

# THE FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

*Sitting on behalf of Amateur Football Association*

## NON-PERSONAL HEARING

*of*

**CHARLIE KELLY  
OLD ALOYSIANS THIRD**

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### THE DECISION AND REASONS OF THE COMMISSION

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#### **Introduction**

1. These are the written reasons of Davide Corbino (“Chair” or the “Commission”), having considered the matter on papers as Chair alone on a Non-Personal Hearing basis.
2. These written reasons contain a summary of the principal evidence before the Chair 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 Chair did not take such point, piece of evidence or submission into consideration when determining the matter. For the avoidance of doubt, the Chair has carefully considered all the evidence and materials furnished in this matter.

#### **The Charge**

3. By a Misconduct Charge Notification dated 21 March 2023 (the “Charge Notification”) issued by the Amateur FA against Charlie Kelly, Mr Kelly was charged with a breach of FA Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour).
4. More particularly, it is alleged that Mr Kelly used threatening language and/or behaviour towards the match official by confronting him, saying

“what are you going to do eh? What are you going to do?” or similar and/or “I am not going to leave right?!?” or similar, whilst motioning with a tennis racket in the match officials’ direction and that these actions made the match official feel unsafe, and the referee felt he had no option but to abandon the game.

5. Mr Kelly pleaded guilty to the charge and elected for the matter to be dealt with by way of correspondence. Accordingly, the matter has been dealt with by me, as Chair alone, on a Non-Personal Hearing basis.

### **Evidence**

6. As aforementioned, the following is a summary of the principal evidence only. Where the written statements provided to the Commission contain typographical and/or grammatical errors, they have been recorded as drafted, without correction, to provide a true and accurate reflect of the evidence which has been submitted.
7. Following the fixture between Old Aloysians Third and Old Vaughanians Third on 25 February 2023, Giuseppe Pentangelo the Match Official submitted an Extraordinary Incident Report Form dated 27 February 2023, which stated, inter alia:  
*“...I received continued abuse and threatening behaviour from Charlie Kelly from old Aloysians 3rd. It was 3 - 0 when he continued in his attitude even if he had been warned previously, and he came up to me to confront me saying "you're not even good to take a fucking decision and then "fucking idiot" – the incident started when the 3rd goal was scored and we ere close to the border of the penalty area - so I cautioned him with a yellow card, but he continued with offensive language confronting me when I told him that he continued in this way I would have taken further decision and he said, getting close to me like to confront me face to face saying "what are you going to do eh? What are you going to do?" and he encouraged his players to leave the pitch, so I sent him off. Once he's been sent off he refused to leave the area, he was at the border of the throw in area, and he had a tennis racket in his hand and was waving in my direction like trying to*

*intimidate me saying "I am not going to leave right?!?", so I abandoned the game as I felt unsafe to continue."*

8. Zoe Wheeler submitted an email dated 16 March 2023, which stated, inter alia:

*"I went to watch the game and was not refereeing or observing.*

*When I arrived and expected game to have KO and the catch the second half but there was delay in KO. Giuseppe refereed game well*

*But one of aloysians player was giving him problems*

*He recognised me and was suggesting I take over, undermining the referee during through out the match.*

*When third goal was scored one of aloysians player thought offside and challenged referees decision he was*

*Sent off and was asked to leave field of play and pitch*

*He encouraged his team to walk off*

*Then the picked up a tennis racket and was swinging it in referees direction - I told him to put it down.*

*At this point match was abandoned and referee walked off. I went to see if referee was ok and it was determined that match could not be continued."*

