

THE FOOTBALL ASSOCIATION DISCIPLINARY
COMMISSION

Sitting on behalf of Surrey Football Association

PERSONAL HEARING

of

WANDGAS YOUH
Case ref: 11423316M

and

ALAN SWANN (St Helier Youth)
Case ref: 11423235M

Warning to the reader of this document. This document contains reference to offensive and/or
discriminatory language or behaviour.

THE DECISION AND THE REASONS OF THE COMMISSION

Regulatory Commission Constitution

Ruth Mann (Chair – Independent Panel Member)

Jane Hodge (Independent Panel Member)

Mark Scott (Independent Panel Member)

Vicky Collins (Secretary)

Date of Hearing: 22.11.23

Attendees

(1) Surrey Football Association

Renata Calappa

Carl Bratton

Lynsey Bratton (written evidence only)

Brendan Talbot (written evidence only)

James Cordell (written evidence only)

Oliver Davis (written evidence only)

Jae Cordell (written evidence only)

(2) Wandgas Youth

Alex Odwell

Paul McGill

Ewa Stelmach

Demetri Panayi Katie Hay (aka Moore)

Jessica Corkan

Kerry Hallard (written evidence only)

Kirsty Ruthven (written evidence only)

Lynn Munro (written evidence only)

(3) Alan Swan

Not attendees.

Alan Swan (written evidence only)

David Howe (Wandgas -observer only)

1. This document sets out the written reasons for the decision in this independent Regulatory Commission (“the Commission”).
2. The Commission dealt with consolidated proceedings in these cases that arise out of the same facts by Microsoft Teams.

3. This document does not set out the entirety of the evidence considered by the Commission. It sets out the relevant evidence on the central and relevant issues as considered by the Commission and assessed by the Commission in reaching findings of fact.
4. In addition to oral evidence heard by the Commission, the Commission had written evidence from other potential witnesses on behalf of Wandgas Youth.
5. Accordingly, the Commission proceeded to make findings of fact based on the oral evidence heard by the Commission but also placing due reliance upon the written, untested evidence.

The charges:

(i)Wandgas Youth

6. By a Misconduct Charge Notification dated 17th October 2023 issued by the Surrey Football Association (“Surrey FA”) alleged that Wandgas Youth U13 (“WY”) during a match (“the match”) between Wandgas Youth U13 and St Helier FC (“SH”) on 17th September 2023 failed to ensure that spectators (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour. This refers to the allegation that spectators had called the referee a cheat whilst swearing at him in Polish or similar.
7. Accordingly, Surrey FA charged WY with:
 - i) Breach of FA Rule E21.1
8. WY were required to submit a response to the charge by 31st October 2023. The Commission was informed that WY denied the charge and requested a Personal Hearing.

(ii) Alan Swann

9. By a Misconduct Charge Notification dated 17th October 2023 issued by the Surrey FA alleged that Alan Swan (“AS”) at the match used abusive and/or indecent and or insulting words or behaviour and it is further alleged that this is an aggravated breach as it includes reference to Disability. This refers to a comment(s) “Spastic” or similar.

10. Accordingly, Surrey FA charged AS with:

- i) Breach of Rule E3. Improper conduct (including foul and abusive language).
- ii) Breach of Rule E3.2. Improper conduct – aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender Reassignment, Sexual Orientation or Disability.

11. AS denied the charges and requested a Non-Personal Hearing.

The facts.

12. By way of clarification, it is important to note the Commission also adjudicated on non-serious misconduct charges, which, whilst arising out of the same fixture are not subject to written reasons.

Evidence adduced by Surrey FC.

13. Surrey FC adduce evidence from the following witnesses.

(i) Renata Calappa

14. The Commission had a written statement from Renate Calappa dated 21st September 2023, The Commission asked questions of the witness to seek clarification of the relevant facts.

