

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIR SITTING ALONE

on behalf of Surrey Football Association

NON-PERSONAL HEARING

Of

AFC Whyteleafe

[Case ID: 11502263M]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 07 November 2023, AFC Whyteleafe ("Whyteleafe", the "Club"), played a Surrey FA Saturday Premier fixture against Lingfield FC U23 ("Lingfield") – collectively the "match".
2. Following the fixture, a report was submitted by the Match Referee containing allegations of misconduct by an AFC Whyteleafe spectator.
3. Surrey Football Association ("Surrey FA") investigated the reported incidents.

The Charges

4. On 29 November 2023, Surrey FA charged AFC Whyteleafe:
 - 4.1. with misconduct for a breach of FA Rule E21 - Failed to ensure spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match;
 - 4.2. It is alleged that AFC Whyteleafe failed to ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to FA Rule E21.1.
 - 4.3. It is further alleged that the words and/or behaviour made reference to Sexual orientation contrary to FA Rule E21.4. This refers to the comment(s) *"Number 5 you take it up the arse"* or similar.
 - 4.4. Surrey FA advised in the charge letter the offence carried a sanction range of £0-400 fine.
 - 4.5. The relevant section of FA Rule E21 states¹:

"E21 A Club must ensure that spectators and/or its supporters (and anyone purporting

¹ p. 148 of FA Handbook (2023-24)

to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match and do not:

E21.1 “use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;

E21.2 throw missiles or other potentially harmful or dangerous objects at or on to the pitch;

E21.3 encroach on to the pitch or commit any form of pitch incursion;

E21.4 conduct themselves in a manner prohibited by paragraph E21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability” [...]”

4.6. Surrey FA cited the evidence that they intended to rely on in this case which was included with the charge letter.

5. AFC Whyteleafe were required to respond to their charge by 13 December 2023.

The Reply

6. The case bundle contains a to the charge response via WGS on 30 November 2023 of “deny-Correspondence”.

7. During the investigation, the evidence was submitted from:

7.1. Information supplied by the Match Official;

7.2. Statements from AFC Whyteleafe;

7.3. Statements from Lingfield FC.

The Commission

8. The Football Association (“The FA”) appointed me, Steve Francis, as a Chair member of the National Serious Case Panel, to this Discipline Commission as the Chair Sitting Alone to adjudicate in this case.

The Hearing and Evidence

9. The case bundle was sent via e-mail to the appointed Chair 01 December 2023 to be completed within 3 working days.
10. I adjudicated this case on 03-04 December 2023 as a correspondence hearing.
11. The following is a summary of the principal submissions provided. It does not purport to contain reference to all the points made. However, the absence in these reasons of any particular point, or submission, should not imply that we did not take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case. Where appropriate names have been redacted.
12. Below is a summary of the main points:
13. The report from the Referee was submitted on 08 November 2023, this states the following;
 - 13.1. The report in full states *"Early in the second half [redacted] of Lingfield U23s came to me to report homophobic chanting aimed towards him from supporters from behind the goal. [redacted] told me they were using the words " likes to take it up the arse" I thanked [redacted] for telling me and that we can investigate at the end of the game. I did not hear the chants. A tannoy announcement was then broadcast condemning homophobic chanting. This was not directed from any match official. 15 minutes later [redacted] reported to me the same chants were still going on. At the next stoppage in play I informed the home team manager to get a message across to the tannoy announcer to condemn the homophobic chanting. An announcement was then broadcast within the next minute"*.
14. The case bundle then moves onto the statements from Whyteleafe, these begin with one from the individual responsible for the club's Personal Address (PA) system and was submitted 09 November 2023. This provides the following;
 - 14.1. They were aware of a supporter who *"shouted a few comments at their 'keeper and seemed to be mostly addressing his height. This (although these seemed fairly*

innocuous), it seemed a bit like bullying to me. Later on in the course of the second half I heard him shout "Oi - number one takes it up the bum". I immediately walked to my PA post and announced something like "Ladies and Gentlemen, we are an inclusive club and will not tolerate any hate speech. No racist or homophobic chanting will be accepted"". They have never made any announcements whilst the ball is in play previously.

