

Disciplinary Commission (“The Commission”)

In the matter of Jamie Lowery – Case ID: 10942216M

Hearing Summary including Written Reasons

1. This is a hearing summary and includes written reasons for the decision of the Disciplinary Commission which sat on Monday 23rd January 2023.

2. The FA appointed Mr. Michael O’Brien as Chair of the Commission. Andy Chaplin and Peter Sowton were appointed as wing members. Vicky Collins of Staffs FA, was appointed as Commission Secretary.

3. Jamie Lowery (JL) had been charged by Surrey Football Association (SFA) in respect of the following matters:-

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

It is alleged that JL 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 in FA Rule E3.2 as it includes reference to sexual orientation. This refers to the comment ‘look at you headband poofboy’ or similar.

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

The charges had been raised following a match between Ashted Colts Wanderers (ACW) U18 vs. Carshalton Athletic (CA) U18 on 18 September 2022.

JL denied the charge and requested a personal hearing.

4. SFA received a statement from JE, CA player, who stated ‘During the first half, I dribbled the ball around him and he was pulling my shirt and wouldn’t let go so I turned round and pushed him. He said “what are you doing?” I didn’t say anything. Then he said “look at your headband, poof boy” and I just laughed. So, as I came past the referee I said something like “watch what he’s saying” or “watch his language.” About 2 minutes later we scored our second goal, I ran over to him and said “not saying anything now?” and he said “say that to my face” and I laughed at him and he said “shut up you cunt”. After the game, when I was getting changed their Manager called me over and asked me what his player said. I told him and he said “oh right I’ll talk to him about it”. I don’t think anyone else heard, no one said anything’.

5. SFA received a statement from CA spectator, and father of JE, KE, who stated 'My son had been substituted due to an injury about 70 minutes into the game and had immediately messaged me on his phone from the other side of the pitch to say that the number 10 from Ashtead had used homophobic language towards him about a thin black elastic headband he uses to keep his hair out of his eyes. I told him to tell his manager straight away about what was said and to make sure he reported it to the referee and asked if he reported it to the referee in the game straight away too. My son said he reported the incident to the referee at the time who dismissed it as he, "didn't hear what was said". The phrase used toward my son by the Ashtead number 10 was, "look at your headband you poof boy." I approached the referee after the game and asked how I report an incident of homophobic abuse. I was dismissed by the referee as he said he was told by one of the Carshalton players at the time but because he didn't hear exactly what was said, he couldn't report it. I questioned the referee that he couldn't even put in a report of homophobic abuse from a player despite not hearing what was said in his match report and he said no. From the reaction I received from him, it seemed like it was far too much trouble for him and he couldn't be bothered to do anything about it. At this point both the Carshalton and Ashtead managers had come over, so I repeated the allegations, pointed out what was said, identified my son and the Ashtead number 10, and said as the referee wasn't willing to put the incident in his match report then I would be reporting the incident to the league and the Surrey FA. The Ashtead manager was also dismissive of my complaint at first and tried to justify the homophobic abuse by saying there was "stuff happening between the two players before that, which I spoke to the referee about at half time". I challenged that by saying that no matter what was happening on the pitch, that type of abuse is 100% unacceptable, not just on the pitch but in any walk of life, and said that, "if it was racist abuse, I'm sure you'd be taking this more seriously." At this point the Ashtead manager gestured at me and said to the Carshalton manager, "does this always happen?" I felt he was insinuating that my reaction to this incident was completely over the top. I repeated that I would be reporting the incident to the league and FA and then left to speak to my son. As I was walking over, the Ashtead manager approached me and tapped me on the shoulder and asked me exactly what was said by his player. I called my son over to ask him. As he was walking over, the Ashtead manager said to me, "is that your son, the smug-looking one?" I didn't respond to this comment but at this point I felt the Ashtead manager would not be taking this incident seriously. My son repeated the phrase "he said to me, look at your headband you poof boy" to the Ashtead manager and it ended with the Ashtead manager assuring me it would be dealt with internally, but I honestly don't feel anything significant will be done, and due to being repeatedly dismissed by both the referee and the Ashtead manager, I felt I needed to report the incident to the league and county FA. Even when I was outside the ground afterwards, I was approached by the Ashtead linesman/parent who was present while I spoke to the referee and managers, who apologised on behalf of their team and agreed with me that it was unacceptable and the club would be dealing with it,

but it gave me the impression that something like this had happened before or they know that there is an issue with this type of abuse within the team’.

6. SFA received a statement from JL who stated ‘First of all I’d like to state that it was a really intense game and the CA player in question had several encounters and I do not remember every single one in detail. For some reason he was constantly goading me during the game, like he wanted a reaction or wanted to get me carded or sent off. I can’t remember what started it but he called me a fucking cunt several times, made fun of me whenever he could, taunted me when their team scored and trying to intimidate me whenever I tackled him. I continuously ignored him and got on with the game. He also kicked out at me a couple of times. Eventually I ended up responding to this goading as it built up, finally made me snap and lose my temper. I think I called him a prick said something about wearing a hairband, something like “nice hairband mate”. Even after I had lost my temper, he didn’t stop or act offended. He continued to say stuff and laugh at me. This included after they scored another goal when he came over laughing and said ‘who is the big man now?’ After the game I saw him standing near the referee laughing as the referee, our Assistant Manager and a parent were all talking in the middle of the pitch’.

