

THE FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

Sitting on behalf of Surrey Football Association

NON-PERSONAL HEARING

of

CHEAM SPORTS YOUTH

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. The Football Association (The FA) convened a Disciplinary Commission (the Commission), on behalf of the Surrey Football Association to adjudicate upon disciplinary charges levied against Cheam Sports Youth ('the Club), arising from a match between Colliers Wood U11 and Cheam Sports Youth U11 Lions which took place on 9 October 2022.
2. The Disciplinary Commission was constituted of a single member, Mr Resh Sohota, an Independent FA appointed Chair.
3. By letter dated 29 November 2022, the Club was charged with misconduct for a breach of FA Rule E20, namely for an allegation that the club failed to ensure directors, players, officials, employees, servants and/or representatives conducted themselves in an orderly fashion. The Club was further charged with breach of FA Rule E3.2 – improper conduct – aggravated by a persons Ethic Origin, Colour, Race, Nationality, Faith Gender, Gender Reassignment, Sexual Orientation or disability.

4. It is alleged, in the detail of the charge that the comment ‘go back to India’ or similar, was made by a Cheam Sports U11 player, to an opposition player.
5. The Club was given until 13 December 2022 to respond to the charges. It did not formally respond to the charges. In default of a response, the Commission has dealt with this matter as if the charges had been denied, therefore liability remains a live issue.

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 charge against Cheam Sports Youth consisted of:
 - i) A statement submitted by the match referee, Alex Bailey (‘AB’).
 - ii) An initial report from Kev Phillips (‘KP’) the Colliers Wood U11 manager.
 - iii) A subsequent witness statement authored by KP, dated 10 November 2022.

iv) A witness statement authored by Harry Phillips ('HP'), a Colliers player, dated 10 November 2022.

v) A witness statement authored by Jeevan Madaher ('JM'), a Colliers player, which is undated.

vi) A witness statement authored by Jake Bana ('JM'), a Colliers player, which is dated 9 November 2022.

9. Cheam Sports Youth submitted a statement in response. The witness statement is authored by Jonathon Clough ('JC'), a Club Official, and is dated 2 November 2022.

10. AB's statement states:

'This was also reported to me during the game where tensions had been previously running high throughout the second half. One of the Cheam players lashed out at one of the colliers players after a challenge and Jeevan was one of the players who retaliated in defence of his player. I asked for the cheam player to be taken off and jeevan was given a strong warning.

Only 5m later there was another incident involving Jeevan in which I asked him to be subbed off and once I had done this he told his manager that he there had been a discriminatory comment said towards him. However I did not directly hear this being said however a few of the Colliers players were also saying that this had occurred.

Jeevan's second incident seemed relatively unprovoked, as there was no challenge from a Cheam player he was retaliating to, so there is definitely a possibility that something was said however I can't confirm what exactly was said as I just did not hear anything.

I cant quite remember exactly how it was said but one of the colliers players (not Jeevan) said that Jeevan was called an "indian" however, again, I did not personally hear this..'

11. The initial report made by KP states, inter alia:

'The ref asked me to replace one of my lads (Jeevan) today, he was involved in a few incidents. Right call as my lad had got emotional.

First one he reacted one of the other team being overly aggressive to one of our team, 50/50 pushing etc

Second one he reacted to a boy telling him to go back to India. No adults heard this but most of my team reacted and 3-4 heard it.

Jeevans dad was running the line on that side, he spoke with some of the other teams parents after and they said there is a lad in the team that is capable of saying such things. Jeevans dad is absolutely fine.

Ref was there but not sure if he heard, apparently Jeevan said "that should be a card" after a foul, my lads heard the other lad say "ssssh and go back to India".

At the end some of their boys refused to shake hands.

Jeevan Madaher is my lad. Played at Dintion 13:00 KO. Manager Jonathan Clough, there No.4 I'm told. Ref Alex Bailey.

To be fair there manager was a good as gold.

Was a good game, mostly played in very good spirits, just got a little carried away in the last 10'

12. KP's subsequent witness statement states:

'The ref asked me to remove Jeevan as he had been involved in x 2 incidents including this one and was upset and emotional, I asked what had happened & Jeevan and 2/3 others said there had been a racist comment. Jeevan was crying and angry. I asked what was said, he said a defender had said go back to India. The ref asked the away team to 'have a word'. Their assistant (I think) shouted across the pitch 'what did you say', to which the player answered 'nothing'. The coach said to the ref and me 'there you go' and we carried on.

