

FA NATIONAL DISCIPLINE PANEL DISCIPLINARY COMMISSION

The Football Association on behalf of

SURREY FA

v

ALEX HIGHFIELD (59475776) Case ID: 11281745M

WRITTEN REASONS

FACTUAL TIMELINE AND CHRONOLOGY

1. These are the Reasons for the decision of the Disciplinary Commission which was heard by a CFA National Serious Cases Commission at 7-00 pm on Monday 3rd July 2023.

2. The Commission consisted of Keith Allen (CFA National Chairs Panel) Chair, John Goodwin (CFA National Panel) and Pearl Agius (CFA National Panel).

3. The Secretary to the Commission was Richard Pallot (CFA National Panel Secretary).

4. The following is a record of the main points which the Discipline Commission considered.

5. The charges in question arose from a game between Worcester Park Sunday FC and Alexandra United FC, played on Sunday 30th April 2023.

6. By letter dated 8th June 2023 ALEX HIGHFIELD a player for Worcester Park Sunday FC was charged as follows:

Charge 1 FA Rule E3 Improper Conduct (including foul and abusive language).

Charge 2 FA Rule E3.2 Improper Conduct – Aggravated by a person's ethnic origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.

7. **Details of the charge:** "This refers to the comment (s) "puff" or similar, which contains a reference to sexuality.

8. By the WGS dated 19th June 2023, Alex Highfield denied the charges and requested a personal hearing.

9. FA Disciplinary Processes/General Provisions Section 1 Rule E3.1 provides for:

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 dispute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.

EVIDENCE

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 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 Commission had before it the following items to consider:

a) A statement from Surrey FA dated 15th May 2023:

“Evidence to support this allegation can be found in the reports below that state the Worcester Park Sunday player Alex Highfield has called Alex ranger (opposition player) a “puff”.

Referee has failed to respond to communication despite multiple attempts to contact him. The referee has also failed to upload the sinbin to the WGS.”

b) The original report received from Kick it out:

“A player from Worcester Park called one of the opposition players a “puff”. Referee initially said to stop but eventually followed it up with a sinbin”.

c) A witness statement from J. Cluer of Alexadra United FC:

“In around the 85th minute of the game the opposition striker (Alex Highfield) called a member of our team a “poof”. The Referee was in earshot and clearly heard the remark but originally allowed the game to play on. After or protests, he called the player over and gave him a sin bin. I queried this decision, asking that surely homophobic abuse is a red card offence. He told me that as there was less than 10 minutes left, the effect is the same. I pointed out that had we equalised he would be back on during extra time and, in either case there is no justification for not sending off a player for such a slur, it is really disappointing that the ref appears to not treat homophobia seriously. I have now doubt that a racial remark would (rightfully) resulted in a red card – as far as I know FA does not have a hierarchy on discrimination but if course please let me know if I am incorrect.

I am eager to stress the referee definitely heard this remark and confirmed to me he had.

He was their striker and scored their equaliser and set up their winner, their twitter account refers to him as Highfield, so my understanding this is his fill name Alex Highfield.

The witness to the incident id Alex Ranger (player).”

d) A statement from Lee Smith, Worcester Park Sunday FC player and club official:

“I was managing the side at the time.

I noticed that our player got called over to the ref for a small chat and was subsequently booked/ sin binned.

I asked my player what he'd said/done. He said nothing, I've no idea why he sin-binned me.

This occurrence happened in the 88th minute of normal time (cup game).

After receiving this incident email – I asked the team if anyone heard what was said. At the time, as the player was playing up top on his own, nobody heard what was said.

I then spoke with the player (Alex) himself and he said he didn't actually call the opposition player a "puff", but instead a "pussy" – which are of similar sounds/urban meanings. He then stated that the referee didn't actually hear it – and just made his decision based off the opposition player telling him this.

e) A statement from Alex Highfield, Worcester Park Sunday player, submitted on his behalf by Lee Smith:

"I was speaking to one of the opposition defenders, he made a comment about my teeth, so in return I called him a "pussy" and to "let the football do the talking". After this, 3 of the opposition said to the referee I had made a homophobic comment to one of their players, as a result the referee sin binned me, I made my way to the sideline."

f) Miscellaneous correspondence between the Association and the match referee, which received no response from the match official.

HEARING

11. The Commission were most concerned that the match referee, Dominic Fairclough, did not put in an incident report or a sinbin report, furthermore he refused to co-operate with the Association or reply to any correspondence.

The Commission recommend that Surrey FA look into the failure of the match official to respond to correspondence or submit a report, also his failure to report the "sinbin" yellow card given to Alex Highfield, contrary to FA regulations E1.2 and E3.1.

12. The Commission were also most concerned that none of the three Association witnesses, Dominic Fairclough, Alex Ranger and Joe Cluer, arrived for the hearing.