7. SFA received a statement from ACW Assistant Coach, AW, who stated, ‘During the first half, I was aware of a CA player continually making comments to ACW players and to one player (identified in the enquiry) in particular. The CA player was wearing a headband so stood out. Once CA scored their first goal, and the CA players were returning to their half, he said, “Take that, you fucking cunt” to the ACW player. The ACW player responded but his back was to me and I do know what was said. The CA player told him to, “Fuck off” again and walked off. I was then not aware of any issue until after the final whistle. The CA player spent some time in the second half as a substitute, which I was aware of. At the final whistle, I was conscious of a CA spectator (I know he was not their manager, nor their linesman) talking to the referee in a very animated manner. I approached to ask what was wrong. The CA parent shouted at me that his son had been subjected to homophobic abuse by the ACW number 10. He was demanding that the referee include this in his match report. The referee informed him that he would not as he had heard nothing during the game and that nothing had been reported to him during the game. The CA parent turned focus onto me and lectured me for at least a minute about the behaviour of the ACW player. He demanded that the incident be investigated and that he would be submitting a complaint to the FA. I did not challenge this as he has that right. I asked the parent if he had heard the comment and he said no. I asked the parent when it happened, and he was not able to specify when it had happened beyond “in the first half”. He accused me of not acting when I had heard it – I found this confusing as he was unsure of exactly when it had happened. I reported the interaction between the two players as I had actually witnessed it, including the foul and obscene language used by his son. He dismissed this as “banter” on the pitch – I informed him that was also totally

unacceptable. He accused me again of justifying homophobic abuse – I informed him that this was not the case and that I was reporting what I had seen and heard. I asked the CA parent what the actual abuse was. He was unable to tell me and asked me to accompany him to his son to find out. He called his son over. His son came over grinning at his dad and his team mates. He reported that he had been called a “puff.” I asked him if it had been during the encounter after their first goal and he said, “I think so.” The CA parent apologised to me if he had been aggressive towards me and thanked me for taking the time to talk to him. It is of my opinion that very little took place beyond targeted, abusive comments from a CA player who was testing various ACW players to get a reaction and to procure a yellow or red card. He did this with several ACW players until he found one to react. If this case has been called by CA, then I will happily testify at the language I heard the CA player direct openly towards the Ashtead player. I heard no response and I refuse to believe that any homophobic abuse was used’.

8. Having initially indicated that he would attend the hearing, JE withdrew from attending due to anxiety issues.

9. In person at the hearing, JL admitted having made a comment referring to JE’s headband and calling him a prick during a verbal spat between the 2 players. However, he flatly denied having said the word poof, or any similar word, during this exchange. JL said that he referenced the headband as it was something that stood out about JE and made him look like a ‘Jack Grealish type poser’. JL stated that he first became aware of the allegation against him after the game. He saw JE and a parent with the referee and said he knew it must be about him. When asked how he knew that they were complaining about him, JL stated that people in the conversation were pointing at him.

10. In person at the hearing, AW emphasised that JE had been winding ACW players up during the game and was smirking during the post match conversation with the referee. When asked how they had identified JL during this conversation AW was clear that they had discussed his shirt number and had not pointed to JL.

11. The foregoing is a summary of the principal submissions 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 submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials furnished with regard to this case.

12. The burden of proof fell upon the SFA. The applicable standard of proof is the balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

13. All the available evidence in this matter had been supplied in advance to the Commission and had been studied by in full.

14. The Commission found that, in light of the evidence provided, the charges were not proven. The Commission assessed that there was certainly a possibility that the comment had been made as alleged by JE. In addition to the allegation from JE, JE's father in his statement was very clear that his son had advised him of the comment during the game and JE's father was demonstrably upset about the issue in the post match conversation, clearly believing that the comment had been made. In addition to this, there was a discrepancy between JL's version of how he was identified post match and AW's version. It is possible that JL knew the conversation was about him, not because he was pointed out, but because he knew that he had used homophobic language. However, in the view of The Commission, there was also a significant possibility that i/ JE had fabricated the comment (the description of him smirking post match added weight to this possibility) or ii/ JE had misheard the comment. Without being able to test the veracity of JE's evidence, and taking all evidence into account, The Commission concluded that it was more likely that the discriminatory comment had not been made as alleged than that the discriminatory comment had been made.

In respect of the lesser charge of using foul and abusive language, The Commission found that this charge was proven.

15. After making a decision that the charge was proven, the Commission considered JL's disciplinary record which showed no relevant incidents of misconduct.

16. In respect of the proven charge, the Commission referred to the FA Handbook, the FA's Disciplinary Regulations 2022/2023 and the Disciplinary Sanctions Guidelines issued by the FA in coming to its decision.

17. The Commission considered the nature of the improper conduct and noted that the comment/s made by JL constituted foul and abusive language at the lower end of the scale. When considered alongside a clean disciplinary record, The Commission were minded to err on the side of leniency in terms of sanction.

18. The Commission determined that the following sanction be imposed in respect of the matter:-

- * a total suspension for 1 qualifying match;
- * a total fine of £10;
- * 5 disciplinary penalty points;

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

M. O'Brien (Chair) – 23rd January 2023