

FA NATIONAL SERIOUS CASE PANEL
CONSOLIDATED DISCIPLINARY COMMISSION
CHAIRMAN SITTING ALONE
on behalf of Amateur Football Alliance

NON-PERSONAL HEARING
of

Kushtrim Raca

Carshalton FC

[Case ID: 11243613M & 11281039M]

Consolidated with

Carshalton FC

[Case ID: 11281040M]

THE DECISION AND REASONS OF THE COMMISSION

<u>Content</u>	<u>Page</u>	<u>Paragraphs</u>
1. Introduction	3.....	1 - 3
2. The Charges	3.....	4 - 8
3. The Reply	5.....	9 - 10
4. The Commission	5.....	11
5. The Hearing and Evidence	5.....	12 - 21
6. Standard of Proof	10.....	22
7. The Findings & Decision	10.....	23
8. Previous Disciplinary Record	10.....	24 - 25
9. Mitigation.....	11.....	26 - 27
10. The Sanctions.....	11.....	28 - 35

Introduction

1. On 22 April 2023, Old Meadonians FC (“Meadonians”), played a Southern Amateur League Junior Section Division 6 South fixture against Carshalton FC (“Carshalton”, the “Club”) – collectively the “match”.
2. Following the fixture, the appointed Match Official submitted an Extraordinary Report regarding the alleged misconduct of Kushtrim Raca of Carshalton FC.
3. The Amateur Football Alliance (“AFA”) investigated the reported incidents.

The Charges

4. On 30 May 2023, the AFA charged Kushtrim Raca:
 - 4.1. 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) (**Charge 1**);
 - 4.2. It is alleged that Kushtrim Raca 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 Physical Contact or attempted Physical Contact against a Match Official as defined in FA Regulations. This refers to the allegation that after Mr Raca received a red card they made contact with the referee’s arm/hand and resulted in the card being located on the ground.
 - 4.3. AFA advised in the charge letter that the range of sanction for **Charge 1** was a suspension of between 112 days and 2 years with an entry point, prior to considering any mitigating or aggravating factors is 182 days; a fine of up to £150, with a mandatory minimum fine of £75 and a mandatory education programme to be completed before the time-based suspension is served.
 - 4.4. The charge letter further informed Carshalton FC that Kushtrim Raca, due to the serious nature of the offence, is immediately suspended from

all football and football activities from 30 May 2023 until the case has been dealt with by the Association.

4.5. The relevant section of FA Rule E3 states¹:

“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.

5. On 30 May 2023, the AFA also charged Kushtrim Raca:

5.1. with misconduct for a breach of FA Rule E10 - (Participant) Failed to comply with a decision of the Association (**Charge 2**);

5.2. Kushtrim Raca of Carshalton Sixth is hereby charged with a breach of FA Rule E10 Failure to comply with a decision of the Association. It is alleged that Mr Raca played in a fixture on Saturday 22nd April 2023 whilst serving an active suspension from All Football.

5.3. AFA advised in the charge letter that the range of sanction for **Charge 2** was a suspension between 1-5 matches; a fine of up to £40.

6. On 30 May 2023, the AFA also charged Carshalton FC:

6.1. with misconduct for a breach of FA Rule E12 - (Club) Failed to comply with a decision of the Association (**Charge 2**);

6.2. Carshalton Sixth is hereby charged with a breach of FA Rule E12 Failure to comply with a decision of the Association. It is alleged that Kushtrim Raca played in a fixture on Saturday 22nd April 2023 whilst serving an active suspension from All Football.

6.3. AFA advised in the charge letter that the range of sanction for this offence was a fine of up to £200.

¹ p. 141 of FA Handbook

7. The AFA included with the charge letters the evidence they intended to rely on in these cases.
8. All participants were required to respond to their respective charges by 06 June 2023.

The Reply

9. On 06 June 2023 all cases were responded to via WGS accepting their charges and requesting they be dealt with by correspondence.
10. During the investigation, evidence was submitted from:
 - 10.1. Match Referee, Extraordinary Incident report and further observations;
 - 10.2. E-mails between the AFA and League Registration Officer;
 - 10.3. E-mails between the AFA and Old Meadonians;
 - 10.4. E-mails between the AFA and Carshalton;
 - 10.5. E-mails from Carshalton FC.

The Commission

11. The Football Association ("The FA") appointed me, Steve Francis, as a Chair member of the National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate in this case.

The Hearing and Evidence

12. The case bundle was sent via e-mail to the appointed Chair 08 June 2023 to be completed within 3 working days.
13. I adjudicated this case on 09 June 2023 as a correspondence hearing.
14. The following is a summary of the principal submissions provided. 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 we did not

take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case. Where appropriate names have been removed from statements.

