

THE DISCIPLINARY COMMISSION

Sitting on behalf of Gloucestershire Football Association

NON-PERSONAL HEARING

of

Cheltenham Town Ladies FC

[CASES REFERENCE 10520861M]

THE DECISION AND WRITTEN REASONS OF THE COMMISSION

Disclaimer:

These written reasons contain a summary of the principal evidence before the Commission and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Commission did not take such a point, piece of evidence of submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials furnished with regard to this matter.

I. INTRODUCTION

1. The Football Association (“**The FA**”) convened a Disciplinary Commission (the “**Commission**”), on behalf of the Gloucestershire Football Association (“**GFA**”) on 5 November 2021 to adjudicate upon disciplinary charges levied against Cheltenham Town Ladies FC (the “**Club**”) (Case ID number: 10520861M).
2. The Disciplinary Commission was constituted of a single member, Mr André Duarte Costa, an Independent FA appointed Chair.

II. THE CHARGES

3. In summary, by a Misconduct Charge Notification dated 8 October 2021 (the “**Charge Notification**”) issued by GFA against the Club, the Club was charged with failing to ensure its players and/or Officials and/or Spectators/Supporters conducted themselves in an orderly fashion. It was alleged that the Club failed to ensure that player(s), official(s), 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, and it was further alleged that the language and/or behaviour made reference to Sexual Orientation (the “**Charge**”).
4. The Charge Notification referred to the comment: “*Perhaps she likes a bit of licky licky*” (the “**Alleged Comment**”).
5. The Charge Notification also referred to the Standard Sanctions and Guidelines for such type of offences. Furthermore, a reference to an administration fee and/or a potential fine was also made.
6. The Club was required to submit a response by 22 October 2021. On 28 October 2021 the Club completed the Response Pro-Forma and ticked option a) which meant that it pleaded guilty to the charge and asked for its case to be dealt with by correspondence, *i.e* Non-Personal Hearing.

III. THE RULES

7. The Rules of the Association are foreseen in Part 10 of The FA Handbook 2021/2022¹.
8. Under the title “Misconduct” Section E of the Rules of the Association sets out the rules to be observed by Participants².
9. Bearing in mind the charges levied against the Club the relevant rule to take into account for the purpose of the present case is FA Rule E20, in specific FA Rule E20.1. and E20.2.
10. According to FA Rule E20 and FA Rules E20.1 and E20.2: Each Affiliated Association, Competition and Club shall be responsible for ensuring: 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 [FA Rule E20.1] and that no spectators or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or on to the pitch [FA Rule E20.2].

IV. EVIDENCE

11. The following is a summary of the principal evidence 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 evidence, should not imply that the Commission

¹ Available at: <https://www.thefa.com/football-rules-governance/lawsandrules/fa-handbook>.

² means an Affiliated Association, Competition, Club, Club Official (which for the avoidance of doubt shall include a Director), Intermediary, Player, Official, Manager, Match Official, Match Official observer, Match Official coach, Match Official mentor, Management Committee Member, member or employee of a Club and all persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association, as per The FA Handbook 2021/2022, Part 10, Section A, para. A2.

did not take such point, or evidence, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

12. The evidence which the GFA relied upon in support of the charge consisted of:

a) Referee Mr Roger Smith Extraordinary Incident Relating to Misconduct Report dated 23 September 2021³ which stated, *inter alia*:

“During the second half a Weston Super Mare player reported that the Cheltenham supporters were calling her a Lesbian and making lewd comments. I did not hear any comments but the player was visibly upset by them.

At the next break I went to the group of supporters, who were standing on the grass outside the 3g enclosure, and informed them of the accusation and told them that if it continued I would move them away from the pitch or abandon the game. I did not see or hear any further occurrences during the game

At the end of the game I informed both Club Representatives what had happened and they agreed that they would deal with it.

As I was leaving the pitch the Cheltenham manager was raising the issue with the group of supporters and was explaining to them that it was totally unacceptable, the supporters were denying that they had made any comments.

I informed the League Referees secretary later that evening and I also informed Ella at Wiltshire FA and asked if I needed to take any further action they both said I would be contacted if action was needed.”;

b) Statement from Mr Simon Galpin⁴, Cheltenham Town Ladies FC’s Development Team Manager, dated 28 September 2021 which stated, *inter alia*:

«[...] Around the 80 minute mark Hannah Galpin picked up the ball on the half way line opposite side of the pitch to myself, she then kicked the ball out of player (hard).

