

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of the Amateur Football Alliance

CORRESPONDENCE HEARING

of

MIKEY GRAHAM

HALE END ATHLETIC

[Case IDs:11132598M and 11137608M]

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. On 18th February 2023, Hale End Athletic (“the Club”) played a fixture against Southgate County Reserves (“Southgate”) – collectively the “Match”.
2. The Match Referee, Mr Abiodun Abraham, reported the conduct of Mr Mikey Graham (“MG”), a Club player.
3. The Amateur Football Alliance investigated the reported incidents.

The Charge

4. On 23rd February 2023, The Amateur Football Alliance charged MG:
 - 4.1. with misconduct for a breach of FA Rule E3 – Improper Conduct - Assault or Attempted Assault on a Match Official in that it is alleged that Mikey Graham used violent conduct and/or threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it is further alleged that this constitutes Assault or Attempted Assault against a Match Official as defined in FA Regulations. This refers to the allegation that Mr Graham swore at and/or threatened the Match Referee saying “you fucking idiot” or similar, and/or, “have been warning you, am going to smash your head off or similar, and/or “am going to fuck you up” or similar, and/or “you are a fucking bitch” or similar. It is also alleged that Mr Edwards Watson grabbed the Match Referee around the neck and/or struck the Match Referee on the face. As a consequence of these actions, the Match Referee was fearful for his own personal safety and had no option but to abandon the match (“the 1st charge”) or
 - 4.2. with misconduct for a breach of FA Rule E3 – Improper Conduct against a Match Official (including physical contact or attempted physical contact and threatening and/or abusive language/behaviour) contrary to FA Rule E3.1 (“the 2nd charge”)
5. On 28th February 2023, The Amateur Football Alliance also charged MG:
 - 5.1. with misconduct for a breach of FA Rule E3 - Improper Conduct (including foul and abusive language) (“the 3rd charge”)
and/or
 - 5.2. with misconduct for a breach of FA Rule E3.2 - Improper Conduct – aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability in that it is alleged that Mikey Graham used abusive and/or indecent and/or insulting language contrary to FA Rule E3.1, and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to gender. This refers to the comment “You are a fucking bitch” or similar (“the 4th charge”)
6. The relevant section of FA Rule E3 states:
“E3.1 A Participant shall at all times act in the best interest 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.”
7. In respect of the charge, assault and threatening behaviour against Match Officials is defined, under *Offences Against Match Officials*, as:

“96.3 Assault or attempted assault: acting in a manner which causes or attempts to cause injury to the Match Official (whether or not it does in fact cause injury), examples include, but are not limited to, causing and/or attempting to cause injury by spitting (whether it connects or not) causing and/or attempting to cause injury by striking or attempting to strike, kicking or attempting to kick, butting or attempting to butt, barging or attempting to barge, kicking or throwing any item directly at the Match Official.”

8. And E3.2 provides that 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.*
9. The Amateur Football Alliance included with the charge letters the evidence that it intended to rely on in these cases which are being heard as a consolidated matter pursuant to Reg 13 of FA Disciplinary Regulations which provides that “where the subject matter of or facts relating to a Charge or Charges against one or more Participant(s) is sufficiently linked...The Association...shall have the power to consolidate proceedings so that they are conducted together....”.
10. MG was required to respond to the 1st and 2nd charges by 2nd March 2023 and the 3rd and 4th charges by 7th March 2023.

The Reply

11. On 2nd March 2023 MG responded to the 1st and 2nd charges. He admitted the same, requesting that the case be dealt with in his absence at a correspondence hearing. MG has failed to respond to the 3rd and 4th charges and they fell to be determined in his absence at a personal hearing as if he had denied the same.

The Commission

12. The Football Association (“The FA”) appointed me, Karen Hall, as a Chairman member of National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate in this case.

The Hearing & Evidence

13. I adjudicated these cases on 8th March 2023 as a Consolidated Correspondence Hearing (the “Hearing”).
14. I had received and read the bundle of documents prior to the Hearing.
15. The following is a summary of the principal submissions provided to me. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all the evidence and materials furnished with regard to these cases.
16. The Match Referee, Mr Abiodun Abraham, submitted a Report dated 19th February 2023, in which he stated that in the 45th minute of the Match he booked and sin binned a Club player. It is accepted that although his report refers to Hayden Edwards-Watson it was in fact MG that then became very angry and aggressive towards him. (This is confirmed by the Club in an email dated 23rd February 2023 to the Amateur Football Alliance) MG was asked to calm down but he did not. Mr Abraham sin binned MG but he refused to leave the field of play and walked towards him and grabbed him (the Referee) by the neck. MG had to be pulled back by players of both

teams. MG came back at the Referee and hit him in the face. Mr Abraham spoke to both team captains and then abandoned the Match.

