

FA NATIONAL SERIOUS CASE PANEL
CONSOLIDATED DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of Surrey Football Association

NON-PERSONAL HEARING

of

Will Hutton

Westminster Casuals FC

[Case IDs: 11034261M]

&

Jamil Barlow

Molesey FC

[Case ID: 11044520M]

THE DECISION AND REASONS OF THE COMMISSION

<u>Content</u>	<u>Page</u>	<u>Paragraphs</u>
1. Introduction	3.....	1 - 3
2. The Charges	3.....	4 - 7
3. The Reply	4.....	8 - 9
4. The Commission	5.....	10
5. The Hearing and Evidence	5.....	11 - 29
6. Standard of Proof	14.....	30
7. The Findings and Decisions	14.....	31 - 37
8. Previous Disciplinary Record	15.....	38 - 39
9. Mitigation	16.....	40
10. The Sanction	16.....	41 - 45

Introduction

1. On 22 October 2022, Westminster Casuals FC First (“Westminster”, the “Club”), played a Surrey FA Saturday Intermediate County Cup fixture against Molesey FC Development (“Molesey”) – collectively the “match”.
2. Following the fixture, the Match Official submitted an Extraordinary Incident report via WGS regarding alleged misconduct during the fixture.
3. Surrey Football Association (“Surrey FA”) investigated the reported incidents.

The Charges

4. On 06 December 2022, Surrey FA charged Mr Will Hutton:
 - 4.1. with misconduct for a breach of FA Rule E3 – Improper Conduct including foul and abusive language (**Charge 1**);
 - 4.2. with a second charge for a breach of FA Rule E3.2 - Improper Conduct - aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender reassignment, Sexual Orientation or Disability (**Charge 2**).
 - 4.3. It is alleged that Will Hutton 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 by FA Rule E3.2 because it includes a reference to Ethnic Origin. This refers to the comment(s) “Paki, Nigger and Pikey” or similar.
 - 4.4. Surrey FA advised in the charge letter that the range of sanction was between 6-12 matches and mandatory education.
 - 4.5. The relevant section of FA Rule E3 states¹:

“E3.1 A Participant shall at all times act in the best interest of the game and shall not act in any manner which is improper or brings the game into disrepute or use any

¹ p. 141 of FA Handbook

one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.

5. In consolidation on 06 December 2022 Surrey FA also charged Mr Jamil Barlow:
 - 5.1. with misconduct for a breach of FA Rule E3 Improper Conduct (Including foul and abusive language)
 - 5.2. Jamil Barlow is hereby charged with a breach of FA Rule E3.1 Improper Conduct in respect of the above fixture. It is alleged that during the fixture Jamil Barlow, is alleged to have call William Hutton a "*cunt*", which is improper pursuant to FA Rule E3.1.
 - 5.3. The relevant section of FA Rule E3 states²:

“E3.1 A Participant shall at all times act in the best interest 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.

[...]”
 - 5.4. Surrey FA advised in the charge letter the offence carried a sanction range of a 1-10 match suspension and a monetary fine between £0-40.
6. Surrey FA included with the charge letter the evidence that they intended to rely on in this case.
7. Both participants were required to respond to their charges by 20 December 2022.

The Reply

8. The responses were as follows;
 - 8.1. For case **11034261M** Mr Will Hutton, E3.1 (offensive language) and E3.2 (Aggravated charge), no formal response has been received, therefore in line with FA regulations the case will be considered as "*deny* -

² p. 141 of FA Handbook

Correspondence".

- 8.2. For case **11044520M** Mr Jamil Barlow, E3 including threatening behaviour, no formal response has been received, therefore in line with FA regulations the case will be considered as "*deny – Correspondence*".
9. During the investigation evidence was submitted from:
 - 9.1. Match Official, Extraordinary Incident Report;
 - 9.2. Four Statements from Molesey FC;
 - 9.3. Ten statements from Westminster Casuals FC.

The Commission

10. The Football Association ("The FA") appointed me, Steve Francis, as a Chair member of the National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate this case.

