

THE DISCIPLINARY COMMISSION

Sitting on behalf of Surrey Football Association

NON-PERSONAL HEARING

Of

Richard Wetton
Dormansland Rockets

[CASE REFERENCE 10951999M]

THE DECISION AND WRITTEN REASONS OF THE COMMISSION

Disclaimer:

These written reasons contain a summary of the principal evidence before the Commission and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Commission did not take such a point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials furnished with regard to this matter.

I. INTRODUCTION

1. The Football Association (“**The FA**”) convened a Disciplinary Commission (**the “Commission”**), on behalf of the Surrey Football Association (“**SFA**”) on 24 October 2022 to adjudicate upon disciplinary charges levied against Mr Richard Wetton (“**Mr Wetton**”) (Case ID number: 10951999M).
2. The Disciplinary Commission was constituted of a single member, Mr André Duarte Costa, an Independent FA appointed Chair.

II. THE CHARGES

3. In summary, by Misconduct Charge Notification dated 17 October 2022 (the “**Charge Notification**”) issued by SFA against Mr Wetton, Mr Wetton was charged with one charge relating to alleged misconduct in a match against Royal Oaks on 25 September 2022.
4. It was alleged that Mr Wetton used violent conduct and/or threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it was further alleged that it constituted physical contact or attempted physical Contact against a Match Official as defined in FA Regulations (the “**Charge**”).
5. The Charge Notification referred to the allegation that Mr Wetton pushed the referee with his chest or similar (the “**Alleged Behaviour**”).
6. The Charge Notification also referred to the Standard Sanctions and Guidelines. Furthermore, a reference to an administration fee and/or a potential fine was also made.
7. Mr Wetton was required to submit a response by 24 October 2022. On 23 October 2022 Mr Wetton submitted on the Whole Game System a guilty plea accepting the charge and asking for his case to be dealt with by correspondence, *i.e.* Non-Personal Hearing.
8. However, by considering Mr Wetton’s statement at pages 11 to 14 of the case bundle, it concluded that Mr Wetton was indeed pleading not guilty to the charge. It was the understanding of the Commission that Mr Wetton’s plea was submitted by the club, probably without his knowledge or consent. For this reason, the Commission decided

not to accept the guilty plea but rather to consider Mr Wetton's plea to the charge as not guilty.

III. THE RULES

9. The Rules of the Association are foreseen in Part 10 of The FA Handbook 2021/2022¹.
10. Under the title "Misconduct" Section E of the Rules of the Association sets out the rules to be observed by Participants².
11. Bearing in mind the charges levied against Mr Wetton the relevant rule to take into account for the purpose of the present case is FA Rule E3, in specific FA Rule E3.1.
12. According to FA Rule 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.*
13. The Disciplinary Regulations are foreseen in Part 11 of the FA Handbook.
14. Under the title "Offences Against Match Officials" paragraph 96 of Section Three: Provisions Applicable to Category 5 of Part D of the Disciplinary Regulations provides the following: *The three categories of offence against Match Officials are as follows:*
 - 96.1 *Threatening behaviour: words or action that cause the Match Official to believe that they are being threatened. Examples include but are not limited to: the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of hands to intimidate the Match Official; pretending to throw or kick an object at the Match Official.*
 - 96.2 *Physical contact or attempted physical contact: physical actions (or attempted actions) that are unlikely to cause injury to the Match Official but are nevertheless*

¹ Available at: <https://www.thefa.com/football-rules-governance/lawsandrules/fa-handbook>.

² means an Affiliated Association, Competition, Club, Club Official (which for the avoidance of doubt shall include a Director), Intermediary, Player, Official, Manager, Match Official, Match Official observer, Match Official coach, Match Official mentor, Management Committee Member, member or employee of a Club and all persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association, as per The FA Handbook 2022/2023, Section 10, Part A, para. A2.

confrontational, examples include but are not limited to: pushing the Match Official or pulling the Match Official (or their clothing or equipment); and

96.3 Assault or attempted assault: acting in a manner which causes or attempts to cause injury to the Match Official (whether or not it does in fact cause injury), examples include, but are not limited to, causing and/or attempting to cause injury by spitting (whether it connects or not), causing and/or attempting to cause injury by striking, or attempting to strike, kicking or attempting to kick, butting or attempting to butt, barging or attempting to barge, kicking or throwing any item directly at the Match Official.

IV. EVIDENCE

15. 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 members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

16. The evidence which the SFA relied upon in support of the charges consisted of:

- a) Extraordinary Incident Report by Mr Mark Preston (“**Mr Preston**”), the Referee, dated 20 August 2022³;
- b) Statement by Mr Wetton, the Participant Charged and a Player for Dormansland Rockets, dated 1 October 2022⁴;
- c) Statement by Mr Scott Baptie (“**Mr Baptie**”), a Player for Dormansland Rockets, undated⁵;
- d) Statement by Mr Roddy Paine (“**Mr Paine**”), Chairman for Royal Oak FC, dated 26 September 2022⁶;

³ P. 9 of the case bundle.

⁴ PP. 11-14 of the case bundle.