I witnessed this and took it that she did not have an option and kicked it out (she does that sometimes). In her words she kicked the ball out of play and shouted “She grabbed my fanny” The Weston player remarked something but this was not clear.

Hannah approached the ref and complained and the ref said he would have a word

³ P. 7 of the case bundle.

⁴ P. 8-9 of the case bundle.

(she believes the ref did not have a word with the player) the ref then approached Hannah a few minutes later and said it had happened to him before.

At the time of the incident when she shouted out (directly in front of the of the [sic] Cheltenham supporters) one of the Cheltenham supporters shouted to Hannah "Perhaps she likes a bit of licky licky".

I don't think any Cheltenham players / supporters heard the comment, and talking to Beck Donnelly (development captain) told me that Matt Rhodes (Leah Rhodes dad) said Christine Dix said the comment, I then contacted Matt to confirm this, and he told me she said it as they made their way back to the carpark.

Becky approached myself around 85 minutes to say there was a possible issue with comments directed at Weston players from a Cheltenham supporter.

At full time the ref approached the Weston secretary and myself to have a word but away from ear shote of players. The ref said that there was an allegation of abuse / homophobic abuse from the Cheltenham supporters, the ref said that he had not witnessed this, because I also had not witnessed anything I gave the Weston secretary the option of taking further through the correct channels (she declined this offer

[...] When waiting outside the changing rooms words were exchanged between a couple of the Cheltenham supporters and I think number 7 for Weston and her mum, I then stepped in and instructed all parents to go to the carpark, as per my instruction we left the ground immediately and not stop for drinks or food at the ground.

I spoke to Hannah about the incident that involved her, after a discussion she decided not to take the matter forward (but was very unhappy with the players and ref). Later, after speaking with the Club's welfare officer, Hannah decided to make a complaint»; and

- c) Statement provided by telephone from Mr Matt Rhodes dated 4 October 2021⁵ which stated, *inter alia*:

«I didn't hear anything homophobic during the game. We all stood behind the goal in the cage as usual. I was stood with my wife and 10 year old child. The first half was fine, a few comments were made about the ref, who once gave offside after referring

⁵ P. 10 of the case bundle.

to the linesman very late after a goal was given, then redacted, it clearly wasn't offside, everyone could see that, it wasn't even close. The ref clearly knew their player by first their [sic] name. Their lino was their reserve goal keeper and was unable to keep up with play. In the second half I saw Hannah Galpin get grabbed by her lady parts and then shout "get off my fanny", and kick the ball out. The Weston player then said something to the referee but I didn't hear what. One of the Weston players was shouting at Christine Dix at the end of the game, but I couldn't hear what about.»; and

- d) Statement from Ms Christine Dix ("**Ms. Dix**") dated 4 October 2021⁶ which stated, inter alia:

"There were a few nasty tackles made towards the end of the game by Weston players, and I saw Hannah Galpin grabbed by her private parts. She shouted out, but then just fo on with the game. Other than that, the game was generally played in good spirit and I did not hear any homophobic language at all during the game.";

13. The evidence submitted in defence of the charge consisted of:

- a) A statement from Mr Andrew Liddle ("**Mr Liddle**"), Chairman of Cheltenham Town Ladies FC, dated 28 October 2021⁷ which stated, inter alia:

«Per our recent e-mail and telephone conversation, I have met again with Mrs Dix and I think her e-mail is self explanatory.

The club accepts the charge, and we would welcome the FA's guidance on how we prevent similar happening again in the future.

Whilst the Club's players, staff and officials understand the requirements, it is, of course, very difficult to Police individual conversation "on the terraces" and any help available to ensure we are doing all we can would be most welcome.

We intend to ensure Mrs Dix undertakes The FA Equality and Diversity Module and will implement a one match ban, and any additional penalties the FA think reasonable.

⁶ P. 11 of the case bundle.

⁷ P. 15 of the case bundle.

Finally, it is disappointing to note that the Somerset FA do not deem the serious groping incident that led to these comments worthy of further investigation. Particularly given the referee's comment that this isn't the first incident.»; and

- b) Statement from Ms Dix enclosed with Mr Liddle's statement, as reproduced above at paragraph 13(a), undated⁸ which stated, *inter alia*:

«[...] I understand the charge that has now been made against the Club relates to the comment "Lickey Lickey". Having now heard those words from you specifically – then yes, I do recall saying that, somewhat stupidly in hindsight. However, I am at loss as to how anyone would have heard the comment as I made it directly to the person stood next to me, as part of an ongoing dialogue that I had been having all afternoon, it most certainly wasn't said in a loud voice, or directed at anyone in particular, it was part of a private 1:1 conversation

I am horrified to find the comment described as homophobic. My sister is gay, as indeed are many of the Club's players (my daughter's friends) as you know. I couldn't care less what anybody's sexual preferences are, and certainly wouldn't say anything derogatory about anyone's preferences under any circumstances.