The Hearing and Evidence

11. The case bundle was sent via e-mail to the appointed Chair 21 December 2022 to be completed within 3 working days.
12. I adjudicated this case on 22 December 2022 as a correspondence hearing, the delay in completing the case was due to a request for further information regarding sanctions made to the County FA.
13. The following is a summary of the principal submissions provided. 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 we did not take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case. This document has, where appropriate, redacted details of those who have submitted evidence.
14. The Match Official submitted an Extraordinary Incident Report via WGS on 24

October 2022 and contains the following information;

- 14.1. The report in full states *“There was an incident where there was a mass confrontation during which there was an accusation that Will Hutton of Westminster Casuals called Jamil Barlow of Molesey a Nigger and a Paki. I did not hear this personally but was informed of this by the manager of Molesey and it was confirmed by the player himself after the match”*.
15. There are four statements from Molesey, the first, dated 26 October 2022 is from the participant charged Mr Jamil Barlow, who is also the alleged recipient of the discriminatory language. The statement notes the following details;
 - 15.1. Mr Barlow notes he was trying to pull a player away from an opponent when he *“began to racial abuses me by calling me a Pakistani and also calling me the N word, not only that calling me a pikey so I decided to walk to the referee and told him the situation.”*. The referee said they would speak to him after the game and pass on to the FA.
 - 15.2. His manager took him off the field of play *“to calm me down as I’m not happy that I’ve been racially abused which should never happen in a game especially calling out my race which really put the game down and should of never got out of hand! I’m extremely disappointed that I had to witness and go through this situation and something needs to be done”*.
 16. The second statement dated 25 October 2022 from Molesey is from a team official who acted as linesman for the club on the day and adds the following information;
 - 16.1. The author notes a coming together after a foul, there was a lot taking place with two players in a confrontation *“something was said in which our player Jamil reacted too and I never seen him react to anything like this before. He was clearly furious with something the Home player no:7 said. As it started to dull down he made another remark to Jamil which started the mass influx of players again but the comment was made and I heard what sounded like “you fucking silly Paki” now I was only a few meters away and as I heard this I even stepped towards him to challenge what did he just say to our player”*.

- 16.2. They add *“Jamil is not the type of person to kick up a fuss and I am sure they was more racial comments made during the game one in which you could tell the Home team skipper who was Black was disappointed with his team mates comments”*.
17. Also submitted on 25 October 2022 is a further statement from a Molesey player who adds the following;
- 17.1. This begins noting the author was in a heated discussion with an opponent with lots of players nearby. He saw Mr Barlow with an opponent *“There were lots of separate conversations being had and within these groups the word ‘Pikey’ was directed towards a player from Westminster towards Molesey. Then Jamil walked off the pitch saying he had been racially abused which caused a longer pause in play and he was refusing to continue the game”*.
- 17.2. The opposition player’s *“all denied this, with a few of them saying ‘he didn’t say that, he’s not the type of person to say that’*. Some of those players were stood next to me during the time so I’m unsure how they would have been able to hear what was said as it was quite a distance away and easily out of earshot. The referee spoke to managers and players involved and the game continued”.
18. The final Molesey statement dated 25 October 2022 is from a Team Official, they report the following of the incident;
- 18.1. The author comments on a match played in a good and competitive spirit until *“Westminster casuals player Will Hutton made a challenge which wasn’t received well and the Molesey player reacted in a way that you would expect when you feel that a player didn’t have the best intentions when making the challenge”*. This led to pushing between the sides adding, the referee handled the situation well, controlling the situation. One of his players, Mr Jamil Barlow *“seemed upset with comments that were made towards him and after a conversation with him to confirm what had been said in which was ‘he’s called me a pikey’ alongside making a racial comment”*.
- 18.2. Having entered the field of play to engage with the player who *“was distressed by the situation it was at this time in which I made an attempt to get*

the referee's attention so that I could inform her of the situation that I was made aware of by Jamil". The statement concludes praising the referee's handling of the situation.

19. The case bundle then moves on to the statements from Westminster Casuals, the first, dated 27 October 2022, is from the participant charged with discriminatory comments Mr Will Hutton, and contains the following;

19.1. He was playing centre midfield and had challenged an opponent when he alleges said opponent kicked out at him whilst he was on the floor. He stood up and pushed them at which point his accuser, No 7 (Mr Barlow) *"ran in at me to start a tussle. I reacted defending myself turning to the aggressor (number 7) saying F off you pikey , at the same time the melee escalated to involving most of the players on the field"*. The Westminster centre half ran in and pushed the No 7 away and Mr Hutton was taken away from the group and the situation calmed down a little when *"the number 7 then was beginning to walk off and turned round to me and said what did you call me, I responded in front of everyone saying get off you pikey"*. The *"issues"* then all calmed down as the No 7 left the field of play.

19.2. The match was about to restart when *"the manager or assistant of molesey began calling his players off, at which point all players were a bit confused. We all walked over and it appeared number 7 had suggested someone had made a discriminatory remark. Whilst walking over I asked [redacted] molesey player and asked "what is he saying? There wasn't any discrimination in that" to which he replied "yes I know but I have to support my mate don't I"*.

