

**IN THE MATTER OF THE FOOTBALL ASSOCIATION**

**Case ID : 10981784M**

**DISCIPLINARY COMMISSION BETWEEN**

**SURREY FOOTBALL ASSOCIATION**

**and**

**RUSSELL BECKWITH**

**IN THE MATTER OF THE FOOTBALL ASSOCIATION**

**Case ID : 11032536M**

**DISCIPLINARY COMMISSION BETWEEN**

**SURREY FOOTBALL ASSOCIATION**

**and**

**LEATHERHEAD YOUTH**

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**DECISION AND REASONS**

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

**Disciplinary Commission constitution.**

Abdul S. Iqbal KC (Chair)

Jaswant Narwal

Bilal Shabir

Shane Comb (Secretary)

Date of hearings : 20<sup>th</sup> December 2022 & 9<sup>th</sup> January 2023

## **Attendees**

### **(1) Surrey Football Association**

Gracza Botond (written evidence only)

Heather Coates

Jahi Laing

Emma Brown (written evidence only)

### **(2) Russell Beckwith**

Russell Beckwith

Sion Colenso

Andy Corpes

### **(3) Leatherhead Youth**

Helen Fry (observer)

Paul Jones (representing the club)

1. This document sets out the written reasons for the decisions and sanction in this Disciplinary Commission (“the Commission”).
2. The Commission dealt with consolidated proceedings in these two cases that arise out of the same facts.
3. This document does not set out the entirety of the evidence heard by the Commission. It sets out the relevant evidence on the central relevant issues as heard by the Commission and assessed by the Commission in reaching findings of fact.
4. In addition to the oral evidence heard by the Commission, the Commission had written evidence from other potential witnesses.
5. The evidence of any individual(s) who did not give oral evidence could therefore not be tested by the Commission or indeed the participant.
6. In a highly contentious and serious case, the Commission afforded limited but appropriate weight to that identified evidence of the untested witness(es) or on hearsay evidence in reaching findings of fact.

## **(1) The charges.**

### **(i) Russell Beckwith**

7. By “*misconduct charge notification*” dated 1<sup>st</sup> November 2022 the Surrey Football Association (“Surrey FA”) alleged that Russell Beckwith (“RB”) during a match (“the match”) between AFC Kingston U13 and Leatherhead Colts U13 on 15/10/22, used improper conduct (including abusive and/or indecent and/or insulting language / behaviour).

8. Surrey FA alleged that RB used words including “*Fucking lesbian*”, “*Sweetie Pie, darling, love*” or similar words towards a female opposing coach.

9. Accordingly, Surrey FA charged RB with :

- i. Improper conduct (including abusive and/or indecent and/or insulting language / behaviour) on 15/10/22 contrary to rule E3.1 of the Rules of the Football Association.
- ii. Aggravated improper conduct (reference to sexual orientation) contrary to rule E3.2 of the Rules of the Football Association. Particulars : using the words “*Fucking lesbian*”, “*Sweetie Pie, darling, love*” or similar words.

10. RB denied both charges in correspondence on 14<sup>th</sup> November 2022 and requested a personal hearing<sup>1</sup>.

### **(ii) Leatherhead Youth**

11. By “*misconduct charge notification*” dated 29<sup>th</sup> November 2022 Surrey FA alleged that Leatherhead Youth (“Leatherhead”) during the match on 15/10/22 failed to ensure spectators and/or supporters conducted themselves in an orderly fashion.

12. Surrey FA alleged that the spectator(s) used words including “*The coloured man*” or similar towards Jahi Laing (a Kingston FC coach).

