

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of Gloucestershire Football Association

CORRESPONDENCE HEARING

of

BENGAL TIGERS FC

[Case ID: 10507997M]

consolidated with

CORRESPONDENCE HEARING

of

Saints Old Boys FC

[Case ID: 10546739M]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 11 September 2021, Bengal Tigers FC (“Bengal Tigers”, the “Club”) First team played a Bristol Downs League Division Two home fixture against Saints Old Boys FC (“Saints Old Boys”) Reserve team – collectively the “match”.
2. The appointed Match Referee, Mr James Grady, and a Club Assistant Referee, Mr John Shearman, reported that a spectator had struck Mr Shearman during the match.
3. Gloucestershire Football Association (“Gloucestershire FA”) investigated the reported incident.

The Charge

4. On 30 September 2021, Gloucestershire FA charged Bengal Tigers, as a club:
 - 4.1. with misconduct for a breach of FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion; and
 - 4.2. it was alleged that the Club failed to ensure that spectator(s), and/or all person(s) purporting to be its supporter(s) or follower(s) conducted themselves in an orderly fashion and refrained from improper, violent, threatening, abusive, indecent, insulting and/or provocative words and/or behaviour, contrary to FA Rule E20, in the allegation that a Club Assistant Referee, Mr Shearman, was struck by a spectator.
5. On 19 October 2021, Gloucestershire FA charged Saints Old Boys, as a club:
 - 5.1. with misconduct for a breach of FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion; and
 - 5.2. in the response received on the above charge issued to Bengal Tigers, it was alleged that Saints Old Boys failed to ensure the Reserve team manager conducted himself in an orderly fashion in an unrelated incident at the same match.

6. The relevant sections of FA Rule E20 and E21 states¹:

“E20 Each Affiliated Association, Competition and Club shall be responsible for ensuring:

E20.1 that its directors, players, officials, employees, servants, representatives, spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or combination of the following: improper, violent, threatening, abusive, indecent, insulting or provocative words or behaviour, (including, without limitation, where any such conduct, words or behaviour includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability) whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere;

[...]

E21 Any Affiliated Association, Competition or Club which fails effectively to discharge its said responsibility in any respect whatsoever shall be guilty of Misconduct. It shall be a defence in respect of charges against a Club for Misconduct by spectators and all persons purporting to be supporters or followers of the Club, if it can show that all events, incidents or occurrences complained of were the result of circumstances over which it had no control, or for reasons of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged...”

7. Gloucestershire FA included with the charge letters the evidence that it intended to rely on in these cases.

8. Bengal Tigers was required to respond to its charge by 14 October 2021 and Saints Old Boys was required to respond to its charge by 02 November 2021.

The Reply

9. On 14 October 2021, Bengal Tigers responded by pleading “Not Guilty” and

¹ p. 129 of FA Handbook 2021/22

- requested the case to be dealt with in their absence at a Correspondence Hearing.
10. On 28 October 2021, Saints Old Boys responded by pleading “*Not Guilty*” and requested the case to be dealt with in their absence at a Correspondence Hearing.
 11. As the offences were alleged to have been committed in the same match or there is common Association or defence evidence, the proceedings in these cases were consolidated – as per *Consolidation of Proceedings*, Regulation 13 of FA Disciplinary Regulations – and for the hearings to be conducted together, and the charges to be determined at a joint hearing.
 12. The relevant section of Regulation 13 of the Disciplinary Regulations states²:
“Where the subject matter of or facts relating to a Charge or Charges against one or more Participant(s) is sufficiently linked (including, but not limited to, where offences are alleged to have been committed in the same Match or where there is common evidence of The Association or the defence) and where appropriate for the timely and efficient disposal of the proceedings, The Association and/or the relevant panel shall have the power to consolidate proceedings so that they are conducted together and the Charges may be determined at a joint hearing. In respect of such matters:
 - 13.1 *evidence adduced by or on behalf of a Participant shall be capable of constituting evidence against another Participant (the relevant panel shall give appropriate weight to such evidence); ...”*

The Commission

13. The Football Association (“The FA”) appointed me, Thura KT Win, as a Chairman member of National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate in these cases.

The Hearing & Evidence

14. I adjudicated these cases on 12 November 2021 as a Consolidated Hearing (the “Hearing”).
15. I had received and read the bundle of documents prior to the Hearing.

² p. 150 of FA Handbook 2021/22

16. The following is a summary of the principal submissions provided to me. 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 I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all the evidence and materials furnished with regard to these cases.