19.3. He saw the No 7 still on the side line, still angry and shouted at him and another of the Westminster players *"it was you"*. He notes they looked at each other in confusion as to the suggestion. The referee then cautioned 4 players and Mr Hutton *"then came off the field and sat in the dugout after this shocking accusation transpired to be at me. Whilst sitting there I was really upset to have looked across and the molesey manager shouting "you're a racist" at me from his dugout. Further to my disappointment was that once the number 7 had*

come off the pitch, he was laughing and joking with his teammates, clearly unaware the seriousness of his accusation”.

- 19.4. He concludes by noting *“Our team are completely multicultural and such an accusation not only has caused me upset, but the whole club, knowing me as a guy are saddened that someone could make such an unfounded accusation”.*
20. The second statement dated 28 October 2022 is from a Westminster player who adds the following;
- 20.1. He was playing on the day and notes the incident where the opponent kicked out at Mr Hutton and the No 7 running to get involved leading to a number of players pushing and some trying to calm it down as *“all a bit of nothing”*. He then recalls the No 7 walking away *“still backchatting to the melee of people then it seemed to all die down”*.
- 20.2. He then remembers the No 7 walking to the dugouts and an allegation of racism being made *“When I asked the number 7 what had happened, he said someone had called him a ‘pikey’ which the Molesey number 9 was also saying even though he said he hadn’t heard it himself”*. This was the only word mentioned and he states he did not hear this from any Westminster player.
- 20.3. It all died down when to everyone’s surprise there was an accusation of racism *“I asked several of their players what had been said and at least 3 just said they hadn’t heard any racist language mentioned”*. He also notes the No 7 laughing and joking on the bench, when walking back to the changing rooms he spoke to an opponent *“along with his father who said he hadn’t heard any racist language used at all and in a very cordial conversation he said that he believed it was nothing and everyone was calm about it at the end of the game.”*
21. On 28 October 2022 a statement was sent in from another player from Westminster which adds the following;

- 21.1. It begins noting the *“contentious tackle”* which led to the confrontation during which he notes the No 7 was *“being particularly animated and trying to intimidate one or two of our players”*. The author approached and *“shoulder barged”* the No 7 which he admits *“in hindsight probably escalated the pushing and shoving”*. Of the allegation of discriminatory comments *“I saw and heard Molesey Number 7 say to WC Number 6 “Did you call me a Pikey?” to which WC 6 replied “Yeah I did”*. Numerous other people were in earshot but *no one reacted as if a racial slur had been mentioned”*.
- 21.2. The situation had pretty much died down and they looked to resume the match when *“we saw half the Molesey team walking off, with one player shouting “we’re walking off, someone’s just been racially abused”*. We all walked over to try and understand what had been said, and to who, and the Molesey Number 7 claimed to have been called the N-word and P-word”. He notes all of his team were shocked and when asked, none had heard any such comment, nor had their opponents aside from the No 7.
- 21.3. They conclude *“I personally think the fact that they were happy to resume the game just two minutes later, after stating they wouldn’t play due to racism, speaks volumes. Similarly, there was no further mention of the alleged incident whatsoever, during the remainder of the game, or after the game”*.
22. The next entry is undated and from a Westminster player, this adds the following;
- 22.1. This also notes the cause of the incident and the Molesey No 7 becoming involved and the two players squaring up to each other with other players becoming involved *“jostling and shoving”*. It had been broken up when *“I felt the number 7 of Molesey then ran back into fracas, which was when I then pushed him away”*. The next thing he remembers is *“number 7 walking away still backchatting and the coach of Molesey telling the players to come off the pitch as apparent racist abuse had been heard. I personally didn’t hear any language of the sort. As captain I walked over and asked what the number 7 was accusing one of our players of, as at this point it was unclear who he was accusing”*.

