

DISCIPLINARY COMMISSION

Sitting on behalf of the Gloucestershire Football Association

IN THE MATTER OF A NON-PERSONAL HEARING OF CASE ID 10710973M

F.C. LAKESIDE FOOTBALL CLUB

DECISION AND WRITTEN REASONS OF THE DISCIPLINARY COMMISSION

BACKGROUND AND HEARING

1. The Disciplinary Commission (“The Commission”) convened in the form of an FA appointed Commission Chair sitting alone, to adjudicate upon a charge brought by the Gloucestershire Football Association (“Gloucester FA”) against FC Lakeside Football Club (“FC Lakeside”) as a result of alleged misconduct by a spectator during a match between FC Lakeside Reserves and Wotton Rovers First (“Wotton Rovers”) on 22nd January 2022.

THE COMMISSION

2. The member appointed to the Commission was Mr Michael Weeks (FA National Serious Cases Panel).

THE CHARGES

3. Gloucester FA charged FC Lakeside by way of a Misconduct Charge Notification as follows:

Charge 1: Breach of FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion.

4. The particulars of the charge supplied to FC Lakeside were as follows:

“Details: Referee Wayne Millin reports the improper conduct of an unknown member of FC Lakeside Reserves towards him during the match.

See attached report for details.

When responding to the charge, FC Lakeside is instructed to confirm the identity of the individual involved and to provide details of any role they may have at the Club”.

THE PLEA

5. FC Lakeside had entered a plea of “Not Guilty” to the charge and requested that the matter be heard in the Club’s absence.

THE EVIDENCE

6. The following is a summary of the principal evidence and submissions provided to the Commission Chair. It does not purport to contain reference to all the points made. However, the absence in these reasons of that point or submission does not mean that the point or submission was not taken into account when the Commission Chair determined the matter. For the avoidance of doubt the Commission Chair has carefully considered all the evidence submitted with reference to the case.

7. The Commission Chair was provided with, and read, the following documents:

Misconduct Charge Notification (FC Lakeside) dated 8th February 2022.

County Association Report Form dated 22nd January 2022 from Wayne Millin (Referee).

Letter/email (undated) from Dave Simmons, (FC Lakeside Men’s Secretary), addressed to Gloucester FA in response to the Misconduct Charge Notification.

Extract from Whole Game System (FC Lakeside).

8. The Commission Chair’s summary of the evidence is as follows:

The Referee’s report indicated that in the 55th minute of the game, (a “Junior Cup North” match), “I waved away a free kick for FC Lakeside when I was subjected to a very large barrage of verbal abuse from a Non-playing player “Ref you blind fucking wanker”. I went over and immediately sent him from the touchline out of the park he continued his verbal rant for a good 5 mins while leaving, at the end of the game, FC lakeside denied he was anything to do with its club and was just watching but while getting in my car the said person and 3 other players got into his car and drove off. His verbal rant was “Fuck you, fuck off you prick, fucking wanker flipping me the middle finger and repeated over and over while leaving””.

The Referee commented that he knew the relevant person was a Lakeside player because “a couple of subs and assistant manager called him by 1st name (could be George or Graham or Calum not 100%

on the names) at the side of the pitch and from what I could see he was wearing a team tracksuit mostly blue with yellow strips on the legs and badge on his top. As for Lakeside players getting in his car they had their kitbags & boots in hand & I recognised them from the game”.

On behalf of Lakeside, Dave Simmons (Men’s Secretary) had made a written submission. He said that the Club did not in any way condone abuse towards Referees, players, managers, or other spectators and that the Club had reminded those in the men’s section of the Club of their responsibilities in that connection.

Dave Simmons wished “to reiterate that at the time of the charge being given to FC Lakeside, Club officials were not aware of who the person in question was, except that we are sound in the knowledge that they are not in any way affiliated with the Club through player registration, team management or Club staff. However, since that time it has come to our attention that the person involved has been identified as Robert Miles, a friend of some of the players but currently registered with Gloucester Athletic at the time of writing. FC Lakeside are appalled by the behaviour that the referee was subject to, however, and this is not an excuse, we would like to know how club officials could police such spectators when the game was being played on a public playing field whereby access to the pitch cannot be prevented. Furthermore, there was no forewarning that the individual was going to say what he did, and I am unsure how the club could have prevented him or anyone else from saying such things. The club can only apologise to the referee, but we were powerless to prevent what happened and instead believe this misconduct charge should be aimed at the person in question”.

THE STANDARD OF PROOF.

9. In order to find FC Lakeside guilty of the charge, the Commission Chair would have to be satisfied that the Club were more likely than not to be guilty i.e. on the balance of probabilities.

