

# National Serious Case Panel

Case ID:

(1) 10764124M

(2) 10764125M

## Disciplinary Commission

*Personal Hearing*

### Gloucestershire Football Association

County FA

v

(1) James Russell

(2) Ryan Hicks

Participants

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The Decision and Written Reasons of The Commission

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#### 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 or submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials in this matter.*

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## **Introduction**

1. On the 12<sup>th</sup> March 2022, there was a football match (the “match” or “game”) between *Bristol Telephones* (“Bristol”) and *Broad Plain House* (“Broad”). Mr James Russell was the club (Bristol) appointed assistant referee and Mr Ryan Hicks was a player for Bristol. These roles therefore make them a “participant” for the purpose of this case.
2. It is alleged that during the second half of the game Mr Russell, operating as linesman, had his offside call overruled by the referee, Mr Andrew Davey, which meant a goal was awarded for Broad. To Mr Russell’s frustration he threw a bib towards Mr Davey and proceeded to become verbally abusive by calling him a “*cheating cunt*”, “*fat cunt*” and also threatened to “*smack*” the referee’s head in. This caused the referee to fear for his safety and showed a red card to Mr Russell. Mr Davey abandoned the game and went to the changing room where he was then approached by Mr Hicks. He did not want to speak to him at that time and Mr Hicks left. Mr Davey felt vulnerable and left the changing rooms and headed to his car where he was approached again by Mr Hicks. He told Mr Hicks that he didn’t want to have a discussion as he had been threatened and Mr Hicks left again.
3. This incident was investigated by the County FA and statements were obtained to establish what took place. The County FA are subject to managing games within their jurisdiction pursuant to rules and regulations set out by The Football Association (“The FA”).

## **The Commission**

4. The County FA prepared the bundle for this matter and The FA officially appointed this disciplinary commission (the “Commission”, “We” and “Us”) to adjudicate on this case.
5. The FA also appointed Sam Anderson of Cambridgeshire Football Association, to sit as secretary and give guidance to the commission on rules and regulations (where necessary).

6. For the purpose of fairness, the commission did not declare any conflicts of interest regarding parties and witnesses in this case.

### **The Charge(s)**

7. The County FA communicated to the participants on the 18<sup>th</sup> March 2022 that they had made the decision to charge them on the evidence below.
8. The charges below are extracts from The FA Handbook that can be accessed online<sup>1</sup> under Section E of Misconduct.
9. The County FA laid the following charge(s):

#### **James Russell**

##### ***Charge 1***

- 9.1. Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour).

- 9.2. The relevant section of FA Rule E3 states:

*“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”.*

- 9.3. FA Guidance on threatening behaviour states:

*“Threatening behaviour: words or action that cause the Match Official to believe that they are being threatened. Examples include but are not limited to: the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of*

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

*hands to intimidate the Match Official; pretending to throw or kick an object at the Match Official.”*

## **Ryan Hicks**

### ***Charge 1***

9.4. Rule E3 – Improper Conduct (not including threatening and/or abusive language/behaviour).

9.5. The relevant section of FA Rule E3 is as above.

### **The Reply**

10. The County FA received a response from the participants where Mr Russell accepted the charge and requested a non-personal hearing. Mr Hicks denied the charge and requested a personal hearing.

### **The Hearing and Evidence**

11. The commission heard these matters as a consolidated case on the 7<sup>th</sup> April 2022 from 7pm online via Teams. Mr Hicks represented himself throughout the hearing.

12. Below is a list of documents within the bundle that are of evidential value. Alongside each document are relevant summaries or quoted extract(s) that specifically go to proving the charge(s) and/or summaries or quoted extract(s) that disprove the charge(s). **Emboldened** text within statements refers to comments of significant value that went towards making a decision.

13. County FA evidence in support of the charge:

14. Andrew Davey, referee

14.1. Statement: ***“In the 86<sup>th</sup> minute .... I unfortunately had to abandon the game.”***  
... *“I awarded a goal to Broad Plain, which involved me overruling the club appointed Assistant Referee (later identified as James Russell) from Bristol Telephones. Whilst I*