⁵ PP. 15-17 of the case bundle.

⁶ PP. 18-21 of the case bundle.

- e) Statement by Mr Peter Elwood (“**Mr Elwood**”), Manager for Dormansland Rockets, dated 12 October 2022⁷;
 - f) Statement by Mr Ian Scott (“**Mr Scott**”), a Spectator and Fixtures Secretary of the West Kent Sunday Football League, dated 3 October 2022⁸;
 - g) Statement by Mr Paul Terry (“**Mr Terry**”), a Level 5 Senior Kent County Referee linked to Dormansland Rockets, undated⁹;
 - h) Email from Mr Preston, the Referee, dated 6 October 2022 at 16:05, sent to Mr Richard Garland (“**Mr Garland**”) of SFA¹⁰; and
 - i) Email from Mr Preston, the Referee, dated 26 September 2022 at 12:20, sent to Mr Garland and Ms Lisa Benn (“**Ms Benn**”) of SFA¹¹.
17. The evidence submitted in defence of the charges consisted of a Statement by Dormansland Rockets, handwritten and undated¹².

V. THE STANDARD OF PROOF

18. The Disciplinary Regulations are foreseen in Part 11 of The FA Handbook 2022/2023.
19. Under the title “General Provisions” Part A of the Disciplinary Regulations sets out in Section One the provisions applicable to All Panels and in Section Two the provisions applicable to Regulatory Commissions.
20. Paragraph 8 of the above mentioned “General Provisions” states that *save where otherwise stated, the applicable standard of proof shall be the civil standard of the balance of probabilities.*
21. Therefore, the applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, the Commission would be satisfied that

⁷ PP. 22-25 of the case bundle.

⁸ PP. 26-29 of the case bundle.

⁹ PP. 30-33 of the case bundle.

¹⁰ P. 35 of the case bundle.

¹¹ P. 36 of the case bundle.

¹² P. 43 of the case bundle.

an event occurred if it considered that, on the evidence, it was more likely than not to have happened.

VI. FINDINGS & DECISION

A. GENERAL CONSIDERATIONS

22. The Commission reminded itself that the burden of proving a charge falls upon the SFA.
23. In a Commission such as this, the assessment of the evidence is entirely a matter for the Chair sitting alone to consider. 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).
24. Where there are discrepancies between witnesses, it is for me to decide 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.
25. In assessing liability, the Commission was mindful of the issues to be determined in the present case. The issues were whether the Commission was satisfied to the requisite standard that the evidence before it proved that Mr Wetton's conduct constituted Improper Conduct against a Match Official (including physical contact or attempted physical contact and threatening and/or abusive language/behaviour) for the purposes of the Charge.

B. FINDINGS

26. In the present case the allegation was that Mr Wetton, the Participant Charged and a player for Dormansland Rockets, used violent conduct and/or threatening and/or abusive and/or indecent and/or insulting language/behaviour contrary to FA Rule E3.1 and it was further alleged that it constituted physical contact or attempted physical Contact against a Match Official.

27. According to the evidence provided to the Commission the allegation was that Mr Wetton pushed the referee with his chest or similar.
28. The Commission reminded itself that to find the Charge proven, Mr Wetton's behaviour should have included "*physical contact or attempted physical contact*" and "*threatening and/or abusive language/behaviour*". Therefore, if the Commission only considered that his behaviour included physical contact or attempted physical contact but not threatening or abusive language/ behaviour, and vice versa, the Charge would have been found not proven.
29. For the sake of completeness, regarding the term "*threatening behaviour*", it was the Commission's literal interpretation that the definition entails a subjective test. The Commission when considering such language and/or behaviour must assess, if not expressly stated, if the Match Official felt threatened by the language and/or behaviour of any given participant. Although it was the opinion of the Commission, according to the definition's wording, that threatening language and/or behaviour would be anything that reasonably makes a Match Official to feel threatened, the Commission also considered that, in the interests of achieving a just and fair result, the classification of a particular language and/or behaviour as threatening should not be solely based on the Match Official's perception of said language and/or behaviour. Otherwise, even a non-threatening language and/or behaviour, as perceived by an objective person of reasonable fortitude, would fall within the definition if a Match Official reported feeling threatened by it, which ultimately would be unfair. Therefore, the Commission relied on the teleological interpretation of the definition, *i.e* the effect that the definition is intended to achieve or, in other words, what type of language and/or behaviour the definition intends to encompass, thus considering that the assessment of a threatening language and/or behaviour should be analysed on a case-by-case basis with an appropriate weight being given to the Match Official's perception of the language and/or behaviour and by considering the examples given in paragraph 96.1 of Section Three: Provisions Applicable to Category 5 of Part D of the Disciplinary Regulations.
30. Furthermore, in relation to the term "*abusive*", the Commission noted that it is not expressly defined by the Regulations, therefore the Commission considered that it

should be given their ordinary meaning. The ordinary meaning of abusive language generally refers to offensive and insulting words directed at another person.