13. Surrey FA charged Leatherhead with :

- i. Failing on 15/10/22 to ensure that spectators and/or supporters (and anyone purporting to be followers) conducted themselves in an orderly fashion and refrained from improper, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to rule E21.1 of the Rules of the Football Association ;
- ii. Aggravated failure to ensure that spectators and/or supporters (and anyone purporting to be followers) conducted themselves in an orderly fashion and refrained from

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<sup>1</sup> Page 43 of the case bundle.

improper, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to rule E21.4 of the Rules of the Football Association. Particulars : using the words “*The coloured man*” or similar towards Jahi Laing (a Kingston FC coach) ;

14. Leatherhead denied both charges in correspondence on 29/11/22 and requested a personal hearing.

## **(2) The facts.**

### **(a) Evidence adduced by Surrey FA.**

#### **(i) Gracza Botond**

15. The Commission had a written statement from Gracza Botond<sup>2</sup> (“GB”). This witness did not attend the hearing or adjourned hearing so his evidence could not be tested by the Commission or the participants.

16. The evidence of GB can be summarised as follows :

- i. The witness was the referee in this match between AFC Kingston U13 (Home) and Leatherhead Youth Colts (Away) ;
- ii. Leatherhead started the game very aggressively. This resulted in a lot of fouls being committed ;
- iii. As the match progressed it got very heated in the latter stages due to Leatherhead’s poor attitude from the team and their coaches ;
- iv. One of the Leatherhead managers started complaining more and more to the witness and the Kingston managers in an aggressive manner ;
- v. The aggression of the Leatherhead manager made the Leatherhead players even more heated leading to more fouls being committed ;
- vi. At half time, the witness complained to one of the Leatherhead coaches (but not the one who had been acting aggressively earlier) about the aggressive behaviour of Leatherhead players (the number 2 in particular) ;
- vii. The second half started much worse and there were much more fouls from Leatherhead and the leatherhead parent start to get involved, but the witness tried to ignore them

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<sup>2</sup> See pages 9 and 10 of the case bundle.

and is not sure precisely what was said by them off the pitch ;

- viii. The Leatherhead number 2 kept committing fouls and was warned by the witness as to his behaviour. That player then started complaining and swearing to the assistant referee so the witness told the Leatherhead coach to substitute him for 5 minutes ;
- ix. The coaches of both teams were continuously communicating to each other with the Leatherhead coach being overtly aggressive in his approach and there were sexist comments made by the Leatherhead coach (the same one that had been acting aggressively earlier) towards the Kingston manager (a female) ;
- x. Those comments resulted in the female Kingston coach leaving early in the second half, but the witness could not recall what precisely the comments were ;
- xi. Towards the end of the match the (same) Leatherhead coach was questioning every decision which made the Leatherhead players question the decisions too ;
- xii. Once the witness blew the final whistle he saw some Leatherhead players chatting to the Kingston players and refusing to shake hands.

#### (ii) Heather Coates

17. The Commission had a written statement from Heather Coates<sup>3</sup> (“HC”).
18. The evidence of HC can be summarised as follows :
  - i. The witness is the Chairwoman of AFC Kingston Youth. She was the Kingston Head coach during the match ;
  - ii. The Leatherhead coaches were about a quarter of a pitch (20 yards) away from the witness on the side line during the match. The witness was the sole Kingston coach at the start of the match. Steve Dunn (a parent) joined the witness shortly after the match started. Then she was joined by Jahi Laing (another Kingston coach) within about 5 minutes ;
  - iii. The witness denied that she said “*oh here he is*” when RB arrived on the side line ;
  - iv. RB was the Leatherhead Head Coach together with one other coach. The witness had met RB before because the season before these two teams played in the league. During that previous match, there had been a heated discussion between the witness

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<sup>3</sup> See pages 12 and 13 of the case bundle.

and RB. However, the witness had not since then thought about that previous incident much and she did not know Russell Beckwith's name by the start of this match ;

