

**In the Matter of
Hertfordshire Football Association**

V

Terence Winter (9649678M)

The Decision and Reasons of the Commission on Thursday 10th January 2019.

The Disciplinary Commission members appointed by the Hertfordshire Football Association were:

Mr Paul Mallett - Chair & Hertfordshire FA Council Member
Mr Chris Williams – Independent Member
Mrs Jackie Davis – Independent Member

Miss Lauren Halsey of Hertfordshire Football Association acted as Secretary to the Commission.

The hearing took place at County Ground, Letchworth on Thursday 10th January 2019 commencing at 19.10 and finished at 21.20.

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

CHARGE:

1. Mr. Terence Winter, a Manager of Lemsford Youth, received a charge for FA Rule E3 – Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour), the alleged misconduct having taken place in a match between Real Stortford FC v Lemsford Youth in the Mid Herts Rural Minors League on the 25th November 2018.
2. The details of the charge, as outlined in the Charge letter and the Referee's report were as follows:
"... you confronted the match official and made contact on two occasions contrary to Rule E3(1)."

and

"I told him to move away from me and to stop pointing at me, he then put his hands on me on two occasions. I told him to back away and remove his hands and to set an example to his team. He refused to leave the field of play so I called on the match delegate", which amounts to a breach of FA Rule E3 – Improper Conduct including Physical contact against a match official.

3. It was noted both by the Commission but also within the Charge letter, in accordance with The FA Sanction Guidelines 2018-19 that this offence carries a mandatory minimum 84 days & £100 fine but the recommended sanction for a proven case is 182 days suspension from all football & football activities & up to £150 fine for Physical Contact on a match official.

4. The Participant denied the charges and requested the opportunity to attend a Discipline Commission for a personal hearing.
5. The Commission were also tasked with giving a decision on a charge (9649680M) received by the Lemsford Youth FC for FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion as the alleged misconduct also took place in the same aforementioned match between Real Stortford FC v Lemsford Youth in the Mid Herts Rural Minors League on the 25th November 2018. The Misconduct Charge Notification specified ‘Misconduct of the club lineman and match day delegate’. The Club entered a Guilty Plea under Option (a) and was dealt with as a Non Personal Hearing. No additional documentation other than those mentioned for the case involving Mr Winter was provided. The Commission will consider both charges as consolidated cases.

DOCUMENTATION:

6. The members of the Commission had a bundle of documents before them, as detailed below, and which they had read before convening:
 - a. Misconduct Charge Notification Case ID 9649678M dated 29th November 2018.
 - b. Referee’s report by Mr Kevin Fox dated 25th November 2018.
 - c. Two emails from Mr Kevin Fox both dated 27th November 2018.
 - d. Undated report from Mr Adam Senior, Chairman, CWO and Manager of Real Stortford FC.
 - e. Email from Mr Adam Senior dated 28th November 2018.
 - f. Email from Mr Terry Winter dated 5th December 2018.
 - g. Email from Mr Simon Fucci, Assistant Manager Lemsford Youth dated 4th December 2018.
 - h. Undated report from Stephen Bilyard, Match Delegate Lemsford Youth.
 - i. Undated response stating to be from Lemsford Youth Football Club.
 - j. Misconduct Charge Notification Case ID 9649680M dated 29th November 2018.

ALLEGATIONS:

7. The allegations against Mr Winter are as set out in the Misconduct Charge Notification and in paragraphs 1 and 2 above.
8. We reminded ourselves that we were only dealing with the actions made by Mr Winter after entering the field of play at half-time, together with the subsequent Physical contact against a match official.
9. For clarity the Chairman read the description of the charge from the FA Handbook, Section 5 - 91.2, page 179 and Mr Winter confirmed that he was familiar with the wording.

COUNTY FA WITNESS EVIDENCE:

10. We noted detailed written evidence from the following persons:
 - a. Mr Kevin Fox (Referee)
 - b. Mr Adam Senior (Chairman, CWO and Manager of Real Stortford FC)
11. Mr Fox was clear in his written evidence that Mr Winter had “*marched onto the pitch to within a close proximity of me, where he started to point his finger at me*”

challenging my decisions not to award a penalty to his team and the fact that I had produced a red card resulting in me sending off his son. I told him to move away from me and to stop pointing at me; he then put his hand on me on two occasions. I told him to back away and remove his hands and to set an example to his team.”