15. The evidence of the witness can be summarised as follows:

- i) Witness a parent of player from St Helier Youth Colt under 13's.
- ii) A few minutes into the match parents from opposing team began to abuse the linesman. The linesman was 'Jae' a parent from St Helier who had volunteered to run the line.
- iii) The witness referred to a male who she could hear questioning a decision of the linesman. He was saying 'you don't know the rules' or words to that effect.
- iv) A female (who she believed was with the male) could be heard shouting 'stupid idiot'. This was being said quite a lot and loud enough for the witness to hear.
- v) In addition, the same female was swearing in Polish. The word 'Kurva' was being used which is a derogatory term and could reasonably be described as a swear word.
- vi) The witness is Lithuanian and whilst not completely certain as to the exact translation of the word in Polish the witness states it can mean 'bitch' or similar.
- vii) The words were being directed at the Linesman.
- viii) The witness was 5 or 6 steps away from the female. The female was being more vocal than the male.
- ix) In response to be repeatedly abused the Linesman tried to give his flag to the parents. He said words to the effect of 'if you think I don't know the rules you do it' and 'if you think I am not good enough'.
- x) Another person (unknown) then took over running the line.
- xi) Throughout the match the same female continued to shout and scream 'stupid idiots'. At one point the witness did approach the female to ask that she refrain from being aggressive. Whilst the female did not swear at the witness she did say 'stupid idiot'. The witness is a law enforcement officer who was off-duty at the time of the incident.
- xii) The witness did not see who kicked the ball that hit the female in the face. The witness thought the ball came from behind.
- xiii) The witness stated that she is a serving police officer.

(ii)Carl Bratton

16. The Commission had a written statement from Carl Bratton dated 21st September 2023, The Commission asked questions of the witness to seek clarification of the relevant facts.

17. The evidence of the witness can be summarised as follows:

- i) The witness is the Assistant Manager for St Hellier Colts Under 13 and was stood on the side line closest to the fence.
- ii) Described the game as a feisty affair with both teams playing hard and fair.
- iii) Witness could hear lots of shouting and pointing being directed at 'Jae' the Linesman. Witness could not hear specifically what was being said but could tell by the body language and pointing that it aggressive. He did not hear anyone call Jae a cheat. However, this was due to him being stood on the opposite side of the pitch.
- iv) Described a male parent having a 'running altercation' with a player from St Helier. Recalled speaking to his player to dissuade him from engaging with the parents.
- v) States hearing the Linesman from WY calling Alan (Manager from St Helier) a 'fat cunt' and offering to 'knock him out'
- vi) States he heard the Manager from WY refer to a player from his own team (WY) as 'now you divvy fat cunt'.
- vii) Recalled a parent of WY coming onto the field of play following a challenge which resulted in a suspected injury.
- viii) Did not see who kicked a ball causing injury to a parent of WY.

(iii)Lynsey Bratton

18. The Commission considered the written evidence of Lynsey Bratton provided in her statement dated 12st September 2023.

19. The relevant points of her statement can be summarised as follows;

- i) The WY Linesman was rude to the Manager of SH (Alan). Witness cannot be sure what was said.

- ii) A female parent from WY was being rude to the Linesman from SH and accused him of 'cheating'. Some of the females words were in another language, but words of 'stupid idiot' could be heard.
- iii) The same female was later injured when a ball hit her in the face.
- iv) A parent walked on the pitch from WY.
- v) It was a 'heated match' but it all seemed 'OK' afterwards.

(iv)Bendon Talbot

20. The Commission considered the written evidence of Brendon Talbot provided in his statement dated 25th September 2023.

21. The relevant points of his statement can be summarised as follows;

- i) Recalled hearing parents claiming the SH Linesman of 'cheating'. This was loud enough for the witness to hear. WY parents were 'giving him a hard time'.
- ii) Heard the WY Linesman threaten a Manager from SH by saying 'I'll knock you out you fat cunt'
- iii) Witness did not see the incident involving a football hitting a parent of WY.

(v)Jae Cordell

22. The Commission considered the written evidence of Jae Cordell provided in his statement dated 25th September 2023.

23. The relevant points of his statement can be summarised as follows;

- i) Parent and Linesman for SH.
- ii) Gave an offside when a striker from WY 'ran through the ball from deep in midfield, which was according to the witness too earlier, so he flagged for offside'.
- iii) Immediately a parent of WY 'confronted' him and called him a 'cheat' and an 'idiot'. The abuse continued for a few minutes.
- iv) Witness stepped away from linesman duties as did not want to be the recipient of further abuse.

- v) Did not see who kicked a ball which hit the same parent who had been abusive toward him.

Evidence adduced by Wandgas Youth

WY adduce evidence from the following witnesses.

(i)Ewa Stelmach

24. The Commission had a written statement from Eva Stelmach dated 20th September 2023 together with a photo showing a mark to the left cheek. The Commission asked questions of the witness to seek clarification of the relevant facts.

25. The evidence of the witness can be summarised as follows:

- i) Describes the players from SH playing ‘aggressively. States players were being kicked and pushed.
- ii) Witness accepted questioning decision of SH Linesman by saying ‘are you sure?’
- iii) Witness recalled hearing or saying ‘cheating’ or ‘cheat’
- iv) Linesman for SH said ‘if you are better than me you can do it’.
- v) Witness states she did not swear and did not swear in Polish but did speak in Polish and English during conversations.
- vi) Was hit in the face by a football. Did not see who kicked the ball but it hit her ‘very hard’ to the face. The ball came from the left side of the parents (SH). May have been an accident. The ball was yellow and was the same type of ball that had been used by the team during the match.
- vii) Witness confirmed Polish is her first language.