- 14.2. Shortly after the received a call from a team official who *"asked me to repeat the call as the referee had informed him more homophobic shouting had been heard. As I was at this time too far away to hear myself I cannot attest what was said the second time but I put out another call on the PA and also said that I knew who was the individual was".* They then made the decision to approach the individual directly and took a colleague with them in case the situation escalated *"I approached him and he became very defensive claiming "takes it up the bum" was not homophobic. We spent a good 10 minutes (and missed a goal) arguing with him about whether this was homophobic or not".*
- 14.3. The individual did admit to what they were shouting *"but claimed it was "banter". He refused to accept he was at any fault at all and stated he had been coming here for 20 years and never had this issue before. As I walked away, a Lingfield supporter said to me he had filmed him admitting he had used those words but it was banter".* They issued a further announcement at the end of the fixture *"We need shouting and singing and chanting because it all adds to the match atmosphere and experience, however, tonight a line had been crossed".* The individual claimed to be a regular but the author does not recall seeing them previously.
15. The next is from a supporter who was at the game, dated 13 November 2023 this adds the following observations;
- 15.1. Of the incident *"we decided to go behind the goal to watch the game. Very shortly afterwards a man that I have never seen at the ground before, though I know he has been to a few games recently, was distracting our attention by being quite loud. He then started to shout at the goalkeeper "number one, takes it up*

the bum." He did this on a few occasions and I got the impression that he was showing off in front of the two teenage boys he was with".

- 15.2. The individual was challenged by another supporter from Whyteleafe *"he had made his point and asked him to give it a rest. A few of the opposition players were getting annoyed at the abuse and made their feelings known to the referee. There was then an announcement over the tannoy saying that this was totally unacceptable and would not be tolerated. Unfortunately this made no difference to the guy who continued making comments to the Lingfield players"*. This was followed by a further announcement.
- 15.3. The witness also saw the interaction between the PA announcer and the individual *"confronting the man and asking him to please stop. The man wouldn't accept that he was in the wrong and said it was merely football banter"*. They have never witnessed anything like it in their time following the club and have never heard the Tannoy used for this purpose. Post-match they also noted a Whyteleafe player approach the individual to talk with them. The statement ends *"The welcome and reception opposing teams get at Church Road is exemplary, and this incident is not a true inflection on the standards set by the club and it's supporters"*.
16. The case bundle then moves onto the statements from Lingfield. The first is from the player allegedly abused dated 08 November 2023 who adds the following;
- 16.1. The alleged incident took place during the second half when he was jeered *"by home supporters behind the goal - one of which shouted very loudly and dearly "Number 5 you take it up the arse", to which I addressed the stand by saying "That's homophobic, stop that. That's really poor"".* He then notes the majority of the stand went quiet aside from one individual *"stood with two children responded by telling me to "Shut up you bender." I instantly reported this to the referee, and he responded by saying he didn't hear it and that it can be dealt with after the game. He also informed the home bench, which was shortly followed by an announcement encouraging those involved to stop through the Tannoy's"*.

- 16.2. Shortly after during another break in play the same individual *“still with two children – shouted “Number 5” then proceeded to blow me kisses, with the two children gesturing Wanker signs in my direction. He also shouted, “Aren't you lovely™, to which I responded by saying he can meet me afterwards if he wants my autograph. He then replied by saying “What do you want after, sex or something?” I then informed the referee that it's continuing, and the same procedure was followed during the second incident and a similar announcement was made”*.
- 16.3. This incident has left him feeling *“extremely frustrated and offended by this situation as I work very closely with young children and families who suffer from discrimination on a daily basis and am strongly educated in the long-term impacts this can have on people. Not only this, but my main concern also lies with the impression he was setting to the two young children he was with and the many others in attendance last night”*.
17. The second statement from Lingfield, also dated 08 November 2023 is from a parent of a player who was in attendance at the fixture. This contains the following observations;
- 17.1. The witness states *“A man shouted from the stands as the player, number 5, received a yellow card. He said, ‘you fucking puff, you take it up the arse’, ‘show us your arse’ ‘bend over and take it’. The player shouted back that it wasn't acceptable to say that, to shut up and he was being homophobic. The man then shouted at him ‘to grow up’, which was ironic as his team was an U23 squad, with young players”*. They allege other Whyteleafe supporters in the stands jeered and laughed at the comments.
- 17.2. The player appeared to them to be *“distressed and shaken by the abuse and approached the ref to tell him what was happening, I don't know what the exchange was. I then saw the Lingfield manager coming out of the building, I told him what I had witnessed. He seemed very concerned, and that he would deal with it. I would like to say that I was appalled by what I witnessed, the homophobic abuse directed at a young player is totally unacceptable and I hope this matter will be dealt with in the correct way”*.