12. Mr Fox was equally clear in his verbal evidence that Mr Winter had marched onto the pitch from a distance of 50/60 yards, wagging his finger in the direction of himself and although he asked Mr Winter to move away, in his opinion he had no wish to do so. He added that he felt Mr Winter was adamant in wanting to only confront him regarding various decisions made during the first half. The starting position of the two individuals was indicated on a diagram of the FOP.
13. Mr Fox indicated to the Commission that when he made a move to turn away he felt restricted to do so by Mr Winter entering his personal space and placed an outstretched arm, which came across his chest, and then made deliberate contact on his arm to stop him moving away. This action was repeated by Mr Winter, even though he had been told to move away.
14. The Commission asked Mr Fox if he exchanged any other words with Mr Winter other than those reported, both written and verbally. He replied that he hadn't.
15. Mr Fox was asked by the Commission to describe his feelings at the time Mr Winter came onto the pitch and he stated *“That in my 20 years of refereeing it was the first time I had felt so intimidated, with being on my own and nowhere to go and I was concerned from his body language what he was going to do!”*
16. Mr Winter stated to the referee that although now hearing that he felt intimidated by him going onto the pitch, it was his intention to calm matters down!
17. Mr Adam Senior was unable to attend the hearing, so the Commission only had his written evidence to consider.

PARTICIPANT CHARGED EVIDENCE:

18. We heard and noted detailed evidence from the following persons:
 - a. Mr Winter (Manager, Lemsford Youth)
 - b. Simon Fucci (Assistant Manager, Lemsford Youth)
 - c. Nigel Weston (Spectator Lemsford Youth)
 - d. Cameron Baxter (Spectator Lemsford Youth)
19. Mr Andy Norman, Chairman Lemsford Youth, attended only as a Club Representative and gave no evidence.
20. Mr Winter in his written response had stated:

“A conversation ensued on the centre spot and I was standing approximately one arms length away. I apologised for the players’ reaction, but I said that a penalty should have been awarded. I mentioned that there were other occasions during the first half where I felt decisions had gone against the Lemsford team and in doing so I was pointing to where the incidents occurred and would have address the referee by ‘you’ and pointing. As I was talking, the referee continued to say ‘go away’, go away’ in an aggressive manner and said ‘don’t point at me’, which I stopped doing so.”

“At no point was I verbally aggressive, imposing in my stance, or raise my voice to the referee. Turning to the side, I gently placed and open hand on the side of the referees arm in a

sympathetic manner to gain his attention and said 'I'm trying to engage in a conversation'. He replied 'don't manhandle me'."

21. Mr Winter in his verbal response stated he had only gone on to the pitch to get his son, who he had seen just being sent off by the referee, and advise his son, who had his back to the referee, that he had been sent off and to prevent his son from further trouble. He then continued past his son to the referee to ask the reason for his son's dismissal and additionally made reference to other decisions during the first half. He stated he was only in close contact with the referee to have a conversation. He repeated the circumstances of his actions in touching the referee as mentioned in his written response. Mr Winter added that he didn't manhandle the referee as given in the referee's written evidence, and for the benefit of the Commission he was asked to point out in the evidence where this was stated, as the referee's report which was verbally confirmed, had merely suggested that contact was made. He accepted that this wasn't stated in writing or verbally and was his own interpretation of the evidence and he was informed, in being fair and transparent, that the Commission couldn't consider this to be a valid word.
22. The Commission asked Mr Winter to confirm that he made contact with the referee. His reply was 'Yes'.
23. The Commission asked Mr Winter why when he reached his son, which was his intention, did he go straight by him to the referee. He stated, *'With hindsight it would have been wiser to stop but he wanted to hear the referee's versions of first half decisions'*.
24. Mr Winter was asked why he didn't immediately move away from referee when asked and he explained that he wanted to understand the decisions and calm down the referee who appeared to be agitated. He reinforced his earlier comment that he only touched the referee once.
25. It was put to him that, as he previously stated, with a number of referee decisions not going his team's way in his opinion and his son being sent off, that this may have triggered in him a period of frustration and he therefore acted in the manner described by the referee. He again stated that he didn't and only sympathetically touched the referee once.
26. Mr Simon Fucci in his written evidence stated *'He was guilty of spending too long arguing (only arguing) with the ref...'* further adding *'Unfortunately, I think the ref was not receptive to Terry's attempt to calm matters and it looked like it transformed into a short verbal disagreement and did not go beyond that but maybe lasted a little longer than it should have'* and *'I accept that the ref may have felt intimidated by everything, I could see he was unsettled and angry during the sending off, but this may have caused him to misinterpret events and intentions to a degree'*.
27. Mr Fucci verbally stated that during half time he knew Terry was going to ask the referee about decisions, although on being challenged by the Commission he couldn't remember if it was because Terry had told him or he had assumed it!
28. Mr Fucci was asked to clarify his verbal comments in stating that Terry only tried to act in a calming measure but in his written report related to 'arguing' and 'transformed into a short verbal disagreement'. He replied that although he had reviewed his report a number of times before being sent he now felt that his written comments were a *'poor choice of words and the verbal description were more relevant'*. He added *'However I just want to be honest'*.

