

## DISCIPLINARY COMMISSION

Sitting on behalf of The Berks & Bucks FA

In the matter of a Personal Hearing of Kyle SARGEANT – Case Number 9554444M

### Decision and Written Reasons of the Disciplinary Commission

#### Background & Hearing:

- 1 The Disciplinary Commission (“the commission”) convened on Monday 5<sup>th</sup> November 2018 by way of a Personal Hearing. The Commission adjudicated in respect of a charge brought by The Berks & Bucks FA against Kyle Sargeant as a result of alleged Misconduct in a match between Watlington Town First V Compton FC on Saturday 22<sup>nd</sup> September 2018.

#### The Commission

- 2 Mr. John Horsley (Council Member of Berks & Bucks FA and appointed as Commission Chairman), Mr. David Grainge (Council Member of Berks & Bucks FA) and Mr. Chris Hodges (Independent Member). Mr. Alastair Kay (Berks & Bucks FA) acted as Secretary to the Commission.

#### The Charge

- 3 The Berks & Bucks FA charged Kyle SARGEANT on 8<sup>th</sup> October 2018 as follows:-
  - i) Breach of FA Rule E3 – Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour)
- 4 The particulars of the charge against Kyle Sargeant were that on 22<sup>nd</sup> September 2018 during the North Berks League Fixture game between Watlington Town 1st V Compton 1st “Kyle Sargeant” in an act of violent conduct and/or threatening and/or abusive language/behaviour during the match that Mr Sargeant has ‘shoved’ the match official Mr Dean Caven.
- 5 The misconduct charge made against Mr. Sargeant in accordance with FA Regulations for the above charge and Mr Sargeant was required to submit a response to the charge by 15<sup>th</sup> October 2018.

#### The Reply

- 6 There was a “Denial” to the charge from Mr Sargeant and therefore the case was dealt with as a Not Guilty plea. In doing so the case was heard in his presence. There was a no written statement received from Mr Sargeant prior to the charge being preferred for the panel to consider.

#### The Rules

- 7 Pursuant to the FA Handbook 2018-2019 Season, FA Rule E3 (1) provides as follows:

“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.”

### The Burden And Standard of Proof

- 8 In this instance the burden of proof is on the Berks and Bucks County FA. The applicable standard of proof is the civil standard of the balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not. Therefore, if the evidence is such that the commission can say ‘we find it more probable than not’ the burden is discharged, but if the probabilities are equal it is not.

### The Evidence

- 9 The following is a summary of the principal submissions provided to the Commission. 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 the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials furnished with regard to this case.
- 10 The documents before the Commission comprised of:  
A Referees report dated 22<sup>nd</sup> September 2018;  
A follow up email from the Referee on 5<sup>th</sup> October 2018;  
An email from the Compton FC Secretary Mark PINFOLD which was not dated
- 11 The Referees report contained the following;  
At the end of the match Karl Sargison came over and said what an embarrassment you have a shocker and shoved me. In a later email the Referee confirmed the name of the alleged person to be Kyle Sargeant and also stated that the incident occurred in the 68<sup>th</sup> minute of the match and not at the end of the match as previously stated. The Commission were informed that the Referee Mr Dean Craven had informed the County Office that he would not be attending the hearing on the date convened or on any other date in the future. No reason was given for the non-appearance. The Commission considered the absence of the Referee as a preliminary matter and agreed to proceed with the hearing in the absence of the Referee. In view of this Mr Sargeant and the Commission members were not able to ask any questions of the Referee. Mr Sargeant was informed that the Statement and Email submitted by the Referee would be weighted accordingly.
- 12 Mr Sargeant appeared before the commission and made the following statement ‘At no point did I touch the Referee before, during or after the game’. Mr Sargeant told the commission that he had made a written statement when receiving notification of the charge and had handed the statement to his team manager. This was not received at the County office. Mr Sargeant gave details of his playing history and stated that he always paid his fines and reiterated that he had not had any physical contact with the Referee.

During questioning by Commission Members Mr Sargeant fully accepted responsibility for the 2 yellow cards and subsequent red card that he received during the game. Both were for Foul Tackles the 2<sup>nd</sup> offence taking place in and around the centre circle. He admitted being close to the Referee and stating the words that you have had a shocker and were an embarrassment but again denied making any physical contact with the referee. Mr Sargeant told the commission upon receiving the red card he walked straight off the pitch and watched the rest of the game from outside the touchline. He had no more contact verbally or otherwise with the referee. He confirmed the game had not been abandoned following his departure from the field of play. When asked why the Referee would say that he had shoved him if this was not correct, Mr Sargeant said that he had heard that there had been bad blood between the club and the league and also between the manager and the Referee. He stated that this was his 1<sup>st</sup> season at Compton FC and had never seen the Referee previously. Mr Sargeant added that the game had been a bad tempered affair.

- 13 The witness Kenny MORGAN confirmed that he had played in the match and was a team mate of Kyle Sargeant. He told the Commission that he was close to the incident that led to Kyle's dismissal and stated that it was justified and he deserved to be sent off. He added that at no time did he see Kyle 'shove' the Referee or have any physical contact with him. He added that the Referee had lost control of the game as it had been a difficult game to Referee. He told the Commission that he had felt sorry for the Referee as both sets of players, coaches and spectators had been giving him grief. Mr Morgan stated that he had known Kyle for some time and stated that he would never physical touch the referee he is not that type of guy.
- 14 The witness Mark PINFOLD (Secretary of Compton FC – at the time of this incident) submitted an email previously which was read out during the hearing. Included in his email he recorded that he would of expected that any statement from the Referee would have to include who, when, where and what. Mr Pinfold was not present at the hearing and could not be questioned.

### Findings

- 15 The Commission studied the evidence very carefully, being conscious of the burden and standard of proof. The members noted again the fact that the Referee was not willing to attend any hearing and had given no reason for his non- attendance. There was no other evidence available to the Commission to support what the Referee had reported. The Commission took into account the manner that Kyle Sargeant had presented himself to the Commission as well as the witness Mr Morgan. Both had been consistent in what they had said about the incident. The circumstances of the incident were carefully studied in order to assist the Commission in deciding whether the charge had been proven to the required standard.
- 16 The Commission members reminded themselves that for the charge to be proven, on the balance of probabilities, the following must be taken into consideration:

Did Kyle Sargeant 'shove' the Referee? If he did so, did his actions amount to a breach of FA Rule 3?

- 17 The Commission 1<sup>st</sup> considered whether a 'shove' by Kyle Sargeant on the balance of probabilities had occurred. The Commission based on the evidence presented to them at the hearing considered the inconsistent evidence submitted by the Referee which made them question his reliability. In addition his failure to attend the hearing made his statement and subsequent email weighted according. Kyle Sargeant denied making any physical contact with the Referee before, during or after the match. This was corroborated by the witness Mr Kenny Morgan. Mr Sargeant and Mr Morgan had presented themselves in what appeared to be a genuine and honest manner during the hearing. It was also noted that Mr Sargeant had remained at the touchline during the remainder of the match. The Commission unanimously does not find the Referees report persuasive. In contrast, the Commission finds the account of the incident as detailed by Mr Kyle Sargeant and Mr Kenny Morgan to be significantly more persuasive.
- 18 For these reasons the Commission finds it more likely than not that the alleged shove on the Referee by Kyle Sargeant did not occur.
- 19 In Summary, the Commission unanimously found the charge against My Kyle Sargeant as not proven.

John Horsley  
Commission Chairman  
7<sup>th</sup> November 2018