- v. Just a minute or so into the game, the Leatherhead manager Russell Beckwith was aggressive when he was angered by a decision of the assistant referee. He took this up with the young referee by saying aggressively "*come on ref...do your job*". This made the witness feel that the young referee was going to be swayed in his decision making ;
- vi. RB continued to make inappropriate and aggressive comments towards the match officials such as "*you are just a dad*" to the linesman or that the referee was "*too young to referee the match*" ;
- vii. The witness, in an attempt to defuse the situation, pointed out the game had continued and said "*the game has continued, perhaps let's move on*" ;
- viii. After this, RB continued with abusive language mainly aimed towards the witness ;
- ix. RB was staring at the witness throughout the game and making comments directly to her that made her feel uncomfortable. Those sarcastic comments included, for example, "*I knew you would get involved... It did not take long for you to pipe up*" ;
- x. The witness denied saying "*I live rent free in your head*" to RB at any stage of the match or in response to any of his comments ;
- xi. RB continued to question refereeing decisions throughout the game too. There was a lot of laughing from RB. He made sarcastic comments such as "*Come on ref... of course we are not getting that*". The referee was plainly made to feel uncomfortable by those comments ;
- xii. When Leatherhead scored a free kick, the witness denied making any response. The witness denied swearing at RB or anyone else at this point ;
- xiii. When a Leatherhead player was removed from the pitch for use of foul language, RB said to the player "*apparently you've been a naughty boy... he hasn't got a clue*" aimed at the referee. RB was laughing. The other Leatherhead coach seemed a little uncomfortable at RB's behaviour ;
- xiv. RB said "*sweetie pie*", "*darling*", and "*love*" towards the witness during the match that she found inappropriate and made her feel uncomfortable. These words were at the

end of other comments such as “*don’t flatter yourself sweetie*” ;

- xv. RB was not aggressive. He was sarcastic. There was some laughter from RB. RB was facing the witness when standing side on to the pitch and making these comments. He was still about 20 yards away from the witness. The witness did ask him if he was speaking to her. She felt a bit uncomfortable. RB said “*don’t flatter yourself love*” ; Lies
- xvi. RB was also encouraging violent and aggressive football from his players, demanding they do more of this. For example, a Kingston player had fallen face first on to the pitch. It was plainly a foul. A free kick was awarded to Kingston. RB was then clapping towards the player who committed the foul. He said “*we need more of that*”. However, that particular challenge involved no attempt to win the ball. It was cynical and did not warrant praise ;
- xvii. The way RB treated the referee during the match caused his players to mimic his behaviour. The players acted aggressively too because of RB’s behaviour. There was a lot of swearing from Leatherhead players towards the referee ;
- xviii. The boys from Leatherhead used foul language throughout the match, were excessively aggressive, made late tackles, questioned the referee, argued with the linesman, threatened opposing players and celebrated the goals by approaching the opposing managers aggressively ;
- xix. The witness did not understand why Leatherhead players were doing a “*shushing*” motion towards her after scoring a goal. However, she had asked RB earlier whether he was talking to her and the Leatherhead players may have responded to that ;
- xx. The Leatherhead Assistant Manager told RB to stop and held his hands out as if to remonstrate with RB. This aspect was missed out from the witness statement of HC but this was because the witness only noticed this omission when she read her witness statement later ;
- xxi. RB then said after a few seconds the words “*fucking lesbian*”. These words were directed at the witness. They were said “*not loudly*”. It was as if he did not want or expect the witness to hear it. However, the witness heard what was said by RB. It was “*fucking lesbian*”. The witness was not sure who was the intended audience. RB definitely did say those words. The witness was sure of that ;
- xxii. The witness regarded these comments as sexist in nature ;

- xxiii. At this point the witness chose to walk away from the game. She left the site completely and did not return. The team were left with another qualified coach from the club, Jahi Laing ;
- xxiv. The witness had never left a game before during 10 years of coaching. The comments and behaviour of RB were too upsetting and the witness did not know where this was all heading and how it may end ;
- xxv. As the witness left the game, her "*heart was racing*". She wanted to leave the side of the pitch. The Kingston parents could not have heard RB's comments as they were on the opposite side line to the coaching staff. The witness could not remember precisely what she said to the parents as she left but she did apologise to them that she was leaving early ;
- xxvi. The witness did not point at RB as she left the match early. The witness did not think she had told any of the parents what RB had just said to her that caused her to leave early ;
- xxvii. The witness cannot comment on the behaviour of the Leatherhead parents. She could not see or hear what they were doing during the time she was present. They were on the opposite side line to her.