29. Mr Fucci verbally stated '*Terry had his arm up, if he touched him or not, I do not know*'. Mr Fucci then demonstrated the arm action, which appeared to corroborate the referee's action.
30. Mr Nigel Weston advised the Commission that he was on the side of the pitch and was sure there wasn't any incident and didn't see any contact and also was too far away to hear any conversations. He added in his opinion that he didn't see anything to warrant a charge.
31. Mr Cameron Baxter in his verbal evidence advised that he was a Club Assistant Referee during the first half and was walking from the corner flag to the centre circle and he witnessed a discussion between the referee and Mr Winter, although didn't hear any actual words. He then saw Mr Winter put his arm out towards the referee but '*whether he physically touched the guy, I don't know*'. Mr Baxter demonstrated the arm movement made by Mr Winter and this also corroborated the actions for the referee and Mr Fucci. In reply to a question by the Commission stated that in his view there wasn't any aggression from either party.

CONCLUSION:

32. We reminded ourselves that the standard of proof is the civil standard of the "balance of probability" which means that the Discipline Commission is to be satisfied, on the available evidence that the incident was more likely than not to have occurred (51% against 49%).
33. From the documentation that we read and the live evidence that we heard there is no doubt that Mr Winter was concerned that his team, in his opinion, was on the receiving end of some poor refereeing decisions and also the fact that his son had received a red card. It was also heard from Mr Fucci of a predetermined approach to the referee by Mr Winter was likely to take place at half-time.
34. The referee, Mr Fox, was quite clear in his report and emails, together with questioning by the Commission that Mr Winter confronted him and made deliberate contact with him by means of 'grabbing the top of his arm on two occasions'. Mr Fox also included in his report other offences that occurred concurrently in this match, which the Commission were also dealing with as a separate Non Personal case under an E20 Charge, which had not been challenged by the Club. This indicated to the Commission in all probability of the integrity of Mr Fox's reporting.
35. It was accepted and admitted by Mr Winter that intentional contact had been made with Mr Fox although there was differing evidence from Mr Winter as to the nature of the contact and the proposed outcome of it. His witnesses had not seen any contact but Mr Fucci and Mr Baxter both saw an arm gesture which supported that described by the Referee. The Commission first had to determine if there was contact, if yes, what was the nature and level as to whether it breached Improper Conduct by way of physical contact against a Match Official.
36. The Commission wished to make it clear that at no time is it appropriate for participants to make physical contact with a Match Official. On this occasion, Mr Winter was unhappy with the referee declining to enter into a discussion relating to decisions that had not gone his team's way and the referee's actions in wishing to turn and move away from him. The Commission found the evidence of the Referee to be reliable and found that the manager reacted by stopping the referee moving away by placing a hand on the referee's arm on two occasions. Such behaviour and contact is inappropriate and improper.

37. We therefore conclude that Mr Winter, who was concerned with decisions of the Referee, and thereby entered into a confrontation with the Referee at half-time. Furthermore, the Commission found that he made Physical Contact with the match official which amounted to Improper Conduct.
38. Having carefully considered the whole of the documentation before us the Commission members unanimously concluded that the charge under FA Rule E3 – Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour) was proven.

SANCTION:

39. We noted that the Secretary advised us there was no previous discipline record for him.
40. In mitigation Mr Winter offered an apology to the referee if his actions were adjudged to be intimidating but he was only trying to calm matters and be sympathetic towards the referee. He also in hindsight regretted approaching in an attempt to enter in a discussion with referee. He had been suspended since the incident, which had a negative effect on his team and felt overall this was sufficient punishment, and he hoped commonsense would prevail in letting him return to his team. He also apologised for the time taken by the Commission and his Club colleagues in dealing with this matter as a result of his actions.
41. Taking all the above into consideration the Commission members unanimously agreed that this matter fell into the Category of The FA Sanction Guidelines for Physical Contact on a Match Official and when considering any sanction it would be in totality for both elements of the charge that had been found proven.
42. The recommended sanctions for a proven offence within this charge are 182 days & up to £150 fine. On review of the evidence and mitigation, the Commission unanimously agreed that the recommended sporting sanction was proportionate in this particular case but allow a concession to the minimum financial element of £100, which takes into account Mr Winter's admittance of making contact with the referee and degree of remorse in mitigation. .
43. Mr Winter is suspended from all football and football activities with immediate effect for a period of 182 days and fined the sum of £100. Furthermore, the Commission issued a ground ban, including coaching. During this period of suspension, Mr Winter is not permitted to attend the ground Lemsford Youth are competing at until such time as the suspension has been concluded.
44. The Commission is mindful that Mr Winter has been suspended since 26th November 2018 due to the nature of the offence, therefore, the sanction is backdated and the suspension served will count towards the sanction imposed.
45. This decision is subject to the relevant Appeal regulations.

Mr Paul Mallett (Chairman)
Mr Chris Williams
Mrs Jackie Davis

Tuesday 15th January 2019