

## RFU Competition Appeal

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In re Torquay Athletic RFC  
Review by the RFU Disciplinary Officer

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1. On 6 December 2009 an RFU Competitions Appeal panel (CAP) issued its judgment in relation to Torquay Athletic RFC. The facts of the case are summarised in that judgment and do not need to be repeated here. The CAP upheld an appeal, overturning a decision by the South West Competitions Committee, and ordered that the match between Torquay v Cullompton on 26 September be replayed.
2. The case has been referred to me for review under RFU Disciplinary Regulation 12.3.2. That Regulation (repeating the provisions of Game Regulation 1.3.3) requires the Disciplinary Officer to review any decision of a CAP where that panel has decided that the application of Game Regulations resulted in a perverse or unfair outcome and exercised its discretion, exceptionally, to disapply a particular Game Regulation.
3. In this case, the CAP ruled that the application of Game Regulation 8.3 would result in a perverse or unfair outcome, that being that the referee's incorrect application of the Law led to uncontested scrums with Torquay playing most of the last quarter of the match with 14 players and subsequently losing. The unfairness was that had the Law been properly applied the result may have been different and Torquay may have won.
4. The purpose of Regulation 12.3.2 is to allow CAPs to exercise a discretion to disapply a Game Regulation where strict application leads to an unfair or perverse outcome. Competitions Committees demand certainty from Regulations, so this discretion must only be exercised in exceptional circumstances. The purpose of the review by the Disciplinary Officer is not to provide another avenue of appeal, but is to take a broad overview of decisions to ensure that the best interests of the Game are upheld.
5. Game Regulation 8.3 is clear. It supports the fundamental principle that the referee is the sole judge of fact and law during a match (Law 6.A.4(a)) which is necessary to uphold the authority of the referee and prevent the result of games being contested in committee rooms after the match is over. The CAP in this case has drawn a distinction between the referee interpreting a Law wrongly (in which there would be no post match interference) and the referee getting the Law wrong (as was the case in this match).
6. With the greatest of respect to the CAP and its very careful analysis of the case, I disagree. The distinction is too fine and if accepted would open the floodgates for further appeals. For example it could be argued that a referee got the Law wrong in dismissing a player for stamping (Law 10.4.b) when it was clear from the evidence that the player was guilty of tripping (Law 10.4.d) and it may be argued that had the

referee got the Law right he would not have dismissed the player. One can envisage other similar circumstances.

7. In this case the referee made an error in that he should have allowed Torquay to bring back a player who had previously been substituted to replace an injured prop thus enabling the team to continue to contest scrums and have a full complement of 15 players on the pitch. That error may or may not have affected the final outcome of the match. However, in my view, that is no different from a case where a player was erroneously dismissed or a try was scored after a forward pass or disallowed incorrectly when there had been no infringement. The fundamental point is that there must be no post match interference with the referee's on field decisions in relation to the outcome of the match which would lead to the match result being changed. The only exception to this is where a match is abandoned before full time has elapsed, in which case the Game Regulations provide direction on whether or not a game should be replayed.

8. In this case the decision of the South West Competitions Committee to rely on Game Regulation 8.3 in ordering that the result of the match should stand was neither perverse nor unfair; it simply upheld the fundamental principle in Law 6.A4(a). That is the nature of sport. Neither was this an exceptional case – there are numerous cases in which a referee has either misinterpreted a Law or got a Law wrong where the decision may have affected the final result – in sporting parlance that is just the rub of the green.

**9. In those circumstances I substitute the original decision to dismiss Torquay's appeal and direct that the original result stands and the game shall not be replayed. In view of the importance of this case in setting a precedent Torquay should not be penalised in costs for undertaking the appeal, and the order of the CAP in relation to costs is endorsed.**

HHJ J Blackett  
RFU Disciplinary Officer

9 December 2009