

**IN THE MATTER OF THE FOOTBALL ASSOCIATION
DISCIPLINARY COMMISSION
CHAIR ALONE NON – PERSONAL HEARING**

**GLOUCESTERSHIRE FA
(on behalf of the Football Association)**

and

JAMES MORSE

DECISION AND WRITTEN REASONS

Overview

1. These are the written reasons for the decision and sanction in relation to a non-personal hearing on 25 November 2022 following charges brought by Gloucestershire FA against James Morse (Case ID: 10983887M) (“**JM**”).

The Charges

2. JM has been charged by Gloucestershire FA with a breach of:
 - (a) FA Rule 3.1 – Improper Conduct (including foul and abusive language); and
 - (b) FA Rule 3.2 - Improper Conduct – aggravated by a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.(collectively, the “**Charges**”).
3. The particulars of the Charges are that JM said ‘fucking spastic’.
4. JM has denied the Charges. Accordingly, the Chair shall consider whether the Charges are proven on the balance of probabilities, based on the documentary evidence before him.

The Evidence

5. This matter relates to a fixture between Lydney Town First (“**Lydney**”) v Chipping Sadbury Town First (“**Chipping**”) which took place on 8 October 2022.
6. The relevant factual background herein is a summary of the principal submissions provided to the Chair. It does not purport to contain reference to all the points made, or to all the statements and information provided, however the absence in these reasons of any particular point, or submission, should not imply that the Chair did not take such point, or submission, into consideration when he determined the matter. For the avoidance of doubt, the Chair has carefully considered all the evidence and materials furnished in this case.

7. The Chair has before him the following evidence:
- 7.1 Football Association Extraordinary Incident Report Form of Elliott Haddrell, the Match Official dated 09 October 2022. Mr Haddrell's evidence is reproduced herein:
- "After the match, my assistant Nat Wormleighton, made me aware of an incident that happened during a disagreement from play. Nat Wormleighton stated that the Lydney Manager, James Mose, clearly directed derogatory comments towards a Chipping Sadbury representative, Geoff Endicott calling him a "fucking spastic"."*
- 7.2 Football Association Extraordinary Incident Report Form of Nathanael Wormleighton, the Assistant Referee dated 19 October 2022. Mr Wormleighton's evidence is reproduced herein:
- "During the closing stages of the match, a small verbal disagreement between the dugouts broke out over an on-field decision. This dispute continued for approximately half a minute, with nothing derogatory said until the Lydney Town manager, James Morse, directed a comment at a Chipping Sadbury club representative who was situated between the dugouts and behind the barrier surrounding the field of play. I clearly heard the Lydney manager direct the words "f***ing spastic" at the Chipping Sadbury club representative. The Chipping Sadbury representative then expressed his outrage for the comment that was directed at him, then informing the Lydney Town manager that he would be reporting him for the comment made. I alerted the referee, Elliott Haddrell, to the incident immediately after the final whistle had gone."*
- 7.3 Email from Geoff Endicott dated 19 October 2022, whose statement is reproduced herein:
- [...]
- "I was stood on the halfway line between the home and away technical areas which I estimate to be no further than 10 to 15 yards apart. with no more than five minutes left to play the referee awarded a free kick to Chipping Sodbury in front of their technical area. There was an exchange between the two technical areas as the Lydney player only made slight contact with the Sodbury player, however the intent was clear to all. This was pointed out to the Lydney technical area by the Sadbury technical area, which I agreed with. It was at this point that someone in the Lydney technical area made the remark 'you fucking spastic'. I believe the person responsible was the Manager of Lydney Town. I understand that the Assistant referee who was no more than 5/10 yards away also heard this remark and brought it to the Referees attention at the end of the game.*
- I cannot say whether the remark was directed at me personally or not however what concerns me most is that stood adjacent to the Lydney technical area was a young Downs syndrome lad who I believe to be a relative of a member of the Lydney Town committee . After hearing the remark I immediately reported it to Roger Sansom, a Lydney Town committee member."*
- [...]
- 7.4 Statement from JM dated 15 November 2022, which is reproduced in summary herein:
- I would like to plead Not Guilty to the charges against me. Although I admit to saying the comment that has been reported which has led to this Misconduct Charge but having read the documentation I feel there has been a complete misinterpretation and assumptions made and would therefore like the commission to take into consideration my own report of the events that led to the unfortunate words uttered.*

During the 2nd half of a very competitive UHL game between Lydney Town & Chipping Sodbury Town several challenges were being made which as normal in these cases led to comments being exchanged between both technical areas. A challenge by one of my players was penalised by the referee who also brandished a yellow card to the player. Since I didn't feel it warranted a yellow card arguments ensued between our 2 dugouts and unfortunately during the verbal altercation I shouted out 'don't be a fucking spastic' which their technical area didn't seem to worry about and by just replying with 'why don't you fucking shut up'. It was only after the game that I was made aware that a complaint had been made by someone who was not in their Technical Area, concerning the comment I made.

