

**IN THE MATTER OF
BERKS & BUCKS FOOTBALL ASSOCIATION**

-v-

**ASH BENCH
(CASE REFERENCE 10136662M)**

**WRITTEN REASONS - DISCIPLINARY COMMISSION
THURSDAY 27th FEBRUARY 2020**

Warning – This document contains offensive and/or discriminatory language.

INTRODUCTION

1. These are written reasons for the findings of a Disciplinary Commission, held on behalf of Berks & Bucks FA (B&BFA) on Thursday 27th February 2020 following charges raised against Ash Bench (AB) of City Colts Reserves (CCR). The charges arose from a game between Steeple Claydon Reserves (SCR) and CCR in a North Bucks & District League Two fixture on Saturday 25th January 2020.

PARTIES

2. The appointed stand alone Commission Member, a member of the National County FA's Serious Case Panel, was Anthony Rock.

MISCONDUCT CHARGE NOTIFICATION

3. By B&BFA Misconduct Charge Notification dated 4th February 2020, the following charges were raised:
 - a. Charge 1 - FA Rule E3 - Improper Conduct (including foul and abusive language).
 - b. Charge 2 - FA Rule E3(2) - Improper Conduct - aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability.

FA RULE E3

4. The relevant sections of FA Rule E3 (page 115 of The FA Handbook Season 2019-2020) state:

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.

CHARGES

5. Detail of the charges against AB is that he used foul and abusive language towards the Referee and that such language, whether explicit or implied, was aggravated by reference to disability. Specifically, whilst leaving the pitch after being sent off for offensive, insulting and abusive language, he is alleged to have said to the Referee “you’re fucking special needs ref”.

PLEA

6. On 10th February 2020, via the FA’s Whole Game System (WGS), AB accepted the charge and asked for the case to be dealt with by correspondence. The WGS does not specify which charge he accepted but the Commission was content to consider the case on the basis he accepts making an aggravated comment which included foul and abusive language.

WRITTEN EVIDENCE

7. The written evidence consisted of:
 - a. B&BFA Misconduct Charge Notification (AB) dated 4th February 2020.
 - b. County Association Report Form dated 27th January 2020, submitted by the Referee, Nathan Fuller - detailing the actions by AB after he was sent off.
 - c. Whole Game System Screenshot showing that on 10th February 2020 AB accepted the charge and asked for the case to be dealt with by correspondence.

FINDINGS

8. The burden of proof is on the County FA meaning it is for B & BFA to prove the case to the appropriate standard. The applicable standard of proof in these cases is the civil standard of the balance of probability, sometimes referred to as the 51% test. The balance of probability standard means that the Commission has to be satisfied that the occurrence of an alleged event or events was more likely than not to have taken place.
9. Given AB’s guilty plea the issue for the Commission was not to deliberate on matters of fact/probability, but to determine the sanction to be imposed. That said, the Commission was satisfied that AB’s comment did include foul and abusive language, and that such language was aggravated by specific reference to disability. Both charges were found proven.

PREVIOUS MISCONDUCT

10. The Commission was informed of AB’s misconduct record noting that he served a significant ban from the game in 2018.

FA GUIDELINES

11. The Commission noted the FA Guidelines in regard to the entry point/minimum sanction for an aggravated misconduct first offence: a 6-match suspension; a £75.00 fine and the requirement to complete an FA Equality Education Course (page 144 of the FA Handbook Season 2019/20):

SANCTION

12. Taking into account the circumstances in this case and the mitigating and aggravating factors (FA Regulations and Guidelines, nature of the offence, misconduct record, no submission/observations from the Appellant, and his plea to both charges), the Commission concluded that the following sanction is to be imposed:

AB: to be suspended for 6 matches and fined £75. He is required to complete an on-line FA Equality Education Course within 4 months, the details of which are to be notified by B&BFA, failing which he shall be suspended from all footballing activity until completion of said course. His Club, City Colts, will incur 6 disciplinary penalty points.

Comment: the Commission considered at some length whether or not to increase the match sanction based on AB's misconduct record, but decided to remain with the minimum sanction.

13. In accordance with FA Regulations there is a right of appeal against the decision.

Anthony Rock (Chair)

Thursday 27th February 2020