

THE BLOODGATE AFFAIR – A CASE OF ETHICS, MORAL ETHOS AND MORAL BEHAVIOUR – HARLEQUINS RUGBY FOOTBALL UNION CLUB

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ABSTRACT

The case enables exploration of unethical behaviour in the work place, and consequences associated with initial cover up, denial, conspiracy to conceal, formal judicial process, punishment, admission and remorse. Specifically, it examines cheating on the sports field, the breaching of sport-specific competition rules, and matters of procedural, retributive and distributive justice arising from matrix-like governance structures. As such, the case can be used to explore the interface of sport, ethics and governance in a context of organizational moral ethos, reputational damage and crisis. It uses multiple frameworks attributed to Freeman [15], Mitchell *et al.*, [23], Kohlberg [20], Badaracco [2], and Snell [27] to examine stakeholder-related issues of governance and ethics.

Key words: Ethics, Stakeholders, Governance, Sport, Rugby Union.

1. INTRODUCTION

Saturday April 12 2009 - It was the final minutes of the end-of-season Heineken Cup quarter-final clash between Harlequins and Leinster at the Twickenham Stoop ground in London. Leinster were leading 6 points to 5 – and a win would guarantee a significant pay out and the promise of riches if either team progressed to the Final. Harlequins had tried everything to score what would be the winning points, but they had suffered a major set-back when they lost their key man, former All Black, Nick Evans with a knee injury just after half time. In an earlier game against Stade Francais, he had kicked a last minute drop goal to give his team the victory that had taken them to the quarterfinal. It seemed Evans' contribution could not be repeated with him off the field.

THE INCIDENT

In the 75th minute, with just 5 minutes to go, the team faced another injury and wing Tom Williams, himself a replacement in the 70th minute, needed to be replaced - with blood oozing from his mouth - by another player from the bench. That man happened to be Nick Evans!

Having left the field previously, then, in order to perform such match saving deeds again, he could only return as a blood-injury replacement. And with 40 seconds remaining on the clock, the opportunity arose for him to pull off another match-winning trick - and he tried a 40 metre drop goal. However, the ball drifted wide, and Leinster progressed to the Semi-Final as one point winners on the day.

At the time, Leinster officials objected immediately to Evans' return to the field - on two counts. One was that he should not have been allowed to return to the field at all, having already been replaced; and two, that they saw no evidence of blood on Williams as he left the field.

Under the European Rugby Cup (ERC) Heineken Cup regulations, when a player is replaced, a team/club has to state whether it is a tactical or an enforced move. If the "fourth" match official is told that it's a tactical replacement, it provides scope for the player to come back on. (Interestingly, during the subsequent Heineken Cup Semi-Final against Munster, Leinster's Felipe Contepomi left the field on a stretcher, but the fourth official was told it was a tactical replacement, leaving scope for him to return.)

But as Harlequins Director of rugby, former England captain and Leicester Tigers legend, Dean Richards stated in response to Leinster's objections: "You have to know the rules. If they don't, it's not my problem." He also passed off Evans' return to the field as "almost a last throw of the dice I was a bit reluctant but went with it". Later, he said about the loss, "There are a lot of sad individuals in the changing-room. But tomorrow's another day. It's been a lovely journey and we've now got to draw a line under it. There are to be no regrets" [4] [5] [6] [26]. However, anticipating some repercussions, former England rugby captain, BBC Radio Five-Live Commentator and Daily Telegraph rugby correspondent, Brian Moore, said during the live commentary: "we will hear more about this" [24]. The Leinster doctor, Professor Arthur Tanner, doubted the veracity of the injury, but was refused access to examine Williams in the medical room. At the post match press conference, Leinster coach Michael Cheika also cast doubt on the nature of the injury and the appropriateness of the replacement [18].