18. The final statement from Lingfield is written by a club official, this provides the following;

18.1. Of the alleged incident they note midway through the second half they became aware of one of their players *"being clearly agitated by something said by a spectator and was speaking with the ref. The ref went over to the Whyteleafe bench and a few minutes later an appeal went out over the Tanoy asking for any homophobic abuse to stop"*. Shortly afterwards *"it was obvious that the same situation was occurring again, and that Sam was clearly agitated by what was happening. Once again, a further appeal went out over the Tanoy, quite a long and heartfelt message making it clear that this behaviour wasn't welcomed at the club"*.

18.2. They also note the approach of the club official from Whyteleafe towards the individual responsible *"and start to have a public discussion with the man who was shouting the homophobic abuse at Sam. I didn't walk over to the conversation but those nearby who overheard it seemed to suggest that the perpetrator didn't feel that he was wrong and that it was just a bit of banter. One of our supporters overheard him admitting to making the comments"*. This went on for some time *"but the man remained in the stand until the end of the game. At the end I noticed that he had two teenage boys with him so was very shocked that he could set such a bad example to them"*.

18.3. The author did wonder why they were not ejected from the ground *"in retrospect I agree with the decision to confront him in front of the other spectators and make him aware of the effects his behaviour was having on our player, the youngsters around him and the good name of AFC Whyteleafe"*. Lingfield have always had a good relationship with Whyteleafe and *"this was a very unfortunate incident to say the least. We feel very frustrated to have to submit this evidence but clearly the actions of this man need to be dealt with. We would like to make it clear that right from being notified of the original comments the Whyteleafe officials did everything they could to deal with the problem promptly and effectively and we would like to thank them for doing so"*.

- 18.4. They also note *"It was quite clear from their messages and actions that they were deeply upset by what was happening. Lingfield FC do not place any blame for the actions of one rogue individual on AFC Whyteleafe and we hope that this will be taken into account when considering the evidence of the evening"*.
19. Within the case bundle appendices there is communication between the County FA and Whyteleafe, they note the actions taken on the night of the game and believe the individual to not be a regular supporter adding *"if he is seen again and does the same thing he will be banned from coming to our games"*.
20. The final part of the case bundle is the response from AFC Whyteleafe to the charge raised; this begins by confirming their denial of the charge then provides the following in defence;
- 20.1. They feel they have mitigating actions in place *"with words in the programme to make sure people know this is not a place for foul or abusive language. When it was heard we made an announcement over the PA system. When it continued a further announcement was made and our stewards went and spoke to the man directly and told him its unacceptable and asked him to leave. I am unsure how the club could have prevented someone from saying something inappropriate and took all the appropriate actions when it occurred. I would be grateful if the league or FA have any guidelines to help us manage such a situation in future"*.
21. That concluded the relevant evidence in the case.

Standard of Proof

22. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, we would be satisfied that an event occurred if we considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

23. For case **11502263M** the aggravated E21 charge against AFC Whyteleafe, the allegation is of homophobic comments made on multiple occasions to an opposition player. Whilst Whyteleafe have accepted this has taken place they deny the charge as they feel they had dealt with the situation at the time.
24. When considering the evidence, the Commission note the actions taken in response. However, this abuse had taken place on a number of occasions and, despite the final response from the club noting they had asked for the individual to leave they had remained in their location until the end of the fixture. The statements from the Whyteleafe supporter also note the actions taken but the individual did continue. This has also adversely affected the player these comments were made towards and has taken offence to the comments made.
25. The Commission are satisfied there were multiple homophobic comments made by an individual who purported to be a supporter of Whyteleafe during the fixture. Therefore, the charge of E21 including the aggravated aspect has been found as **Proven**.

Previous Disciplinary Record

26. AFC Whyteleafe have 2 (two) teams, the five-year offence history contains no other charges of this nature.

Mitigation

27. As the charge has been accepted the "*credit for a guilty plea*" may be considered. The Commission also note the intervention of the Whyteleafe personnel and use of the Tannoy system, although this did stop short of ejecting the individual from the venue, to provide a high degree of mitigation. It was also noted by the Commission the actions proposed should the same individual attend and act in a similar manner.

The Sanctions

28. For case **11502263M** the aggravated E21 charge for AFC Whyteleafe the sanction range for this offence is as follows:

28.1. A fine up to £400

29. Due to the seriousness of the offence with a spectator continually making highly offensive and homophobic comments towards an opposition player, the Commission initially placed the sanction at the upper end of the guidelines at £300. Having considered the exemplary previous history and extensive mitigation listed above, the sanction will be;

29.1. fined a sum of £100;

29.2. A warning as to future conduct.

30. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

31. Signed...

Steve Francis (Commission Chair)

04 December 2023