

THE FOOTBALL ASSOCIATION
REGULATORY COMMISSION

NON - PERSONAL HEARING

of

HARRY PELL (Case ID: ON-24000287)

THE DECISION AND REASONS OF THE COMMISSION

These are the written reasons of the decision of a Regulatory Commission of the Football Association (the “Commission”), having considered the matter as a non-personal hearing held online via the video platform MS Teams on 18th March 2024.

Introduction

1. The Football Association (“The FA”) had received a report of alleged Improper Conduct against Harry Pell (“Mr Pell”) as defined in FA Regulations. The report was in the form of a letter of complaint dated 5th March from Mr M Harris, Head of Football Administration for Milton Keynes Dons FC reporting incidents connected with a match played on Saturday 2nd March 2024 between AFC Wimbledon and Milton Keynes Dons FC (“the Match”).
2. The FA investigated the reported incident.

The Charges

3. On 6th March 2024 The FA charged Mr Pell with a breach of FA Rule E3.1 – Incident of Misconduct (Fast Track 2) and categorised the charge as a Non-Standard case.
4. It was alleged that during the warmup, prior to the fixture commencing, Mr Pell acted in an improper manner contrary to FA Rule E3.1.
5. The relevant section of FA Rule E3.1 states:

*E3.1 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”.*¹

6. The FA included with the charge letter the evidence that it intended to rely on in this case.

7. Mr Pell was required to respond to its charge by 11th March 2024.

The Reply

8. Mr Pell responded to the charge by letter on 5th March 2024 seeking to explain his actions.

9. Mr Pell formally responded to the charge by submitting the reply form on 12th March 2024 admitting the charge and asking for the matter to be dealt with by way of a paper hearing (a non-personal hearing). The reply form was accompanied by a statement from Mr Pell and a document setting out his mitigation of the charge.

Commission

10. The Commission was convened by The FA and comprised Paul Tompkins, as a Chair Person, with Wing members Brian Talbot and Francis Duku to adjudicate in this case.

11. The Commission was assisted by Marc Medas, FA Judicial Services Officer who acted as secretary to the Commission.

The Hearing & Evidence

12. The Commission sat on 18th March 2024 via MS Teams (“the Hearing”).

13. Prior to the Hearing all parties, including the Commission members, had received and read the bundle of documents and viewed the video evidence submitted with the bundle.

14. The following is a summary of the principal evidence before the Commission and does not purport to contain reference to all points made. The absence in these reasons of any particular point, piece of evidence or submission should not imply that the Commission did not take such point, piece of evidence or submission into consideration when determining the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials furnished in this matter.

¹Page 141 of the FA Handbook 2022/2023

15. The following evidence was provided in the case bundles:

15.1. Letter from Mr. M. Harris, Head of Football Administration, Milton Keynes Dons FC, dated 5th March 2024.

Mr Harris states, *“During the warmup, the AFC Wimbledon goalkeeper was undertaking a shooting practice with their goalkeeping coach in the goal where our supporters were positioned immediately behind and to the side. Whilst this drill was taking place, AFC Wimbledon player Mr Harry Pell had also positioned himself just outside the 18-yard box. Instead of shooting into the goal itself, Mr Pell deliberately struck numerous footballs directly into our supporters, of which several struck various people, one as young as 11 years old. Please see appendix 1, 2 and 3 which shows video footage of these incidents”*.

Mr Harris goes on to relay third party evidence of the incident:

“(1) “When the AFC players were warming up their player, Harry Pell, was shooting balls into the MK Dons crowd and my 11-year-old niece got hit straight in the side of the face all because Harry Pell thought it was funny”.

(2) “I’m not sure if you may have seen the incident itself or heard about it but during the warmup at today’s game (Wimbledon away) Their player, Harry Pell (number 8) was intentionally and deliberately kicking the football with power at the away fans. These shots weren’t aiming for the goal as shooting practice. It was a deliberate shot at the away fans. This happened multiple times, over and over. Harry Pell was laughing and smiling when the fans were confused at why they were being targeted. A young girl was sat on the row behind me and was hit in the face”.

(3) “I have been to these games before so not surprised how the away club treat MK Dons fans. However, I was not expecting a professional football player to intentionally kick footballs repeatedly into the away stand. AFC player, Harry Pell (8) repeatedly and deliberately kicked footballs into the away stand. I would estimate he did this about 8-10 times. I feel this is extremely unprofessional and dangerous. This could have resulted in a fan being injured. One of the balls did hit me, I punched it away as it came flying at me”.

(4) “An AFCW player was taking pot shots at our supporters with footballs. If he got a hit he erupted into a broad smile. John S and I were sat to the right of this, and the balls were being struck with ferocity at our supporters on a regular basis.”

Mr Harris also referred to social media posts of AFC Wimbledon supporters (Appendix 4), coverage in the national press and social media posts which Mr Pell had “liked” or reposted, which he suggested gave the lie to any suggestion that Mr Pell’s actions had

been unintentional. Mr Harris also raised further concerns arising from the Match, which were not the concern of this Commission.