THE IMMEDIATE AFTERMATH

By the Friday of the following week, matters had taken another turn. Subsequent to further comments from Leinster officials and others, and widespread media coverage appearing to show Williams winking as he left field, the Heineken Cup competition organisers, European Rugby Cup Limited (ERC), had themselves expressed concern about the second-half blood substitution of Tom Williams and Nick Evans' return to the field.

On Thursday, April 17 2009, ERC said an investigation would be "carried out by ERC disciplinary officer Roger O'Connor under the Heineken Cup 2008/09 disciplinary rules" and "include gathering statements from match officials, the two teams involved and a review of broadcast footage from the game. The ERC disciplinary officer will then determine whether any further action is necessary" [3].

A month later in mid May, allegations were surfacing in the media and elsewhere that a blood capsule, previously hidden in a sock, was used to allow the switch of players to take place. Roger O'Connor, the ERC's disciplinary officer, believed there was a case to answer, and said that it would come before the ERC's independent Disciplinary panel on July 1-3 2009 [1].

"Images that proved Quins cheat" The Times, 23 Aug 2009 from SkySports 22 August 2009



How it happened: time is running out for Harlequins as Tom Williams is recorded by the camera; Sky viewers were watching the spot where the referee had stopped the game; Williams takes advantage of the stoppage to reach down towards his sock; He appears to put something in his mouth; and blood begins spurting from his mouth and he alerts the referee; Williams is helped off the field by physio Steph Brennan - red dye pours from the player's mouth as he is led off.

THE OUTCOME OF THE ERC DISCIPLINARY PANEL HEARING

Monday 20 July 2009 -

Nearly two months later, 20 July 2009, following a three-day disciplinary hearing, Harlequins Tom Williams was found guilty of misconduct by the ERC disciplinary panel, for his role in fabricating a blood injury in the Heineken Cup quarter-final against Leinster and suspended for 12 months [7] [8] [9]. The ERC considered the matter "to be a very serious offence and one that damaged the reputation of the tournament and of rugby union". However, whilst the Harlequins club were also fined £215k, with 50% suspended for two years, the club's director of rugby Dean Richards and two of its medical staff, physiotherapist Steph Brennan and Dr Wendy Chapman, had misconduct complaints dismissed [28]. Both Williams and Harlequins had the right to appeal, and Williams chose to do so. However, somewhat surprisingly, the ERC as the governing body for the Heineken Cup also decided to appeal the decision of its own independent Disciplinary Panel on the leniency of the Harlequins' punishment [10].

RESPONSES TO THE VERDICT

Harlequins Rugby Club:

"Harlequins are both surprised and disappointed at today's decision by the ERC disciplinary committee to find Harlequins and Tom Williams guilty of misconduct - particularly so in the light of the acquittal of Dean Richards, Steph Brennan and Dr Wendy Chapman on similar or identical charges. The club and the player will consider their position in the light of the written judgement due to be handed down by the disciplinary committee" [28].

International Rugby Board:

"It's a strong deterrent. There is no room in the game for cheating."

London Irish director of rugby Toby Booth:

"If ERC feel that there is a case to answer, and clearly they do, then I'm surprised that Tom Williams has been singled out.

"It's the player who has paid the price. I don't know the ins and outs of this particular case, but the authorities are quite clearly sending a warning shot across the bows. If you're going to meddle, then you do so at your peril" [5].

PRA CEO, Damian Hopley:

"In recent weeks, we have seen players found guilty of eye-gouging receiving bans of between eight and 12 weeks, and another player found guilty of misconduct [Bath's Justin Harrison for cocaine abuse and other drug-related matters]. It is an extraordinary decision.

Tom Williams is a player of unquestionable character. His disciplinary record – one yellow card following persistent team (not individual) infringements in seven years as a professional – speaks for itself. No mention or account seems to have been made of Tom's good character and disciplinary record in mitigation against the charge or length of the ban" [5].

Former England international, Mick Cleary, Daily Telegraph Rugby Correspondent:

"He cannot have acted alone. He cannot have made up his own mind to fake a blood injury. Williams has taken the hit for the team. Perhaps ERC is trying to flush out guilty pleas.

