

IN THE MATTER OF A FOOTBALL ASSOCIATION INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR SAIF RUBIE

WRITTEN REASONS OF REGULATORY COMMISSION DECISION

2 DECEMBER 2019

Overview

1. Saif Rubie (SR) is a registered Football Association Intermediary. By letter dated 27 September 2019, he was charged with Misconduct for two breaches of FA Rule E3 in respect of ‘tweets’ he posted on his Twitter account “@saifpr”:
 - a. On 12.7.18, SR posted
“I think it is an utter disgrace that Adam Johnson got time in the first place. Who hasn’t made a mistake similar to his?”. The tweet was followed by three “crying with laughter” emojis (hereinafter, “the Adam Johnson tweet”;
 - b. On 2.7.19, SR posted

"@knightie82 DON'T WORRY LADS THEY'RE COMING HOME". This tweet was accompanied by four emojis of monkeys covering their eyes and featured a photograph of a sink full of dirty dishes (hereinafter, "the dirty dishes tweet").

This tweet was alleged to constitute an Aggravated Breach of Rule E3 as defined in Rule E3(2) because of its implied reference to gender.

2. By Reply dated 11 October 2019, SR denied the charges but indicated that he was content for the matter to be dealt with at a paper hearing.
3. This hearing took place via WebEx before a Regulatory Commission comprising of Aisling Byrnes (Independent Legal Panel member, Chair), Ifeanyi Odogwu (Independent Legal Panel member) and Gareth Farrelly (Independent Football Panel member). Paddy McCormack, the FA Regulatory Commission & Appeals Manager, acted as Secretary to the Commission.
4. Having considered all of the material before it the Commission unanimously found both charges proved.
5. In short, the Commission considered that the proportionate sanction in the circumstances was
 - a. Six weeks' suspension from all Intermediary Activity;
 - b. A fine of £10,000;
 - c. A requirement to complete an online FA education course.
6. The Commission's reasons are set out below.

The FA's Case

7. The FA's case, as set out in its submissions dated 29 October 2019, was that
 - a. The Adam Johnson tweet was improper and/or brought the game into disrepute. It was a reference to the former footballer who had been tried, convicted and sentenced to a term of imprisonment in relation to sexual offences committed against an underage girl. Whether the tweet was posted in jest or not, its subject matter meant that it fell foul of Rule E3.
 - b. The dirty dishes tweet was a clear reference to the return of the England Women's football team from the World Cup following their defeat by the USA on the same date as the tweet. The point being made was that the women could now get to the task of washing up the dirty dishes, which was a remark based on the notion that doing the dishes is women's work. This was therefore an Aggravated Breach of Rule E3 as it contained an implied reference to gender.

SR's Case

8. In written submissions, supplemented by a personal statement, SR denied that either of the tweets was a breach of Rule E3.
 - a. The Adam Johnson tweet was a joke, as demonstrated by the presence of laughing emojis. What was in fact being presented by the tweet was the direct opposite of what it said: SR had experience through his ownership of a nightclub in Dubai of men making sexual advances towards underage girls who were often made up to look older. It was his view that Mr Johnson was rightly punished and that is what the tweet was intended to convey. The tweet was therefore neither improper nor did it bring the game into disrepute;

- b. The dirty dishes tweet was not a reference to the England women's team, but followed a conversation SR had been having with a friend (Leon Knight, who provided a statement to the same effect) about the fact that SR's male Philipino cleaner was often late or absent, leaving SR's apartment in disorder. The tweet was therefore neither improper, nor abusive or insulting.

The Rules

9. SR is subject to the Rules of the Football Association as set out in the FA Handbook 2019-20. Rule E3(1) (at p115) states:

'A Participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.'

For the avoidance of doubt, the Commission noted that the FA handbook 2018-19 applied to the Adam Johnson tweet; however, there was no material difference to the structure of the relevant Rules within the two Handbooks.

10. Rule E3(2) states:

'A breach of Rule E3(1) is an "Aggravated Breach" where it includes a reference, whether express or implied, to any one or more of the following: ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.....'