(ii) Demetri Panayi

26. The Commission had a written statement from Demetri Panayi dated 23rd September 2023. The Commission asked questions of the witness to seek clarification of the relevant facts.

The evidence of the witness can be summarised as follows:

- i) Witness is a parent of WY player and was situated on the same side as all the other parents (both home and away teams). Stood near to the goal as son goalkeeper for WY.
- ii) Did not recall any incident with WY parents as was focused on his son and standing near to the goal. Has always found WY parents to be 'supportive and gentlemanly' whether there is a win or a loss.
- iii) Recalled incident involving player No 7 from SH. Contact with No 7 and goalkeeper for WY. Witness went to the pitch. Witness a Doctor and was concerned there had been a serious injury. Was confronted by a Manager for SH due to him being on the field of play.
- iv) Witness complained to Referee and warned him 'that someone could get injured'
- v) Son carried off and did not play rest of the game. Whilst continuing to watch rest of match heard Manager of SH be 'unpleasant' towards his own teams players.
- vi) Could not give specific details of words used.

(iii) Katie Hay (aka Moore)

27. The Commission had a written statement from Katie Hay dated 20th September 2023. The Commission asked questions of the witness to seek clarification of the relevant facts.

The evidence of the witness can be summarised as follows:

- i) Mother of player from WY.
- ii) Throughout the match players from SH making bad challenges and witness worried about injury.
- iii) Heard a WY parent say to the Linesman 'that flag should have gone up' but heard no other 'wrongdoing'.
- iv) Witness recalled Linesman throwing the flag as he got 'the hump'. Did not hear anyone use the word 'cheat'.
- v) When SH were losing their Manager appeared to be angry and was shouting 'spastics' and 'you are better than this'. 'pussies' and 'dickheads'. These words were directed at his own players.
- vi) Did not hear the word 'drastic'.

- vii) Did not see who kicked the ball which hit a parent in the face.

(iv) Jessica Corkan

28. The Commission had a written statement from Jessica Corkan dated 21st September 2023. The Commission asked questions of the witness to seek clarification of the relevant facts.

The evidence of the witness can be summarised as follows:

- i) Parent of player from WY. Present as a Spector and situated with other WY parents on same side as opposition parents/spectators.
- ii) Describes the match as being awash with ‘aggravated play’ and ‘quite violent tackles’. Contained ‘hard tackles’ which caused her and others concern.
- iii) Describes in the first half the Linesman for SH got into a ‘altercation’ with a parent from WY. Recalls he (Linesman) was coming up to the female parent with the flag in his hand.
- iv) Could not hear what was being said.
- v) Did not remember whether any swear words were used by the WY parent or the Linesman.
- vi) When WY went 1-0 in front the Manager from SH ‘started to lose his temper’.
- vii) Heard Manager shout ‘Fucking spastic to his player/s.
- viii) At the end of the match saw a ball hit a WY parent in the face. Did not see who kicked /threw the ball. However, believes done deliberately.
- ix) In hindsight believes should have forfeited the game due to concern of dangerous play.

(v) Alex Odwell

29. The Commission had a written statement from Alex Odwell dated 20th September 2023. The Commission asked questions of the witness to seek clarification of the relevant facts.

The evidence of the witness can be summarised as follows:

- i) Parent Coach of WY. Present at the match. Representative from WY at the hearing in answer to the misconduct charge at Paragraph 7(i) above.
- ii) Believes it was actions of SH Linesman that caused the initial dissent in game. Did not hear what happened but saw Linesman drop his flag. Did not hear any swearing but was stood on opposite side of the pitch.
- iii) Did not believe it was disorderly behaviour for a parent to question someone running the line.
- iv) Behaviour of players of SH was 'aggressive'.
- v) Refutes any allegation of calling a player (his son) a 'fat divy'.
- vi) Witness invited the parent of the WY goalkeeper to enter field of play. Parent a Doctor and witness was concerned regarding injuries.
- vii) Moving forward witness will be speaking to all parents and spectators regarding their conduct an expected conduct when attending matches.
- viii) Accepted in questioning from the Panel that, notwithstanding point iii above, WY spectators, rather than behaving orderly, had been disorderly.

(vi)Paul McGill

30. The Commission had no written account from Paul McGill. Paul McGill attended the hearing in answer to charge of a non-serious misconduct matter. The Commission asked questions of the witness to seek clarification of the relevant facts.