ERC should have the courage of its convictions. Cases such as these are invariably decided on the balance of probabilities. There was not a person in the ground who did not feel that Quins were pulling a fast one when Nick Evans hobbled back into the action with five minutes remaining. People are not daft" [5].

THE DELAYED AFTERMATH

Harlequins Internal Enquiry

Just two weeks later, following an internal enquiry within the Harlequins club, and following the ERC ruling, Director of Rugby, Dean Richards resigned. Harlequins CEO, Mark Evans in a statement on the club website (Saturday 8 August 2009) said:

“We have been found guilty of behaviour that cannot be accepted or condoned. For that we apologise to you unconditionally. We must now ensure that the highest standards are upheld. I am confident that every professional rugby club will be looking at this incident and will learn from how we deal with it” [29].

Appeals to the ERC Disciplinary Panel - Monday 17 August 2009

Following a 14 hour disciplinary appeal hearing, Dean Richards was banned for three years from involvement in ERC affiliated rugby. At the appeal, Tom Williams changed his previous evidence, and provided details of how Richards and physiotherapist Steph Brennan, by then employed by the England team, “colluded to fake a blood injury in the game and then orchestrated a cover-up” [10] [11] [12] [14] [17]. Williams had alleged that he was cut in the mouth by a club official - later identified as team doctor and A&E specialist, Wendy Chapman - as part of an attempt to make the fake injury appear real [19]. Brennan was banned for two years from participation in all European rugby sanctioned by the ERC after pleading guilty and admitting his role in the cover-up. He was later sacked by the England RFU [13]. By turning “Queen’s Evidence”, and exposing the nature of the Harlequins deception, Williams had his original ban reduced to four months. Harlequins had their original fine of €250,000, half of which was suspended, increased to €300,000 (£258,000) with none suspended, but were not banned from the Heineken competition as had been expected.

Whilst the ERC could only apply bans within Europe, they urged other national governing bodies to adopt the suspensions. ERC appeal committee chair Rod McKenzie said details of four other occasions on which Harlequins had attempted to fake injuries had been passed to the relevant authorities [17]. (As long ago as 2001, a former England coach stated that fake blood injuries were occurring during Premiership games. Richard Cockerill, the Leicester coach and a former England player, also admitted that stitches in his finger were ripped to fake a blood injury.)

Response to the Appeal Decisions

Richards said he accepted responsibility for the blood-capsule incident but professed ignorance of the cut administered to the wing [18].

“I am very disappointed and a little bit surprised; three years is a long time, and I will reflect on it overnight,” he said. “I took full responsibility for it, it was a farcical situation, it didn’t pan out particularly well on the day. I have no knowledge of that [the cut]. I had no part in that. I do not know that it did happen or how it came about because I was not in the room.”

Damian Hopley, the PRA CEO, on the other hand, expressed gratitude that Williams’ 12-month ban had been reduced on appeal, yet accepted that the scandal had left “an indelible stigma on the professional game”. He restated his view that whilst Williams was a “young man of good character, he had made a “serious error of judgement” His view was that ““The players have an increasing responsibility to act as role models for the sport, and must take a leading role in restoring the sport’s damaged image and integrity” [16].

Just over one week later, Harlequins Chairman, Charles Jillings, who had been implicated by Williams as having tried to craft his testimony at the Appeal Hearing, resigned [12].

EPILOGUE

One year later, August 2010, Tom Williams was back playing for Harlequins; Richards had been given clearance to work on a one-off basis as a rugby “consultant” with Worcester rugby; whilst Brennan and Chapman continued to be under temporary suspension awaiting trial by their respective professional councils, the Health Professions Council (HPC) and the General Medical Council (GMC).