9. Eamonn Brett, player for Old Vaughanians, submitted a statement dated 28 February 2023, which provides inter alia:

*"...After 35 minutes, Old Vaughanians 3rd XI had just scored their third goal when the Old Alyosians centre back, the player in question, run up to the referee and started to mimic the referee and shouted at him the following words 'what are you going to do?' I was directly next to the incident, so I am sure of my wording. The player then became more aggressive and started to swear at the referee who then showed the player a red card. The player in question walked off the pitch and stood on the touchline. The referee asked the player to move from the touchline, but the player shrugged his shoulders and refused to remove himself from the touchline. The player then walked over to a pile of our belongings, picked up a tennis racket which belonged to the Old Vaughanians goalkeeper's daughter, who is less than 10 years old and was also present, and shouted*

*at the referee 'I will fucking iron you out.' My view of this incident was unrestricted, and his comments were very audible. At this point, the referee walked off the pitch signalling that the game was abandoned..."*

10. Joseph McWeeney, player and captain for Old Vaughanians, submitted a statement dated 28 February 2023, which provides inter alia:

*"...I witnessed the right back of the Old Aloysians 3XI threaten the referee with violence. The player in question was around 5'6 in height, white, quite stocky and with dark blonde hair. The incident in question occurred around the 40<sup>th</sup> minute. I was 20 yards away from the initial incident where the player was abusive towards the referee, so I did not hear clearly what was initially said but I did have an unrestricted view. The referee sent the player off for abusive remarks made. At this point the player started to make threats of violence towards the referee and was face to face with the referee. The referee then stated that the game will not resume until the player was no longer in view of the pitch and had returned to the dressing room. This led to an escalation in the threats of violence made towards the referee. The player, who was now on the side-line, picked up one of our players kids tennis rackets and threatened the referee by saying "I will fucking iron you out". This was all a couple of yards away from two young children. I was 10 yards away from this incident and had a clear unimpaired view of it. At this point the referee decided to abandon the game due to the persistent threats of violence from the opposition player and his failure to leave the pitch."*

11. Mr Kelly submitted a statement dated 2 March 2023, which provides inter alia:

*"...I walked over to him I did not shout I ask to explain who played himself (why he had his hand up, his hand was still up when I approached him). The referee replied I don't have to explain myself.*

*I asked who played him on and the referee gave me yellow card and asked if I wanted to go in the sin bin. I said I don't care. The referee said "do you want a red card", I said "I don't care do what if you want he gave me the red card". I then walked away from the referee. The referee then gave me a red card and I walked off the pitch. I did not fight the red card and walked off the pitch.*

*At this point it was hailstones and rain so I looked for my little bag (it had my phones rings money etc). The referee asked me to go to the changing room, I said let me get my bag and I will go to the changing room. The bags were separated, some was by a small goal off the side of the pitch and few in at the end of the pitch past the goal where there is some shelter from the rain and hail. The referee called at me and I said 6 times let me find my (small) bag and coat. Then he walked off. I spoke to the lady who was watching the referee's performance I said, "tell him I am going please". Everyone felt the red card was harsh.*

*Players from both sides wanted to restart the game and said to the referee he is off the pitch, let us restart the game, but the referee would not until I had moved away, which I was trying to do once I had my bag and coat.*

*There were a few bags, rackets and a few jackets but the side of the pitch as I was still searching for my bag. As I picked up the bag and racket to look up I did shout for fuck sake "let me find my bag and I will go". I was not in his face, I was at least 15+ yards away from him, I did not even look back to talk to him.*

*I started walking off he walked off as well the lady referee said leave him. I said I am going to get changed. I did say again I was getting my coat and bag, as the weather was bad. The referee said I don't care. I still don't know why he sent me off for asking a question. I don't feel picking up a racket helped my case but I was just looking for my coat and bag..."*

12. An email was submitted by Akin Fayoyin submitted an email dated 26 February 2023, which stated, inter alia:

*"...I have obtained details from Ray Smullen (Ray was not at the game yesterday) and Grant Board and I have got details from both. The details are as follows...*

*...Due to the appeals for Offside the referee decides to send off Charlie Taylor. Charlie Taylor asks why he is being Sent Off. The referee responded 'I don't have to explain myself'. Grant Board asks the referee why Charlie Taylor is being Sent Off, and the referee responds ' I don't have to explain myself'.*

