

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of Gloucestershire Football Association

CORRESPONDENCE HEARING

of

Mr KEVIN DREW

Horsley United FC

[Case ID: 10939920M]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 08 October 2022, Horsley United FC (“Horsley”, the “Club”) First team played a Stroud & District Football League, Division 2, away fixture against Upton St. Leonards FC (“Upton”) First team – collectively the “match”.
2. The Match Referee, Mr Nathan Stevens, reported an incident from the match.
3. Gloucestershire Football Association (“Gloucestershire FA”) investigated the reported incident.

The Charge

4. On 11 October 2022, Gloucestershire FA charged Mr Kevin Drew, a non-playing Participant of Horsley (reported to be the Chairman of Horsley):
 - 4.1. with misconduct for a breach of FA Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive language / behaviour); and
 - 4.2. it was alleged that Mr Drew used threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1, and it was further alleged that this constitutes a *Threatening Behaviour against a Match Official* as defined in FA Regulations. This referred to the allegation that Mr Drew acted in an abusive, aggressive and intimidatory manner towards the Referee, Mr Stevens, during and after the end of the match or similar.
5. The relevant section of FA Rule E3 states ¹:

“E3.1 A Participant shall at all times act in the best interest 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.”
6. The *Threatening Behaviour against Match Officials* is defined as ²:

¹ p. 141 of FA Handbook

² p. 215 of FA Handbook

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

7. Gloucestershire FA included with the charge letter the evidence that they intended to rely on in this case.
8. Mr Drew was required to respond to his charge by 25 October 2022.

The Reply

9. On 23 October 2022, the Club, on behalf of Mr Drew, responded online by denying his charge and requested the case to be dealt with in his absence at a Correspondence Hearing.

The Commission

10. The Football Association (“The FA”) appointed me, Thura KT Win, as a Chairman member of National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate this case.

The Hearing & Evidence

11. I adjudicated this case on 09 December 2022 as a Correspondence Hearing (the “Hearing”).
12. I had received and read the bundle of documents prior to the Hearing.
13. The following is a summary of the principal submissions provided to me. It 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 I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all the evidence and materials furnished with regard to this case.

14. The Match Referee, Mr Nathan Stevens, submitted an Extraordinary Incident Report, dated 09 October 2022, in which he stated (I quote):

"In the 58th minute of the game, after a penalty was awarded and subsequently scored (following a retake by the home side), there were 4 away team officials on the bench who all were shouting and calling me names. As I approached them, Mr Drew said 'I bet you fucking heard that you dickhead!' To which I responded by asking Mr Drew to leave the technical area.

After the game had finished, Mr Kevin Drew, Chairman of Horsley, approached me and said 'I need the names of the players you fucking booked'. I told him he would receive notification in due course. He became more aggressive and continued to follow me towards the changing room. He then said 'I'm going to get my daughter to say you're a paedophile' and pointed at his daughter. He continued to repeat himself and was getting angrier. He was right in my face and I felt intimidated and worried he might assault me. Players intervened and ushered me away."

15. Mr Drew, submitted a statement via EMail, on 24 October 2022 at 18:43, in which he stated (I quote the relevant text):

"... First of all I would like to say I have been managing Horsley united for 21 years and have never seen [refereeing] like this before, which sadly I resigned straight after the game due to what I can only call cheating, the ref who said he was a qualified ref turned up wearing a Upton [St] Leonard's top on which they gave him a bib to wear over the top with no watch as used his phone during the game to check on time, Upton knew all week that we had no ref appointed and to be honest 1st half he did a decent job even thou we found ourselves 4,0 down but we believed we could still get back into the game...

Upton player deliberately did a hand ball with both hands above his head which our players all stopped and Upton went on and scored, my fellow manager was calling the ref to ask why the handball was not given and was totally ignored on 3 occasions so I did shout, can you answer him you clown which he heard and told me to leave the pitch, which I did...

after the game I was waiting by the changing room and the ref came over so I asked if I could have a list of who he booked so I can pass to our secretary to update on full time which I was told no you fucking can't and you will soon see them in my report, and I

don't have to give them to yourselves, Upton players told him to walk away and apologized for his behaviour to myself, I fully understand I should not of called him a clown and apologize for that, but in Mr Stevens report he said that I said I bet you fucking heard that you dickhead which is totally untrue and after the game it was Mr Stevens in my face...

I feel very sad that I have stepped down as manager over a referee who clearly used the bit of power being a ref to help his side win..."