I'm not sure who brought this to your attention, but I'm hugely embarrassed and I guess the lesson to learn is not to say anything in an open environment, where a private conversation could carry in the wind.

I am sorry if any player, member of staff or fan thought the comment was aimed at them, and I am sorry that you and the Club have had to explain yourselves to the FA this week. I'll be very careful about what is said outside of my home from now on.».

V. THE STANDARD OF PROOF

14. The Disciplinary Regulations are foreseen in Part 11 of The FA Handbook 2021/2022.
15. Under the title "General Provisions" Part A of the Disciplinary Regulations sets out in Section One the provisions applicable to All Panels and in Section Two the provisions applicable to Regulatory Commissions.

⁸ Pp. 15-16 of the case bundle.

16. Paragraph 8 of the above mentioned “General Provisions” states that *[s]ave where otherwise stated, the applicable standard of proof shall be the civil standard of the balance of probabilities.*
17. Therefore, the applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, the Commission would be satisfied that an event occurred if it considered that, on the evidence, it was more likely than not to have happened.

VI. FINDINGS & DECISION

A. GENERAL CONSIDERATIONS

18. The Commission reminded itself that the burden of proving a charge falls upon the GFA.
19. In a Commission such as this, the assessment of the evidence is entirely a matter for the Chair sitting alone to consider. I have to assess the credibility of the witness (that is whether a witness is attempting to tell the truth) and the reliability of the witness (that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon).
20. Where there are discrepancies between witnesses, it is for me to decide which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness’s own evidence, it is for me to assess if the discrepancy is important. Having considered which evidence I accept and reject, I then have to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.
21. In assessing liability, the Commission was mindful of the issues to be determined in the present case. The issues were whether the Commission was satisfied to the requisite standard that the evidence before it proved that the Club Failed to ensure its Players and/or Officials and/or Spectators conducted themselves in an orderly fashion and that the language and/or behaviour made reference to Sexual Orientation.
22. The question to be answered by the Commission was whether it was satisfied, on the balance of probabilities, that the Alleged Comment was made, and if so, whether the

perpetrator was a player and/or official and/or spectator and/or a person purporting to be its supporter or follower of the Club.

23. The appropriate test is an objective one, commonly known as the "reasonable observer" test. In other words, the Commission was to consider how a reasonable observer would perceive the words used in the given context. The objective person would be someone of reasonable fortitude.

B. FINDINGS ON CHELTENHAM TOWN LADIES FC'S CASE

24. In the present case the allegation was that the Club failed to ensure that player(s), official(s), 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, and that the language and/or behaviour made reference to Sexual Orientation, specifically the comment "*Perhaps she likes a bit of licky licky*".
25. The Commission was satisfied that the referred words were improper, abusive and offensive and made a reference to Sexual Orientation.
26. The Commission noted the Club's guilty plea and for that reason considered that there was no requirement to consider its liability in respect of the Alleged Comment and moved on to consider the appropriate sanction to be imposed for the offence.

VII. SANCTION

27. The use of discriminatory language has no place in society, and football is no exception. Its use should be considered with the utmost seriousness and should be dealt accordingly. Therefore, although football clubs cannot silence their supporters, they shall be responsible for ensuring that they conduct themselves in an orderly fashion and refrain from adopting behaviours which can bring the game into disrepute and have an effect on others.

28. The Commission was guided by the FA Sanction Guidelines for the 2021/2022 season and relevant FA regulation when deciding on the sanction.
29. The Commission was informed that the Club had previously unblemished disciplinary history.
30. With respect to aggravating factors, the Commission considered that the Club's failure to control its spectators was aggravated by the reference to Sexual Orientation.
31. In relation to mitigating factors, the Commission considered the Club's admission of guilt and the fact that the Ms Dix was apologetic, remorseful and had had been educated by the incident. Furthermore, the Commission also considered the private nature of the conversation held between Ms Dix and an unspecified person to be a mitigating factor.
32. Having considered all the circumstances in the case, the sanction guidelines and the aggravating and mitigating factors present, the Commission considered that this case fell within the Mid Category and imposed the following sanction:
 - a) £75 fine; and
 - b) 6 Club Disciplinary Points.

VIII. RIGHT TO APPEAL

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

André Duarte Costa (Chair sitting alone)

5 November 2021