

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIR PERSON SITTING ALONE

Sitting on behalf of Surrey FA

CORRESPONDENCE HEARING

of

ASAAD NACIRI

[Case ID: 11075795M]

THE DECISION AND REASONS OF THE COMMISSION

Warning: This document contains Foul and abusive language.

<u>Content</u>	<u>Page</u>	<u>Paragraphs</u>
1. Introduction	2	1-3
2. The Charge	2	4
3. The Reply	3	8
4. The Commission	3	9
5. The Hearing & Evidence	3-6	10-23
6. Standard of Proof	6	24
7. The Findings & Decision	6-7	25-39
8. Previous Misconduct Record	8	40
9. Mitigation	8	41-42
10. The Sanction	8-9	42-53

Introduction

1. On 13th November 2022 the Willoughby Arms 1st (“the Club”) played Reigate Road Rangers 1st in a Leatherhead and District Sunday League Fixture, collectively called “the match”.
2. After the match derogatory comments referring to Ethnic Origin were allegedly posted on a WhatsApp chat by Asaad Naciri (“the Participant”), which was subsequently reported to Surrey County Football Association (“Surrey FA”).
3. Surrey FA investigated the reported incident.

The Charge

4. On 24th January 2023 Surrey FA charged Asaad Naciri, with:
 - i. Misconduct for a breach of FA Rule E3 – Improper conduct (including foul and abusive language).
 - ii. Misconduct for a breach of FA Rule E3.2 – Improper conduct – aggravated by a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability.

It is alleged that Asaad Naciri (Player of The Willoughby Arms) used abusive and/or indecent and/or insulting language contrary to FA Rule E3.1, and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to Nationality. This refers to the comment(s) “*fucking Moroccan cunt*” or similar, made via the Willoughby Arms team WhatsApp group chat.

5. The relevant section of FA Rule E3.1 states: ¹

“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”.

“E3.2 A breach of Rule E3.1 is an ‘Aggravated breach’ where it includes a reference, whether express or implied, to any one or more of the following: - Ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability”.

6. Surrey FA included with the charge letter the evidence that it intended to rely on in this case.
7. Asaad Naciri was required to respond to the charge by 7th February 2023.

The Reply

8. The reply from the Club was received on 6th February 2023 and was “*accept*” and a “*Correspondence*” hearing was requested.

The Commission

9. The Football Association (“The FA”) appointed me, Ian R. Stephenson, as a Chair Person Member of the Football Association National Serious Case Panel, to this Discipline Commission, as the Chair Person Sitting Alone to adjudicate in this case.

The Hearing & Evidence

10. I adjudicated this case on 20th February 2023 as a Correspondence Hearing (“the Hearing”).
11. I had received and read the bundle of documents prior to the Hearing.
12. The following is a summary of the principal submissions provided to me. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that I did not take such point, or submission, into

¹ Page 141 of the FA Handbook 2022/2023

consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all of the evidence and materials furnished with regard to this case.

13. The following evidence was provided in the case bundle:
14. An investigation report compiled by Zack Hilliard-Winyard of Surrey FA, dated 16th January 2023. The report contains evidential references to the available evidence in the case.

Evidence submitted by The Willoughby Arms FC

15. An email report from Bill Howe, the Manager of the Willoughby Arms FC, to Surrey FA, dated 14th November 2022 at 13:49. Mr Howe was reporting an alleged racist term that had been used by an opposition player against one of the Willoughby Arms FC's players.
16. Social Media snapshot images were shared between Willoughby Arms FC and Surrey FA during the County FA's investigation into the allegation. I quote the relevant message:

Timed at 20:07, undated, Bill Howe... *"Sounds like a Moroccan guy I know"*
Asaad..... *"Fucking morrocan cunt"*.
Asaad..... *"Moroccan*"*.

17. An undated *"joint statement"* from Bill Howe, Charlie Howe, and Asaad Naciri. This joint statement relates mainly to Participants that are the subject of separate charges. I quote the relevant text:

"This is a joint statement from Bill Howe, Charlie Howe & Asaad Naciri.

Today we have been asked to reply to what we can only assume is an attempt by Andrew Harradine to seek some kind of revenge for us reporting his racist abuse of our player Hossein Aref.

To start off I'd like to point out that the comments in these screenshots are taken wholly out of context.

To give you some context, Asaad Naciri makes a reference to a 'Fucking Moroccan Cunt' Asaad is Moroccan, this comment is about himself. Is he going to be charged with racially abusing himself? Billy Howe, myself. who has referred to things as 'faggot' and 'gay' is bisexual, is he abusing himself?

And Charlie Howe is my brother. Is this again suggesting that I'm being abused by my brother?

We as a club have been diligent in reporting this kind of abuse from not only opposition over the past few years, but even from our own team. You may remember that Andrew Harradine was our own player, whom we reported.

Andrews abuse related to him texting about Hossein referring to him as a “Paki” behind his back in an aggressive way. All of these comments are about ourselves in a safe space where we are happy to discuss our race and sexuality.

We have been staunch supporters of football being for everyone and have openly discussed this, we feel that this is nothing more than an attack on us by Andrew in retaliation as he must how somehow have believed we’d accept his racism.

We are upset and feel distressed at the fact we have even had to write this statement”.[]

18. Email exchanges between Mr Hilliard-Winyard and Andrew Harradine. These exchanges relate to other incidents which were the subject of the Surrey FA investigation.
19. A Witness Statement from Andrew Harradine, a player of Willoughby Arms FC, dated 15/01/2023. His statement does not advance the case for either the County FA or the Participant as it details other incidents which were the subject of the Surrey FA investigation.