The evidence of the witness can be summarised as follows:

- i) Witness is Linesman each week for WY and Linesman for this particular match. Has never had any issue.
- ii) Within 5 minutes of the match a manager for SH said 'you fucking cheat'
- iii) Witness laughed, smirked and 'said nothing' in response.
- iv) Recalled an incident when parent of WY goalkeeper entered field of play, whereby the Manager for SH said 'get off the fucking pitch'. Witness stated the manager then stated to verbally abuse him to which he replied 'fuck off, fuck off'.

(vii) Kerry Hallard

31. The Commission considered the written evidence of Kerry Hallard provided in her statement dated 20th September 2023.

32. The relevant points of her statement can be summarised as follows;

- i) Witness is a parent of a WY player. Was a physical game with challenges and aggressive tackles.
- ii) WY parent questioned a decision of SH Linesman. SH Linesman told the parent to 'shut her mouth' then threw his flag on floor and stormed off.
- iii) SH coach shouted at his own players. Comments of 'you spastic twat', 'fat prick' were heard.
- iv) Saw a football fly through the air and hit WY parent in face. Did not see who kicked/threw the ball.

(ix) Kirsty Ruthven

33. The Commission considered the written evidence of Kirsty Ruthven provided in her statement dated 20th September 2023.

34. The relevant points of her statement can be summarised as follows:

- i) Witness is a parent of a WY player and was situated behind the respect barrier with other parents and supporters. Heard SH Manager use the words 'fucking div' towards his players.
- ii) Witness states the Linesman for SH kicked a football with such force it hit a WY parent in the face.

(viii) Lynn Munroe

35. The Commission considered the written evidence of Lynn Munroe provided in her statement dated 21st September 2023.

36. The relevant points of her statement can be summarised as follows:

- i) Witness parent of WY player. During the match heard shouts from the SH Coach of ‘fucking spastic’ ‘fucking div’ and ‘fucking get him’.

37. In addition to the above the Commission had sight of the following Match Official Report:

- i) Oliver Davis statement dated 10.10.23. Oliver Davis did not give oral evidence. Whilst acting in the capacity as Referee he is affiliated with SH. In summary his evidence references a ‘commotion on the sideline’ which he did not see.
- ii) Oliver Davis states he heard the Manager of SH call his own son ‘a fucking spastic’.
- iii) Oliver Davis did not see who kicked the ball that hit a WY parent in the face.

38. The Commission considered the email submissions from David Howe, Chairman of WY. It is not apparent that David Howe was present at the match.

Evidence adduced by Alan Swan

39. The Commission considered the written submissions (undated) from Alan Swan. Alan Swan did not attend the hearing and opted for a non-personal hearing in his absence. In summary the account is as follows:

- i) Witness denies the use of any foul or abusive or discriminatory language including the word ‘spastic’.
- ii) Accepts a verbal feud with his son during the match.
- iii) Witness states he said to his son ‘don’t be drastic’.

The Commissions factual findings.

40. The burden of proof is borne by Surrey FA to prove the alleged misconduct separately in the case of each participant upon the balance of probability.
41. The test to be applied is 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.
42. The Commission noted that each form of misconduct alleged against each participant is a serious ascertain and cogent evidence is required upon the balance of probability to establish the allegation. The Commission was mindful that some evidence was submitted in written format only and therefore had not been 'tested' during the oral hearing proceedings.

(i)Wandgas Youth

20. Having considered all the evidence before the Commission, the Commission concluded as follows on the balance of probability:

- i) The Commission considered the relevant issues for determination in relation to WY and reminded themselves of the specific elements of the charge. The issue really was very narrow (in that it related to a single incident at the beginning of the match and involved the Linesman for St Helier and one/two parents from WY) – that of whether the actions of the spectators had conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, insulting or provocative words/ behaviour. It was clear to the Commission that in the first few minutes of the match parents of WY did challenge the decision of the SH Linesman.