Looking at the charge made against me I can categorically say that the comment made was in no way meant to be derogatory to any person. I would also like to highlight that the word spastic is used locally very often instead of idiot or fool which is where the misinterpretation of the word seems to have occurred. Over the years I have very often used the phrase 'don't be a spastic' in normal conversation to mean 'don't be a fool'. The FA Rule E3.2 of Improper Conduct aggravated by a persons Disability would seem to imply that the sort of comment I made would be a very serious event if made towards someone with a disability. This I would totally agree with but this was certainly not the case in this instance. The phrase used, however unfortunate, was made to the opposition technical area during our disagreement over the referees decision to award a free-kick, comments that regularly happens between opposition technical areas during a game.

[...]"

Decision on Liability

8. As JM has denied the Charges, the Chair considered all of the evidence in determining whether the Charges were proven on the balance of probabilities.
9. Put simply, this means was it more likely than not that JM used the words 'fucking spastic'.
10. Having considered all of the evidence, the Chair determined that the Charges are **proven** on the balance of probabilities.
11. The reasons for the Chair reaching this decision are as follows:
12. The Chair has considered the evidence supporting the Charges. It includes statements from two witnesses who heard the aggravated comment being made. Mr Wormleighton describes that he clearly heard the aggravated comment being made by the manager of Lydney, which is JM. He states in his evidence that he reported this to the referee, which is supported by the evidence of Mr Haddrell, the referee at the fixture. In his witness statement, Mr Endicot also describes the comment being made by the manager of Lydney. The Chair considers that there is reliable and corroborative evidence supporting that the words 'fucking spastic' were said by JM.
13. The Chair has also considered the evidence from JM. The Chair considers that this evidence amounts to an admission that the comment 'fucking spastic' was made. However, JM's defence is that this has been misinterpreted and taken out of context, as he did not mean it to be derogatory and it is allegedly used quite frequently in the local area as a word synonymous with 'idiot' or 'fool'.
14. The Chair considers that JM has misunderstood the relevant Charges. The Chair refers to the FA Handbook 2022/23 which sets out the basis of the Charges. It reads as follows:

E3.1 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.

E3.2 A breach of Rule E3.1 is an "Aggravated Breach" where it includes a reference, whether express or implied, to any one or more of the following :- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.

15. In order for the Charges to be found proven, it is not necessary for a Regulatory Commission to pay consideration to the intent of the person who made the aggravating comment. What is required is that the participant's behaviour breached E3.1 which in this case applies by virtue of the indecent and insulting words used. When a Commission is satisfied that there has been a breach of E3.1, the Commission must then consider whether the behaviour was aggravated in that it included a reference to a protected characteristic, which in this case is disability.
16. The term 'spastic' is an offensive term, which is commonly used as a slur to those with a disability. If this term is used in the locality as JM suggests, this is unfortunate. It does not provide a defence to the Charges.
17. The Chair is satisfied that the term 'fucking spastic' was used by JM and this constituted improper conduct as it was indecent and insulting words. Further, the Chair finds that this constituted an aggravated breach by virtue of its reference to a protected characteristic, namely disability.
18. Accordingly, the Charges are found proven.

Decision on Sanction

19. As the Chair found the Charges proven, the Chair considered the appropriate sanction to impose.
20. In accordance with Appendix 1 of the FA Disciplinary Regulations 2022/23, an aggravated breach will result in an immediate suspension from football of between 6 matches and 12 matches. A mandatory education programme is to be imposed with any ancillary sanction such as a fine at the discretion of a Regulatory Commission.
21. It is at the Chair's discretion to vary a sanction where there are aggravating or mitigating factors present for the participants.
22. The Chair consulted JM's previous disciplinary history and noted that prior to this incident, there was one other misconduct incident arising from another fixture, the week prior to this one.
23. The Chair considered that JM's cooperation with the FA's investigation should be credited in mitigation. However, this has to be balanced against the aggravating factors of his position as the manager of the team and the previous disciplinary history.
24. Accordingly, the Chair imposed the following sanction:
 - (a) A nine (9) match suspension with an associated ground ban during the suspension period; and
 - (b) A fine of £125;

- (c) An education programme to be undertaken virtually by the conclusion of the suspension period.
25. There is a right of appeal against this decision in accordance with the relevant provisions set out in the rules and regulations of the Football Association.

Elliott Kenton
National Serious Case Panel Chair
25 November 2022