(iii) Jahi Laing

- 19. The Commission had a written statement from Jahi Laing<sup>4</sup> ("JL").
- 20. The evidence of JL can be summarised as follows :
  - i. The witness was a Kingston coach during the match. He stayed to watch this match after having coached a different Kingston team at the same age group. He was there from the start of this match ;
  - ii. From the moment the match started the Leatherhead Head Coach was being very disrespectful, rude and sexist towards Heather Coates ;
  - iii. The Leatherhead Head Coach started with snide comments such as "*come on ref*". He was belittling the referee ;
  - iv. That coach was saying things like "*you're too young to referee the game*" and remarks such as "*remember how small you are*" and "*this is not for you*" in the early exchanges

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<sup>4</sup> See pages 14 to 16 of the case bundle.

of the match ;

- v. Heather Coates had said that Leatherhead were "*playing long ball football*" and it was not good football. She said that to the Leatherhead Head Coach. It seemed to enrage the Leatherhead coach ;
- vi. HC and the Leatherhead coach were perhaps 10 or 15 yards apart at the time of the exchanges. The witness was a couple of yards from HC at the time ;
- vii. Then when Leatherhead were winning, that same coach was calling Heather Coates "*darling*", "*sweetie pie*" and said she is a "*lesbian*" and that "*I will come over and tell you about yourself*". The witness cannot recall the other words used by that coach. It was snide behaviour from that coach. HC "*kept her cool*". She did not respond. These comments were said loudly by that coach ;
- viii. The witness was sure that he did hear the Leatherhead Head Coach (RB) say "*fucking lesbian*". He said that to Heather Coates. The Leatherhead Assistant Coach was standing near to the Leatherhead Head Coach at the time. These words were "*muttered*" by RB . This was in his view so that they could not be heard by people around him. They were said at a lower volume ;
- ix. The witness was looking straight at RB at the time. The witness was "*pretty sure those are the words that were used*". The witness did not think it was appropriate for those words to be used. Once the words were said, the witness wanted to see how HC was. She was distraught. She looked red in the face ;
- x. The witness looked over to the Leatherhead Head Coach and said "*that is not right. This is not called for. Concentrate on the game*". RB did not respond as far as the witness recalls ;
- xi. RB then continued to say belittling things to the referee in the same or similar terms as his earlier behaviour ;
- xii. The parents could not have heard RB's comments as they were all on the opposite side of the pitch ;
- xiii. At this point Heather left the scene. She walked from the technical area past the Kingston parents. The witness did not recall any discussion between her and the parents as she left ;

- xiv. RB then made several insulting comments towards the referee. When the referee had asked the Leatherhead Head Coach to remove one of his own players from the field of play having used the same foul language towards the official and the linesman several times he sarcastically shouted "*oh, you're being sent off for being a naughty boy*". Heather had already left by this stage ;
- xv. Four Leatherhead players had used profanities towards the witness and were actively using the same language towards the Kingston players. These consisted of, for example "*Smash his fucking head in*" , "*Smash his jaw*" ;
- xvi. One Leatherhead player told one of the Kingston players while being substituted that he would "*smash his fucking head in and I will spin your fucking jaw*" ;
- xvii. At the end of the game, the witness was approached by one of the AFC Kingston parents (Kelly), who told him that a parent from Leatherhead FC had identified the witness as "*the coloured man*" referencing his skin colour ;
- xviii. The witness did not himself hear any person call him a "*coloured person*". Kelly pointed out that person to him. He was a white male. He was a Leatherhead parent as far as he could tell ;
- xix. Then the same person confronted the witness and said "*I am half Indian so it is not racist*", trying to justify his comments towards the witness. He tried to continue towards the witness. He tried to continue "*having a go*" at the witness but the witness ignored him and was ushering the AFC Kingston parents away as that same parent tried to cause a scuffle with a Kingston parent ;
- xx. That person was aggressive and angry. He kept smiling at the witness as he walked away which caused the witness to feel uncomfortable ;
- xxi. When the witness was leaving the field, the same man drove past the witness, stuck his middle finger up at the witness, and waved goodbye to him maliciously with a grin on his face ;
- xxii. The witness was able to obtain that person's registration plate (BN65JXP) because he felt so strongly about that behaviour ;
- xxiii. That behaviour made the witness feel really low, alone and sad. It has led to the witness questioning his continued involvement in grassroots football.