The Commission's findings

11. The Commission reminded itself that at all times the burden was on the FA to prove the case on the balance of probabilities. In arriving at its decisions, it had regard to all of the available material.

12. As to the Adam Johnson tweet, the Commission unanimously found that SR had breached rule E3 in posting it. This was because

- a. On any view the tweet was a reference to the conviction and sentence of Mr Johnson for sexual offences perpetrated against an underage girl;
- b. For a participant in SR's position, any humour publicly sought to be derived from that situation was quite simply improper;
- c. As such, SR's insistence that the tweet was "*a joke*" could not alter the position.

13. As to the dirty dishes tweet, the Commission also found the charge proved. This was because:

- a. Even absent a reference to a particular individual or group of individuals, the tweet was a clear message about dirty dishes being women's work and as such, discriminatory as to gender;
- b. The strong likelihood was, however, that this tweet referred to the returning England Women's football team because it was posted on the same date as that team's departure from the World Cup. In those circumstances, its impropriety was manifest.

Sanction

14. As liability had been proven, Mr McCormack confirmed that SR had no previous sanctions recorded on his disciplinary record.

Sporting Sanction

15. Although Regulation 48 (p145) provides that a Participant in SR's circumstances need not be subject to the usual mandatory minimum six match suspension, the Commission agreed that a sporting sanction was warranted here. This was because of the nature of the tweets – in particular one being aggravated by implied reference to gender - and the fact that SR has previously been warned about a comment he posted.
16. Having regard to the available mitigation, the Commission felt that the shortest possible sporting sanction was one of six weeks' suspension, effective immediately, from all Intermediary Activity.

Financial Sanction

17. Upon its finding both charges proved, the Commission was provided with a bundle of material relating to SR's football income. SR had previously objected to the admissibility of this material, requesting that the matter be ruled upon by a separate Commission, but we understood that the parties had eventually agreed, following a ruling made by the Christopher Quinlan QC on 18 November 2019 that the question of admissibility could in fact be decided by this Commission, but only in the event that the charges had been found to be proved.
18. We therefore considered, as a preliminary issue, the relevance and admissibility of the material, which comprised a schedule of payments to a company associated with SR – Future Gen Sports and Luxury – and submissions about that evidence.
19. The Commission considered all of the submissions with care and unanimously agreed that the material was relevant and admissible. This was because
 - a. The issue at stake was the proportionality of any sanction, including a financial one;

- b. It was therefore important that the fullest possible information be before the Commission so that the right decision could be made;
- c. The amounts set out in the schedule were indicative of the order of income received as a result of football related income by a company named by SR as being his;
- d. Although SR referred in general terms to the fact that not all of the income was his, no other information was supplied as to
 - i. any other potential recipients, for example other company officials or employees, or
 - ii. any other means by which that income might have been divided, for example by way of dividend or percentage.
- e. As such the Commission was entitled to consider the figures set out in the schedule, albeit in general terms without making slavish mathematical reference to each entry.

20. Against that background, and having regard to all of the facts of this matter, including the absence of any previous sanction recorded against SR, the Commission considered that the proportionate financial sanction here was a fine of £10,000.

21. The full amount of the fine must be remitted to the Football Association within thirty days of notification of this decision. Failure to do so will result in an automatic increase of 25% of the amount due and failure to then pay the total outstanding amount within a further 30 days from the date of confirmation of that 25% penalty will result in SR's immediate suspension from all football and football related activity, which will run concurrently with any other suspension, until such time as payment has been made in full.

Education

22. Finally, the Commission ruled that SR should complete an FA education course within four months of the date of the issue of this decision. The course may be online as opposed to “face to face” because SR is ordinarily resident in Dubai, UAE. Failure to satisfactorily complete the education course before this deadline will result in SR’s immediate suspension from all football and football related activity, which will run concurrently with any other suspension, until the course has been properly completed.

Appeal

23. The Commission’s decisions may be appealed in accordance with the Regulations.

3 December 2019

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