

DISCIPLINARY COMMISSION

Sitting on behalf of the Norfolk County Football Association

IN THE MATTER OF A NON-PERSONAL HEARING

of

MR. DECLAN McAVOY OF MATTISHALL

THE COMMISSION'S DECISION AND REASONS

BACKGROUND & HEARING

1. The Disciplinary Commission ("the Commission") convened via WebEx video conference on Thursday, 18 April 2019 by way of a non-personal hearing. The Commission adjudicated in respect of charges brought by Norfolk County FA against Declan McAvoy as the result of alleged misconduct in a match between Norwich CEYMS and Mattishall on Saturday, 9 March 2018.

THE COMMISSION

2. The members appointed to the Commission were:

- i) John Turner (Council Member of Norfolk County FA)
- ii) Raffi Coverdale (Independent Member)
- iii) Mick Utting (Council Member of Norfolk County FA)

3. Matt Lemmon (Norfolk County FA) assisted the Commission as Secretary.

THE CHARGE(S)

4. Norfolk County FA charged Declan McAvoy as follows:

i) Breach of FA Rule E3 – Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour)

And with an alternate charge of:

ii) Breach of FA Rule E3 – Improper Conduct against a Match Official (including threatening and/or abusive behaviour)

which would only be considered in the event of charge i) being found not proven

5. The particulars of the charge against Declan McAvoy are that it was alleged that after being sent off, he made or attempted to make physical contact with the Referee.

THE REPLY

6. Declan McAvoy did not formally respond to the charge by the due date, and therefore forfeited his right to a Personal Hearing but after being contacted by Norfolk County FA he did submit an email in which he denied the charge.

THE RULES

7. Pursuant to the FA Handbook 2018-19 Season, FA Rule E3(1) provides as follows :- “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.”

THE BURDEN AND STANDARD OF PROOF

8. In this instance the burden of proof is on the County. The applicable standard of proof is the civil standard of the balance of probability. The balance of probability standard means that the Commission is satisfied an event was more likely than not. Therefore, if the evidence is such that the Commission can say “we find it more probable than not” the burden is discharged, but if the probabilities are equal it is not.

THE EVIDENCE

9. The following is a summary of the principal evidence and submissions provided to the Commission. It does not purport to contain reference to all the evidence and submissions; however, the absence in these reasons of any particular point, evidence or submission, should not imply that the Commission did not take such point, evidence or submission into consideration when the Members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

10. The documents before the Commission comprised of: the misconduct charge notification letter, the referee’s report dated 10 March 2019, a further email from the Referee in response to an email sent to him by Norfolk County FA on 14 March 2019, a report from one of the Assistant Referees at the game, a further email from the Assistant Referee in response to an email sent to him by Norfolk County FA on 11 March 2019, reports submitted by Rob McCombe and Darren Smith of Norwich CEYMS, the response to the charge, administrative correspondence between Norfolk County FA and the Club Secretary of Mattishall and an email from Declan McAvoy dated 17 April 2019.

11. The Referee’s report indicated that in the 89th minute of the game, Declan McAvoy was shown a red card by the Referee following an altercation with an opponent and at this point he “head-butted” the Referee by placing his forehead onto the Referee’s and jerking forwards.

12. In response to an email from Matthew Lemmon of Norfolk County FA on 14 March, the Referee responded confirming that Declan McAvoy was in a very aggressive mood at the time of the incident, that the contact made was not that forceful and was minimal because the Referee moved his head backwards.

13. The report from the Assistant Referee indicated that having been sent off, the number 10 (Declan McAvoy) pushed his head forward and onto the Referee's head in one motion pushing the Referee slightly backwards.

14. The report from Rob McCombe indicated that he could not really see anything that followed the sending off of Declan McAvoy.

15. The report from Darren Smith, who was the other player involved in the sending off incident, indicated that Declan McAvoy was arguing back with the official aggressively and pushed his head towards the Referee.

16. In his email dated 17 April 2019, Declan McAvoy stated that for the Referee "to say I head butted him is disgusting and quite frankly a complete and utter lie...I'm very hurt and disappointed that he has accused me of a head butt when I would never in any instance use my head against someone deliberately on a football pitch". He also stated that "I don't deny our heads brushed but it was not from charging in I was standing over trying to see what was written in his book."

FINDINGS

17. The Commission studied the evidence very carefully, being conscious of the burden and standard of proof. The Members noted that Declan McAvoy had responded by denying the charge.

18. The Commission Members reminded themselves that for the charge to be proven, on the balance of probabilities, the following questions had to be taken into consideration, namely:

- i) Did Declan McAvoy act as reported by the referee?
- ii) Did this conduct amount to a breach of FA Rule E3?

19. The Commission found that the reports of the Referee and Assistant Referee were consistent and credible in their description of the incident, with both stating that contact was made with the Referee by Declan McAvoy. Furthermore in his own statement Declan McAvoy admitted that his head had made contact with the Referee's head, albeit he provided a different version of events as to why this had happened.

20. The Commission reminded themselves of the definition of Physical Contact against a match official as per Rule 91.2 which states "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)

21. The Commission were satisfied that based upon the evidence submitted by all parties that the contact in this incident did constitute a breach of the Rules as per the above definition.

22. As such, the Commission unanimously found charge i) Breach of FA Rule E3 – Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour) to be proven.

23. As a result of charge i) being found proven, the Commission therefore did not need to consider charge ii).

PREVIOUS DISCIPLINARY RECORD

24. The Secretary advised the Commission of Declan McAvoy's previous record, which included two relevant proven misconduct cases:

- i. Improper Conduct against a Match Official (including physical contact and threatening and/or abusive language/behaviour) from December 2016 for which he received a 182 day suspension and a £100 fine.
- ii. Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour) from August 2017 for which he received a 9 match suspension and a £75 fine.

SANCTION

25. The Commission carefully considered all the relevant FA Rules and the Sanction Guidelines issued by The FA.

26. The Commission found this to be an entirely unacceptable action.

27. The Commission noted that the recommended sanction for a proven offence is a 182 days and a fine of up to £150. Albeit this is only a guideline and the Commission can deviate from the recommended sanction depending on aggravating / mitigating factors.

28. In considering the sanction to impose, the Commission took into account the full nature of the incident, including the upset that it had caused the Referee.

29. The Commission also considered that Declan McAvoy had two previous significant suspensions on his record for offences against Match Officials and so clearly had not learnt from his previous transgressions.

30. Taking all of the circumstances into account and remembering the recommended sanction guideline for this offence, the Commission unanimously decide to impose the following sanction:

- i) Declan McAvoy is fined the sum of £150.
- ii) Declan McAvoy is suspended from all football activity for 292 days.
- iii) Declan McAvoy is severely warned as to his future conduct
- iv) Mattishall receive eight penalty points on their Club disciplinary record.

APPEAL

31. This decision is subject to appeal in accordance with the relevant FA Appeal Regulations.

JohnTurner
Raffi Coverdale
Mick Utting

18 April 2019