15.2 Appendix 1 – a video of Mr Pell striking ball into away supporters.

15.3 Appendix 2 – a further video of Mr Pell striking ball into away supporters,

15.4 Appendix 3 – a further video of Mr Pell striking ball into away supporters,

15.5 Appendix 4 – a video taken by an AFC Wimbledon supporter. The video had been taken by Conor Keenan and posted on X with the legend, *“Interesting warm up from Harry Pell who has spent the last few minutes booting the ball into the away end.”*

15.6 Appendix 5 – an extract from Mr Pell’s social media repost of the incident. Mr Pell reposted a video entitled *“@Harrypell_7 lacing balls at the scum. #COYD #AFCW”*. Mr Pell also reposted Conor Keenan’s post on X (Appendix 4 above)

15.7 Appendix 6 – Mr Pell’s social media feed Likes

15.8 Further video evidence of Mr Pell striking ball into away supporters.

15.9 Screen recording of Mr Pell’s Social Media posts of the incident.

15.10 Letter from Mr Pell, AFC Wimbledon, dated 12th March 2024. Mr Pell had accepted the charge and in his letter he stated variously:

- *“I accept that my actions on 2nd March were not befitting of a Professional Footballer”*
- *“the situation got the better of me and I responded inappropriately to the Away support”*
- *“My “shots” were not struck with power but were intended more as a playful response to the verbal abuse from some of the spectators”*
- *“Sending the ball into the stands was a “rush of blood” reaction – on mature reflection, I should have simply ignored the shouts and got on with my warm-up”*
- In reference to his earlier letter of 5th March, Mr Pell said, *“emotions were raised and the potential seriousness of the situation had not dawned on me”* and *“I did not want to taint the day by admitting guilt.”*
- *“Fully understanding now the impact my actions may have had on the individuals effected (even though done without malice) and mindful of my professional responsibilities, I admit the charge”*
- *“I accept my actions were improper”*

- *“I would also wish to apologise unreservedly to anyone who was hurt in any way, and to The Football Association.”*

15.11 The FA’s response to Mr Pell’s reply. The FA recited the circumstances of the case and stated, *“It is The FA’s case that the deliberate nature of these actions was plainly improper.”* The FA also stated, *“The FA invites the imposition of a financial penalty commensurate with the serious nature of the misconduct and HP’s position in football. HP has admitted the Charge and thus should be afforded appropriate credit.”*

16. That concludes all the evidence that was provided to the Commission in the case bundle.

Standard of Proof

17. The applicable standard of proof required for this case is the civil standard of the balance of probability.² This standard means, the Commission is satisfied that an event occurred if it considers that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

18. The Commission reminded itself that the burden of proving a Charge falls upon The FA.

19. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission. It must assess the credibility of the witness, that is whether the witness is attempting to tell the truth, and the reliability of the witness, that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon.

20. Having considered which evidence to accept and which to reject, the Commission then has to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.

21. It should be noted that where direct speech is quoted in a witness statement, it has been recorded exactly in the wording and grammar in which it appears in the witness statement, without making any grammatical or typing alterations to obvious typographical errors.

The Hearing

22. The Commission proceeded as a non-personal hearing on the strength of the paper evidence in accordance with the request of Mr Pell.

³General provision A8 on page 169 of the FA Handbook 2022/2023

Deliberation on Charge

23. The Commission considered carefully the evidence before it. Notwithstanding the acceptance of the charge by Mr Pell, the Commission still needed to consider whether the charge was proven or not and determined that the evidence and acceptance allowed them to find the **charge proven**.

Aggravating and mitigating factors:

24. Notwithstanding the comments in mitigation presented by Mr Pell and his club the commission considered his actions to have been reckless and dangerous. From the evidence presented by Milton Keynes Dons it was likely that an 11 year old girl had been struck by one of the balls kicked by Mr Pell. His actions had been irresponsible particularly given the history of the two clubs involved and the sensitive and potentially volatile nature of the match.

25. Mr Pell had accepted the charge, although his initial indication was that he was intending denying it. That he had thought better of his position and accepted the charge was to his credit but by way of aggravation he had used social media to enjoy his temporary notoriety in the following days which strongly suggested to the Commission that Mr Pell understood what he was doing and also underlined his motivation for doing so. Far from distancing himself from the incident Mr Pell reposted posts identifying him and highlighting his actions.

The Participant's Record

26. The Commission sought details of Mr Pell's disciplinary record over the past five completed seasons and nothing was disclosed. This was to his credit.

Sanction

27. The Commission considered carefully what sanctions should be imposed. The Commission was aware that this was a non-standard case and was also mindful of the representations from The FA. However the Commission was unanimous in considering that a sporting sanction needed to be imposed as well as the financial one.

28. The standard sanction for the nearest equivalent standard penalty is a one match suspension from playing and a £500 fine where the offence is admitted. However this is a non-standard case. The Commission considered the intentional striking of several footballs into a targeted section of the crowd could easily fit into a description of assault. It was not clear why Mr Pell had done what he had done but his intention was clear. Also clear was that he enjoyed the attention he received at the time. He may not have been intending to hurt any spectators but it

must have been obvious to him as a professional footballer that this was a potential outcome and his actions had been extremely reckless at best.

29. The Commission took note of Mr Pell's declared total weekly football income.

30. Having taken into account the aggravating and mitigating factors available to it the Commission imposed the following sanction against Mr Pell:

- A one match suspension from playing football until such time as AFC Wimbledon have completed one (1) first team competitive match (Category 1) in an approved competition
- A fine of One Thousand Pounds (£1,000)

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

Paul Tompkins (Chair)

Francis Duku

Brian Talbot

20th March 2024