

**THE FA DISCIPLINARY COMMISSION**

On behalf of Gloucestershire County Football Association Limited

**NON-PERSONAL HEARING - Chair alone**

**OF**

**Nyall Hamand [63234646]**

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**THE DECISION AND REASONS OF THE COMMISSION**

**CASE ID: 10163750M**

**23 March 2020**

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**THE COMMISSION**

1. Evans Amoah - Nyamekye – Chair

**SUMMARY OF DECISION**

The Commission found charge 1 of breaches of FA Rule E3 Improper Conduct against a Match Official (*including physical contact and threatening and/or abusive language/behaviour*) was **proved** against Nyall Hamand.

After having considered the seriousness of the incident, Nyall Hamand disciplinary record, the mitigating and aggravating factors, the guidelines sanctions under FA Rule E3 and the Disciplinary Sanctions Guidelines issued by the FA, the Commission decided not to increase the sanction outside the threshold.

Accordingly, the Commission imposed a 182 days suspension backdated from the start of the interim suspension. The Commission also imposed a fine of £100. Nyall Hamand was warned as to future conduct.

The Commission also imposed 10 disciplinary points on the club.

The reasons for the decision are stated in full below.

## **INTRODUCTION**

1. On 29 February 2020, a match between Tewkesbury First V Kempsey Corinthians First took place.
2. It is alleged that Nyall Hammand against a match official used Improper Conduct (*including physical contact and threatening and/or abusive language/behaviour*) towards the match referee, Rhys Taylor.
3. The case was presented before a Disciplinary Commission appointed by The Football Association ("The FA") as a non-personal hearing, by chair alone.

## **THE CHARGES**

4. The Nyall Hammand faced charges of breaches of FA Rule E3 - Improper Conduct against a Match Official (*including physical contact and threatening and/or abusive language/behaviour*).

## **THE PLEA**

5. Nyall Hammand accepted the allegations. The case was dealt with as a guilty plea and dealt with on the papers.

**THE FA RULES**

The applicable FA Rule E3 states:

**GENERAL BEHAVIOUR**

6. *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.*

*In accordance with The FA Sanction Guidelines, if a Commission find this charge proven, they will be required to decide whether they feel the proven misconduct should be classified as a low, medium or high level of seriousness. When reaching any decision, the Commission will take into account any aggravating or mitigating factors.*

**OFFENCES AGAINST MATCH OFFICIALS****Categories of Offence**

*96 The three categories of offence against Match Officials are as follows:*

*96.1 Threatening behaviour: words or action that cause the Match Official to believe that they are being threatened;*

*96.2 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); and*

*96.3 Assault: acting in a manner which results in an injury to the Match Official. This includes spitting at the Match Official (whether it connects or not).*

**THE COMMISSION**

7. The following member were appointed to the Disciplinary Commission (“the Commission”) to hear the case:

- 1. Evans Amoah - Nyamekye – Chair alone**

**THE HEARING**

8. We considered the matter on 23 March 2020.

9. From his response to the charge Nyall Hammand had been provided with all the statements and evidence with which the Commission had been provided. Accordingly, Nyall Hammand had fair notice of the allegation made against him.

10. The following is a record of the salient points which the Commission considered and is not intended to be and should not be taken as a verbatim record of the evidence considered.

11. In advance of the Hearing the Commission had received and read the bundle of documents.

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## **THE COUNTY FA'S CASE**

12. In the match referee's report, it states that

After the full time whistle, I was shaking the hands of all the players etc, and the Tewkesbury player that was dismissed, approached me in an aggressive manner slating my performance, in an insulting way to me and my performance, I think he said something on the lines of 'You we're fucking pasty today' You were poor' I said calmly that he should calm down, however he ignored this, turned around calling me every name under the sun, le with the word 'Fucking' at the start of every insult. I then showed him a red card for the use of offensive language. As he turned and saw the red, He charged towards me in an aggressive manner, he then pointed at me swearing etc, (At this point, I just stood there and took it and I can't really recall much of what he was saying mainly due to the shock...) then with the finger he was pointing with pushed me and then with two hands physically pushed me back. Continuing to abuse me with swearing etc. After he had pushed me, members of both the home and the away were very quick to push him away and to get him to leave the immediate area. On his was out of the Astro turf it was noted that he kicked two of the goal posts as he left.

I then went back to the changing room, had my brief from Oliver and he left, I got changed and then also proceeded to leave. When leaving the changing room, the player involved and other Tewkesbury players waited for me, he continued to slate me, and his main point was that it wasn't a red card, as you cant be sent off for dissent and that he wasn't swearing at me, I stated it doesn't just have to be swearing it was insulting and the way he spoke to me was in an aggressive manner hence the Red.

Just before he charged at me, I asked him for his name of which he ignored and I was fully inclined to then put it through as no name, I did speak to the home manager who then provided his details.

From the charge onwards, this was witnessed by my Assessor from the game, Oliver Spender.

