

THE DISCIPLINARY COMMISSION

Sitting on behalf of Gloucestershire Football Association

PERSONAL HEARING

of

FRANK GINGELL

CASE ID No. 10569445M

THE DECISION AND REASONS OF THE COMMISSION

These are the written reasons for the FA Disciplinary Commission decision made on 29 November 2021.

1. The panel members were Mr K. Adjepong (Chairman), Mr D. Padwick and Ms S. Henson-Green. All members appointed by the FA.
2. Mr C. Hills of Cambridgeshire FA acted as Secretary to this panel. The hearing was held remotely by WebEx.
3. Mr Gingell was charged with a breach of FA Rule E3 which he denied – Assault of a Participant on a Participant. He was also charged with an alternate charge - Improper Conduct (including violent conduct and threatening and/or abusive language / behaviour) which he admitted. It was alleged that Mr Gingell of Oldland Abbotonians FC used violent conduct towards Reece Buckett of Eversley & California FC contrary to FA rule E3.1 and it is further alleged that this constitutes Assault by a Participant on a Participant as defined in FA Regulations. This refers to the allegation that Reece Buckett was knocked unconscious by an alleged punch and required hospital treatment for the injuries he received.
4. Mr Gingell requested a Personal Hearing.

5. The alleged misconduct occurred during a match between Eversley & California FC First Team (Eversley) and Oldland Abbotonians FC (Oldland) on 25 September 2021.

6. **Relevant FA Rules**

Rule E3.1 provides that:

“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”.

Regulation 104 (Assault of a Participant on a Participant) provides that:

“If a Match Official’s report indicates that a Participant has perpetrated an assault on another Participant causing serious bodily harm before, during or after a Match, the Affiliated Association shall without delay investigate the Referee’s report”.

7. The bundle of written evidence provided to the Commission included the Charge Notices, statements of witnesses: Sarah Payne (Secretary, Eversley), Reece Buckett (Player, Eversley) and Hannah Stewart (Sports Therapist, Eversley), an Oldland team sheet, video evidence and correspondence between the clubs and the FA.
8. In response, additional written evidence was provided including statements of witnesses: Frank Gingell (Player, Oldland), Paul Weeks (Manager, Oldland) and a statement from a committee on behalf of Oldland, a message from Paul Hendy (Helston Athletic FC) to Phil Jones, a screenshot of the Instagram account of Frank Gingell and a Reading Chronical article relating to Mr Buckett.
9. Upon reviewing the submitted statements and hearing the evidence provided by the witnesses, the Commission made the following observations: The decision 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 the Commission did not take such point, or submission, into consideration when the Commission members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished regarding this case.

10. Statements from Eversley make detailed comments regarding the actions of Frank Gingell, including him walking behind Reece Buckett and then throwing a punch with his left hand and knocking him to the ground. The video of the incident supports this and shows a Mr Gingell throwing a punch which appears to connect with the head of Mr Buckett at which point Mr Buckett falls to the ground for a few seconds before attempting to get to his feet. There then appears to be a melee when a teammate of Mr Buckett, Joe Moriarty, confronts Mr Gingell having seen the incident and appears to barge and kick him, for which he received a red card.
11. Mr Gingell provided written submissions through his club. He admitted striking Mr Buckett and stated: *"...I cannot deny the fact that I struck the opponent in question, I accept that this was wrong and not at all in the spirit of the game I do not wish to prolong proceedings by pleading not guilty and simply ask that you consider some of the background ...as some form of mitigation ..."*
12. The statements from Mr Gingell and Oldland refer to the incident within the context of a game where there were bad tackles and comments, threats of violence from Mr Buckett, who is also alleged to have grabbed the genitals of a number of Oldland players, which is alleged to have antagonised Oldland.

The Personal Hearing

13. At the Hearing Reece Buckett (the Eversley Player) gave evidence that, shortly before the incident when he was punched, he was aware of another player (Frank Gingell) who was out of position hanging around him. A short time later he was punched from behind in the jaw and neck area. He said he was initially knocked out and fell to the ground. He said that he got back up, however his legs were shaking and he fell down again because 'his legs had gone'. He said he got up again and was escorted off the pitch. As a result of the punch, he said his face was swollen, he had taken time off work, he could not eat and the inside of his mouth was cut open. Under questioning, he clarified that, although his written statement had said he took one day off work, and had also mentioned at the hearing that he took three days off work, he actually took two days off. He said that there was nothing that had occurred during the game that would justify the punch he received. He said he was a physical player but it was a normal game in which he would have expected to shake hands with his opponents afterwards. He said that after the game the team sports therapist said he could not play again until he had been checked by a doctor. After the game on the Saturday, Mr Buckett went to hospital on the following Monday to check his condition. After he received the

'all clear' from the hospital, he played in the next match for Eversley a week later, on the following Saturday.