(iv) Emma Brown

21. The Commission had a written statement from Emma Brown<sup>5</sup> (“EB”). This witness did attend the initial hearing but there was insufficient time to hear her evidence. She did not attend the adjourned hearing so her evidence could not be tested by the Commission or the participants.

22. The evidence of EB can be summarised as follows :

- i. The witness was a spectator at the match ;
- ii. The behaviour of the main Leatherhead coach who refers to himself as “*Harry Kane’s manager*” was disgusting throughout the match ;
- iii. That coach used side line comments and the abuse aimed towards the referee, linesman and Kingston Manager were not acceptable. That coach encouraged his players to behave in an unacceptable way on the pitch ;
- iv. Heather Coates walked away from the match as she was so distressed and could no longer continue ;
- v. Following this, parents from both teams began to argue. This argument saw parents from AFC Kingston argue that the Leatherhead Manager’s behaviour was a disgrace, that sexist comments were unacceptable and that this behaviour should not be allowed to continue ;
- vi. A few parents from Leatherhead, two older men in particular, stated that it was all gossip and no one heard anything and it was all being made up. Some of these arguments continued for some time with one Leatherhead parent called John continually abusing the linesman from AFC Kingston ;
- vii. This argument became very heated. The majority of the parents from Leatherhead remained calm and did not engage other than to try and get John to stop but their pleas fell on deaf ears and he would not stop ;
- viii. One of the parents from Leatherhead turned round and asked a question of the witness and another mum from AFC Kingston. He asked who the manager of Kingston AFC was. The witness informed him that the Kingston manager had left ;
- ix. The same parent, then made reference to the “*coloured bloke*”, who was another

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<sup>5</sup> See pages 18 to 19 of the case bundle.

Kingston AFC coach who had stepped in to assist ;

- x. The other Kingston AFC mum instantly responded by telling him not to refer to the man as “*coloured*”. She told him it was a racist term. He then said “*what am I supposed to call them then?*”. The man became irate and continued to argue that the term coloured was not racist and he was continually corrected by the Kingston mum. He then accused her of just looking for an argument ;
- xi. The game on the pitch was difficult to watch as a parent because of the level of aggression being used by Leatherhead players and also because this all seemed to stem from the behaviour of the Leatherhead Head Coach. As his behaviour deteriorated so did that of his players ;
- xii. At the end of the game, the witness saw the man who had made the “*coloured*” comment walking towards Jahi, who he had made the comment about. Jahi told the man not to talk to him and to walk away ;
- xiii. Jahi was encouraging all of the players and supporters of AFC Kingston to leave the ground and to not engage with Leatherhead any further. The man continued to keep coming towards Jahi to argue and the witness heard Jahi being called “*a mug*”
- xiv. Leatherhead had two coaches, one who behaved in a respectful manner but did not call out the bad behaviour and the second was the one who called himself “*Harry Kane’s manager*” (RB) ;
- xv. At the end of the match, the Leatherhead Head Coach addressed his parents, and he told them that all he said was to “*call her sweetie, and that she reckons that is sexist*” ;
- xvi. The witness did not hear the comments allegedly made by the Leatherhead manager towards Heather. However, Heather was clearly distressed and upset by what had happened.

(b) Evidence adduced by Russell Beckwith.

(i) Russell Beckwith

23. The Commission had a written statement from Russell Beckwith<sup>6</sup> (“RB”).
24. The evidence of RB can be summarised as follows :

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<sup>6</sup> See pages 24 to 25 of the case bundle.