31. The Commission noted Mr Preston's report. According to it, Mr Preston stated that Mr Wetton moved aggressively towards him and pushed his chest and torso towards Mr Preston's, which made him step back. Mr Preston further added that Mr Wetton bent his head towards him, which stood no more than 1 to 2 cm from his. This, according to Mr Wetton, made him fear being a victim of an headbutt which, in turn, led him to abandon the game. Mr Preston's account was also corroborated by Mr Paine, who stated that Mr Wetton *"squared up to the referee and touched him with his chest"*, although clarifying that it was not particularly violent.
32. Conversely, in Mr Wetton's statement, he did not expressly reject having pushed Mr Preston, although that could be inferred by the fact he only mentioned standing in Mr Preston's face and saying *"really? The game hasn't been like that at all, you've over-reacted"*.
33. Apart from the above-mentioned individuals, other witnesses provided statements. In regard to the foregoing, the Commission considered relevant the following excerpts of their statements:
 - a) Mr Baptie: *"Our player then approached the referee to plead his innocence and was then given a second yellow card, then red and was asked to leave the pitch. I was at the opposite end of the pitch so did not hear what was said between Richard and the referee."*;
 - b) Mr Elwood: *"Richard may or may not have touched the ref (if he did I cannot and will not condone it), but if he did I honestly didn't see it, so it must have been very tentative and over very quickly."*;
 - c) Mr Scott: *"The referee then moved towards Richard Wetton (for he was the Rockets forward) and issued him with a yellow card. Richard Wetton then protested that this was unfair and unjust and was then shown a second yellow card swiftly followed by a red. Richard Wetton removed his shirt and left the field of play."*

I saw nothing what so ever to indicate that Richard Wetton had touched the referee at all. So for him to say that he had been assaulted is nothing short of exaggeration and completely untrue.”.

34. For the sake of completeness, the Commission did not consider the statement of Mr Terry to be relevant for the matter at hand.
35. Having noted all the above, and particularly Mr Preston’s e-mails to Mr Garland and Ms Benn, it was the Commission understanding that indeed Mr Wetton had made body contact with Mr Preston. In this respect, it is well established the match officials should be treated with the utmost respect and consideration. This includes not invading their personal space or making unauthorised or improper physical contact.
36. In this sense, by adopting a confrontational behaviour towards Mr Preston which culminated in Mr Wetton pushing the former with his chest and/or torso, the latter adopted an improper conduct which falls within the category of (improper) physical contact.
37. As a result of the aforementioned, the Commission found, on the balance of probabilities, the Charge proven.

VII. SANCTION

38. As The Commission was guided by the FA Sanction Guidelines for the 2022/2023 season and relevant FA regulation when deciding on the sanction.
39. The Commission was informed that Mr Wetton had previously unblemished disciplinary history.
40. With respect to aggravating factors, the Commission considered that there were none. Although the recipient of the language and/or behaviour of Mr Wetton was the Referee, which constituted itself an aggravating factor, it is already reflected on the sanctions to be imposed as per the recommended sanction guidelines. For this reason, the foregoing factors should not be taken into account for the purpose of aggravating the sanction.
41. In relation to mitigating factors, the Commission considered Mr Wetton’s disciplinary record. Moreover, the Commission also took into account Mr Preston’s pleadings not to

impose a lengthy ban on Mr Wetton particularly due to the level of aggression – which was inferred to be low. In this sense, the Commission considered that the imposition of the mandatory minimum sanction would be sufficient to deter Mr Wetton from engaging in a similar conduct in the future and also to fulfil the purpose of the present disciplinary procedure: being just and fair to all parties.

42. Mr Hunter contested the charge, as was his right, but naturally he could not avail himself of any credit he would have otherwise been entitled to had he entered a guilty plea.
43. When determining the sanction, the Commission referred to paragraph 11 of Section Three: Provisions Applicable to Category 5 of Part D of the Disciplinary Regulations, which reads as follows: *“A Disciplinary Commission considering a Charge pursuant to paragraph 10 above shall have regard to any automatic suspension or sanction imposed pursuant to paragraphs 51 and 56 for the same incident when considering any sanction”*.
44. Having considered all of the circumstances in the case, the sanction guidelines and the aggravating and mitigating factors present, the Commission imposed the following sanction:
 - a) 112-days suspension from all football activity to be backdated to the date of the imposition of the Interim Suspension Order. For the purposes of reaching a sanction, the Commission also took into account that Mr Wetton received 3-match automatic suspension for Violent Conduct in the same match in respect of the same behaviour. In regard to their enforcement, all sanctions, including the ones imposed as a consequence of the charges herein addressed to, should run consecutively, as per paragraph 64 of Section Three: Provisions Applicable to Category 5 of Part D of the Disciplinary Regulations;
 - b) A £75.00 fine;
 - c) Compulsory attendance of a face-to-face FA Education Course to be completed before the time-based suspension is served or within 28 days of the Disciplinary Commission’s decision, whichever is the later. Whereby the Participant fails to comply with the order, a *Sine Die* suspension shall be imposed until such time the Participant becomes compliant with the order of the Disciplinary Commission; and
 - d) 7 Club Disciplinary Points.

VIII. RIGHT TO APPEAL

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

André Duarte Costa (Chair sitting alone)

27 October 2022