- 22.2. The author was informed the words alleged were *“the N word and P word had been used. I asked around at that time if anyone had heard anything, and the only words that I was told were used were that the number 7 had used the word “cunt” and he had been called a “pikey”.* The match continued and he asked an opponent what they had heard, in response *“he told me All I heard was Pikey”.* The match continued in a friendly manner, after the fixture he spoke to an opponent who *“praised our team, and the Player of Molesey reported he had not heard any racist or discriminatory language and nothing had been mentioned after the game about it. For the record throughout, I never heard any racist or discriminatory language”.*
23. A statement was sent in on 26 October 2022, this from another Westminster member who reports;
- 23.1. They had arrived late for the match and saw words being exchanged and pushing and shoving *“One of the Molesey players who had escalated the initial scuffle, after some time had passed walked off the pitch claiming that casuals number 6 will Hutton had used the N word. As this was happening and the game was stopped, I spoke to 2 of their players who were on the scene slightly before me and said the N word had not been used. I also can categorically state that I never heard that word used”.*
- 23.2. Once this had died down the Molesey players and the Match Referee were content to continue; he concludes *“Towards the end of the game the Molesey bench were in fits of laughter at one stage, this does not add up with the incident that supposedly happened as if this happened to my teammate there would be no chance, I would be laughing at any stage”.*
24. On 28 October another statement was submitted by a Westminster player who recalls the following;
- 24.1. He recalls the initial incident and the reaction of the Molesey No 7 who *“seemed not to be too pleased with a tackle and decided to push our centre midfielder William Hutton. With that he pushed him again and handbags occurred. Nothing out of the ordinary. The situation calmed down and the*

relevant players were booked in which the Number 7 for Molesey then claimed he had been subject to racial abuse”.

- 24.2. The author was in the situation after the initial incident and can confirm they heard nothing of the sort, if he had *“I would have been the first to take issue with it in but all was heard was the word pikey after the number 7 claimed he was going to “do you all in”. After it had settled down, he then claimed he was called the N word and P word. But when speaking to both our own and molesey every one of them on the pitch confirmed no such words were heard”.*
25. A further statement from a Westminster player, who made their way over to the confrontation, submitted on 28 October 2022. This adds the following;
- 25.1. He notes the incident and upon arrival *“there was no mention of any racist language”.* He saw Mr Hutton and Mr Barlow *“shouting at each other. Standard football stuff initially. Following this, Will called the number 7 a ‘Pikey’ at the opposition player in retort him aggressively swearing and shouting. The opposition player responded with ‘what did you just call me?’ and then Will said ‘Pikey’. There was then NO MENTION of racism until 2 or 3 minutes later after the opposition player had walked away from the incident”.*
- 25.2. It was then that there were allegations of racial abuse and the player *“then claimed Will said ‘Ni**er’ and ‘P*ki*’. I was there for the duration of the two players confrontation, and this is not true. It also seemed strange that there was no mention of this from anyone until 2 or 3 minutes later and players on both teams were taken aback by the accusation at the time. Perhaps the accuser misheard the word Pikey for something else but the claim of the ‘N Word’ or P*ki being used is not correct”.*
26. A statement was submitted on 26 October 2022 by a Westminster player who witnessed the confrontation, they state the following;
- 26.1. The author states *“Molesey number 7 then called Will Hutton a “C*nt” to which Will replied calling the number 7 a “Pikey”.* Molesey number 7 walked off the pitch claiming to have been called the N word, but I certainly did not hear this and I was 3 yards from Will Hutton at the time. I spoke with several players from

both sides during this period of play being stopped and nobody in the vicinity had heard the use of the N word either”.

- 26.2. He notes the opposition initially were going to walk off as a team but decided against this moments later but they did not hear any of the conversation as they were, by this time, at the other side of the pitch.
27. A Westminster forward player submitted a statement on 26 October 2022, this contained the following information;
- 27.1. He notes he was not close to the initial incident but walked over to try and diffuse the situation along with other players. As he arrived there was some pushing and shoving but nothing more, he was close to the Molesey No 7 who he notes was *“quite aggressively saying “I will fucking do someone”, which was directed at a Westminster Casuals player(s). As Jamil was walked away by one of his teammates, he very clearly shouted “Did you call me a fucking pikey?”*
- 27.2. Things had calmed down and the No 7 had returned to the dugout, when *“FC Molesey U23’s manager shouted towards the referee suggesting a racial comments had been heard – it was at this point I and other players on the pitch were informed Jamil was accusing William Hutton of using the following words - “paki” and “nigger”. I can categorically state I did not hear those words, and I’d like to make it clear again that the only word I heard was “pikey” from Jamil when he said “Did someone call me a pikey?”.*
- 27.3. As the opposition manager was talking to the referee the author spoke with many opposition players *“not one suggested they had heard anything other than “pikey”, hence their willingness to continue the game without Jamil. I understand FC Molesey U23’s were filming the game and I would recommend you look at this to identify player locations etc”.*
28. The final statement in the case bundle from Westminster was submitted 25 October 2022, this adds the following;

- 28.1. They note the initial incident and then heard the No 7 from Molesey shout at Mr Hutton *“did you just call me a pikey”*. A few minutes later the same player then accused Mr Hutton of *“calling the No 7 both the “N word” and a “paki” as players walked over to the side line”*. The author spoke with players on both sides and no-one had heard these words used.
- 28.2. He adds the opposition initially stated they would walk off and not play on *“but then moments later players from both sides were booked and we restarted play. There was no further reaction to the incident during or post game”*.
29. That concluded the relevant evidence in the case.

