

THE FA DISCIPLINARY COMMISSION

On behalf of Berks & Bucks FA County Football Association Limited

NON - PERSONAL HEARING (via Web Ex)

OF

RYAN BRINTELL [619774]

THE DECISION AND REASONS OF THE COMMISSION

CASE ID: 9881926M

2 August 2019

THE COMMISSION

- 1) Evans Amoah-Nyamekye – Chair**
- 2) Bradley Pritchard**
- 3) Francis Duku**

SUMMARY OF DECISION

The Commission found two charges of breaches of FA Rule E3-(1), one of which was alleged to be an aggravated breach pursuant to Rule E3(2), being aggravated by references to a person's *sexual orientation* unanimously **proved** against Ryan Brintell.

After having considered the seriousness of the incident, the mitigating and aggravating factors, the guidelines sanctions under FA Rule E3 and the Disciplinary Sanctions Guidelines issued by the FA, the Commission decided not to increase the sanction from the mandatory entry threshold.

Accordingly, the Commission imposed a suspension of 5 match ban. The Commission also imposed a fine of £75.

The Commission also imposed the mandatory order for Ryan Brintell to undergo a FA Equality online Education Course within four (4) months. Should he fail to do so he is to be suspended from all footballing activities until such time as he does undertake the course, details of which will be provided to him.

The Commission also imposed 6 disciplinary points on the club.

The reasons for the decision are stated in full below.

INTRODUCTION

1. On 23 April 2019, a match between Marlow United vs Woodley United Royals took place.
2. In the charge report it is alleged that Ryan Brintell referred to an opposition member as "*dyke and fat lesbian*".
3. According to the papers supplied, the discriminatory language that supports the alleged aggravated breach included the use of the term "*dyke and fat lesbian*".
4. We understand from the secretary, Harley Collyer, to the Commission that Ryan Brintell had received the documents.
5. The case was presented before a Disciplinary Commission appointed by The Football Association ("The FA") as a non-personal hearing via webEx.

THE CHARGE

6. Ryan Brintell faced two charges of misconduct for breaches of FA Rule E3 1), one of which was an aggravated breach, including a reference to “*sexual orientation*” pursuant to Rule E3 (2).

THE PLEA

7. Ryan Brintell responded by accepting the allegations and requested the hearing be dealt with in his absence. The case was presented as a guilty plea and preceded on that basis. **THE FA RULES**

The applicable FA Rule E3 states:

GENERAL BEHAVIOUR

8. *E3 (1) 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.*

E3 (2) 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.

THE COMMISSION

9. The following members were appointed to the Disciplinary Commission (“the Commission”, We/us”) to hear the case:

1. **Evans Amoah-Nyamekye – Chair**
2. **Bradley Pritchard**
3. **Francis Duku**

THE HEARING

10. The hearing of the charges (the “Hearing”) took place by WebEx on 2 August 2019

11. The Secretary to the Commission, Harley Collyer, confirmed that Ryan Brintell had been provided with all the statements and evidence with which we had been provided. Accordingly, Ryan Brintell had notice of the allegation made against him.
12. The following is a record of the salient points which we the Commission considered and is not intended to be and should not be taken as a verbatim record of the evidence considered.
13. In advance of the Hearing we had received and read the bundle of documents.

THE COUNTY FA'S CASE

14. . According to the papers supplied, the discriminatory language that supports the alleged aggravated breach included the use of the term "*dyke and fat lesbian*".

ASSESSMENT OF THE STATEMENT OF MARK ROZZIER

15. Mark Rozzier was the general manager of Woodley United FC he stated that a *'Marlow United player shouted towards the bench the words 'dyke and shut up you fat lesbian'*.
16. The use of the alleged word was fully tested, and the Commission was satisfied that Mr Ryan Brintell used the said words.
17. The Commission concluded that Ryan Brintell used the words alleged.