13. With no Association witnesses Alex Highfield gave evidence on his own behalf stating:

- a) He spoke to an opposition defender on the edge of their penalty area and response to a comment about his teeth, called him a "pussy" and made the comment, "let the football do the talking".
- b) The opposition then complained to the referee about what had been said, he called him across and showed him a yellow card, placing him in the "sinbin".
- c) He was confused as he did not understand what he was supposed to have done.
- d) The incident happened on the edge of the penalty area and the referee was near the centre circle, he did not believe the match official could have heard what was said.

e) He accepted the comment “pussy” was unacceptable and apologised the use of the word.

14. In response to questions for the Commission Alex Highfield replied:

a) He does not consider the word “pussy” to refer to sexuality, believing it to mean, “scaredy cat, afraid and not a reference to sexual orientation”, he was aware of the urban meaning of the word.

b) He admitted the use of the word was inappropriate, but he believes the referee only put him in the “sinbin” based on what the opposition players had said.

c) He does not consider “pussy” as offensive as “poof”, it is regularly used on the football field and no game would end with all players on the pitch if punished every time it was used.

d) He should not take serious offence at the word “pussy”.

e) He had no idea why the opposition would have complained to the match official or their motivation, although the word “poof” could have sounded similar to “pussy” on a noisy Sunday football pitch, with another adjacent match.

15. AH then called Lee Smith, player/manager of Worcester Park Sunday FC, as witness and in response to questions, first from AH and then the Commission he replied:

a) He was playing, but on the side of the pitch at the time of the alleged comment, he saw the incident taking place and AH sent to the “sinbin”.

b) He did not hear the words used during the incident.

c) He thought the opposition complained to “Kick It Out” because they heard something and wanted to cause trouble, because they thought he should have been sent off.

d) He believed AH used the word “pussy” not “poof”, “poof” and “pussy” have a similar sound and that “poof” is a worse comment than “pussy”.

e) The word “pussy” means someone who is weak the urban meaning is similar to “poof” but not a reference to sexual orientation.

16. At this point the Chair asked AH to confirm he was satisfied he had been able to present all his evidence and that he was satisfied he had received a fair hearing, to which he replied, “yes and yes 100%.”

17. AH then summed up his case by stating, he openly admitted he used the word “pussy” not “poof”, which he does not consider an aggravated comment, the opposition had tried to get him in more trouble than he is.

STANDARD OF PROOF

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

DELIBERATION

18. The Commission reminded itself that the charge against Alex Highfield was:

Charge 1 Improper Conduct (including foul and abusive language), which was accepted and **Charge 2** FA Rule E3.2 Improper Conduct – Aggravated by a person's ethnic origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability and that the standard of proof was on the balance of probability.

19. The Commission considered all evidence, both written and verbal, noting.

- a) AH had given clear, consistent verbal and written evidence.
- b) He admitted calling his opponent a “pussy”, in both his written and verbal evidence.
- c) Lee Smith, who was called as a witness by AH, confirmed he had not personally heard the actual words used in the incident and his written evidence merely reported what he had seen from “the touch line” and had been told.
- d) Alex Ranger, the opposition player involved in the incident, in his written statement evidenced that AH had called him a “poof”.
- e) Alex Ranger failed to appear at the hearing as an Association witness, with neither the Commission nor AH able to test his written evidence, although the Commission had read his submission and gave it appropriate weight.
- f) A written statement was also received from Joe Cluer, the manager of Alexandra United FC, who was present at the game, but his written evidence did not make it clear if he had heard what was said or used third party evidence.
- g) Joe Cluer also failed to appear at the hearing as an Association witness, with neither the Commission nor AH able to test his written evidence, although the Commission had read his submission and gave it appropriate weight.
- h) With no referee's report and no Association witnesses attending the hearing, the Commission were left with untested written evidence from Alex Ranger that he had been called a “poof”.
- i) Conversely AH gave verbal and written evidence that he had called him a “pussy”, evidence the Commission were able to test.
- j) The Commission considered AH to be a credible witness, albeit a little naïve, but honest, accepting his assertion he had used the word “pussy” and not “poof”.
- k) The Commission did not believe that AH had meant the term in an offensive or sexually orientated manner and had no intention to cause offence, indeed he commented he “wished he had kept his mouth shut”.

l) AH had a genuine lack of understanding that “pussy” could be construed as an aggravated comment, which was ill advised and naïve, although the Commission were unable to test the evidence of Alex Ranger as to the tone or aggression shown.

m) The Commission were concerned about the case, with no Association witnesses and were extremely disappointed that neither they nor AH were able to test the written evidence of Alex Ranger and Jo Cluer, which together with nothing of any description received from the match official, made their task more onerous.

n) The Commission considered and gave appropriate weight to all written and verbal evidence and unanimously found both **CHARGE 1 E3 – Improper Conduct (including foul and abusive language) and Charge 2 FA Rule E3.2 Improper Conduct – Aggravated by a person’s ethnic origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability against Alex Highfield were found NOT PROVEN on the balance of probability.**

20. Alex Highfield then returned and was informed of the verdict by the Secretary.

21. There is a right of appeal against the decision in accordance with the relevant provisions set out in the Rules and Regulations of the Football Association.

Keith Allen (Commission Chair)
Pearl Agius
John Goodwin

4th July 2023