

**FA NATIONAL SERIOUS CASE PANEL**

**DISCIPLINARY COMMISSION**

**CHAIR PERSON SITTING ALONE**

*Sitting on behalf of Surrey FA*

**CORRESPONDENCE HEARING**

*of*

**BILLY HOWE**

The Willoughby Arms FC

**[Case ID: 11075792M]**

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**THE DECISION AND REASONS OF THE COMMISSION**

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Warning: This document contains abusive language.

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### **Introduction**

1. On 13<sup>th</sup> November 2022 the Willoughby Arms 1<sup>st</sup> (“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 Sexual Orientation were allegedly posted on a WhatsApp chat by Billy Howe (“the Participant”), which was subsequently reported to Surrey County Football Association (“Surrey FA”).
3. Surrey FA investigated the reported incident.

### **The Charge**

4. On 24<sup>th</sup> January 2023 Surrey FA charged Billy Howe, 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 Billy Howe (Player and Club Official) 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 Sexual Orientation. This refers to the comment(s) “*Just come you faggot*” as well as “*Gay*” or similar, made via the Willoughby Arms team WhatsApp team group chat.

5. The relevant section of FA Rule E3.1 states: <sup>1</sup>

*“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. Billy Howe was required to respond to the charge by 7th February 2023.

### **The Reply**

8. The reply from the Club was received on 6<sup>th</sup> 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 21st 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

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<sup>1</sup> 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 16<sup>th</sup> 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 the Participant, the Manager of the Willoughby Arms FC, to Surrey FA, dated 14<sup>th</sup> 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 messages:

Timed at 13:24, undated, "*Bill Howe..... 'Just come you faggot'*".

Timed at 16:01, undated, "*Bill Howe.....Don't forget to pay your subs gays'*".

Timed at 15:36, undated, "*Bill Howe ....'Gay'*".

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:

*"[ ] 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. [ ]"*

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.<sup>2</sup>

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.
29. The Commission noted an error in the charge wording relating to the type of protected characteristic which was breached in this case. The charge stated that the E3.2 aggravated element was contrary to Ethnic Origin. The correct characteristic should have been recorded as Sexual orientation. The Commission considered this to be a minor administrative error or typo and, applying Regulation 4 under the FA General Provisions, considered the case under the Sexual orientation characteristic.

In summary;

30. It is alleged that Billy Howe used abusive language which was aggravated by reference to a protected characteristic, namely a reference to Sexual orientation, when he sent a text message in a group WhatsApp chat.
31. It is specifically alleged that Billy Howe made the comment(s) "*Just come you faggot*" as well as "*gay*", or similar, via the Willoughby Arms team WhatsApp group chat.
32. The Participant has accepted the charge and the Commission is not required to determine liability in this case.
33. A separate matter was reported to Surrey FA by Willoughby Arms FC on 14<sup>th</sup> November 2022. That matter was reported by the Participant and the comments which form the subject of this case were discovered during the FA investigation of the chat log which had been shared by the Club with the Association.
34. The Willoughby Arms FC WhatsApp group chat log contained entries made by the Participant, Billy Howe, Timed at 13:24, undated, "*Bill Howe..... 'Just come you faggot*".  
Timed at 16:01, undated, "*Bill Howe..... 'Gay*"  
Timed at 13:31, undated, "*Bill Howe..... 'Don't forget to pay your subs gays*".  
Timed at 15:36, undated, "*Bill Howe .... 'Gay*".

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<sup>2</sup> Paragraph 5 Pages 2&3

35. 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 “*Billy Howe, myself, who has referred to things as ‘faggot’ and ‘gay’ is bisexual, is he abusing himself? [ ]*”.
36. Although the charge was accepted there was no evidence submitted by either the Participant or his Club in response to the charge.
37. To use the term “*Faggot*” and “*Gay*” in a social media chat forum is clearly improper, the words are abusive, and contain a clear reference to Sexual orientation.
38. 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**

39. 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**

40. The Commission considered the responsible action that the Participant took in reporting the initial matter to the Association, relating to an alleged racial term being said against one of his players, and the subsequent cooperation that his Club showed as part of that investigation should be seen as a mitigating factor in this case.
41. It was the responsible action taken by the Participant which ultimately led to the discovery of the comments that had been made by the Participant in the team’s WhatsApp group chat.
42. The Commission awarded credit for “*Guilty plea*” and the clean record of Mr Howe when determining the appropriate sanction.

### **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. <sup>3</sup>A Participant found to have committed an aggravated breach will be subject to an education programme. <sup>4</sup>
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. <sup>5</sup>
45. In determining the appropriate sanction, the Commission considered the following factors to be aggravating factors in this case:
- i. The Participant is the manager of the team.
  - ii. There was a total of four texts containing references to sexual orientation that were made by the Participant in the chat log.
46. The Commission concluded that Mr Howe 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 Howe did not meet the “*specific exceptions*” defined by the Association.
47. After careful consideration the Commission determined that:
48. Billy Howe is to serve a 6 match suspension from all football. This is to include a ground ban as he is the manager of the team.
49. A £50.00 (Fifty pound) fine is imposed against Billy Howe.
50. Billy Howe 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.

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<sup>3</sup> Page 177 of the FA Handbook 2022/2023

<sup>4</sup> Page 177 of the FA Handbook 2022/2023

<sup>5</sup> Page 177 of the FA Handbook 2022/2023



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

21st February 2023.