Standard of Proof

30. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, we would be satisfied that an event occurred if we considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

31. For case **11034261M** Mr Will Hutton has denied both charges. As is usual in cases of this nature, Charge 1 (foul and abusive language), must be considered first. Mr Hutton freely admits to use of the word Pikey as part of saying *“Fuck off you pikey”* and *“get off you pikey”*. The use of the words *“fuck off”* are considered both foul and, in this context, abusive. Therefore Charge 1 is found Proven.
32. The Commission then moved on to consider the aggravated aspect of the charge, the allegation is of use of the following words *“pikey”, “nigger”* and *“paki”*. Whilst most statements confirm hearing the term *“pikey”* only one statement mentions hearing either *“nigger”* or *“paki”*. This only mentions hearing *“something like “you fucking silly paki”*. The words *“pikey”* and *“paki”* do sound similar and Mr Hutton has admitted use of the latter.
33. The incident was reported to the manager and subsequently referee at the time which does add credibility to Mr Barlow’s allegation however when the words were alleged to be used to the player with other players from both sides around

- it is unlikely that no other individual would have heard the alleged comments.
34. If the words of "*nigger*" and "*paki*" were used as alleged, it is considered more likely than not these would have been the words that Mr Barlow would have challenged his opponent with at the time as opposed to being called "*pikey*". Therefore the Commission believe it was more likely than not the alleged words were not used by Mr Hutton.
35. The Commission then considered use of the word "*pikey*", this is a derogatory term used as an offensive racial slur to describe a member of the traveller or Romani communities and does meet the threshold to be considered an aggravated breach. Therefore, the Commission has found the aggravated aspect **Charge 2** as **Proven** for use of the term "*pikey*".
36. For case **11044520M** Mr Jamil Barlow, E3 including foul and abusive language, the statements provided by Westminster allege Mr Barlow used the words "*cunt*" alongside threatening comments "*I will fucking do someone*" towards his opponents. There is also the allegation the word used by Mr Barlow was towards Mr Hutton who has then responded with a comment including the word "*pikey*".
37. Mr Barlow was involved in confronting Mr Hutton after his challenge on one of his colleagues, this has led to a confrontation during which a Westminster statement has admitted to a shoulder barge on Mr Barlow; whilst one other notes they pushed Mr Barlow away from a confrontation. The Commission believe, on the balance of probability Mr Barlow has used the word as alleged and has found the charge **Proven**.

Previous Disciplinary Record

38. Outside of this fixture Mr Will Hutton's five-year offence history contains one previous Proven E3 charge and a standard charge for Serious Foul Play from a single fixture;
- 38.1. 30 October 2021 E3 Improper Conduct against a Match Official (including abusive language/behaviour) sanction 3 Matches and a fine of £45.
39. Mr Jamil Barlow's five-year offence history contains one other E3 charge and 4

cautions;

39.1. 29 January 2020 E3 Improper Conduct (including foul and abusive language), the sanction is not recorded.

Mitigation

40. Nothing has been provided by either participant in mitigation.

The Sanction

41. For case **11034261M** Mr Will Hutton, the sanction range for this offence is as follows;

41.1. Suspension of 6-12 Matches;

41.2. A monetary fine;

41.3. Mandated FA Education.

42. After taking into consideration Mr Hutton's previous record, and the further the aggravating factors of the use of the offensive language at the time of the offence and repeated use of the term "*pikey*", the sanction will be:

42.1. To serve a suspension of 8 Matches from all football related activities to include a ground/venue ban;

42.2. fined a sum of £75;

42.3. Mr Will Hutton is to satisfactorily complete an online mandatory education programme before the suspension is served or Mr Hutton be suspended until such time, he successfully completes the mandatory education programme, the details of which will be provided to Mr Hutton and;

42.4. 7 (seven) Club Disciplinary Points to be recorded.

43. For case **11044520M** Mr Jamil Barlow, the sanction range for his offence of Improper Conduct is as follows:

- 43.1. Suspension of 1-10 Matches;
 - 43.2. A fine of £0-40.
44. After taking into consideration Mr Barlow's previous record and use of offensive language, the sanction will be:
- 44.1. To serve a suspension of 3 matches;
 - 44.2. fined a sum of £20;
 - 44.3. 7 (seven) Club Disciplinary Points to be recorded.
45. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Steve Francis (Commission Chair)

22 December 2022