THE HEARING.

10. The Commission Chair first reminded himself of the provisions of FA Rule E20 as set out in the Rule: “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 a combination of the following: improper, violent, threatening, abusive, indecent provocative or insulting 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.

This defence shall not apply where the Misconduct by spectators or any other person purporting to be a supporter or follower of the Club included 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”.

It was clear to the Commission Chair that the issue to be decided was whether FC Lakeside had failed to ensure that the “spectator” did not behave in a disorderly fashion by abusing the Referee. FC Lakeside do not (rightly) deny that there was abuse or that the person identified by the Referee was the person abusing the Referee. The Club relied on the defence outlined above at Rule E21.

The Commission Chair noted that the Club had identified by name the person responsible for the abuse as requested by Gloucester FA within the Misconduct Charge Notification Form, and that that person was not registered as a player with FC Lakeside. This fact, however, would not preclude a finding of guilt because it was clear to the Commission Chair that that person was a supporter/follower of FC Lakeside – even if just for the afternoon. The issue to be decided was whether FC Lakeside were able successfully to rely on the defence set out in Rule E21

THE DECISION.

11. The Commission Chair found FC Lakeside “Guilty” of the charge brought under FA Rule E20.

REASONS FOR THE DECISION.

12. As stated at paragraph 10 above, there was no doubt that the Referee was abused in the most appalling manner by a supporter of FC Lakeside (regardless of that person’s registration with another Club). However, the abuse was not discriminatory, and the Club as a consequence was able to raise the defence set out in FA Rule E21. That defence failed for the following reasons:

(1) Although the evidence did not inform the Commission Chair if this match was played at “home” or “away” (for FC Lakeside), FA Rule E20 was clear that Clubs are responsible for the behaviour of supporters and followers whether playing at “home” or “away”. Dave Simmons submitted that the Club “would like to know how club officials could police such spectators when the game was being played on a public playing field”. This implied that Club officials were present at this match (which would be likely if it were a “Cup” match). The Club did, therefore have persons present at the match who represented the Club and who would be able to fulfil the obligations of the Club in relation to supervising spectators if necessary. No intervention from any Club official took place after the Referee sent the offending spectator from the touchline and before the “verbal rant” started; this suggested that officials, if present, did not make their presence known to the Referee or to the offending spectator. Had they done so, the “verbal rant” might have been avoided.

(3) The Referee is able to link the offending spectator with FC Lakeside. The Club, however, do not appear to have taken any steps at the time of the match to establish the identity of that person. He was evidently known to substitutes and to the Assistant Manager (see Referee's report). The abuse was clearly made to give vent to frustration and anger on behalf of FC Lakeside – it was therefore obvious that he was an FC Lakeside supporter and immediate action needed to be taken to establish who this person was. The Referee received denials of any link to FC Lakeside but this statement was untrue because players were subsequently given a lift away from the ground in the offending spectator's car. Proper enquiry by the Club at the time as to the identity of the offending spectator was lacking. The Assistant Manager as well as the players being given a lift and the substitutes calling him by name, must have known who he was.

(4) The Referee alluded to the "offender" wearing a "team tracksuit" which suggested it would have been obvious that he was linked to FC Lakeside. However, the Club's enquiries revealed no such link. It was possible that the person was wearing a similar style tracksuit to FC Lakeside team tracksuit and that the Referee was mistaken. However, the similarity of colours (as well as the "pro-Lakeside rant") should have alerted the Club to the possibility of a link to FC Lakeside at the time and encouraged a more diligent approach at the time to the question of the spectator's identity.

(5) The submission was made that the Club would find it very difficult to "police" spectators in a public park. The Commission Chair understands this point. However, on this occasion it did not appear that the offending spectator was a "random" person who happened to be walking or driving in the area and decided to stop and watch football. He had a car, knew the Assistant Manager, substitutes, and players, and wore a similarly coloured tracksuit; by virtue of his "rant", he had allegiance to FC Lakeside. On balance, the Commission Chair decided that there was an element of planning in that person's attendance at the match, and that, as a consequence, the Club could not rely on the fact that the venue was a public park in order to support its denial of the charge. Had the spectator been identified by the Club as a person who "wandered over" from another pitch, or suddenly appeared from a car park and started shouting, (by way of examples), the Commission Chair might have been persuaded differently.