16. That concluded all evidence in this case.

Standard of Proof

17. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

18. Mr Drew had denied the charge but, in relation to Mr Stevens' version of the allegation that Mr Drew had said "*I bet you fucking heard that you dickhead!*"³, Mr Drew had admitted that he had said "*can you answer him you clown*" and added "*I fully understand I should not of called him a clown and apologize for that*"⁴.
19. This is the admission that Mr Drew had used abusive and/or insulting language element within the charge, which alone is improper conduct against a Match Official, contrary to FA Rule E3.1.
20. I did not find the variation in the two versions of the alleged comment, "*I bet you fucking heard that you dickhead!*", and the admitted comment, "*can you answer him you clown*", would make a material difference in sanction for this element of the charge.
21. However, in relation to the more serious element of the charge of the threatening behaviour against the Match Official after the match which Mr Stevens said "*I felt*

³ para 14

⁴ para 15

- intimidated and worried he might assault me”⁵, other than Mr Drew saying “it was Mr Stevens in my face”⁶, Mr Drew did not explain in his statement what had happened at that time and had not challenged Mr Stevens’ version of allegations.*
22. On the events after the match, both Mr Stevens and Mr Drew had agreed, albeit slight difference in the language used, that Mr Drew had asked Mr Stevens for the list of players who were cautioned from the match, Mr Stevens not giving the list to Mr Drew and saying it would be notified in due course.
23. Following on from Mr Drew asking Mr Stevens for the list of players cautioned, Mr Stevens then alleged that Mr Drew *“became more aggressive and continued to follow me towards the changing room. He then said ‘I’m going to get my daughter to say you’re a paedophile’ and pointed at his daughter. He continued to repeat himself and was getting angrier. He was right in my face and I felt intimidated and worried he might assault me”⁷.*
24. Mr Drew did not say what occurred after asking for the list of players cautioned, other than that *“it was Mr Stevens in my face”⁸.*
25. It would be logical that something must have happened for either Mr Drew ended up being in Mr Stevens’ face or Mr Stevens in Mr Drew’s face. There was only one account in the evidence in the bundle, which was from Mr Stevens only and nothing from Mr Drews, on what had occurred that had led to Mr Drew being right in Mr Stevens’ face.
26. Mr Drew had also said⁹ that *“what I can only call cheating, the ref who said he was a qualified ref turned up wearing a Upton [St] Leonard’s top... Upton player deliberately did a hand ball with both hands above his head which our players all stopped and Upton went on and scored, my fellow manager was calling the ref to ask why the handball was not given and was totally ignored on 3 occasions... I asked if I could have a list of who he booked so I can pass to our secretary to update on full time which I was told no you fucking can’t and you will soon see them in my report, and I don’t have to give them to yourselves... a referee who clearly used the bit of power being a ref to help his side win”.*

⁵ para 14

⁶ para 15

⁷ para 14

⁸ para 15

⁹ para 15

27. With no other explanation from Mr Drew, I found it was more likely than not that: Mr Drew was not happy with Mr Stevens' performance on the day, had the view that Mr Stevens was "*cheating*" and "*clearly used the bit of power being a ref to help his side win*", Mr Drew's emotions were high, he was angry and very likely to have come across as aggressive towards Mr Stevens.
28. Therefore, on the evidence before me and on the standard of proof required, being balance of probability, I found it was more likely than not that, after the exchanges between Mr Drew and Mr Stevens on the list of players cautioned ¹⁰, Mr Drew had acted in the way as alleged by Mr Stevens in his report.
29. From this finding of facts, I found Mr Drew's behaviours of: "*became more aggressive and continued to follow [Mr Stevens] towards the changing room*"; saying "*I'm going to get my daughter to say you're a paedophile*" and pointed at his daughter"; "*continued to repeat himself and was getting angrier*"; and "*was right in [Mr Stevens'] face*" are, collectively, more likely to be words and actions of the threatening behaviour towards Mr Stevens.
30. Mr Stevens, who was the Match Official – even if he had connections with Upton, had also reported that he "*felt intimidated*" and worried that Mr Drew might "*assault*" him, which is Mr Stevens believing that he was being threatened.
31. I found that Mr Drew's reported behaviours were "*words or action that cause the Match Official to believe that they are being threatened*" ¹¹.
32. Therefore, on the evidence before me and on the standard of proof required, I found it was more likely than not that Mr Drew had used abusive and insulting language towards the Match Official and, that Mr Drew's further behaviour constitutes a *Threatening Behaviour against a Match Official* as defined in FA Regulations.
33. I, therefore, found the charge against Mr Drew that he used abusive and insulting language towards a Match Official ¹² and threatening behaviour against a Match

¹⁰ para 22

¹¹ see 96.1 in para 6

¹² para 19

Official¹³ PROVEN.

34. Within the category of threatening behaviour, I found Mr Drew's threatening behaviour to be at a low level.
35. Mr Drew's abusive and/or insulting language towards Mr Stevens¹⁴, in totality of the charge, and Mr Drew's role as a Manager (Mr Drew's statement) or the Club Chairman (Mr Stevens' report) would be aggravating factors (*see below*)¹⁵.