15. The appointed Match Official for the fixture submitted an Extraordinary Incident Report via WGS 22 April 2023 which states the following:

15.1. The report states in full *"I have to report that after I sent off Kush Raza, he lashed out and knocked the red card out of my hand before walking off the pitch. The manager apologised for Carshalton 6s poor conduct after the game via email"*.

15.2. On 24 April 2023 the AFA contact the Referee for further details on the incident, on 27 April 2023, the Referee responds noting *"The player I sent off was fouled and then reacted violently by striking the player with his hand/arm. It happened near the halfway line. I can't recall what was said before but after the player made remarks about me being the worst ref he'd seen. The player used the back of his hand to whack the card out of my hand whilst I had it in the air to signal the dismissal. In terms of force used it was enough to knock it out of my hand and on to the floor. I'd say it was a slight whack with his right hand/arm. The card was in my hand to signal the dismissal"*.

15.3. The Referee also includes a screen shot of the e-mail from Carshalton that includes an apology for their behaviour during the fixture. The Referee is then contacted on 02 May 2023 regarding another incident in the fixture of alleged use of discriminatory language and he confirms this was not reported to him.

16. The e-mails between the AFA and the league registrations officer are in relation to the status of Kushtrim Raca, this provides the following;

16.1. The initial e-mail from the AFA on 25 April notes they are not able to identify the player as a member of Carshalton. Having contacted the club and received the player's FA Number (FAN) the FA Full Time system shows him to be both unregistered and under suspension; the

player also has *"at least 5 FANs"*. The e-mail further notes the intention to raise a charge for having done so.

- 16.2. On the same date the league respond and note they were a late registration which was not approved due to a system issue. They also believe the club were not aware of the Sine Die suspension against the player for non-payment of a fine from another club they represent. They have not approved the registration due to the outstanding suspension. Also, on the same date the league provides a copy of rule 18 which covers this situation.
17. The next entry is a series of statements provided by e-mail on 28 April 2023 from Old Meadonians, sent by a club official via e-mail these relay the following observations:
 - 17.1. The first author notes a *"flare up"* between two opposing players and the Carshalton player *"swinging an elbow"*. This caused *"a bit of a ruckus, so I had to step in to get our lads out, so I didn't have full view of him knocking the card out the refs hand as I was trying to stop a bloke twice my size decking an 18 year old, but I have seen the ref go to send him off and then seconds later I can see the ref's cards and notebook lying on the ground 5 metres away, so I think it's fairly obvious what happened"*.
 - 17.2. The second confirms the contents of the first statement and also notes *"saw the ref raise a red card and the Carshalton player snatched it off him and threw it to the ground. I can't remember the number he wore but they called him "Kush" or something like that. Ref did have a difficult game but behaviour of the Carshalton players was embarrassing. Dissent all game and complained every decision against them. Heard a couple of them murmuring "spastic" which was very poor"*.
 - 17.3. Following the allegation of discriminatory language, the AFA request further details, possible other statements and if this had been reported to the Referee. On 02 May 2023 the club respond *"My understanding is the comment was made about the referee in relation to his performance, which he*

obviously didn't hear. This wasn't reported to him (that would have quite awkward in the circumstances). Whilst we absolutely don't condone the use of that kind of language, I don't think we want to take it any further as a club on that basis - it was mentioned more as an example of the generally poor behaviour of the Carshalton players on the day. For reference in case Carshalton wish to identify the player and take their own action I understand the comment was made by their number 14, who had blonde hair".

18. The next inclusion in the case bundle is a series of e-mails between the AFA and Carshalton, these begin on 24 April 2023 and provide the following information on the player and also any statement they would wish to provide;

18.1. The first response notes *"I heard about this over the weekend, we have already said that Kush will not play for Carshalton again following this incident".* The following day the FAN for Kushtrim Raca is provided. On 02 May 2023 Carshalton respond noting they have contacted the player but have not had any response. Having spoken with their own players *"they have confirmed that they saw Kush knock the card out of the refs hand post being sent off. This is a very regrettable incident and behaviour that we do not accept at Carshalton, behaviour like this towards officials is really regrettably and not acceptable. As a result we have told the skipper that Kush is not to play for the club again".*

18.2. The response also notes the issue with the registration and add *"this and the fact we have said that he is not welcome back at the club again if there is anyway that the punishment can be more targeted towards the player rather than the club, ie longer ban rather than a greater financial fine that would be very much appreciated. Unfortunately the chance of us recovering the fine money post paying the AFA is going to be incredibly low".* Citing the season being financially challenging as it has been for many clubs *"with the number of matches lost to weather significantly impacting our revenue, so anyway we can avoid having a large unrecoverable fine being paid by the club that would be helpful".* The e-mail also notes the situation regarding football debt recovery and the process to follow.