In general terms, the lack of detail provided by the Club as to exactly what supervision was in place from its own officials, what sort of interaction he had had with FC Lakeside supporters, substitutes, the Assistant Manager, and players, and the delay in providing to Gloucester FA the actual identity of the offending spectator supported the view of the Commission Chair that the Club had not shown, on balance, that the Club "had used all due diligence to ensure that its said responsibility was discharged" as required by FA Rule E21. The abuse of the Referee was serious and required a greater urgency in the Club's response to the incident, and more detailed actual evidence of the event than had been provided by the Club. The Commission Chair understood that the "outburst" was unexpected and that it was not necessarily foreseeable by the Club on the day; however, if the event of an unexpected event, the Club is expected to show "due diligence" had been used "to ensure the discharge of responsibility". Although, on the evidence provided, the "event" was unexpected, the necessary "due diligence" had not been shown by the Club as required by FA Rule E21.

THE SANCTION AND THE REASONS FOR THE SANCTION.

13. In order to determine an appropriate sanction, the Commission Chair was assisted by the FA Rules and Regulations 2021/2022, and the FA Sanction Guidelines. He was also informed of the disciplinary record of FC Lakeside. That record showed that FC Lakeside had, on 9th March 2019 been fined £90.00 in respect of an FA Rule E20 charge which resulted from a “mass confrontation” during a match. On that date the Club was also charged with an offence brought under FA Rule E20 “for having 4 or more charges of either Violent Conduct, Assault on a Match Official, Physical Contact against a Match Official, and assault by Participant on Participant in the current season in accordance with the FA Poor Club Disciplinary Process”. A fine of £90.00 also resulted from that offence.

During the current season, 39 cautions, 5 (five) standard punishments and 1 (one) additional misconduct charge had been issued against players of FC Lakeside. The record since the 2016/2017 season, whilst noticeably poor for a Club with only 2 (two) teams, did not include more than 1 (one) FA Rule E20 charge for failing to control its players/ supporters; the matter which led to second FA Rule E20 charge in March 2019 related to an accumulation of misconduct charges rather than a failure to control players and/or supporters’ behaviour at one particular match or during one particular incident. The FA Rule E20 charge which did involve a “mass confrontation” was almost 3 (three) years ago and of a different nature to the present allegation; on balance, the Commission Chair did not treat the previous disciplinary record as an aggravating factor (see below).

The FA Sanction Guidelines prescribe a range of suggested sanctions for 3 (three) levels of seriousness of the facts of a particular matter – “low”, “mid” and “high”. A Commission is first required provisionally to place those facts within one of the 3 (three) levels; at that point the Commission will determine if any aggravating factors are present (features of the case which make it more serious) and/or if there are any mitigating factors (features which lessen the seriousness of the matter). Once the presence or otherwise of aggravating and/or mitigating factors is decided, the Commission is expected to consider an increase or decrease in the sanction from the provisional level first considered appropriate. The adjustment might mean that the matter is placed in a different level of seriousness ultimately, or at a different “end” of the provisional level.

In the case of FC Lakeside, the Commission Chair provisionally decided that the facts of the matter merited a placement in to the “mid” category of seriousness, but at or slightly below the mid-way point of that level. The neglect of its responsibilities did not result in a match abandonment or a brawl – consequences which are known to occur on occasion- but the “outburst was very unpleasant, directed at a Match Official, and lengthy. The abuse might have been silenced earlier if the Club officials or the team’s Assistant Manager had intervened or made their presence known after the spectator was spoken to by the Referee initially.

No aggravating factors were found which would justify any increase in the sanction beyond those recommended at or slightly below of the “mid” range of seriousness.

The Commission Chair considered next whether any mitigating factors were present which would justify a reduction in sanction. He noted that the identity of the offending spectator had been provided in response to a request from Gloucester FA, but this would have been expected of a Club in any event after an incident of this nature if the Club denied that a member of the Club was responsible for the relevant behaviour. The response confirming the identity was not therefore treated as a mitigating factor.

It was in some respects unfortunate for FC Lakeside that the identity of the offending spectator was not provided by the Club to Gloucester FA at an earlier time, so that the Club might have persuaded Gloucester FA to take action only against that person. However, the Commission Chair, as stated above, did find that the identity of the person could and should have been discovered almost immediately by request of the Assistant Manager and other players. In the circumstances, the Commission Chair did not find that the fact that the offending spectator was not registered with FC Lakeside to be a mitigating factor.

In summary, no aggravating or mitigating factors were found. The Commission Chair would sanction FC Lakeside in accordance with his provisional decision that the sanction should be drawn from suggested sanctions at or just below the midway point for a “mid” range offence.

FC Lakeside will be sanctioned as follows:

1. FC Lakeside will be fined the sum of £45.00.
2. 5 (five) penalty points will be added to the disciplinary record of FC Lakeside Football Club.

APPEAL

14. This decision is made subject to the relevant FA Appeal Rules.

Michael Weeks (Commission Chair).

23rd February 2022.