

The Football Association Disciplinary Commission

(‘The Commission’)

Sitting on behalf Gloucestershire FA

In the matter of Harry Burns

(Case number 10569513M)

Disciplinary Commission Decision:

1. The members of the Commission were Mr Les Pharo Chair, Dr Tehmina Khan and Mr Phil Chaplin. The Secretary to the Commission was Vicky Collins, all appointed by the FA.
2. Mr Harry Burns of Stonehouse Town First FC was the subject of one charge:

A breach of FA Rule E3: Improper conduct against a Match Official (Including Physical contact or attempted physical contact and threatening and/or abusive language/behaviour).

There was an alternative charge for the commission to consider:

A breach of FA Rule E3: Improper conduct against a Match Official (Including threatening and/or abusive language/behaviour).

3. **The Rules Rule E3: The FA handbook states the following:**

“ 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, of a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour”.

4. **Physical contact is defined in the FA handbook as:**

“Physical contact or attempted physical contact: examples include but are not limited to: pushing the match official, pulling the match official, (or their clothing or equipment), barging or kicking the ball at a match official (causing no injury) and/or attempting to make physical contact with the match official (for example, attempting to strike, kick butt, barge or kick the ball at the match official”.

5. Mr Burns had denied the charges, and requested a personal hearing, which was held on Tuesday 30th November 2021. Based on the not guilty plea the burden of proof was on Gloucestershire F.A. to prove the matter on the balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

6. The following is a summary of the principal submissions considered by the Commission. It does not purport to contain reference to all points considered. 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 members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials furnished with regard to this case.
7. The charges against Mr Burns of Stonehouse Town First FC were raised by Gloucestershire FA, as a result of a report from the match assistant referee, Ian Hamilton who reported that in a match between Newent Town First and Stonehouse Town First in the Hellenic Football League division 1 on Saturday 26th October 2021, that just prior to the end of the match, he had indicated a free kick (awarded by the referee) and given a throw in against Stonehouse, the game ended and he was approached by Harry Burns who came face to face with him and called him a “clown”. Mr Hamilton reports that due to the aggressive attitude adopted by Mr Burns he stepped back and then Mr Burns came towards him and deliberately made contact with him by his shoulder barging into his chest, causing him to step backwards.
8. In Support of the charge on behalf of the County there was the assistant referee Mr Ian Hamilton’s report, and a report from the match referee Mr Paul Herbert.
9. Evidence supplied in response to the charge to be reviewed was from Harry Burns, Luke Hawkins a player of Newent FC, Mr Elliott King, Mr Ryan Thwaite, players of Stonehouse, Mr Tommy Callinan a spectator, Dave Mudge manager of Abingdon United a spectator at the match and Mike Smith secretary of Stonehouse Town..
10. Attending the hearing on behalf of the County was the assistant referee Mr Ian Hamilton and the match referee Mr Paul Herbert. In attendance on behalf of Harry Burns were Tommy Callinan and Elliot King, Mr Mike Smith was in attendance as a club representative, it was established that he had no evidence to provide in this matter and that the case would be taken by Harry Burns.
11. All participants were then invited into the hearing and introduced to the panel members prior to the hearing commencing, it was made clear at this point that this hearing was to determine the facts in relation to the charge and not here to judge the performance of the referee. Harry was advised that if he had any questions during the hearing he was to ensure that he asked.
12. The Assistant Referee Mr Ian Hamilton was invited to give his account, he stated that he did not wish to alter or change anything in his statement.
13. When questioned by the Commission he said that the match until the incident described was quiet, he said he had refereed the teams before with no issue. He said when asked that it was near the end of the match and the game was being played out. When asked how the incident alleged came about he said it resulted from a throw in decision and a free kick, and that it then evolved as per his report. He explained that the contact was Mr Burns shoulder to his upper chest and that it caused him to step back. He said when asked that the comment “clown” was in his face meaning about a foot away. He believed there were a few people around at the time – the ref and other players within

10 feet, but not close enough to have pushed Mr Burns into him. When asked if the contact was deliberate he said that it was and that he felt threatened and unsure what the player might do next. He said when asked that he had identified the player to the referee by his number, and that the only comment used as far as he recalled was “clown”.