- i. The witness was the Leatherhead Head Coach during the match ;
- ii. Leatherhead played away against AFC Kingston. During the same fixture the previous season, their female Manager (Heather Coates) was very abusive and made many derogatory remarks about the Leatherhead u12s (as they were at that time) ;
- iii. The witness recognised that female Kingston FC coach as the same coach in that same fixture the previous season ;
- iv. As this match started, the female Kingston coach said "*oh here he is Harry Kane's brother*" to RB. He ignored the comment ;
- v. During the match between these two teams the previous season, the witness had mentioned to HC in conversation that he was involved with Harry Kane in a professional capacity ;
- vi. HC was shouting out to her team "*just keep playing football lads as clearly the other team are not*". RB took this comment to be insulting to the Leatherhead team ;
- vii. RB laughed and humoured her and told her "*it's 12 year olds grass roots football so behave yourself*" ;
- viii. However, she kept on rambling on and then her second in charge (Jahi Laing) started getting involved, shouting every 2 minutes at the referee to which RB replied "*stop trying to intimidate the referee you're not setting a good example for the kids*" ;
- ix. JL then sent over a barrage of abuse towards RB which he ignored and laughed at. This however seemed to "*wind up*" JL even more ;
- x. HC continued to be abusive towards RB for example by saying "*I live rent free in your head*" ;
- xi. Leatherhead scored a goal in the top corner. RB turned around and celebrated by saying "yes yes". RB felt that was a small slice of justice for the way HC was acting ;
- xii. With that RB clearly heard HC call him a "*fucking knob*". RB turned around and said "*cheer up sweetie pie it's a game*" ;
- xiii. HC then got extremely irate. She was screaming and shouting and RB heard her say something similar to "*I'm not staying here did you hear that he's being sexist*" ;

- xiv. When HC said that, despite her swearing at RB previously, RB felt disappointed that he had let it get to him and called her “*sweetie pie*”. RB was quite sure in his own mind that this is not a sexist remark. He uses similar language towards males whom he from time to time calls “*sweetheart*” or “*sweetie pie*” ;
- xv. RB has been involved with women’s football and does not regard his own behaviour as sexist ;
- xvi. If it turns out that the words he used are a sexist remark, then RB absolutely apologises and accepts he was wrong to say that but at that time RB felt it was better than swearing back at HC ;
- xvii. When the game finished, RB went to the referee and congratulated him for refereeing the game well ;
- xviii. The Kingston 3<sup>rd</sup> coach was between RB and HC and JL the whole time and the coaching staff were approximately 20 to 25 yards away from each other during the match ;
- xix. RB then walked with all the Leatherhead team over to the Leatherhead parents and apologised on behalf of HC and JL for the way “*that played out*” ;
- xx. RB was then shocked to hear some Leatherhead parents say when HC left that she had accused RB of calling her an “*ugly lesbian*” ;
- xxi. As RB was walking out with his 12 year old son he felt real hostility towards him from the Kingston parents which just felt so wrong as HC had lied about what RB had said to get him in trouble ;
- xxii. Indeed, JL shouted constantly and tried to intimidate the Leatherhead players throughout the game. The Kingston linesman threatened to put a Leatherhead player’s dad who is elderly “*on the floor*” ;
- xxiii. RB denied he had made any inappropriate comments to the referee or other officials at any stage of the match or afterwards ;
- xxiv. RB did not make a complaint to the referee at any stage. He just wanted to get away from the match afterwards because JL was “*shouting and screaming*”.
- 25. At the conclusion of his evidence, RB stated he wished to leave the hearing due to work commitments. He was formally advised by the Chair of the Commission that he had the right

to remain throughout the hearing and that it would be better if he did so.

26. Nonetheless, RB was adamant he could not remain and that he wished the hearing to continue in his absence. He was no doubt fortified in this view as both Helen Fry and Paul Jones (club officials and representatives) would remain throughout the whole of the hearing.

