

# Proposed Claim on behalf of Ex-Rugby Players with Early Onset Dementia

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Followers of our Disease Blog may have noticed a slight trend in some of our posts which have focused on the potential for future claims for damages in respect of early onset dementia and Chronic Traumatic Encephalopathy (“CTE”) for ex-sportsmen and sportswomen. In October, Alex Denton wrote about the decision of HM Senior Coroner John Gittens’ decision that the death of Alan Jarvis, a former international footballer who passed away from Alzheimer’s disease, had been contributed to by the sport he had played. That post can be found [here](#). In November, Patrick Limb QC and Kam Jaspal also reported on the developments within professional sport, with a focus on concussion injuries and the coronavirus-related postponement, by a year, of the latest International Conference on Concussion in Sport. That post can be found [here](#).

Readers may also have seen, or read about, the horrific head injury sustained by Wolves player Raul Jimenez in their Premier League fixture against Arsenal on 29 November 2020, after he clashed heads in an attempt to head the ball with Arsenal player David Luiz. Despite the significant injury to Jimenez, who had to be taken to hospital and undergo surgery almost immediately, and the injury to Luiz who had to be bandaged up on the pitch, Luiz was allowed to play on and see out the first half before being substituted at half-time. The incident caused head injury charity Headway (for which Ropewalk Chambers has previously raised funds at our Annual Personal Injury Conferences) to express significant concern at the way that concussion and dementia are being dealt with in professional football, calling for temporary concussion substitutes to be allowed so that proper assessments can be made of players off the pitch before they are allowed to continue.

The introduction of temporary concussion substitutes in football would mirror measures already in place in professional Rugby Union and Rugby League. When there is a suspected head impact on the rugby pitch (to be identified by match officials on the field, team doctors or independent match-day doctors who have access to live feed and/or video replays), players displaying obvious on-pitch signs of concussion must be immediately and permanently removed from play, without further assessment. Alternatively, when not showing clear on-pitch symptoms, players must undergo an off-field assessment and cannot return to play before a period of ten minutes for assessment has elapsed. Players taken off for assessment can be replaced, and any replacement can take a kick. In November 2020, Headway deputy chief executive Luke Griggs stated to the BBC that the introduction of temporary concussion substitutes “*is not a perfect solution, but it gives you more time to make a considered decision about a head injury.*” The BBC News article can be found [here](#).

Likewise, following on from the inquest decision into the death of Alan Jarvis and the incident at the Wolves vs. Arsenal match, the Professional Footballers’ Association has called for a limit on the number of times players head the ball in training due to the concerns about the future development of dementia from doing so. In January of this year, the Scottish Football Association had already put in place plans for a ban on children heading the ball, for the same reasons.

Yesterday revealed the latest challenge by a cohort of ex-professional rugby players displaying signs of early-onset dementia or CTE which they say is attributed to negligence on the part of the sport’s governing bodies and their failure to adequately protect them from the risks of head injury, concussion and the risk of later development of dementia and other brain injuries. The BBC reported on the proposed action yesterday which seems to be aimed principally at the Rugby Football Union, the Welsh Rugby Union and World Rugby, with law firm Rylands Legal suggesting that they presently act for over 100 ex-players in the sport. It is not clear if the claim will be aimed purely at concussion protocols and awareness in Rugby Union or whether Rugby League players are also involved. The BBC News article can be found [here](#). Letters before Claim are purportedly to be served this week.

Overall, whilst the risk of concussion remains inherent in any dynamic contact sport, it is considered that other potential lines of enquiry for the future could include:

1. how on-pitch signs of concussion are identified and responded to;
2. how head injury assessments are conducted, for instance using physical and verbal testing, memory assessment, balance evaluation and/or relying on a player's previous baseline;
3. the recording or tracking of a player's history of head injuries with a view to identifying susceptibility (noting the potential for numerous concussions to be sustained during a player's career over years and whilst playing for a number of different clubs); and
4. how understanding and awareness of concussion and related issues is developed within the sport, for instance via the implementation of the Rugby Football Union's 'HEADCASE' programme.

We will update our Blog as developments occur. Already though, it seems clear that prominence will be given to the extent of contact in training and practice regimes, the cumulative effects of alleged sub-clinical mini-concussions and the introduction of wide-spread in-play protocols to ensure head injury assessments are undertaken properly before players are allowed to continue.

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