

In the Matter of
Sam Finley and an aggravated breach of
FA Rule E3.1
Before a Football Association Regulatory Commission

Venue:	Webex
Date:	9 th April 2020
Participant:	Sam Finley
Fixture:	Accrington Stanley FC v Rochdale AFC; League One EFL 1 st January 2020
The Commission:	Peter Powell – Chair – Independent Football Panel Member; Gary Mabbutt MBE– Independent Football Panel Member; Matt Willd– Independent Football Panel Member
Secretary	Michael O'Connor – FA Regulatory Commission's Appeal Officer.

A. INTRODUCTION:

1. The Participant was charged by the FA on 26 February 2020 with an aggravated breach of FA Rule E.3.1. during the Fixture.
2. The Participant admitted the Charge and therefore the Commission's task was to formulate an appropriate sanction.
3. These notes formulate the written reasons and decision arising from the above case. The following is a summary of the principal submissions and evidence provided to the Commission. It does not purport to contain reference to all the points made or evidence submitted; however, the absence in these reasons of any particular point, submission or evidence, should not imply that the Commission did not take such point, submission or evidence, into consideration when the Members determined

these matters. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

4. FA Rule E.3.1 states:

“The 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.”

5. FA Rule E.3.2. states:

“A breach of E.3.1 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”.

6. FA Regulation 47 (page 144 of the FA Handbook 2020/2021) requires that certain mandatory sanctions must be applied by a Commission to any proven Aggravated Breach as defined in 5 above. In the case of a first offence a minimum of 6 match bans and in the case of a second offence a starting point of an 11 match ban which can, at the Commission’s discretion, be varied depending upon additional aggravating or mitigating factors but with an absolute minimum of a 7 match ban.

7. However, FA Regulation 48 gives some allowance in certain circumstances and states (amongst other things) that where an Aggravated Breach is committed by reference to nationality only then the Commission is not bound by the mandatory sanctions specified in 6 above but may impose any sanction it considers appropriate.

B. THE FACTS:

8. The Fixture Referee, Mr T Nield, by a lengthy report dated 1st January 2020 stated in effect that during the Fixture Paul McShane of Rochdale AFC reported to him that he had been racially abused by the Participant having been called “a pikey”. Neither the Referee nor any of the officials heard the incident and having informed the technical area members of the incident Mr Nield arranged for the Participant to be seen soon after the game with his manager present. At that post match interview the Participant denied the allegations claiming only to have used the word “prick” and not “pikey”.

9. The Participant was subsequently interviewed by the FA on the 15th January 2020 and during that interview again claimed only to have said “fuck off back to your caravan you prick”.
10. However, consequent on being formally charged on the 26th February 2020 the Participant admitted the Charge.

C. THE HEARING:

11. The Chairman asked Mr O’Connor what previous charges of a similar nature were on the Participant’s record and was informed he had one charge of an aggravated E.3.1 charge from 2016 when he used abusive and/or insulting words, which included references to sexual orientation, towards a Match Referee.
12. The Commission as stated in paragraph 3 above, carefully considered all the evidence before it and in particular whether the use of the word “pikey” was an insult that was ethnic in character also or was “by reference to nationality only”.
13. However, they were content to treat the insult as by reference to nationality only, and hence within regulation 48 (para. 7 above), as:-

First the FA in its Reply to the Defence Submissions state at Para. 8:-

“Plainly given that this Aggravated Breach involves reference to nationality regulation 48.3 is engaged”;

And secondly it seemed to the Commission that the Participant had nationality in mind since in his Witness Statement he says “I did make reference that Paul should go back to his caravan and that I was referencing his being Irish in doing so”.

14. Therefore, treating the matter as one in which Regulation 48 can be applied, the Commission had complete discretion as to sanction. Nevertheless, the word “pikey” implied more insult than being implicitly called merely “Irish”, “Pikey” has well-known disparaging connotations associated with the term and is therefore commonly considered a slur. Consequently, the Commission felt that the 11 match ban indicated by Regulation 47 (see para. 6 above) should be a starting point for their deliberations.

D. THE SANCTION:

15. Having taken an 11 match ban as a starting point, the Commission were of the view that the Participant's initial attitude both at the post match interview with the Referee and subsequently with the FA had been evasive and obstructive persisting in the "prick" version which made little sense when tied to the admitted "caravan" comment.

Nevertheless, the Commission took into account the following mitigating factors:-

- (a) the offence is agreed by the FA as being nationality based only.
- (b) the Participant has (eventually) admitted the Charge and avoided Paul McShane having to give evidence.

- 15.1 Having given credit for the above the Commission imposed an 8 match ban with immediate effect until Accrington Stanley FC first team have completed 8 matches.
- 15.2 In addition the Commission regarded a fine of £1,700 would be applicable but in light of the mitigating factors above reduced this to £850.
- 15.3 Lastly, pursuant to FA Regulation 46 the Participant must undergo a face to face FA education programme, the details of which are to be provided by the FA.
16. This decision is subject to Appeal in accordance with FA Regulations.

Peter Powell
Chairman
16 April 2020