

THE FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

Sitting on behalf of Oxfordshire Football Association

NON-PERSONAL HEARING

of

ELLIOT WILLIAMS

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. The Football Association ('The FA') convened a Disciplinary Commission ('the Commission'), on behalf of the Oxfordshire Football Association to adjudicate upon disciplinary charges levied against Elliot Williams (Case ID number: 10983046M) arising from a football match between Adderbury Park Development and Easington Sports Clan which took place on 8 October 2022.
2. The Disciplinary Commission was constituted of a single member, Mr Resh Sohota, an Independent FA appointed Chair.

The Charge

3. By way of letter dated 2 November 2022, Elliot Williams ('EW') was charged as follows:

Charge 1

Breach of FA Rule E3.1 - Improper Conduct (including foul and abusive language).

Charge 2

Breach Rule E3.2 – Improper Conduct – aggravated by a person's Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability.

4. It is alleged within the detail of the charge that EW made the comment '*shut up you faggot*' or similar, which it is alleged is an aggravated breach pursuant to rule E3.2, because it includes a reference to sexual orientation.
5. EW was given until 16 November 2022 to reply to the charge. A formal response to the charge was received on 15 November 2022 accepting the same and requesting that the matter is dealt with by correspondence.

Evidence

6. The following is a summary of the principal evidence provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or evidence should not imply that the Commission did not take such point, or evidence into consideration when the Commission determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.
7. Where the written statements provided to the Commission contain typographical and/or grammatical errors, they have been transcribed as drafted, without correction, to provide a true and accurate reflect of the evidence which has been submitted.
8. The evidence which the County FA relied upon in support of the charges against EW consisted of:
 - i) An email authored by David Burns ('DB'), the match referee. The email is dated 9 October 2022.
 - ii) Addendum emails authored by DB, dated 10 and 11 October 2022.
9. EW relied upon the following documents in response:
 - i) A statement authored by EW.
 - ii) A statement authored by James Collier ('JC'), the Adderbury Park Chairman.
 - iii) A 'Club/Player Mitigation' statement.

10. DB's initial email stated as follows:

'I have not dismissed a player for offensive language form a long while but did so on Saturday however I could not enter the 'additional details' on whole game.

If you need the narrative can I supply the details herein.

Player Elliot Williams – Adderbury Park

In the 44 th minute of the game, after a minor altercation, Mr Elliot called his opponent ' a Faggot' as he walked away from him. I dismissed Mr Elliot for the use of offensive language..'

11. DB's first addendum email states:

'The match was Adderbury Res v Easington Sports Clan (ESC) OSL Division 1.

I can confirm I heard clearly the comment made by Mr Williams to the ESC player as I was standing less than a metre from him at the time. I do not know for sure whether any of the ESC players heard the comment but there were three of them in close proximity to the incident and one of them said to me 'well done ref' as I administered the dismissal.

For information Mr Williams did approach me after the match saying " I would like to apologise for saying what I did I said it in the spur of the moment but no excuses there is no place for comments like that'

12. DB's second addendum statement reads, inter alia:

'The exact comment was ' shut up you faggot''

Elliot Williams case

13. The Commission considered the statement of EW which reads:

'In the match around the 40 th minute I was being fouled by the Easington Sports player who in-turn fell to the floor covering and hugging the ball. (From discussions with the referee after the game he admitted he should have blown up for a foul, or indeed the obstruction caused by the player lying on the ball before anything else even happened.) This then caused a bit of pushing and shoving from several players on both sides as I had still attempted to win the ball as there was no whistle. The Easington player kicked out at me and caught me in the groin, as well as

calling me a “fucking cunt”. After realising what he’d done he started rolling about saying I’d kicked him, to which I responded, “get up you faggot”.

Whilst I appreciate my choice of word used was highly inappropriate, it was not meant in any way to be a homophobic term, it was one implying he was a wimp and needed to just get up and get on with the game.