14. Hannah Stewart (the Eversley sports therapist) gave evidence that during the match she saw a commotion on the pitch and Mr Buckett on the floor holding his head. She did not see the punch. Mr Buckett tried to get up but was stumbling around. Ms Stewart said that she was not called onto the pitch to treat Mr Buckett and he finished the game, which came to an end shortly afterwards. Mr Bucket walked off the pitch on his own accord and went to the changing room block. Ms Stewart said she noticed that Mr Buckett had a swollen jaw and he was provided with an ice pack. She said that due to the fact that Mr Bucket had a head injury she advised him to have it checked at hospital as soon as possible. Ms Stewart said due to the confrontation between the players, after Mr Buckett had been punched, she felt overwhelmed, uncomfortable and anxious. Ms Stewart took Mr Buckett's word that he was fit to play football the following Saturday (as there was no medical evidence confirming this).
15. In response to the charges, Mr Gingell gave evidence that the match was a good game and there was some banter between the teams, however his teammates had made complaints to the referee and their manager about an opponent (Mr Buckett) grabbing them by the genitals. During the second half, and with his team winning 2-1, Mr Gingell said he was struck on the back of his head by Mr Buckett. Shortly after this, Mr Gingell said he felt Mr Buckett touch his genitals. As a result, he punched Mr Buckett and he fell to the floor. Following this, Mr Buckett's teammate, who saw the punch, ran over to him and kicked him. The referee saw this kick and issued the Eversley player with a red card. He said that after the game he was threatened and told that he would be stabbed as a result of his actions and the referee was notified about this. Under questioning, Mr Gingell acknowledged that in his written statement he said that Mr Buckett had been verbally chipping away at him before the punch, but did not mention that the reason for the punch was because Mr Buckett had touched his genitals. He also said the decision to punch Mr Buckett was a snap decision and was a mistake. He had punched Mr Buckett out of anger, and fear having been threatened during the game, however he said that he regretted what had happened and wanted to apologise. He also added that he felt remorse at how Hannah Stewart was made to feel as a result of the incident.
16. Paul Weeks, the manager of Oldland, gave evidence that the game was competitive and initially there was normal banter between the teams and supporters. He said that later in the game, when he realised that Mr Gingell had punched an opponent, he was disappointed as he realised that his team was likely to be reduced to 10 men if a red card was issued and there was still

5-7 minutes of the game left. He said he was concerned for Mr Gingell's well-being as he was taken to the side of the pitch for his own safety because he was being threatened with being stabbed. Mr Weeks said that, as a result of Mr Gingell's actions, he has been suspended and he has been docked 4 weeks of wages. He said that Mr Gingell was a competitive player that was fit, trained well and did not like to lose - he also rarely, if ever, received yellow cards during matches.

17. Mr Gingell made a number of closing remarks including that football meant everything to him and he would like to give something back to football.
18. The Commission took all aggravating and mitigating factors into account, including, but not limited to, those listed in the FA regulations when determining the level of sanction.
19. The burden of proving an allegation rests upon the FA. Pursuant to Regulation 8, General Provisions, the FA Disciplinary Regulations ('Disciplinary Regulations'), the standard of proof is the civil standard, namely the balance of probabilities.

Decision

20. There were some inconsistencies between the evidence given by witnesses and the video evidence. However, in general, the Commission was impressed with the evidence given by all the witnesses. The Commission felt it was unfortunate that the referee had not made a report and was not available to give live evidence to the Commission. Having considered the wording of FA regulation 104 relating to Assault of a Participant on a Participant, the Commission noted that the regulation required that a match official's report had to indicate that the Participant "perpetrated an assault on another Participant causing serious bodily harm". The Commission noted that it had not received a match official's report in those terms and there was no medical evidence provided to the Commission to prove "serious bodily harm". In fact, Mr Buckett said he went to the hospital two days later and was given the 'all clear' to play a week later, on the following Saturday. However, there was no independent medical evidence to confirm this. As a result of the above, the Commission found that the allegation of Assault of a Participant on a Participant was not proven.
21. Mr Gingell admitted punching Mr Bucket and admitted the FA rule E3 charge of Improper Conduct (including Violent Conduct and Threatening and/or Abusive Language/Behaviour). The Commission took into consideration the seriousness of the violent conduct and the force of the punch which it considered to be completely unacceptable. The Commission considered this

conduct to be within the 'high category' in relation to sanctions. The Commission also considered the submission made in mitigation by Mr Gingell and the submissions made on behalf of his club. The Commission also took into consideration Mr Gingell's good disciplinary record and his remorse.

Sanctions

22. The Commission decided to impose the following sanctions:

a. Case ID: 10569445M – Mr Frank Gingell

- i. E3 Charge – Assault on a Participant by a Participant – Not Proven.
- ii. E3 Charge – Improper Conduct (including Violent Conduct and Threatening and/or Abusive Language/Behaviour) – Proven.
- iii. Suspension: 8 qualifying matches (from 2 November 2021)
- iv. Fine: £100
- v. Penalty Points: 8
- vi. Warning as to future conduct

23. These decisions may be appealed in accordance with the provisions in the FA Handbook.

Kwadjo Adjepong, Chairman

Dave Padwick

Sue Henson-Green

2 December 2021