player had expressed concern and regret for what had occurred in the treatment room shortly after the incident.

Decisions to Sanction

40. The Committee retired in private to consider its decision.
41. It reminded itself that the World Rugby Sanctions for Foul Play appearing at Appendix 3 of the Rules for instances of dangerous tackling are as follows:

Lower-end	2 weeks
Mid-range	6 weeks
Top-end	10+ weeks
Maximum sanction	52 weeks

42. In determining the entry point the Committee concluded the following:

(a) & (b) The offending had been reckless rather than intentional.

(c) & (d) As to the gravity of the Player's actions in relation to the match and the nature of the actions and the manner in which the offence was committed, the majority of the Committee was of the view that whilst the Player had acted recklessly, his body height going into the tackle and his trajectory through the tackle had not been particularly high and had not been in a rising motion. The Committee considered that this meant that it was not, of itself, an inherently dangerous tackle from the outset.

(e), (f) & (g). There was no provocation, retaliation or self-defence.

- (h) The effect of the Player's actions on the victim were not inconsiderable. Robson had been injured. He had been left unconscious for a short period and concussed and his return to playing was not yet determined.
- (i) As to the effect of the Player's actions on the match - there had been no unsavoury scenes and no player reaction arising out of the incident. However, Robson had to be removed from the match and was unfit to carry on.
- (j) As to the vulnerability of the victim, whilst the Committee accepted that Robson probably would have anticipated an impact in a tackle, he would not have anticipated a collision of heads and to that extent was vulnerable.
- (k) The Player had participated in the offending however there had been no premeditation.
- (l) The conduct was completed.
- (m) There were no other features of the Player's conduct in relation to the offending.

43. Taking all matters into account, the Committee considered very carefully whether this was an act of foul play which should attract a midrange entry point. However, by majority, the Committee determined that the lower entry point was appropriate. It had been very finely balanced and the Committee had in mind the fact that Robson had suffered a significant injury as a consequence of the dangerous tackle. However, the Committee was of the view that because of (i) Player's relatively low body position going into the tackle (ii) he had not driven upwards into the tackle and (iii) he had genuinely attempted to effect a legal tackle but had made an error in failing to alter his course when he should have anticipated there was a risk to Robson, the Committee felt that a lower entry point was justified in this case. This meant a starting point of a two week suspension.

44. Having reached its decision on entry point, the Committee had to consider the existence of any off field aggravating factors as set out in DR 7.8.34. The only aggravating factor which the Committee found present was the need to combat a pattern of offending in the game. The World Rugby Memorandum of 22nd May 2015 emphasises that dangerous high tackles should be dealt with firmly and that high tackles was a pattern of offending within the game. The Disciplinary Committee found that dangerous high tackles of this nature did fall within the remit of the Memorandum and it was therefore appropriate to increase the entry point suspension by a period of one week.

45. Turning to mitigating factors under DR 7.8.35, the Committee agreed that the Player was entitled to maximum mitigation. Whilst he had not accepted that his conduct had been dangerous, he had not sought to mislead the Committee in any way. He had given his evidence, in the view of the Committee, openly, honestly and without exaggeration. He had an exemplary disciplinary record and was of good character. His conduct prior to and at the hearing had been very good and importantly he had demonstrated remorse and concern for the victim in the treatment room which evidenced his regret as to what had occurred.
46. Taking all matters into account and bearing in mind that pursuant to DR 7.8.36 the Committee could allow a maximum of 50% discount from the entry point (but had to start at zero and work up to the maximum of 50%) it felt it showed afford a reduction of one week from the entry point which meant the final sanction was one of 2 weeks.
47. Applying this period of suspension to the Player's pattern of games this meant that he would be suspended from the game of Rugby Union up to and including Sunday, the 8th May 2016. He is free to play on Monday, 9th May 2016.
48. The Committee therefore reconvened the hearing and the Chairman outlined the sanction to be imposed and the reasons for it.

Right of Appeal

49. The Chairman informed the parties that they had a right to appeal pursuant to DR 8.1.

Dated: 29 April 2016

Simon Thomas

(Chairman of the Disciplinary Committee)