17. Whilst both charges were considered together under the *Consolidation of Proceedings*, these Written Reasons are only for, and in relation to, Bengal Tigers' charge involving a Match Official being struck by a spectator³.

18. The Match Referee, Mr James Grady, submitted a report, dated 15 September 2021, in which he stated that (I quote):

"I was called over by the [Saints Old Boys] linesman John Shearman, who informed me that he had been struck in the face by a guy who was watching the game. I asked the guy for his name which he refused, I then told him to leave the area of the game. He eventually left after slowly walking around the pitch to the area where Bengal [Tigers] were located. When I asked Bengal [Tigers] who he was and to move him away they denied he was anything to do with them. The guy had children with him and did go away from the pitch after a delay to the game of 5 mins."

19. The Club Assistant Referee for Saints Old Boys, Mr John Shearman, submitted a report, dated 20 September 2021, in which he stated that (I quote the relevant text):

"... After about 15 minutes the [Bengal] Tigers manager came across to complain about a couple of decisions, but left soon after, still complaining. A couple of minutes later another man, obviously from their club, came over to stand on the touchline that I was running and proceeded to hurl insults at the Saints [Old Boys] players. He continued doing this for a few minutes whilst standing firmly on the touchline, so I asked him to step back a couple of paces, so that I had a clear run up and down the line. This request was ignored and when next the ball was played forward he was still standing on the line, so I brushed past him while trying to keep up with play. He shouted 'no one touches me'

³ paras 4.1 and 4.1.1

and threw a punch which landed on my chest/shoulder area. Straight away I informed the referee what had happened and he questioned the man and told him to leave the pitch area for the rest of the game. The game then continued and eventually ended in a 3 – 1 win for Saints [Old Boys] with no further incident.”

20. In an undated letter, Mr Alan Curtis (position within the club unknown but he had stated that he was acting as Club Assistant Referee for Bengal Tigers at this match), stated that (I quote the relevant text):

“ ... We as a club are not responsible for all bystanders and dog walkers upon the public space that is the Durham downs, our match was played on adjacent pitches to all the other up there so as every Saturday are watched by random people and often share touchlines with other sides backing onto us. Firstly the two statements are different the referee’s report makes reference to Mr John Shearman being hit in the face, however Mr John Shearman clearly states he was struck on his shoulder / chest area? As a club we do not know who this gentleman or lady is and like the referee that day we didn’t see any incident, I’m actually disgusted at Mr John Shearman’s statement that claims he was ‘obviously from our club’ and I would like the question raised to him how and why he has come to that conclusion? I can also confirm that our manager did not at any point go to the other side of the pitch. He’s well into his sixties these days and barely moves from his own side near the halfway line...”

21. As this is a Consolidated Hearing, where “evidence adduced by or on behalf of a Participant shall be capable of constituting evidence against another Participant (the relevant panel shall give appropriate weight to such evidence)”⁴, there was a report from Mr Peter Clark, a referee from nearby match which got abandoned and who then walked over to watch this match, in Saints Old Boys case. In his Witness Report, dated 18 October 2021, Mr Clark stated that (I quote the relevant text):

“With the Downs League game that I had been refereeing having been abandoned due to a serious injury to one of the players, I walked over to watch the Bengal Tigers v Saints OB’s Reserves game. When I got to the pitch I was informed that a member of the Bengal Tigers contingent had assaulted the member of Saints OB’s Reserves who was acting as

⁴ para 12

Assistant Referee. I stood alongside a small group of Saints OB's substitutes/supporters on the touchline in the Saints OB's defensive half of the pitch..."

22. That concluded relevant evidence in this case.

Standard of Proof

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

The Findings & Decision

24. In summary:

25. The witnesses had made the link that the spectator in question was a person "*purporting to be*"⁵ Bengal Tigers' supporter or follower:

25.1. Mr Shearman had stated that this spectator "*came over to stand on the touchline that I was running and proceeded to hurl insults at the Saints [Old Boys] players. He continued doing this for a few minutes*"⁶;

25.2. Mr Grady had stated that this spectator "*slowly walking around the pitch to the area where Bengal [Tigers] were located*"⁷ and that "*The guy had children with him*"⁸ – the children were not reported to be with the spectator at the touchline when this incident took place or that the children remained in the area where Bengal Tigers were located and whether that was the reason the spectator went to that area before leaving the pitch; and

25.3. Mr Clark had stated that he was informed, that "*a member of the Bengal Tigers contingent had assaulted the member of Saints OB's Reserves who was acting as Assistant Referee*"⁹ (emphasis added). It was unknown who had informed Mr Clark about this incident, but Mr Clark had said he "*stood alongside a small group of Saints OB's substitutes/supporters on the touchline in*

⁵ para 6 (see E20.1)

⁶ para 19

⁷ para 18

⁸ para 18

⁹ para 21

the Saints OB's defensive half of the pitch" ¹⁰.