## **ASSESSMENT OF THE MATCH REFEREE'S EVIDENCE**

13. The Commission concluded that the match report from Rhys Taylor was clear. Like many written statements it was unable to be orally vigorously tested by the Commission.
14. The Commission took the view that referee did receive the physical contact from Nyall Hammand when he pushed him with two hands.
15. The Commission accepted the evidence of match referee as trying to be truthful and provide a reliable statement,
16. The Commission noted that the match referees report was corroborated by the plea of guilty.

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**ASSESSMENT OF THE OLIVER SPENDER'S EVIDENCE**

17. In the observer match referee's report, it states that

I was appointed to the above game as the match observer to Rhys Taylor. After the final whistle I was walking onto the pitch towards Rhys who was over the far side. He was approached by Nyall Hammand of Tewkesbury Athletic in an aggressive and confrontational manner, Rhys dismissed Nyall showing the red card for what he advised me afterwards was for offensive, insulting and/or abusive Language as I had not heard what was said - (see Rhys report for the details). After Rhys had shown Nyall the red card I did see Nyall point his hand into Rhys body making contact with him around the chest and then pushing him back with the same hand when making contact with Rhys was a second time before he was restrained by his team mates and opposing players. I was around 15 - 20 yards from the incident and had a clear and unobstructed view. I then stood with Rhys and walked with him to the changing rooms

18. The Commission concluded that the observer match report from Oliver Spender was clear. Like many written statements it was unable to be orally vigorously tested by the Commission.

19. The Commission took the view that referee did receive the physical contact from Nyall Hammand when he pushed him with two hands.

20. The Commission accepted the evidence of observer match referee as trying to be truthful and provide a reliable statement,

21. The Commission noted that the observer match referees report was corroborated by the plea of guilty.

**THE PARTICIPANT'S CASE**

**ASSESSMENT OF THE STATEMENT / EVIDENCE OF NYALL HAMMAND**

23. There was no formal statement in response to the charge from Nyall Hammand. However there was a plea of guilty on his acknowledgment form.
24. The Commission concluded that Nyall Hammand did use the improper conduct as described by the match official.



## THE COMMISSION'S CONCLUSIONS

25. The Commission found the charge of breaches of FA Rule E3 assault on match official and improper conduct (including physical contact and threatening and/or abusive language/behaviour) was **proved** against Nyall Hammand.

26. The reasonable inferences which could be drawn are from the circumstances of the case were namely:

26.1. For reasons given above the Commission determined that the match report and the plea of guilty were clear evidence that the charge was proved.

**BURDEN OF PROOF**

- 26.2. The applicable standard of proof required for this case is the civil standard of the balance of probability, meaning more likely than not.
- 26.3. The Commission took the view that the allegation and the evidence supporting that allegation needed to be tested. The Commission considered the possible innocent use and interpretation of the word and conduct versus any possible misinterpretation.
- 26.4. The Commission considered the context in which the conduct was used, the intent behind the conduct used and gave consideration to all the circumstances surrounding the use of the comments whilst considering the effect of the comments used.

**OUR FINDINGS OF FACT**

27. On the balance of the burden required, The Commission are satisfied to make the following findings of fact that:
- 27.1. On 29 February 2020, a match between Tewkesbury First V Kempsey Corinthians First took place.
- 27.2. The Commission concluded that Nyall Hammand did use improper conduct as described in the match referees report '*pushing in his chest*'.
- 27.3. The Commission concluded that Nyall Hammand did use physical contact, threatening or abusive behaviour towards a match official.
- 27.4. The Commission found that the E3 charges –Improper Conduct 'against a match official (*including physical contact and threatening and/or abusive language/behaviour*) **PROVED** against Nyall Hammand.

**THE DECISION**

28. Having read the evidence, the assessment of the evidence is entirely a matter for the Commission members.
29. The Commission has to assess the reliability of the witness (*that is whether, even although a witness may be attempting to tell the truth their evidence might not be relied upon for differing reasons*) and the credibility of a witness (*that is whether a witness is attempting to tell the truth*). Of course such an assessment is difficult to make if the evidence being considered is in written form.
30. Ultimately it is for the Commission to accept or reject each piece of evidence we are considering. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for us to assess if the discrepancies are important and leads assistance to the determination of the balance of probabilities.
31. Having decided which evidence we accept and rejected; we then have to decide on the balance of probabilities if the alleged breach of the FA Rule is established.
32. The Commission considered all of the evidence provided.

**SANCTION**

33. After having considered the seriousness of the incident as medium -low, Nyall Hammand disciplinary record, the mitigating and aggravating factors, the guidelines sanctions under FA Rule E3 and the Disciplinary Sanctions Guidelines issued by the FA, the Commission decided not to increase the sanction outside the threshold.
34. Accordingly, the Commission imposed a 182 days suspension backdated from the start of the interim suspension. The Commission also imposed a fine of £100. Nyall Hammand was warned as to future conduct.
35. The Commission also imposed 10 disciplinary points on the club.

**CONCLUSION**

37. This decision is subject to the right of appeal under the relevant FA rules and Regulations.

**Signed The Commission:**

**THE COMMISSION**

1. Evans Amoah - Nyamekye – Chair alone

**23 March 2020**

