

## DISCIPLINARY COMMISSION

Sitting on behalf of the Amateur Football Alliance

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IN THE MATTER OF A NON-PERSONAL HEARING OF

ADAM HASTINGS

CASE ID 11117674M

(OLD FINCHLEIANS FOOTBALL CLUB)

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DECISION AND WRITTEN REASONS OF THE DISCIPLINARY COMMISSION

### **BACKGROUND AND HEARING**

1, The Disciplinary Commission, in the form of an FA appointed Chair sitting alone, adjudicated on 9<sup>th</sup> March 2023 upon charges brought by the Amateur Football Alliance (“The AFA”) against Adam Hastings (an Old Finchleians Football Club player) in respect of alleged misconduct by him during a match between Old Finchleians Football Club First (“Old Finchleians”) and West Wickham Football Club First (“West Wickham”) on 11<sup>th</sup> February 2023.

### **THE COMMISSION**

2. The Chair appointed to the Commission was Mr Michael Weeks (member of the National Serious Cases Panel).

### **THE CHARGES**

3. The AFA charged Adam Hastings as follows:

Charge 1: FA Rule E3 - Improper Conduct (including foul and abusive language).

Charge 2: FA Rule E3.2 - Improper Conduct – aggravated by a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.

## THE PLEA

4. Adam Hastings had entered a plea of “Guilty” to Charge 1, Improper Conduct – FA Rule E3.1, and a plea of “ Guilty” to Charge 2, the “aggravated charge – FA Rule E3.2, and requested that both charges be heard in his absence.

## THE EVIDENCE

5. The following is a summary of the principal evidence and submissions provided to the Commission Chair. It does not purport to contain reference to all the points made. However, the absence in these reasons of that point or submission does not mean that the point or submission was not taken into consideration when the Commission Chair determined the matter. For the avoidance of doubt the Commission Chair has carefully considered all the evidence submitted with regard to this case.

6. The Commission Chair was supplied with the following documents:

Misconduct Charge Notification Form (Adam Hastings) dated 22<sup>nd</sup> February 2023.

Extraordinary Incident Report Form dated 11<sup>th</sup> February 2023 from DA (the Referee) including a Participant Misconduct Report Form.

Email dated 12<sup>th</sup> February 2023 from JF (Assistant Referee) to The AFA outlining events.

Email dated 20<sup>th</sup> February 2023 from West Wickham (via the Secretary) to the AFA including a statement from JT (the player affected).

Statement dated 15<sup>th</sup> February 2023 from Adam Hastings.

Email (undated) from Adam Hastings “To whom it may concern”.

Character Reference for Adam Hastings dated 28<sup>th</sup> February 2023 from D (Old Finchleians Coach).

Whole Game System extracts confirming the pleas of “Guilty”.

7. The Commission Chair’s summary of the written evidence is as follows:

The Referee for this Southern Amateur League adult Mens match was DA. He, DA, reported that when he blew his whistle for half-time, he was standing near the side of the pitch at which the Old Finchleians Coaches and substitutes were stationed. The Referee was not looking at the Old Finchleian players as they left the pitch and headed towards their bench but he did hear “a couple of raised voices”. The Referee turned towards the voices “to ensure that everything was ok. As I turned around I witnessed from approximately 7-8 yards away the Old Finchleians player, Mr Adam Hastings said to the West Wickham player, JT, ‘You fucking rent boy’”. The Referee blew his whistle and after speaking to Adam Hastings to obtain his name and shirt number, “dismissed him from the field of play for the homophobic comment”. The Referee explained to Adam Hastings that he, the Referee, and the Assistant Referee had heard the comment and “the behaviour was not acceptable”. Adam Hastings turned to the Referee and said “you’re right, I’m sorry ref, I didn’t think”. The Referee did have cause to speak to Adam Hastings again as he, the Referee, was about to start the second half because Adam Hastings was standing next to the pitch. The Referee asked Adam Hastings

to return to the Clubhouse; Adam Hastings replied: “OK ref, sorry again”. As Adam Hastings walked across the pitch to the Clubhouse, he, Adam Hastings, stopped to shake hands with, and apologise to, JT.