- 18.3. On 03 May 2023 the AFA contacted Carshalton and inform of the allegation of the use of discriminatory language and provide the number of the alleged offender for identification. On 09 May 2023 as no response to the request had been received, they resubmit the question to the club. On the same date they enquire when this was notified to the AFA who inform them on 04 May 2023 it was after the bank holiday weekend. As of 09 May nothing had been received when the AFA again request the identity of the player.
19. On 10 May 2023 Carshalton contact the AFA and request the original e-mail regarding the allegation of discrimination against player no 14 from the fixture. In response the AFA note;
- 19.1. This is provided the same date by the AFA who also follow up with further communication regarding the identity on 12 May 2023 and again on 15 May 2023. There is a response on the same date notifying the AFA they are not being ignored and the reasons for the delay but do add it is being investigated.
- 19.2. On 17 May the AFA again contact Carshalton to identify the alleged offender in the case of the discriminatory comment, they provide the team sheet and request the player identity and any observations from either this player or from Kushtrim Raca regarding their respective allegations.
20. The final inclusion within the case bundle is a response from Carshalton dated 25 May 2023 and this adds the following information;
- 20.1. The response identifies the player alleged to have used discriminatory language who was registered but not on the team sheet and pass on their apologies for the oversight. He then adds *“Having spoken to several members of the team with the exception of the Kush incident no one was able to recall any other incidents of note, but as I mentioned at the time this original incident was raised it was a considerable time since the incident took place”*.

21. That concluded the relevant evidence in the case.

Standard of Proof

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

The Findings & Decision

23. The Commission has found as follows;

23.1. For case **11243613M** Kushtrim Raca E3 charge for the Physical Contact on a Match Official, this has been accepted, the Commission are satisfied this meets the threshold for the charge and have found this **Proven** by admission.

23.2. For case **11281039M** Kushtrim Raca E10 for failing to comply with a decision of the Association, the charge has been accepted, the Commission are satisfied this meets the threshold for the charge and have found this **Proven** by admission.

23.3. For case **11281040M** Carshalton FC E12 for failing to comply with a decision of the Association, the charge has been accepted, the Commission are satisfied this meets the threshold for the charge and have found this **Proven** by admission.

Previous Disciplinary Record

24. Kushtrim Raca's five-year offence history contains no other E10 or E3 misconduct.

25. Carshalton FC have 4 teams; their five-year offence history contains the following charge relevant to this case;

25.1. 08 February 2019 Fail to produce documents and/or to assist in an investigation.

Mitigation

26. With the acceptance of the charges, Kushtrim Raca the credit for doing so can be considered, there has been nothing further provided.
27. Carshalton have engaged with the AFA during the investigation and have stated that Kushtrim Raca will have no further involvement with the club. They have also accepted the charge and they can be awarded the credit for doing so.

The Sanction

28. For case **11243613M** Kushtrim Raca **Charge 1** relating to physical contact, the sanction range for this offence is as follows:
 - 28.1. Suspension of 112 days to 2 years with an entry point before considering mitigating and aggravating circumstances of 182 days
 - 28.2. A fine up to £150 with a mandatory minimum of £75
 - 28.3. Mandated FA Education
29. After taking into consideration Kushtrim Raca's previous record, alongside the aggravating factors of the action of knocking the card from the hand of the Referee and for making abusive comments, the sanction will be:
 - 29.1. To serve a suspension of 210 days from all football activity to include ground/venue ban, backdated to 30 May 2023;
 - 29.2. fined a sum of £75;
 - 29.3. Kushtrim Raca is to satisfactorily complete a mandatory face-to-face education programme before the suspension is served or Kushtrim Raca be suspended until such time, he successfully completes the mandatory education programme, the details of which will be provided to Kushtrim Raca;
 - 29.4. 6 club disciplinary points awarded.

30. For case **11281039M** Kushtrim Raca **Charge 2** relating to failing to comply with a decision of the Association, the sanction range for this offence is as follows:
- 30.1. Suspension up to 5 matches
 - 30.2. A fine up to £40
31. After taking into consideration Kushtrim Raca's previous good record and acceptance of the charge, the sanction will be:
- 31.1. To serve a suspension of 2 matches to include ground/venue ban;
 - 31.2. fined a sum of £10;
32. For case **11281040M** Carshalton FC relating to failing to comply with a decision of the Association, the sanction range for this offence is as follows:
- 32.1. A fine up to £200;
33. After taking into consideration Carshalton FC's previous record and acceptance of the charge previous good record, acceptance of the charge and the actions taken to remove the player from the club, the sanction will be:
- 33.1. fined a sum of £40;
 - 33.2. warned as to future conduct.
34. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.
35. Signed...

Steve Francis (Commission Chair)

09 June 2023