I wanted to add some context around the meaning of the term “faggot” to myself for some clarification. I grew up with two older brothers and was always called or greeted with “alright little faggot”, simply implying I was the youngest and littlest little wimp in the family. I never thought anything of it, other than battling my brothers growing up. It wasn’t a term I had ever used, been called, or thought of as a homophobic term. I do however appreciate it can be more commonly used that way these days. But I hope sharing the context of the situation and my upbringing would shed light and make sense in how it was used, it certainly fits the scenario in the game.

I apologised to the referee as I was worried how it may have been taken, he said he knew I hadn’t meant it in the homophobic way, but still had to act as it was a word that could not be used on a football field.

I am incredibly sorry that my actions caused the referee to have to take action against me, but I can only state it was never meant in that way and I would never use any term to discriminate against someone on a football field. It was simply a poor choice of word I was used to hearing and being used growing up, that in the heat of the moment I said, not thinking it would be taken in the way it was. I will endeavour to make sure this is never used by myself on a football field again in any context.

I hope the FA can understand the context it was meant to be taken in and accept my apology.’

14. The Commission also considered the witness statement of JC which states:

‘After discussing the incident with both the player and the referee David Burns we felt it was important to share our thoughts as a club.

Adderbury Park Football Club would not tolerate any form of discrimination, it has no place in football and no place at our club. If anyone was found guilty of that and if we believed they had exhibited inappropriate behaviour, they would be de-registered and removed from the club completely.

In this case we believe Elliott Williams did not mean the word used in a homophobic fashion. It is an incredibly poor choice of word to ever use on the field of play and one we really don’t want to ever hear. But from talking to the official and Elliott himself we don’t believe it was meant in the derogatory way. But we do understand why the official had to dismiss Elliott and report it, as it could certainly be taken in another context and there was a large crowd present.

Elliott is a well natured, lovely chap and one that is respected by all at the club and well liked. We have a diverse range of players and cultures at the club, and he has never shown any type of discrimination towards anyone.

Given the report of the referee after the game when I asked what had happened etc, I felt it was clear it was not in any way meant as a homophobic term. It was a response to someone feigning injury in the game. We feel the response of "get up you faggot" in the given situation does fit with Elliotts explanation of calling him soft/a wimp. Whilst it disappointing Elliott was kicked and called a "cunt" (a term we don't believe should be used on the field of play either), we would not expect any kind of reaction from one of our players, certainly not a term of that nature.

From the clubs perspective, we have encouraged Elliott to educate himself on appropriate language on the football field and to also to read the A Game for All strategy and the impacts such language can have.

Elliott is extremely sorry for how it may have been perceived and will do what he can to make sure he never uses that term again, not just on the pitch but in everyday life. It appears to have been an unfortunate part of his upbringing and used quite innocently, not realising the impact it could have.

Adderbury Park will also support Elliott to be a better judge of language used and fully educate him on diversity, inclusion and discrimination in football. We are a club growing year on year and have plans to provide football for all as we move forward, providing equal opportunities is a massive part of our drive and would never want anything to get in the way of that.

We hope the OFA can understand that whilst it's a highly inappropriate term Elliott used, it was never meant in the way it could be perceived and be lenient on him. If you could also recommend any courses or material we could help support Elliott with that would be much appreciated.'

15. The Commission also considered the statement headed 'Club/Player Mitigation', which states, inter alia:

'..We would like to highlight that Elliot categorically denies using the phrase "Shut up you faggot", as advised in his statement it was "Get up you faggot" and the context around how and why it was used. Not in a derogatory/homophobic way as per Elliot's statement. We can also provide statements to clarify this was the sentence used should they be requested....