14. Harry Burns was invited to ask questions, and he asked Mr Hamilton how far the referee was away and he stated about 10 yards. When asked how many players he felt were around he said about 5 or 6. Mr Burns asked if he had laughed in his face over a decision he had given and he replied that he had not.
15. The match referee Mr Herbert was then invited to give his account of the matter and he stated he had nothing to alter or change in his report.
16. When questioned by the commission, Mr Herbert stated as per his report he did not witness the incident and that it was reported to him by his assistant. He said when asked that he had called the red number 8 three times in order that he could show him a red card but the player walked away. He stated that it could have been the case that the player did not hear him. He confirmed that the card was for the deliberate contact to the assistant referee and not for abusive language. He stated that there was a commotion with several players near to the assistant referee.
17. Mr Burns was invited to question Mr Herbert and during which he asked was the alleged incident near the corner and Mr Herbert said that it was. When asked how close he thought Mr Burns was near to the assistant the referee replied that he did not know as he had at that time not seen Mr Burns.
18. Mr Hamilton and Mr Herbert were thanked for their attendance and they left the hearing.
19. Mr Burns was then asked to give his account of the matter, he said that it was as in his statement and therefore the commission then questioned him during which he stated that he had not touched the linesman but he was frustrated and had said to him on two occasions before and after the final whistle “your fucking shit” for which he apologised for saying. When asked if he had apologised to Mr Hamilton he said he had tried but Mr Hamilton had not come into the bar at the end of the match. He stated that he did throw the match ball over his shoulder, but not at the linesman. He said when questioned that there were people around him and may have been bumped into but he did not touch the linesman at all. When asked if he was in the assistant referees face when swearing he said he was not. He confirmed he was wearing the number 8 shirt and that he felt there were at least 5 players who approached the linesman. He said he believed he was made aware of the complaint against him either later that day or the next day. He also stated that the goalkeeper had commented on the remark made to the assistant referee saying, “you are not wrong”. When asked again if he had barged or made contact with the referee he said he had not but did call him “shit”.
20. Mr Tommy Callinan a witness on behalf of Mr Burns was then invited to give his account of the matter, and stated that it was as his statement and he did not wish to alter anything, he was therefore then questioned by the commission. Mr Callinan in response

to questions stated that the incident was about 5 yards from the corner flag and he was facing the linesman, and said that the assistant had given a foul and at the end of the match there was an altercation behind the linesman with players from both teams involved, and that Harry was “barged” from behind into the linesman, and in his opinion Harry simply brushed the Linesman. When asked if he had heard any comments at that time he said yes there was swearing and the words “fuckingshit” from Harry and others. When asked if these comments were at the assistant referee he replied they were at each other, and that he did not hear anything specific to the assistant referee. He was questioned about the contact to the assistant referee and he described it as Harrys arm into the arm of the assistant referee. He was asked if he was a supporter of either team on that day and he replied that he was a grassroots supporter and went to many games, but did state that his son was playing for Stonehouse. He confirmed that in his statement he said he saw Harry apologise to the referee, and that he did make contact slightly with the assistant referee and that other players had tried to pull Harry away.