THE PARTICIPANTS RESPONSE

18. Ryan Brintell accepted the charges against him.

19. Ryan Brintell explained that he was stood close to the touch line when he used the words 'shut up you fat lesbo or lesbian'.
20. Ryan Brintell explained he has admitted he used the words when approached by Marlow officials.

THE COMMISSION'S CONCLUSIONS

21. The Commission found two charges of breaches of FA Rule E3-(1), one of which was alleged to be an aggravated breach pursuant to Rule E3(2), being aggravated by references to a person's *sexual orientation* was unanimously **proved** against Ryan Brintell.
22. The reasonable inferences which could be drawn are from the circumstances of the case were namely:
 - 22.1. The Commission determined that the recent report by Mark Rozzier supported the allegation.
 - 22.2. There was a clear admission from Ryan Brintell.
 - 22.3. The Commission was satisfied that Mr Ryan Brintell used the said words.
 - 22.4. Ryan Brintell accepted the use of the words.

STANDARD OF PROOF

- 22.5. The applicable standard of proof required for this case is the civil standard of the balance of probability, meaning more likely than not.
- 22.6. An incident is discriminatory when it is perceived by the victim or any other person to be discriminatory.
- 22.7. The Commission took the view that the allegation and the evidence supporting that allegation needed to be tested. The Commission

considered the possible innocent use and interpretation of the word versus any possible misinterpretation.

- 22.8. The Commission considered the context in which the comments were used, the intent behind the comments used and gave consideration to all the circumstances surrounding the use of the comments whilst considering the effect of the comments used.

OUR FINDINGS OF FACT

23. On the balance of the burden required, The Commission are satisfied to make the following findings of fact that:

23.1. On 23 April 2019, a match between Marlow United vs Woodley United Royals took place.

23.2. The Commission concluded that Mr Ryan Brintell used *'foul and abusive language aggravated by reference to sexual orientation by saying 'faggot' within the meaning of Rule E3 (2). '*

23.3. The Commission found the charge of FA Rule E3 and E3 (2) *'improper conduct – aggravated by a person's sexual orientation* was found **proved** against Ryan Brintell.

THE DECISION

24. Having read the evidence, the assessment of the evidence is entirely a matter for the Commission members.

25. We have to assess the reliability of the witness (that is whether, even although a witness may be attempting to tell the truth their evidence might not be relied upon for differing reasons) and the credibility of a witness (that is whether a witness is attempting to tell the truth). Of course, such an assessment is difficult to make if the evidence being considered is in written form.

26. Ultimately it is for the Commission to accept or reject each piece of evidence we are considering. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for us to assess if the discrepancies are important and leads assistance to the determination of the balance of probabilities.
27. Having decided which evidence we accept and rejected; we then have to decide on the balance of probabilities if the alleged breach of the FA Rule is established.
28. The Commission decided that on the balance of probabilities Ryan Brintell did use the words and conduct alleged.
29. We considered all of the evidence provided.

MITIGATION

- 34 There was formal mitigation formally provided by Ryan Brintell to the allegations. The Commission took into account the statement he prepared.

THE SANCTION

- 35 The Commission was then required to consider the appropriate sanction and penalty. In considering the appropriate sanction and penalty the Commission members discussed the severity of the offence.
- 36 After considering Ryan Brintell's previous disciplinary record, the level of seriousness, and the Sanctioning Guidelines, the Commission imposed a 5 match suspension. The Commission also imposed a fine of £75..
- 37 The Commission also imposed the mandatory order for Jon Colington to undergo a FA Equality face to face Education Course within four (4) months. Should he fail to do so he is to be suspended from all footballing activities until such time as he does undertake the course, details of which will be provided to him.
- 38 The Commission also imposed 6 disciplinary points.

CONCLUSION

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

Signed The Commission:

THE COMMISSION

4. **Evans Amoah-Nyamekye – Chair**
5. **Bradley Pritchard**
6. **Francis Duku**

3 August 2019