*Charlie leaves the field and is looking for his bag and coat as it is hailing. The referee points towards Charlie saying he needs to leave the side of the pitch. As Charlie looks for his coat and bag among the teams bags both sets of players ask for the game to be restarted but the referee is insisting that Charlie needs to leave the side of the pitch. Again both sets of players ask for the game to restart, and the referee ignores all of them saying 'I don't have to explain myself. As Charlie is still close to the pitch but is leaving the referee abandons the game. Both teams ask why the game is being abandoned, the referee says 'I don't have to explain myself. This takes place within 2 minutes...'*

13. As aforementioned, Mr Kelly pleaded guilty to the charge. A further document was submitted which stated:

*"I have spoken to Charlie Kelly regarding the additional information that has been provided. Charlie has pleaded guilty to the charge and does not want to attend the Hearing.*

*Charlie did say he wanted to apologise for his role in the incident and apologise to the referee Guiseppe Pentangelo. Charlie also asked for leniency in your decision.*

*From my point of view, Charlie is a player who has been with Old Aloysians for a number of years and this incident is out of character for him. Charlie gets the odd booking but this incident and the details provided have forced Charlie reflect on his actions."*

### **Sanction**

14. Given that the charge had been accepted, the Commission formally records that the charges are found proven by admission. The only issue to determine is the appropriate sanction.
15. The Commission had regard to the FA Sanction Guidelines and the FA Disciplinary Regulations 2022/23 generally including both the recommended and minimum and maximum sanctions.

16. Regulation 101 of the Disciplinary Regulations provides that a Disciplinary Commission shall impose an immediate suspension within a range as set out:

*“101.1 suspension from all football activity for a period of between 56 days and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors, is 112 days.*

*101.2 a fine of up to £100, with a mandatory minimum fine of £50.*

*101.3 an order that the Participant completes an education programme before the time-based suspension is served.”*

17. The entry point for a suspension is, therefore, 112 days but I must now also take into account aggravating and mitigating factors.

18. This is plainly a serious breach. No match official should have to endure such behaviour. The Commission considered the following as serious aggravating factors in this case:

- i. The sustained nature of the incident which continued notwithstanding Mr Kelly having been cautioned and then dismissed from the field of play.
- ii. The commission of the offence included the wielding of a racket, used to threaten and intimidate by swinging it in the match official's direction.
- iii. Mr Kelly had refused to leave the area.
- iv. Mr Kelly's behaviour left the match official feeling unsafe.
- v. Mr Kelly's behaviour ultimately led to the abandonment of the fixture.

19. As to mitigation, the Commission notes that Mr Kelly pleaded guilty to the charge and offered an apology to the match official. I have also considered Mr Kelly's disciplinary history; there are no prior findings of misconduct and thus, nothing relevant to take into account for present purposes, which assists him on mitigation.

20. Taking all the above into account, I impose a suspension above the recommended entry point although below the higher guided level – that is a suspension of 154 days from all football activity. In terms of a fine, I determine that the sum of £80 is appropriate. The education course is mandatory.

### **Outcome**

21. For the reasons set out above:

- i. The charge is found proven by admission.
- ii. Mr Kelly shall receive a suspension of 154 days from all football activity.
- iii. Mr Kelly shall pay a £80 fine.
- iv. Mr Kelly shall attend a compulsory online FA Education Course, to be completed before the time-based suspension is served, failing which he will be suspended from all football activity until such time as he has completed the course.
- v. The Club shall also receive 7 club penalty points, commensurate with the breach and reflective of the factors considered above.

22. Whereby the participant fails to comply with the order, a Sine-Die (indefinite) suspension shall be imposed until such time the participant becomes compliant with the order of the Disciplinary Commission.

23. This decision is subject to the right of appeal under the relevant FA rules and Regulations.

**Mr Davide Corbino**

4 April 2023