Previous Disciplinary Record

36. As the charge had been found proven, I sought Mr Drew's previous relevant disciplinary record. Apart from a couple of cautions, Mr Drew has no previous relevant misconduct record over the past five seasons.

Mitigation

37. Other than apologising for the use of the word "clown", Mr Drew had not stated anything as mitigation in his statement¹⁶ and I found nothing in the evidence that could be considered as mitigation.

The Sanction

38. The *Sanction range (Suspension)* for Offences Against Match Officials¹⁷ states:
- "A Disciplinary Commission shall impose an immediate suspension within a range based on the category of offence committed (as set out below). A Disciplinary Commission shall take all aggravating and mitigating factors into account, including, but not limited to, those listed in paragraph 102, when determining the level of sanction within the range. Unless otherwise stated, the lowest end of the applicable range shall operate as a standard minimum suspension. A Disciplinary Commission may impose an immediate suspension in excess of the upper limit in circumstances where aggravating factors of significant number or weight are present.*
- Threatening behaviour:*

¹³ para 33

¹⁴ para 19

¹⁵ para 43

¹⁶ para 15

¹⁷ p. 216 of FA Handbook

101.1 *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.

101.2 *a fine of up to £100, with a mandatory minimum fine of £50.*

101.3 *an order that the Participant completes an education programme before the time-based suspension is served."*

39. *Factors to be considered when determining sanction, as referred to in paragraph 102¹⁸ above states:*

"A Disciplinary Commission will have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction and whether (and to what extent) to depart from any sanction range applicable to the offence (subject to any applicable standard minimum suspensions).

The Disciplinary Commission shall consider any aggravating and mitigating factors, to include, but not limited to:

Aggravating factors

- *The degree of force or threatening behaviour used.*
- *The profile of the Participant, including where they hold a position of responsibility within their Club or organisation (e.g. Club captain, Club chair, a member of the Club's senior management).*
- *The relative ages of the Participant and the Match Official at the time of the offence, particularly where the Match Official was a minor and the Participant was not.*
- *Failure to co-operate with the Affiliated Association.*
- *Previous disciplinary record of the Participant.*
- *Any attempt to conceal the breach.*
- *The extent of any premeditation.*
- *The overall impact on the reputation and integrity of the game.*

Mitigating factors

- *Admission at the earliest opportunity.*

¹⁸ p. 216 of FA Handbook

- *Demonstration of genuine remorse.*
 - *Co-operation with the Affiliated Association.*
 - *Age of the Participant.*
 - *Previous disciplinary record of the Participant.*
40. From the *Sanction range (Suspension)* above for this offence, it is “*an immediate suspension*” and “*The recommended entry point, prior to considering any mitigating or aggravating factors, is 112 days*”¹⁹.
41. The low level of seriousness that I assessed²⁰ within the threatening behaviour category range would be reflected in the sanction.
42. As Mr Drew had denied the charge, which has been subsequently found proven, “*credit for early guilty*” is not available to Mr Drew. However, as Mr Drew had admitted to the abusive and/or insulting element of the charge²¹, some credit would be given to Mr Drew.
43. Mr Drew’s abusive and/or insulting language²², in totality of the charge, and his reported position of responsibility as a Manager²³ or the Club Chairman²⁴ are the aggravating factors, which would increase the sanction.
44. With there being no mitigation factors presented or found²⁵, only Mr Drew’s previous good disciplinary record²⁶ would help reduce the sanction.
45. After considering the *recommended entry point, aggravating and mitigating factors*, an immediate suspension of 98 days would be an appropriate and proportionate sanction in this case for Mr Drew, which is within the *Sanction range* of “*between 56 days and 182 days*”.
46. This offence also carries “*a fine of up to £100, with a mandatory minimum fine of £50*”²⁷ and “*an order that the Participant completes an education programme before the time-based suspension is served*”²⁸.
47. In considering the circumstances in this case, I considered a fine of £75 would be

¹⁹ see 101.1 in para 38

²⁰ para 34

²¹ paras 18 and 19

²² paras 19 and 35

²³ paras 15, 35 and 39

²⁴ paras 14, 35 and 39

²⁵ para 37

²⁶ para 36

²⁷ see 101.2 in para 30

²⁸ see 101.3 in para 30

appropriate and proportionate.

48. After taking into consideration all circumstances in his case, Mr Drew is:

- 48.1. to serve an immediate ground ban suspension from all football activity for a period of 98 (ninety-eight) days;
- 48.2. a fine of £75 (seventy-five pounds); and
- 48.3. to satisfactorily complete an online mandatory education programme before the time-based suspension is served, or Mr Drew be suspended until such time he successfully completes the online mandatory education programme, the details of which will be provided to Mr Drew.

49. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Thura KT Win JP LLM MCI Arb (Commission Chair)

10 December 2022