At the end of the game we did 4 cheers, Cheam did 3 cheers & 1 for luck followed by '1 for absolutely nothing' (not sure if this was a joke or what?) some of their players refused to shake hands'.

13. HP submitted a statement which reads:

'Jeevan got fouled, he said something to the defender. The defender turn and walked away and said 'go back to India'.

14. JM also submitted a statement, which states:

'I was playing football and the opposition player said 'go back home to India'.

15. JB submitted a statement, which reads:

'I saw Jeevan being fouled, he said that should be a penalty, the boy who fouled him said that wasn't a foul, you should go back to India'

Cheam Sports Youth's Case

16. As aforementioned, the Club provided a witness statement in reply. The statement is authored by JC and reads as follows:

‘There was a foul and a free kick about to be taken. One of the Cheam players was marking the opposition player and there was a tussle but it would not have been a foul by either player. A couple of the opposition players then began complaining before play restarted.

Our Assistant, Marc, went over to check everything was ok. None of our players reported anything as being said. I myself did not hear anything being said. Play resumed.

At the end of the game, the players did the usual three cheers and shook hands. Likewise, the managers thanked each other and shook hands.’

Liability

17. The Club denied, the charges therefore the Commission considered liability.
18. The Commission reminded itself that the burden of proving a charge falls upon the County FA.
19. 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.
20. In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission. It has 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).
21. 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, the Commission accept and reject, the Commission then has to decide if, on the balance of probabilities, the alleged breach of the FA Rules is established.

22. In assessing liability, the Commission was mindful of the issues to be determined in this case.

23. The Commission was wholly satisfied that the alleged comments as set out in the Charge sheet 'go back to India' was abusive and insulting, and did make reference to a protected characteristic. The allegation therefore met the threshold for the aggravated element of the Charge.

24. The issue in this case was whether it the Commission was satisfied, to the requisite standard, that the comment 'go back to India', was made by a Cheam Sports Youth player as alleged. After careful consideration, the Commission was so satisfied given the following:

- i) JM made a contemporaneous disclosure to his manager, KP.
- ii) KP also says that '2/3 others said that there had been a racist comment'. This is something which is corroborated by the match referee who says, 'a few of the Colliers players were also saying that this (discriminatory comment) had occurred'.
- iii) JM's account of what was said to him is corroborated by the statements of both JB and HP, both in relation to what was said and whom (a Cheam player) had said it.
- iv) There is no evidence to suggest that the allegations were fabricated, nor does there appear to be any motive for JB, HP and JM all to lie. The Commission considered whether all three could have been independently mistaken, but felt that this was unlikely, given their respective accounts as to what was said are almost identical.
- v) The Commission considered whether there could have been collusion or contamination but considered it unlikely given the contemporaneous disclosure and reactions of the respective players.
- vi) JM's immediate reaction is informative. JM is described by his manager as 'crying and angry', shortly after the event, which is consistent with him having heard something which greatly offended him.

vii) The County FA's case is supported by surrounding context, namely that there was an 'incident' (as described by Kevin Phillips) involving JM and a Cheam player, prior to the comment being made. JB also refers to an exchange between JM and a Cheam player prior to the comment being made.

25. Cheam Sports Youth's account is provided by a single statement, that of JC. He says that he himself didn't hear anything and none of the Cheam players reported that anything had been said. It is inevitable that, on a football pitch, some people may hear things being said, while others do not. That is not to say that the comment wasn't made.

26. Considering all of the above, the Commission finds that it is more likely than not that the comment '*go back to India*', was made, and that it was made by a Cheam Sports Youth player thus satisfying the charges.

Sanction

27. I have had regard to the FA Sanction Guidelines, which is referred to in the Charge Notification.

28. The Sanctions guidelines for teams at this level are as follows:

Low: £0-£50 fine.

Medium: £50-£100 fine.

High: £100-£200 fine.

29. In terms of aggravating factors; the charge includes an aggravated element and in terms of disciplinary history, there are 2 historic misconduct charges on the Club's record involving various of its teams: in 2019 a £95 fine; in 2020 a £55 fine.

30. The Commission was mindful of the nature of the breach, the comment was discriminatory. Consequently, the Commission considered that this case fell into the *High* category of the FA sanctioning guidelines.

31. Taking everything into consideration, the Commission imposes a **fine of £125.00**

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

Mr Resh Sohota

21 December 2022