Evidence submitted from Reigate Road Rangers

20. A Witness Statement from Taylor Cottee, dated 20/11/2022. Mr Cottee confirmed that he was a player of Reigate Road Rangers in the match. His statement does not advance the case for either the County FA or the Participant as it details other incidents which were the subject of the Surrey FA investigation.
21. A Witness Statement from Jake Harrison dated 21/11/2022. Mr Harrison is a Club Official of Reigate Road Rangers. Mr Harrison’s statement does not advance the case for either the County FA or the Participant as it details other incidents which were the subject of the Surrey FA investigation.
22. Various emails between Surrey FA and Reigate Road Rangers relating to alleged misconduct and statements.

23. That concludes all of the evidence that was provided to the Commission.

Standard of Proof

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

The Findings & Decision

25. The Commission reminded itself that the burden of proving a charge falls upon the County FA, in this case it falls upon the Surrey FA.

26. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission. I have to assess the credibility of the witness, that is whether the witness is attempting to tell the truth, and the reliability of the witness, that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon.

27. Where there are discrepancies between witnesses, it is for the Commission to accept which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for the Commission to assess if the discrepancy is important. Having considered which evidence to accept and which to reject, the Commission then has to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.²

28. It should be noted that where direct speech is quoted in a Witness Statement, I have recorded it exactly in the wording and grammar in which it appears in the witness statement, without making any grammatical or typing alterations to obvious typo errors.

In summary;

29. It is alleged that Assad Naciri used foul and abusive language which was aggravated by reference to a protected characteristic, namely a reference to Nationality, when he sent a text message in a group WhatsApp chat.

² Paragraph 5 Pages 2&3

30. It is specifically alleged that Asaad Naciri made the comment(s) *“fucking Moroccan cunt”*, or similar, via the Willoughby Arms team WhatsApp group chat.
31. The Participant has accepted the charge and the Commission is not required to determine liability in this case.
32. The matter was reported to Surrey FA by Willoughby Arms FC on 14th November 2022. It was reported by Bill Howe.
33. Mr Howe reported a separate incident to Surrey FA in an email dated 13th November 2022. During the County FA investigation that ensued, a Willoughby Arms FC WhatsApp group chat log was shared by the Club with the Association.
34. The Willoughby Arms FC WhatsApp group chat log contained an entry made by the Participant, Asaad Naciri.
35. A message, undated, shown on the log at 20:07 was a chat between Bill Howe and *“Asaad”*. The sender of the message was *“Asaad”* and it said *“Fucking Moroccan cunt”*.
36. In an undated *“joint statement”* submitted to Surrey FA prior to charge, three persons named as Bill Howe, Charlie Howe, and Asaad Naciri, stated that *“To give some context, Asaad Naciri makes reference to a ‘Fucking Moroccan cunt’. Asaad is Moroccan, this comment is about himself. Is he going to be charged with racially abusing himself?”*
37. Although the charge was accepted there was no evidence submitted by either the Participant or his Club in response to the charge.
38. The term *“Fucking Moroccan Cunt”* is clearly improper, the words are foul and abusive, and contain a clear reference to Nationality.
39. The Commission was not required to determine liability in this case as the charge was accepted by the Participant. Both the E3.1 and E3.2 charges are PROVEN.

Previous Disciplinary Record

40. After finding the charge proven the Commission sought the Participant’s offence history during the previous five-year period. The Commission noted that the Participant had no previous

findings of misconduct recorded against him during the previous five years, therefore he had a clean record. The Commission will allow credit for the clean record.

Mitigation

41. Neither the participant nor his Club provided any formal mitigation in this case.
42. Credit will be allowed for the “guilty plea” that was entered by Mr Naciri.

The Sanction

43. The Commission reminded itself that the sanction Guideline for an aggravated breach of FA Rule E3 is a suspension of 6-12 matches, 6 matches is the standard minimum. ³A Participant found to have committed an aggravated breach will be subject to an education programme. ⁴
44. For charges relating to an offence made in writing only or via a communication device (including social media), the Commission will not be bound by the six match minimum, but can only go below if specific exceptions apply. The minimum in these cases will be a three-match suspension. ⁵
45. In determining the appropriate sanction, the Commission awarded credit for the Club entering a “*guilty plea*” and allowed credit for a clean record over the last five years.
46. The Commission concluded that Mr Naciri was submitting texts via social media, namely by a group WhatsApp chat facility, which was not private due to it containing multiple users. Therefore, the Commission did not find itself able to award a sanction below the standard minimum as outlined by the Football Association as the conduct of Mr Naciri did not meet the “*specific exceptions*” defined by the Association.
47. After careful consideration the Commission determined that:
48. Asaad Naciri is to serve a 6 match suspension from all football.
49. A £50.00 (Fifty pound) fine is imposed against Asaad Naciri.

³ Page 177 of the FA Handbook 2022/2023

⁴ Page 177 of the FA Handbook 2022/2023

⁵ Page 177 of the FA Handbook 2022/2023

50. Asaad Naciri must attend an online Education programme. This must be undertaken before the match-based suspension is served. Failure to comply with this order will result in a Sine-Die suspension being issued against the Participant until he has fulfilled this order in its entirety.

51. 7 Club points awarded.

52. The sanction is formally imposed.

53. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed: *Ian R. Stephenson*

FA National Serious Case Panel Chair

20th February 2023.