27. In these circumstances, the Commission continued to hear the remaining evidence in the absence of RB.

#### (ii) Sion Colenso

28. The Commission had a written statement from Sion Colenso<sup>7</sup> (“SC”)

29. The evidence of SC can be summarised as follows :

- i. SC was the Assistant Manager of Leatherhead during the match. He stood near to RB on the side line during the match. They were standing fairly close to each other at most times ;
- ii. There was “*banter*” between RB and HC during the match. HC made a comment to RB as soon as he arrived on the side line. SC could not now remember the words used but it was “*not too offensive*”. HC was claiming that RB is not a football agent. RB said he did work for a football agency ;
- iii. There were two male managers for Kingston during the match too ;
- iv. SC never heard RB say “*sweetie pie*” or “*sweetheart*” to anyone during the match but he was concentrating on the match and his players ;
- v. The match referee did come over to him at half time. The referee complained about one Leatherhead player. He did not complain about any other person or behaviour ;
- vi. The referee did a good job. He was still young. The Leatherhead coaching staff told the referee that he had performed well ;
- vii. The other Kingston coaches were quieter than HC albeit one of those coaches shouted at the Leatherhead goalkeeper ;
- viii. SC was not aware of the reason that HC left prior to the end of the match. He saw her leaving. He was quite near to RB at the time but he did not hear any swear words or abusive language at the time. He was not focussing on what HC and RB were saying

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<sup>7</sup> Pages 36 to 38 of the case bundle.

to each other. He did not hear JL reprimand RB at that point either ;

- ix. SC did not have to hold RB back at any stage of the match. He probably did say “*just leave it now*” to RB at some stage ;
- x. The banter was not one way traffic from RB towards HC. It was two-way ;
- xi. SC has not heard RB call any person (male or female) “*sweetie pie*” or “*sweetheart*” in the past ;
- xii. JL walked off afterwards alone at the end of the match. SC did not see any interaction between JL and any Leatherhead parents.

### (iii) Andy Corpes

30. The Commission had a written statement from Andy Corpes<sup>8</sup> (“AC”)

31. The evidence of AC can be summarised as follows :

- i. AC was a spectator at the match. His child plays for Leatherhead ;
- ii. He did not see HC leave the match. He would have been standing on the opposite side line to the coaching staff ;
- iii. At one point, the Kingston parents were abusing the Leatherhead linesman ;
- iv. The mixed heritage Kingston Assistant Coach (JL) was approached by AC after the match. AC asked him what had happened. JL told AC that RB told HC to “*calm down sweetie pie*” ;
- v. There was no allegation by JL that RB had mentioned “*lesbian*” ;
- vi. AC has known RB for about a year. AC has not heard RB say “*sweetie pie*” or “*sweetheart*” to any person ;
- vii. RB was “*flabbergasted*” when Leatherhead put to him the allegation of use of then word “*lesbian*”. RB said he had said “*calm down sweetie pie*”.

### (b) Evidence adduced by Leatherhead Youth.

32. No additional evidence was placed before the Commission by Leatherhead Youth FC but reliance was placed upon the evidence of RB, SC and AC in support of the contention that

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<sup>8</sup> Pages 39 to 41 of the case bundle.

the club did not fail to control any of its supporters and/or spectators.

33. At the conclusion of the evidence, Paul Jones (who appeared to represent the interests of Leatherhead Youth who faced the E21.1 charge) was invited to make any further submissions he wished to advance (both on behalf of the club and any relevant submissions in support of RB). He did so.

34. The Commission invited Paul Jones to make submissions relating to the provisions of FA rule E21 and the potential defence contained within rule E21.5 :

*“E21.5 it shall be a defence to a Charge in relation to Rules E21.1 to E21.3 (only) if a Club can show that all events, incidents or occurrences complained of were the result of circumstances over which it had no control, or for reasons of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibility was discharged. However, when considering whether this defence is made out a Regulatory Commission will have regard to all relevant factors including:*

- The extent to which the Club has discharged its duty ;*
- The severity of the issues involved ;*
- The extent to which similar issues have occurred previously in which case whether the Club took sufficient action in preventing further such incidences.”*

35. Mr Jones contended that the club did have policies and systems in place that afforded them such a defence to the charge.