*was returning to my position towards the centre circle, I felt something hit me on the side of the head. I looked down and could see there was a colour bib on the floor, although I believe the item to be something else due to the feeling when it made contact with me. The club appointed Assistant from Bristol Telephones came onto the field of play and was now level with me, aggressively verbally abusing me with comments including “cheating cunt”, “fat cunt” and that he would “smack my head in”. This threatening and abusive language caused me alarm and distress and I genuinely feared for my safety. I showed the Bristol Telephones representative a red card, abandoned the game and left towards the safety of the changing rooms. I did not get his name at this time as my only priority at this stage was to get away from the ground.” ... “Still fearing for my safety, I kept my head down and whilst making my way to the changing rooms, I received more abuse from a number of Bristol Telephones players. Once in the changing rooms, I had a knock on the door from someone in a full Bristol Telephones tracksuit (later identified as Ryan Hicks). Still shocked and shaken from what had happened, I told him I didn’t want to speak to him at that time. I left without a shower as I felt very vulnerable in the changing rooms on my own. As I headed to my car, more abusive language was directed at me from Bristol Telephones personnel and the guy in the tracksuit followed me again. Once again, I informed him that I didn’t want to discuss what had happened and he walked away, which was a relief as I still felt I could be physically assaulted at this stage.”*

- 14.2. Live: beyond his statement, Mr Davey described that after the sending off of Mr Russell, he made his way back to the changing rooms where he received abuse and ongoing comments by others. He was asked whether he recalls having any issues with Mr Hicks during the game and he responded that he did not. He did not recall speaking to Mr Hicks at all and hadn’t realised he was in any form of management capacity. He

felt under pressure and stressed when he was in the changing room and when he was approached by Mr Hicks, he told him that “*it’s not a good time now, maybe give me 10 minutes*”. He told the commission it wasn’t the best time for anyone to approach him given what he’d been through. He confirmed that Mr Hicks did leave. After a short while, Mr Davey said he left the changing room and made his way to the car. He had a few comments on his way out and when he got to his car, he noticed that he was followed by Mr Hicks and found this very strange. He told Mr Hicks that he’d just been threatened and didn’t want to speak to anyone, to which then Mr Hicks left again. He said that there were a few cars distance between them and that Mr Hicks wasn’t acting or behaving in any threatening manor when he was speaking. He stressed to the commission that when you tell someone that you want to be left alone you should know not to approach them and that given the circumstances, he didn’t want any contact with anyone.

15. Participant’s evidence in response to the charge:

16. Ryan Hicks, player for Bristol

16.1. Statement: “*When the game was abandoned by the referee as he got back to the changing room I approached him, in my role of assistant manager, to query what had happened to cause him to abandon the game. He told me ‘give me 5 minutes I’ve just been threatened and don’t want to talk at the moment’. I obviously left him but expected to talk to me alter, as he had stated, when he had calmed down. When he came out of the changing room he immediately left the club and I approached him again, to speak with him, only to be told to go away as he was ‘going and not willing to talk to anyone’. He was clearly agitated so I again walked away. I am at a loss to see how my actions have been construed as ‘misconduct’. Surely in my role as manager I can speak with the referee. My actions were not aggressive, nor was I at*

*any time abusive to the referee. Hence my reason for a personal hearing as I am at a total loss as to why this charge has been brought”.*

16.2. Live: beyond his statement, Mr Hicks said that he had spoken to the referee during the game as he had done the team sheets at the beginning and then also spoke to him at half time about matters within the game. He did not know why Mr Russell had been sent off at the time. It came of a surprise when the referee blew the full-time whistle early and walked off to the changing rooms. With seeing this happen, he went to speak to the referee to find out what’s gone on and was told by the referee that he wasn’t in a position to talk and needed “5 minutes”. Mr Hicks said “okay” and left. A short while later he then saw the referee come out and leave the area, he presumed that he didn’t want to have a chat in that area and went to the car park. Mr Hicks said that he was under the impression that he was okay to talk to him after the referee had calmed down (as he was told 5 minutes). When he approached the referee in the car park, he was informed he’d been threatened and he didn’t want to talk, to which he said “okay” and left him alone. He didn’t agree that the referee didn’t know who he was as they had spoken before. Mr Hicks denied making the referee feel in any way threatened and he left when he was told to do so. Mr Hicks hadn’t realised the referee had been threatened until he was told by him.

17. James Russell, club (Bristol) appointed assistant referee

17.1. Statement: *“I would start by sincerely and honestly apologising to Mr Davey for the remarks that I made that day. It is completely out of character, and is the first time that I have even been booked in a game, let alone sent off. On the day I had cause to flag Broad Plain players off-side on a number of occasions, but largely Mr Davey ignored my flagging, and even when directed to speak with me he ignored my flag, stating that as far as he was concerned they were on-side. When the final goal was*



*scored and my flagging had again been ignored I am sorry to say that I became somewhat frustrated and unfortunately voiced my frustration. Mr Davey states that a bib was thrown at him, however I would advise that there was no intention to aim at him, merely to throw the bib away to show my displeasure and indicate that I was not willing to continue with the role of assistant. I apologise again for the action. I would ask that in considering this case, you take in to account my previous good conduct and assurance that it will never happen again”.*

### **Standard of Proof**

18. As directed by The FA, the appropriate standard of proof in such cases is that of the civil standard. This means that the commission must be satisfied on the balance of probabilities that, as per the evidence presented before us, it was more likely that not that the events occurred as they have been charged.