Adam Hastings again apologised to the Referee after the match and was informed that a report would be made to the County Football Association. The Participant Misconduct Form lists Adam Hastings as having received a discipline Code marked by the Referee as “S6” (the use of offensive, insulting or abusive language).

JF, the Assistant Referee, provided a brief statement. “As the players were leaving the pitch (at half time) the Old Finchleian No 6, now known to be Adam Hastings, turned to the West Wickham no 11 and called him ‘rent boy’. Both DA and I clearly heard and saw this incident and D immediately showed Adam Hastings a red card for his homophobic remark”.

The Secretary of West Wickham (the opposition) wrote that the Club was “very much against any discrimination in football or life. The player in question we believe said something in the heat of the moment. Which he instantly apologised for and made sure all those involved were given an apology on the day. We as a Club and JT believe that the matter was dealt with by the referee on the day and will not be pursuing any further bans or action above those that are standard”. West Wickham also complimented the Referee on his “excellent” handling of the situation.

JT himself provided a brief account of events: “The left back and I had been going at each other all of the 1<sup>st</sup> half both giving each other some stick! It got to half time and we was still chatting away and as I walked off I believe he said ‘fuck off you rent boy’ think it was just said without thinking as we both were dissing abuse to each other during the first game (half). I’m sure he meant no harm with the comment and was just said in the heat of the moment”.

Adam Hastings himself said that he was shown a red card during half time “for a verbal exchange I had with another opposition player. To give background on the incident the game was a well contested event with both teams giving 100%. This included myself and the opposition player. I was wound up due to the actions of this player during the game. In the heat of the moment I made an inappropriate comment which I shouldn’t have made. Immediately the West Wickham player accepted the apology & considered the matter closed. In the bar after I drank a pint with the player and the West Wickham coach and we consider the matter closed. It was left very amicably with all parties involved. This also included the referee who joined us in the bar post game”.

Adam Hastings also provided a letter/ statement “to whom it may concern” – perhaps intended for the Commission. The statement repeated Adam Hastings’ apology and emphasised that the behaviour was “extremely out of character for myself and extremely embarrassing for both myself and the club I represent”. He, Adam Hastings, was not “in a good mental state post incident as I knew I had brought the game into disrepute”. Football was an important part of Adam Hastings’ life – he considered himself a “passionate non-league amateur footballing man who had received no yellow or red cards during this current season, nor had be previously shown “any physical aggression towards anyone on a football field”. He repeated his apology to the Commission.

D, the Old Finchleians Coach, provided a character reference for Adam Hastings. “Adam (Angus) his (is) a bright and thoughtful young man who has brought a brilliant energy to the team since his arrival back to the UK in October. While I fully condemn what was said on the day I firmly believe that this was truly out of character and brought out everything that went before in the run-up to this being said, as openly stated by the West Wickham player”. D continued his statement by emphasising how committed Adam Hastings was to his Club and to football. D hoped that no further suspension would be imposed upon Adam Hastings (beyond the red card standard punishment) because such an action could put a player “off playing the game”.

## THE HEARING

8. The Commission Chair noted that Adam Hastings had accepted that he was guilty of improper conduct by the use of foul and abusive language (Charge 1) (FA Rule E3.1). This was the correct plea in the view of the Commission Chair because the phrase - “fucking rent boy” or “fuck off rent boy” - was without doubt, foul and abusive. It implied that the person to whom it was addressed would prostitute themselves. Modern society, by whose standards the Commission would judge the matter, would deplore the use of such language in the circumstances of its use by Adam Hastings.

The Commission Chair then moved to consider Charge 2. This charge related to the use of the same phrase as quoted above, but The AFA alleged that the phrase referred to the sexuality (or perceived sexuality) of the person to whom the comment was made. Again, modern society would understand that the comment implied that JT would sell his body to a man (in a sexual way). In these circumstances Adam Hastings was correct to admit both charges. In the light of the “Guilty” plea to Charge 2, the Commission Chair would not impose any sanction in respect of Charge 1 because it was necessary for a Commission to be satisfied that language was foul and abusive before considering if a reference to a protected characteristic (sexuality) was “contained” within the relevant language.

