

THE NATIONAL COUNTY FA SERIOUS CASE PANEL

Sitting on behalf of Berks & Bucks Football Association

A NON-PERSONAL HEARING

of

**PAUL HOOPER
(CASE ID: 10182488M)**

DECISION AND REASONS

Introduction

1. On 23rd April 2020 the Football Association convened a National CFA Serious Case Non-Personal Hearing on behalf of Berks & Bucks FA to adjudicate on disciplinary charges levied against Mr Paul Hooper.
2. The following panel member was appointed to hear this matter:
Mr Richard Stubbs, member of the National CFA Serious Case Panel
3. By charge letter dated 17th March 2020 Mr Hooper was charged in relation to alleged misconduct in a match between Didcot Town Youth (“DT”) and Tower Hill U15 Stars (“TH”) on 15th March 2020, in which game Mr Hooper was the manager of DT.
4. Mr Hooper is charged with:
 - 4.1. A breach of FA Rule E3(1) – Improper Conduct (including foul and abusive language) and
 - 4.2. That the E3 breach is also a breach of FA Rule E3(2) – Improper Conduct aggravated by a person’s ethnic origin/colour/race/nationality/faith/gender/sexual orientation/disability.
5. It is alleged that Mr Hooper used abusive language towards the referee during the match and when the referee spoke to him he called the referee a “retard”.
6. Although the charge letter required a response by 31st March 2020 and as I understand it no response was received by that date, I have been provided with a typed response from Mr Hooper which is undated and in which Mr Hooper pleads not guilty to the charges against him and disputes the referee’s version of events. I have taken that response into account in considering the charge.

7. I understand that Mr Hooper has requested that the matter be dealt with as a non-personal hearing in his absence.
8. I therefore have to determine which account of what took place on 15th March 2020 is more likely. In order to do so I applied the burden of proof. The burden of proof is on the County. The applicable standard of proof is the balance of probability. The balance of probability standard means that I am satisfied an event occurred if I consider that, on the evidence, the occurrence of the event was more likely than not.
9. If I find one of the charges proven I will then move on to consider sanction based on my findings and other relevant matters.
10. The applicable FA Rule E3(1) states:

“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.”

11. FA Rule E3(2) provides:

“A breach of Rule E3 (1) is an “Aggravated Breach” where it includes a reference to any one, or a combination of the following:- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.”

The Evidence

12. I was provided with Mr Nicholson, the referee’s report, dated 15th March 2020 and the undated typed response from Mr Hooper.
13. I had regard to the totality of the evidence and submissions provided; that any particular statement, submission or item of evidence is not expressly referred to in these reasons does not mean that any such evidence was not considered.

14. In his referee's report Mr Nicholson states that Mr Hooper was using foul and abusive language throughout the match. He says that following a handball Mr Hooper shouted towards Mr Nicholson that he was "having a fucking mare". Mr Nicholson states that he went to speak to Mr Hooper and asked him to refrain from using foul language. He states that in response to this Mr Hooper said "you're having a fucking shocker" and walked away calling Mr Nicholson a "retard". Mr Nicholson states that he immediately sent Mr Hooper off and told him to leave the touch line. He adds that after the game Mr Hooper approached him and told him that he was giving fouls for pushes in the back against DT but not against TH. He states that Mr Hooper told him that his comments during the match were warranted.
15. Mr Hooper states that he did not use bad language towards the referee except when the red card was shown when he said "for fuck sake ref really". He agrees that he did question a number of Mr Nicholson's decisions as he felt that they were unfair to his team. Mr Hooper states that his players complained that the referee was cheating at half time and that he agreed with them, stating "yes he [sic] having an absolute mare but ignore it or it will only get worse". He states that the referee was within earshot of this and it may have influenced the report.
16. Mr Hooper says that early in the second half he questioned another of the referee's decisions and Mr Hooper told the referee that he was having a stinker. He says that foul language was not used and that the referee then repeatedly told Mr Hooper not to swear at him, to which Mr Hooper stated that he had not sworn, he had just questioned the referee's decisions. Mr Hooper says that he then walked away from the referee and muttered to himself "just concentrate on the game".
17. Mr Hooper expressly denies using the term "retard". He says that the referee again said he would not tolerate foul language and produced a red card, at which Mr Hooper made the comment above and left the playing area as instructed.
18. Mr Hooper agrees that he approached the referee after the game and questioned his decisions.

Findings

19. Having carefully considered the evidence and reminded myself of the burden of proof, I make the following findings.

20. Whilst I know that this will be a disappointment to Mr Hooper I find that he did use the term retard and that the aggravated charge is therefore made out, retard being a reference to disability. I have two accounts of what took place which are contrary to one another. I find that the account of Mr Nicholson is more likely than the account of Mr Hooper. The reasons for this are:
 - 20.1. Mr Nicholson and Mr Hooper were in close proximity on both of their accounts. It is clear that both had approached one another to discuss something that Mr Hooper had said;
 - 20.2. Mr Nicholson produced a red card at the time. This is consistent with him considering that the term was used at the time and with his report;
 - 20.3. Mr Nicholson provided a report on the same day as the match. His evidence is near to contemporaneous;
 - 20.4. I cannot identify any reason that Mr Nicholson would exaggerate what took place and find it more likely than not that his report is accurate;
 - 20.5. Mr Hooper's account does reflect a coming together of some sort with a red card being shown and also like Mr Nicholson he accepts that he approached the referee after the match to complain about his decisions; and
 - 20.6. I note that Mr Hooper accepts that he uses the term "mare" in his account, which I note is part of one of the phrases that Mr Nicholson states was used towards him.

21. I stress that I make no finding as to whether Mr Hooper intended to link Mr Nicholson with a disabled person through the use of the term "retard". That is not something that I

need to determine in relation to the charge and I do not do so. My finding is that the term used falls within Rule E3(2).

Sanction

22. I considered the relevant rules under FA Rule E3(1), E3(2), Disciplinary Regulations 46 and 47 and the Sanction Guidelines issued by the FA.
23. Having determined that the allegation was proven I had regard to Mr Hooper's record. He has no other misconduct offences on it and therefore has a clean record. I also had regard to the fact that this took place in an U15s match and concerned a referee. On balance I found that Mr Hooper's clean record balanced out the other factors and the appropriate sanction was the entry level sanction for an E3(2) offence.
24. I understand that Mr Hooper has not been sanctioned for the red card. If he has any such sanction should be deducted from the sanction levied below.
25. Taking into account all of the features in the case I consider the appropriate sanction to be:
 - i. The entry level sanction of a 6 match suspension from all football;
 - ii. £75 fine;
 - iii. 6 penalty points; and
 - iv. Completion of the Equality Education Course by attending an online course. In the event that Mr Hooper fails to undertake the course within 4 months he will be further suspended from all footballing activity until such time as he does undertake that course, details of which will be provided to him by the FA.
26. There is a right of appeal against this decision in accordance with the relevant provisions set out in the Rules and Regulations of the Football Association.

Mr Richard Stubbs

23rd April 2020