21. Mr Elliot King was then called as witness on behalf of Mr Burns and stated he had no changes to make to the statement provided and he was therefore questioned by the commission during which he stated that he had seen Harry and others near the assistant referee and that there was contact between Harry and the assistant. When asked if he had heard any swearing he said he had not. He stated that in his opinion there were 3 or 4 people near the assistant and that Harry was about 1 to 2 yards away from the assistant as he (Harry) was frustrated with decisions and that he (Harry) had bumped into the assistant referee. When asked how this contact occurred he said it was when other players tried to pull Harry away from the assistant referee, this action caused the contact in his opinion. When asked to describe the contact he said that Harry’s arm touched the assistants upper arm. He stated when asked that there was no reaction from the assistant who was calm. He said that the referee was nearby. He confirmed that two of his own players had dragged Harry away and that they did so with little force.
22. Mr Burns advised that he had provided all the evidence he wished and that the hearing had been fair. He did not want to offer any summing up.
23. The verbal and written evidence on behalf of the county was considered to be credible and consistent both from the Referee Mr Herbert and the assistant referee Mr Hamilton. Their response to questions was concise and did not deviate from their reports.
24. The written and verbal evidence in defence of the charge from Mr Burns was reviewed by the commission and it was clear that in his evidence he admitted that he was unhappy and had sworn at the assistant referee but had not made any contact with the assistant referee at all. His defence in the physical contact charge appeared to be the admission of swearing, which was not alleged by the assistant referee Mr Hamilton either during the hearing or in his written report.
25. The verbal account and statement from Mr Callinan were considered where he in his verbal account states there was contact of the assistant referee by Mr Burns due to Harry being “barged” by others into the assistant referee, in considering his evidence it was clear that Mr Burns was remonstrating with the assistant referee and according to Mr Callinan was swearing at the assistant and was pulled away by other players. His evidence given in this matter was helpful, however it did contradict the account given by Mr Burns, in that Mr Callinan was clear there had been contact.

26. The verbal account and statement from Mr King were considered, he gave an account where he also stated there had been contact by Mr Burns on the assistant referee however he had not heard the swearing and his account confirmed that Mr Burns was “pulled away” by other players which caused the contact. This confirms to the commission that there was contact and also confirms that as described by Mr Callinan that Mr Burns was moved away by other players.
27. The written statements supplied from Mr Luke Hawkins a player of Newent FC, Mr Ryan Thwaite, players of Stonehouse and Mr Dave Mudge manager of Abingdon United a spectator at the match were taken into account and it was noted by the commission that in respect of Mr Mudge his statement was not helpful to the commission in determining the matter.
28. In making the decision the following matters were noted by the commission members, it was clear that despite the evidence given by Mr Burns, there was contact by him on the assistant referee, and therefore the commission needed to satisfy itself that the contact was deliberate, and in making that decision it was noted that witnesses describe Mr Burns as being pulled away from the area of confrontation, and it was clear to the commission that Mr Burns was remonstrating with the assistant referee due to what he believed were bad decisions. Mr Burn’s admission of swearing at the assistant referee was noted, as was the consistent account of the assistant referee and others who had witnessed the contact. However the closest person to the contact was of course Mr Burns and the assistant referee, and the account of the deliberate action as described by the assistant referee was one that the commission felt that on the balance of probabilities was the one that was more likely to have happened. Therefore having reviewed all the written and verbal evidence provided the following unanimous decision was made:

For a breach of FA Rule E3: Improper conduct against a Match Official (Including Physical contact or attempted physical contact and threatening and/or abusive language/behaviour) Proven.

29. Mr Burns was advised of the decision and his record was disclosed by the Secretary (which showed no relevant offences in the last 5 years), which was agreed Mr Burns, he did not want to offer any mitigation in the issue.
30. Sanction was then considered taking into account the age of the player, his previous record, the fact that there was deliberate contact but it was minimal and the FA sanction guidelines: *(Physical Contact or attempted Physical Contact on a Match Official – recommended suspension from all football activities for a period of 182 days and £150 fine, with a mandatory minimum of 112 days from all football activity and £75 fine).* Having done so the following sanction was made:

Mr Burns is suspended from all football for a period of 156 days and he is fined the sum of £100-00.

8 Penalty points are awarded against Stonehouse Town First FC.

Mr Burns is also to undertake a face-to-face education course to be completed by the time the suspension term as shown above is completed.

Failure to complete the course in the stipulated time frame will result in a sine-die suspension until the course is completed.

31. There is a right of Appeal against this decision in accordance with the relevant provisions set out in the prevailing FA Rules and Regulations of the Association

Mr Les Pharo Chair.

Dr Tehmina Khan

Mr Phil Chaplin.

1st December 2021