Dr Wendy Chapman had been suspended from practising by the GMC and had lost her job as an Accident & Emergency consultant, having admitted to deliberately cutting the lip of Tom Williams as part of an attempt to conceal that Williams had bitten into a blood capsule [17] [28]. Chapman had initially denied her role in the incident to the ERC Disciplinary Panel, had been acquitted, but later recanted and gave evidence for the prosecution at a later ERC appeal hearing, expressing shame and embarrassment about her “appalling lack of judgement” in the face of “huge pressure” [12]. One year later, in September 2010, she faced a GMC Disciplinary Panel with the possibility of being permanently struck off the medical register. However, the GMC found that whilst she did not act in Williams’ best interest at the time, and had acted under pressure from Williams, that her ability to practise was no longer impaired, and ruled that she be re-instated and be free to work in medicine again [21] [30].

Following the ERC Disciplinary Hearings, Steph Brennan, the club physiotherapist and recent appointment to the England team, was also banned by the ERC from all rugby competitions under their jurisdiction, and also lost his job with England as well as being suspended by the HPC. It was more than a year before he appeared before a HPC misconduct hearing. His temporary suspension was made permanent - he was struck off - that is banned from practicing – for life [21] [22].

The HPC Disciplinary Panel ruled that Brennan had known of, or organised, and/or “assisted in the fabrication” of a blood injury to Tom Williams during the match against Leinster, and that he had purchased fake blood capsules, and provided a fake capsule to Williams in an attempt to cheat. It also ruled that he had attempted to conceal the blood injury to Williams, and had provided untruthful and/or inaccurate evidence during the course of an ERC disciplinary hearing; and that he had been involved in fabricating blood injuries in games on a number of occasions. Brennan had admitted his role in the affair and had expressed remorse, stating “I followed orders and wish I hadn't. Yes, I went on to the pitch with the intention of deceiving the referee”. It was reported that a fear of having his contract terminated left him with little option but to obey Richards previous requests to use blood capsules. However, the ruling stated his behaviour had been “dishonest, premeditated and ... continued over a considerable period of time” starting in the 2005/2006 season, and merited a life ban [21] [22] [25].

THE BLOODGATE AFFAIR - CASE DISCUSSION QUESTIONS

- 1 Why would this case have attracted such attention?
- 2a Provide a chart of **generic** stakeholders of the Harlequins club and state how they may have been impacted by the actions of the key players such as: Tom Williams (Player), Dean Richards (Director of Rugby), Mark Evans (Harlequins CEO), Steph Brennan (Team Physio), Wendy Chapman (Team Doctor).
- 2b Indicate two **specific** stakeholders that can be labelled as dangerous or dominant stakeholders.
- 3 Outline the particular **chronology of ethical dilemmas** faced by Williams, Richards and later by Mark Evans and the decisions that they took.
- 4 Using Kohlberg’s framework, indicate the level of **moral reasoning** exhibited by Tom Williams and Mark Evans for each of the dilemmas that you have identified.
- 5 Briefly indicate how Tom Williams and Mark Evans (the player and CEO) could have **managed** those **situations** differently if they had recognised the successive dilemmas.
- 6a What **moral values** were breached by Tom Williams and Dean Richards in their contributions to

- the Bloodgate Affair? (Use Lumpkin, Beller and Stolle's Conceptualisation of Moral Values)
- 6b What moral values may have been breached by the ERC Disciplinary Panel in their first decisions to fine the Harlequins club, but only one individual, Tom Williams?
- 7 Provide some examples of the **moral emotions** manifest in the media coverage of the Affair? (Use Haidt's notions)
- 8 Offer some brief comment on where the **locus of responsibility** should lie in the Bloodgate Affair? – players, coach, medical team, club management, England RFU, the ERC as Heineken Cup organisers, the IRB, and/or the GMC and HPC as professional bodies?
That is, offer reasoned comment on whom should take responsibility for promoting ethical behaviour, ... and in doing so, comment on the major responsibilities that each grouping has.
- 9 What are the implications, the sports ethics lessons, for those involved in management and governance?

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