

THE FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

Sitting on behalf of Surry Football Association

NON-PERSONAL HEARING

of

BYFLEET VILLAGE

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. These are the written reasons of Mr Resh Sohota ('Chair' or the 'Commission'), having considered the matter on papers as Chair alone on a Non-Personal Hearing basis.
2. These written reasons contain a summary of the principal evidence before the Chair and does not purport to contain reference to all points made. The absence in these reasons of any particular point, piece of evidence or submission should not imply that the Chair did not take such point, piece of evidence or submission into consideration when determining the matter. For the avoidance of doubt, the Chair has carefully considered all the evidence and materials furnished in this matter.

The Charge

3. By a Misconduct Charge Notification dated 3 February 2023, issued by Surry FA, Byfleet Village ('the Club') were charged with breach of FA Rule E1 - Failed to comply with Rules and Regulations of the Football Association.
4. It is alleged within the detail of the charge that, *'Byfleet Village and its members has acted in a manner that is contrary to FA Rule E1.2, and it is further alleged that the language and/or behaviour made reference to Religion or Belief. This refers to the post which included the comment "Yids" or similar.'*
5. A reply was due by 17 February 2023, as set out on the Misconduct Charge Notification letter. No response was received. For completeness, the Commission noted that within the bundle, there is a screenshot of the Whole Game System which shows that the Club did not respond to the charge.
6. Therefore, this matter had been dealt with on a Non-Personal Hearing basis. Given that no response was received, the Commission has dealt with this case on the basis that the charge is denied, therefore liability is a live issue.

Evidence

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 County FA relied upon the following documents in support of the charge:
 - i) An investigation report, authored by David Miller, dated 22 February 2023.
 - ii) A 'tweet screenshot'.
9. Mr Miller's investigation report is short, and states as follows:

'A screenshot from an official club account has been reported to Surrey FA by Kick it Out. It clearly shows the use of the word "Yids" which is deemed Anti-Semitic.'

10. The screenshot (as referred to at paragraph 8(ii) above) appears to show a comment authored by 'Byfleet Village FC'. The comment states as follows:

'United beating City. Now the mighty Gooners to smash the Yids tomorrow...makes for a great weekend'.

11. The screenshot is not timed or dated.

The Regulations

E1 & E1.2 state:

'The Association may act against a Participant in respect of any Misconduct, which is defined as being a breach of the following:

E1.2 the Rules and regulations of The Association and in particular Rules E3 to E28 below'

E3.1 states

'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.'

Determination

12. The Commission reminded itself that the burden of proving a charge falls upon the County FA. That is, it is not for the Participant Charged to prove that the action did not occur as alleged, but it is for the County FA to prove (on balance) that the action did occur as alleged.

13. The applicable standard of proof required for this case is the civil standard of proof namely, the balance of probability. This standard means the Commission would be satisfied that an event occurred if it considered that, on the evidence, it was more likely than not to have happened.
14. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission members. I have to assess the credibility of the witness (that is whether a 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).
15. Where there are discrepancies between witnesses, it is for me 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 me to assess if the discrepancy is important. Having considered which evidence I accept and reject, I then have to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.
16. The Commission again reminded itself that, notwithstanding the fact that the Club had not responded to the charge, nor had it submitted any evidence, the burden remained upon the County FA to prove their case.
17. The Commission was satisfied that the County FA had proved, to the necessary standard, that the Club had breached FA Rule E1.2.
18. The Commission was further satisfied, that the Club had breached FA Rule E3 as it had acted improperly by posting on social media an abusive, incident and/or insulting comment.
19. The Commission was also satisfied that the comment made reference to Religion or Belief as alleged. It is commonly known that the word 'Yids', is pejorative term or insult for Jewish people.

Sanction

20. Given that the charge had been found proven, the Commission went on to consider sanction.
21. The Commission had regard to the FA Sanction Guidelines, and the FA Disciplinary Regulations 2022/23 ('the Regulations') generally.
22. The Sanctions guidelines for teams at this level are as follows:

Low: £0-£30 fine.
Medium: £30-£100 fine.
High: £75-£200 fine.

23. The comment made by the Club was wholly unacceptable. The use of such was abhorrent. The fact that the comment made reference to a protected characteristic was an aggravating factor which meant that the Commission considered that this case fell firmly within the High category of the FA Sanction Guidelines.
24. Furthermore, the Commission considered the fact that the Club did not have a legitimate expectation of privacy (as the comment was made on a public platform and was available to be viewed by several people) was an aggravating factor.
25. The Club did not reply to the charge, as is its right, but naturally it cannot avail itself of any credit it would have otherwise been entitled to had it entered a guilty plea.
26. The Commission was provided with the Club's offence history. It noted that the Club has had several proven E20 club charges across its various teams over the past five seasons, however none of those charges were aggravated by reference to a protected characteristic. Given that the club had not committed any like offences, those previous proven club charges did not aggravate the instant charge, however the Club could not avail itself of having an unblemished disciplinary record.
27. Having considered all of the circumstances in the case, including the FA sanction guidelines, and both the aggravating and mitigating factors present, the Commission impose a financial penalty of **£150**.
28. This decision is subject to the right of appeal under the relevant FA rules and Regulations.

Mr Resh Sohota
24 February 2023