## THE SANCTION AND REASONS FOR THE SANCTION.

9.

The Commission Chair was assisted by the FA Rules and Regulations 2022/2023 and the FA Sanction Guidelines in deciding an appropriate sanction in respect of Charge 2. He was also informed of the disciplinary record of Adam Hastings who was born in October 1995 and was thus aged 27 on the day of this match. The record disclosed, within the previous 5 (five) years, no previous misconduct charges, but did contain a caution (sin-bin) for dissent in November 2022. D, from Old Finchleians described how Adam Hastings had returned to the UK in October. The Commission Chair did not know for how long Adam Hastings had been out of the United Kingdom. Adam Hastings stated in his correspondence: “As I’m sure you can see I have also received no other yellow or red cards this season”. That statement does not at first sight sit with the record which disclosed a sin-bin caution for dissent in November 2022. The Commission Chair did not feel, on balance, that he should treat the record of Adam Hastings as a mitigating factor (see below).

The standard punishment of 2 (two) matches for the issue of the red card in this match is disclosed by the record. Those matches were due to be served from 18<sup>th</sup> February 2023. The suspension ordered by this adjudication will take into account that a standard punishment for the same conduct has been ordered.

The FA Rules and Regulations 2022/2023 prescribe that an adult playing participant should be suspended for a minimum 6 (six) matches if found guilty of a breach of FA Rule E3.2 (Charge 2). The suspension period may be increased (or decreased – but not below the standard minimum of 6 (six) matches) if aggravating and/or mitigating factors are found to be present. Aggravating and mitigating factors are those features of the case which make the matter more, or less, serious.

There were no aggravating factors found in this matter. Whilst using the word “fucking” or “fuck off” was not in any way condoned by the Commission Chair, he did not think the “enhancement” of the abuse by the use of this language sufficient to justify treating the inclusion of the word/those words as an aggravating factor.

The Commission Chair did treat the apology and remorse shown by Adam Hastings as a mitigating factor. The apology was evidently genuine and his Coach spoke highly of his commitment to the game. It was probable that Adam Hastings' emotions got the better of him at half time and he "let loose" (the Commission's expression) at JT. The Commission Chair would mention that he did note that JT was not greatly affected by the language used against him. However, a reasonable member of modern society would regard the language as offensive and homophobic if expressed in anger as displayed by Asdam Hastings. The reaction of the player to whom such a comment is made might be relevant in some circumstances, but the Commission's yardstick in this matter was the feeling and/or reaction of a reasonable member of society to hearing one player addressed in that fashion by another player.

The Commission Chair was unable to reduce the suspension period below 6 (six) matches but would mitigate the financial penalty to reflect the mitigating factor. Credit would also be given for the entry of the "Guilty" plea to Charge 2 by a further reduction in the financial penalty.

ADAM HASTINGS WILL BE SANCTIONED AS FOLLOWS:

Breach of FA Rule E3.2 - Charge 2

- (a) Adam Hastings will be suspended from all football and football activities for 6 (six) matches. The suspension will include a ground ban. The suspension will include the 2 (two) match suspension imposed by way of standard punishment following the red card for the same conduct. Any matches already served in order to comply with the standard punishment will 'count' towards the total of 6 (six) matches ordered by this adjudication.
- (b) Adam Hastings will be fined the sum of £45.00. This sum will be deemed paid if and when the sum of £45.00 ordered to be paid by virtue of the standard punishment, if not already paid, is paid. If the sum of £45.00 has been paid, there will be no further financial sanction.
- (c) Adam Hastings will be required to attend an online education programme within the period of the suspension order by this adjudication or within 28 days whichever is the longer. If Adam Hastings does not complete any part of this order, he will be the subject of a sine-die suspension until he has completed this order in its entirety.
- (d) 6 (six) penalty points will be added to the disciplinary record of Old Finchleians Football Club. The number of points reflects the seriousness of the matter.

APPEAL

10. These decisions are made subject to the FA Appeal Rules.

Michael Weeks (Commission Chair sitting alone).

9<sup>th</sup> March 2023.