26. It was the Club's submission by Mr Curtis that "*As a club we do not know who this gentleman or lady is... We as a club are not responsible for all bystanders and dog walkers upon the public space that is the Durham downs, our match was played on adjacent pitches to all the other up there so as every Saturday are watched by random people and often share touchlines with other sides backing onto us"* ¹¹.
27. On the evidence before me and on the standard of proof required, being balance of probability, I was satisfied that it was more likely than not that the spectator was a person purporting to be Bengal Tigers' supporter or follower.
28. For completeness, it is also to be noted that Bengal Tigers was the first-named team in the match and, therefore, was the home team. It falls on the home team to be responsible for the behaviour of its own and neutral spectators, unless the available defence under FA Rule E21 ¹² is satisfied. In this case, the Club had not provided evidence that the spectator was an away team's supporter or to satisfy this defence under FA Rule E21.
29. In relation to Mr Shearman being struck by this spectator, the only witness evidence was from Mr Shearman. Mr Grady reported what he said was told to him by Mr Shearman. Other people who provided the statements did not witness the incident:
- 29.1. Mr Shearman said the spectator was "*standing firmly on the touchline, so I asked him [the spectator] to step back a couple of paces, so that I had a clear run up and down the line. This request was ignored [by the spectator]"* ¹³;
- 29.2. Mr Shearman further stated that "*when next the ball was played forward he was still standing on the line, so I brushed past him while trying to keep up with play. He shouted 'no one touches me' and threw a punch which landed on my chest/shoulder area. Straight away I informed the referee what had happened"* ¹⁴;
- 29.3. Mr Grady stated that "*I was called over by the [Saints Old Boys] linesman John*

¹⁰ para 21

¹¹ para 20

¹² para 6 (see E21)

¹³ para 19

¹⁴ para 19

Shearman, who informed me that he had been struck in the face by a guy who was watching the game”¹⁵; and

- 29.4. Mr Grady added that “*I asked the guy for his name which he refused, I then told him to leave the area of the game. He eventually left... and did go away from the pitch after a delay to the game of 5 mins”¹⁶.*
30. It was noted, as stated by Mr Curtis in the Club’s response, that there was a difference in reports of where the strike had landed on Mr Shearman. But, the information provided by Mr Grady was not what he witnessed himself that might have heightened concerns on the discrepancies.
31. I was satisfied on standard of proof required that Mr Shearman’s evidence on how the strike came about from the spectator was credible and found it to be more likely than not that the spectator had struck Mr Shearman. Where the strike had landed has no material difference on establishing the liability that the spectator had struck Mr Shearman or the sanction to follow.
32. Based on the evidence before me and standard of proof required that I found it was more likely not that a person purporting to be a supporter or follower of Bengal Tigers had struck Mr Shearman who, as Saints Old Boys’ Club Assistant Referee, was acting as a Match Official.
33. Therefore, I found the E20 Charge¹⁷ PROVEN.
34. I assessed the level of seriousness and culpability to be at medium to high level.

Previous Disciplinary Record

35. After finding the charge proven, I sought the Club’s offence history. Whilst the Club has prior misconduct record in the previous five seasons, including one E20 offence in January 2017 when the Club received a fine of £50, it was a dissimilar offence involving its players. The Club has no previous misconduct record involving its spectators or followers.

¹⁵ para 18

¹⁶ para 18

¹⁷ para 4

Mitigation

36. There was no mitigation submitted by the Club and nothing was found in the submission received in this case.

The Sanction

37. I noted that the Sanction Guideline for the E20 offence at medium to high level for the level of football the Club playing is a fine of between £25 and £150.

38. As the Club had not accepted the charge, the "*Credit for Guilty Plea*" was not available to the Club. There was also no mitigation presented or found in this case which, if presented or found, would have help reduced the sanction.

39. However, with there being no relevant misconduct record in the Club's previous five seasons, credit would be given.

40. After taking into consideration all circumstances in this case, the Club is:

40.1. fined a sum of £50 (fifty pounds); and

40.2. 7 (seven) Club Disciplinary Points to be recorded.

41. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Thura KT Win JP LLM MCI Arb (Chairman)

16 November 2021