17. In response to further questions posed by the Amateur Football Alliance, Mr Abraham confirmed that MG said “you fucking idiot”, “have been warning you, am going to smash your head off”, “am going to fuck you up” and “you are a fucking bitch” which he repeated more than 3 times. It was then that MG ran towards him and grabbed his neck before being pulled away. MG then came back and punched Mr Abraham with his right arm on the left side of his face. This left him with some pain in his neck from being grabbed.
18. Mr Costa Stylianou, Southgate Manager, provided an undated Statement in which he states that in the 45th minute of the Match, Club players approached the Referee to complain about his refusal to award a penalty. The Referee went to sin bin 2 players when one reacted by moving “aggressively and threateningly” towards the Referee and put his hands around his neck, grabbing the Referee’s face and pushing it away and also forcing his head against the Referee’s. Players from both teams reacted quickly to remove the player and drag him away and Southgate players stayed with the Referee who then abandoned the Match. Mr Stylianou then stayed with the Referee whilst he gathered his things and left.
19. Mr Cliff Lovett, Southgate chairman, provided an email Statement dated 21st February 2023 in which he states that he saw the Club number 23 approach the Referee in around the 40th minute of the Match. He describes this approach as “aggressive”. As the player approached the Referee he pushed him in the chest forcing the Referee off balance and needing to take a couple of steps backwards. The player took a couple of steps forward and appeared to head butt the Referee twice before looking to hit him. Players from both sides pulled the number 23 away.
20. Mr Noah Ojetola, a Club coach, provided a email Statement dated 23rd February 2023 in which he states that MG had become increasingly annoyed with the Referee through the Match. The Referee sin binned another Club player, which MG argued with the Referee about. The Referee asked him to stop and he did not. MG was sin binned too. This angered MG who squared up to the Referee shoving his face into the Referee’s face. Mr Ojetola walked on to the pitch to defuse the situation and pulled MG away. MG was then shown a red card which angered him further. He broke free and ran to the Referee trying to attack him. Mr Ojetola pulled MG away again and shouted at him to go home. He subsequently apologise to the Referee and checked he was ok. The Match was then abandoned.
21. Within the bundle is a video which is ostensibly of a match on the pitch in front of the Match. However, at approximately 78.25 I can clearly see a player approach the Referee and confront him. I can also clearly see the player make contact with the Referee.
22. In addition, the charge letter in respect of the 1st and 2nd charges clearly refer to a Mr Edwards – Watson in respect of the Assault element of the charge. The letter itself clearly identifies as relating to MG. In this regard, for the avoidance of doubt, I had regard to General Provision 4 of the Disciplinary Regulations. This states that *“the bodies subject to these General Provisions are not courts of law and are disciplinary, rather than arbitral, bodies. In the interests of achieving a just and fair result, procedural and technical considerations must take second place to the paramount objective of being just and fair to all parties”*. I am satisfied therefore that this error does not invalidate the charge letter.
23. That concluded relevant evidence in this case.

Standard of Proof

24. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

25. In respect of the 1st Charge, MG admitted the same and liability was pre determined by the guilty plea.
26. In this particular case the Referee has provided clear evidence of the incident, coupled with the Statements of Mr Costa Stylianou, Mr Cliff Lovett and Mr Noah Ojetola together with the video evidence. I found that it was a matter of fact that MG laid his hands on the Referee, together with a headbutt or attempted headbutt, which constitutes *“acting in a manner which causes or attempts to cause injury to the Match Official”*. Therefore, in respect of the Charge, I found on the evidence above together with the guilty plea, that this was Assault or Attempted Assault on a Match Official, contrary to FA Rule E3.1, and that the Charge is PROVEN.
27. In respect of the 4th Charge, I note that MG has not replied to this, which fell to be determined as if he had denied the same. The Referee states that MG said “you are a fucking bitch”, which he repeated 3 times. The Referee provided clear evidence, in a Report and subsequent email provided shortly after the incident when events would have been fresh in his mind. There is no evidence to contradict the Referee’s account. Therefore, in respect of the 4th charge of misconduct for a breach of FA Rule E3.2 - Improper Conduct – aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability, I found the charge PROVEN.

Previous Disciplinary Record

28. After finding the charges proven, I sought MG’s offence history. I note that there are no previous misconduct charges within the preceding five years.

Mitigation

29. Within the bundle I note comments from MG in which he apologises for his actions. He states that he felt that he wasn’t being protected enough during the Match but he let his anger get the better of him. He states that he has let himself and his Club down and apologises to the Referee and the League for his actions.

The Sanction

30. In respect of the 1st Charge the relevant FA Disciplinary Regulations on sanction (Regulation 101.7) states that in respect of this charge a sanction of a suspension from all football activities for a period of between 5 and 10 years. There shall also be an order that the participant completes an education programme before the time based suspension is served.
31. Regulation 102 provides factors to be considered when determining sanction. In that regard I note that GDC attempted to strike the Referee and placed his hands around his throat. There was no remorse shown nor apology offered on the day, though I note the subsequent email. I am mindful of the participants offence history. However, I felt the repeated contact with the Referee merited a deviation from the minimum sanction.
32. After taking into consideration all circumstances in this case, Mr Mikey Graham is:

- 32.1. to serve an immediate suspension from all football and football activities for 8 (eight) years commencing from the date of his suspension namely 23rd February 2023;
- 32.2. to satisfactorily complete a face to face mandatory education programme before the time-based suspension is served, Mr Graham be suspended until such time he successfully completes the mandatory education programme, the details of which will be provided to him;
33. In respect of the 4th Charge, the relevant FA Disciplinary Regulations on sanction state that the guidelines for a breach of FA Rule E3.2 is that where an aggravating factor exists the minimum sanction is a 6 (six) match suspension with the maximum being 12 (twelve) matches.
34. After taking into consideration all circumstances in this case, Mr Mikey Graham is:
- 34.1. to serve an immediate suspension from all football and football activities for 6 (six) matches, such suspension to follow the time based suspension referred to in 32.1 above;
- 34.2. fined a sum of £70 (seventy pounds); and
- 34.3. to satisfactorily complete an online mandatory education programme before the time-based suspension is served, or Mr Graham be suspended until such time he successfully completes the online mandatory education programme, the details of which will be provided to him. For the avoidance of doubt, this programme is not in addition to the one referred to in 32.2 above;
35. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Karen Hall F.C.Inst.L.Ex (Chairman)

8th March 2023