.... Whilst we understand the need to clamp down on homophobic language and derogatory terms used, we are disappointed that the statements provided by both club and player appear to have had no impact on the punishment and are likely to not be taken into consideration. Adderbury Park fully understand the need to charge Elliot as the term is not acceptable however it was meant, and he needs to educate himself better on the language he used, but we do believe it was not meant in the way it has now been portrayed. We ask that the statements are fully considered and also the context around it, along with being charged for the same thing twice, for which a

£45 fine has been paid and 2 game bans served. We would have gone down the route of a personal hearing, but with no video/recorded evidence, the player has no chance of getting anything other than an extended ban and fine as it is one word against another...

The player is devastated that this has been taken in this way and the charges he is facing and has clearly learnt from the ordeal. He has not played since and is not likely to play football again as a result, which is a huge shame...

Determination

16. EW accepted the charge therefore liability did not strictly require determination.
17. Given the extent to which both EW and the club (understandably) refer to lack of intention, it is worth clarifying that intent is not required for the charge to be made out. The test is an objective one, commonly known as the ‘reasonable observer’ test. In other words, the Commission is to consider how a reasonable observer would perceive the words used in the given context. EW’s intention is immaterial for determining liability.
18. As to the actual comment made, the charge notification letter refers to the comment being ‘shut up you faggot’ *or similar*. EW says within statement that he did not say ‘shut up you faggot’, he said ‘get up you faggot’. The first word is different in the two accounts, however the material word, ‘faggot’, remains the same in both versions. Therefore, the comment is *similar* and would, in any event, satisfy the charge.
19. Given that the discrepancy between what is alleged to have been said, and what EA says that he said, would not make any difference to the sanction in this case the Commission was not required to decide the issue.

Sanction

20. The Commission had regard to the FA Sanction Guidelines, in particular the Standard Sanctions and Guidelines for Aggravated Breaches, and the FA Disciplinary Regulations 2022/23 (‘the Regulations’) generally.
21. Regulation 47 provides that;

“Where an Aggravated Breach is found proven, a Regulatory Commission shall apply The Association’s sanction guidelines for Aggravated Breaches set out at Appendix 1 to Part A: Section One: General Provisions.” [“Appendix 1”]
22. Appendix 1 (in part) further provides that;

“A finding of an Aggravated Breach against a Player, Manager or Technical Area Occupant will attract an immediate suspension of between 6 Matches and 12 Matches (“Sanction Range”).

The lowest end of the Sanction Range (i.e. 6 Matches) shall operate as a standard minimum punishment (the “Standard Minimum”).

A Regulatory Commission may impose an immediate suspension in excess of 12 Matches in circumstances where aggravating factors of significant number or weight are present...”

“...Any Participant who is found to have committed an Aggravated Breach shall be made subject to an education programme, the details of which will be provided to the Participant by The Association...”

23. In considering the appropriate sanction and penalty, the commission considered the severity of the offence and all other aggravating and mitigating factors. It also considered the mitigation within the statements provided on EW’s behalf.
24. Aside from the nature of the offence there were no other aggravating factors.
25. There were several mitigating factors. It is noted that the player apologised to the referee post-match and demonstrates remorse in his statement. EW was also given credit for his acceptance of the charge.
26. The Commission also noted that EW has not committed any like breaches previously, which was also a mitigating factor.
27. Balancing those matters and having regard to the facts and circumstances of the player’s conduct, the Commission concluded that the appropriate sanction was:
 - i) 6 match suspension (inclusive of any ban served as a consequence of receiving a red card).
 - ii) A fine of £75 (inclusive of any fine paid as a result of receiving a red card).
 - iii) EW to satisfactorily complete a mandatory online education programme. The online education programme must be completed by EW by the time the match-based suspension has been served.
 - iv) 6 Club Disciplinary Points (an increase on the 5-point entry point referred to at Regulation 90, to reflect the aggravated nature of the proven Charge but taking account of the mitigating factors.).
28. Whereby the participant fails to comply with the order, a Sine-Die (indefinite) suspension shall be imposed until such time the participant becomes compliant with the order of the Disciplinary Commission.

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

Mr Resh Sohota

24 November 2022