### **The Decision**

19. The County FA presented evidence from the referee who was clearly upset and affected by the earlier incident involving Mr Russell. However, it was unclear in evidence of where The County FA deemed Mr Hicks’ behaviour to be improper. They did prove through the referee that he was approached twice by Mr Hicks but this was on the basis that Mr Hicks was told to give the referee 5 or 10 minutes in between the two encounters. There was no evidence to suggest that Mr Hicks was threatening or acting improperly during both encounters. We believed that the referee was under a great deal of stress but other than saying to the commission that he did not appreciate being approached, he did not give evidence of improper conduct regarding Mr Hicks.

20. The participant denied acting improperly when he approached the referee and the commission believed his evidence. We considered that as part of management, it would be

in Mr Hicks' interest to know why his player was sent off and we believe this justified his approach when the referee entered the changing rooms. We found him to be credible in his evidence and believe that he respected the referee's decision on both occasions of encounter.

21. The charge against Mr Hicks is not made out because the commission determined there was insufficient evidence of improper conduct. The commission found that on this occasion, Mr Hicks was not acting improperly by approaching the referee for a conversation. He displayed no signs of aggression or malice when speaking to him. He was told by the referee to give him 5 or 10 minutes, which can only suggest an invitation to talk at a later stage. It therefore follows that it was not improper for Mr Hicks to approach the referee again, albeit in a car park, to have this further conversation. Mr Hicks left on both occasions and respected the referee's decision not to talk, which was also supported by the referee's evidence.

22. The commission therefore found that, on the balance of probabilities, the following:

**James Russell**

22.1. Charge 1 against the participant is PROVEN (already accepted);

**Ryan Hicks**

22.2. Charge 1 against the participant is NOT PROVEN.

**Previous Disciplinary Record**

23. The commission were then informed of Mr Russell's previous record of the last 5 years. Beyond the red card for this matter, this is the only misconduct he now has on his record. This is in line with the evidence he gave in his statement and we considered this to be a positive previous record.

### **Mitigation**

24. Mr Russell's mitigation was within his statement where he accepted the charge, apologised for his conduct and submitted to the commission that his conduct would not be repeated in the future.

### **The FA Guidance on Sanctions**

25. The FA Handbook 2021/22 and County FA Disciplinary Sanction Guidelines set out the scope and range of sanctions that are relevant to this particular case:

26. County FA Sanction Guidelines 2021/22:

26.1. *"These are Guidelines/Minimum Sanctions and must be followed but can be varied where appropriate mitigation or aggravation factors exist"*

26.2. *E3 – Improper Conduct against a Match Official (including Threatening and/or Abusive Behaviour) "Suspension from all football activity for a period of between 56 days and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors, is 112 days. A fine of £100, with a mandatory minimum of £50".*

26.3. *An FA Education course must be imposed by the Disciplinary Commission for proven offences of Threatening Behaviour towards a Match Official, Physical Contact or attempted Physical Contact on a Match Official, Assault or attempted Assault on a Match Official."*

### **Sanction**

27. The commission took into account that there was a guilty plea and a positive record in respect of Mr Russell. The language was deemed to be aggravated and repeated, particularly since it led to the match being abandoned. The commission believed that the mitigating and aggravating factors balanced themselves out, so as to maintain the entry

point within the guidelines. Therefore, after taking into account all the circumstances in this case, the sanction imposed upon the participant is the following:

**James Russell**

- 27.1. A suspension of 204 days (This is the entry 112 days and an additional 92 days to take into account off-season period) from all football including a ground ban, effective from the date of notification for this decision;
- 27.2. To complete an FA online education course (details to be provided) before the end of the suspension period, or within 28 days of the Disciplinary Commission's decision, whichever is the later. Otherwise, the participant will be suspended until such a date that the course has been successfully completed;
- 27.3. Fine in the sum of £75;
- 27.4. 7 penalty points.
28. This decision is subject to a right of appeal under the relevant FA Rules and Regulations.

**Alban Brahimi**, Chair

**Andrew Saunders**

**Jen Gregory**

7<sup>th</sup> April 2022