- ii) Renata Calappa was clear and credible in her evidence to the Commission. Renata Calappa heard the words 'cheat' and heard phrases of 'stupid idiot' being directed at the Linesman. The Commission considered that Renata Calappa was stood close enough to hear the language used. Renata was stood close enough to hear clearly the words being used.
- iii) Renata Calappa heard the words 'Kuva' being shouted in Polish. Renata Calappa explained this word is a derogatory word in both Polish and Lithuanian.
- iv) Eva Stelmach accepted in her evidence that she said / or heard the words 'cheat' being directed to the Linesman.
- v) Eva Stelmach accepted that she did in fact question the decision of the Linesman at the beginning of the match. Eva Stelmach accepted that due to her questioning of the decision this caused the Linesman to put down his flag and refuse to continue.
- vi) Witness evidence supported the fact that a confrontation between a parent/ parent of WY did in fact take place and that this was in fact instigated by a WY parent inappropriately challenging the SH Linesman. There will always be decisions made by Match Officials which other disagree. However, it is the responsibility of the individual clubs to ensure the behaviour of their followers and or supporters.
- vii) The Commission found that the words 'cheat' 'stupid idiot' and swearing in Polish were directed at the Linesman. The words are considered offensive, insulting, provocative and therefore found, on the balance of probabilities the charge **PROVEN**.

ii Alan Swan

- i) The Commission determined the relevant issues to be considered. Alan Swan stated the witnesses were effectively mistaken and that he did not use the word 'spastic'. He asserted he used the word 'drastic'. Clearly, both words have completely different meanings. The use of the word 'drastic' in this context would not be offensive, indecent or insulting.
- ii) The Commission heard from a number of witnesses who provided clear and honest accounts confirming the use of the word 'spastic' and phrases such as 'fucking spastic'. The witnesses were all asked how they could hear the word so clearly. They told the hearing this was due to the fact it was said so loudly.
- iii) In addition to the oral evidence considered by the Commission a number of written accounts supported the fact that Alan Swan used the word 'spastic' and or 'fucking spastic'. The Commission concluded, on the balance of probabilities that Alan Swan did in fact use the word 'spastic/s'. The witnesses had no reason to lie about what they had heard.
- iv) The Commission then went on to determine whether the word 'spastic' was in breach of a protected characteristic, in this case, disability. The Commission agreed this term could be perceived as a reference to a person/s disability and therefore found the charge of aggravated E3.2 **PROVEN**.

Sanction

21. The Commission went on to consider sanction.

i)Wandgas Youth

22. The Commission were provided with the offence history for the last 5 years of WY. There are 13 teams at WY. The club has 2 misconduct findings, one was in February 2022 for an E20 offence (related to supporters' behaviour), a second was in June 2022, again for an E20 offence relating to the behaviour of spectators/supporters.
23. Alex Odwell, on behalf of WY provided further information about WY for the Commission to consider regarding sanction. WY are a community club founded in the 1940/50's. The club work closely to support those with disabilities. The Commission notes that Alex Odwell stated he would speak to the parents/ supporters about future behaviour.
24. The Commission considered the previous offence history of WY to be an aggravating feature. The previous misconduct related to failure to ensure appropriate supporter behaviour.
25. The Commission considered the mitigating features and noted the match was not abandoned because of the misconduct. In addition, it was a relatively short lived incident, albeit the potential catalyst for the hostility between the teams.
26. The Sanction range for a Breach E20 (Youth) is as follows:
- i) £0 - £50 low
 - ii) £50-£100 med
 - iii) £100-£200 high
27. The Commission deem the appropriate range as medium and impose a final penalty of £75.
28. WY are warned as to their future conduct and encourage WY to take appropriate steps to ensure there is no repeat of this behaviour.

ii)Alan Swan

29. The Commission were provided with Alan Swan's offence history for the last 5 years. The Commission heard that on 10th September 2023 Alan Swan committed a misconduct offence. This arose out of an incident whereby he called a referee a 'fucking joke' and 'fucking cheat'. Alan Swan received a 3 match ban and £50 on 17th October 2023.
30. The Commission concluded that it was an aggravating feature that only 7 days later Alan Swan committed another misconduct offence. In addition the Commission found that the repeated use of the word 'spastic' and fact this was a youth game were aggravating features. There is no place for the use of such an abhorrent and offensive term. It is of grave concern that witness evidence suggests the words were directed at his own child.
31. The Commission found no mitigating features.
32. In terms of sanction the relevant FA 2023/24 Guidelines state the sanction range of between 6-12 matches, with 6 matches being the starting point. In addition an unlimited fine can be imposed.
33. The Commission impose a 9- match ground ban, together with a financial penalty of £100.
34. Alan Swan shall attend a compulsory online FA Education Course, to be completed before the suspension is served, failing which he will be suspended from all football activity until such time as he has completed the course.
43. Whereby the participant fails to comply with the order, a Sine-Die (indefinite) suspension shall be imposed until such time as the participant becomes compliant with the order of the Disciplinary Commission.

44. These decisions are subject to the right of appeal under the relevant FA rules and Regulations.

Ruth Mann

27th November 2023

Independent legal Panel Member, Disciplinary Commission Chair

Mark Scott

Independent Panel Member

Jane Hodge

Independent Panel Member