36. Although the E21.5 defence is not available to a club where the misconduct alleged includes reference to a protected characteristic in breach of FA rule E21.4, it was contended that the misconduct itself alleged against the Leatherhead parent did not relate to the initial reference to “*coloured*” by that spectator. The initial comment was the subject of explanation by the spectator and the misconduct thereafter did not include any reference to any protected characteristic.

37. Accordingly, Paul Jones submitted that Leatherhead Youth provided all players and parents at the start of each season the FA standard “*Code of Conduct*” document and insisted that all players and spectators comply with that Code of Conduct.

38. Leatherhead required all players and spectators to return a signed copy of that document and to comply with its terms.

39. Upon this incident having been brought to the club's attention, the club again reiterated to all players and spectators the terms of the Code of Conduct and its importance.

40. Leatherhead Youth submitted therefore that the E21.5 defence was available and that it had done all it reasonably could, had applied due diligence, and that these events at an away match involved a unilateral act by a spectator who had been informed fully both before and after these events of his responsibilities within the Code of Conduct.

### **(3) The Commission's factual findings.**

41. 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.

42. 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.

43. The Commission noted that each form of misconduct alleged against each participant is a serious assertion and cogent evidence is required upon the balance of probability to establish that allegation.

#### **(i) Russell Beckwith**

44. Having considered all of the evidence, the Commission concluded as follows upon the balance of probability :

- i. The Commission noted that the evidence fell generally upon partisan lines and was almost diametrically opposed ;
- ii. On the one hand, HC and JL asserted that RB had been abusive towards the referee and behaved in a very patronising, abusive and sexist way towards HC but that neither HC or JL had said or done anything to have provoked such behaviour towards HC ;
- iii. On the other hand, RB said that HC and JL had been abusive generally both towards him and his team and that he had behaved in a restrained way but that ultimately he had been irritated and responded by saying "*sweetie pie*" that was perhaps patronising but not abusive, insulting or sexist ;
- iv. The Commission found in these circumstances the evidence of Sion Colenso ("SC") particularly helpful ;
- v. The Commission regarded SC as perhaps a more neutral witness. He conceded that

any inappropriate behaviour or language involved both HC and RB. Although the Commission was surprised that he seemed unable to remember with any clarity the type of language used by both parties, nonetheless the Commission accepted that he was in all probability a generally honest and reliable witness ;

- vi. The view of the Commission as to the evidence of SC was supported by the fact that both HC and JL conceded that SC had behaved perfectly reasonably and appropriately throughout the events on the side line of this match ;
- vii. In circumstances where the Commission regarded SC's evidence as credible and probative, it pointed to inappropriate behaviour and language on the part of HC and JL also ;
- viii. The fact that HC and JL accepted no aggressive or inappropriate behaviour on their own part meant that the evidence of SC necessarily undermined to a degree the credibility of HC and indeed the evidence of JL ;
- ix. The Commission did not find the contention that RB simply launched into a tirade of aggressive behaviour directed towards match officials and then a sexist tirade towards HC without any trigger as likely ;
- x. In these circumstances, the Commission had to assess the credibility of the assertion that SC did use all of the terms contended for by HC or whether on the balance of probability the only term the Commission could be satisfied was used was "*sweetie pie*" in the circumstances contended for by RB ;
- xi. The Commission found this case a balanced one where fine margins ultimately decided the issues ;
- xii. The evidence of AC supported the contention that the initial account from RB to the Leatherhead parents was that he had used the phrase "*sweetie pie*" and no other phrase towards HC ;
- xiii. AC described extreme surprise on the part of RB when RB was told of the allegations being levelled at him. This evidence went to the issue of consistency on the part of RB ;
- xiv. The Commission was satisfied that HC left the match early because she was angered and upset by RB's behaviour. The issue for the Commission was whether it was satisfied to the requisite standard that the words "*Fucking lesbian, Sweetie Pie, darling,*

*love or similar words*” as specified by Surrey FA in the charge were proved ;

- xv. In all of these circumstances, taking into account the totality of the evidence, the Commission was not satisfied on the balance of probability that the words used by RB went beyond the use of the phrase “*sweetie pie*” ;
- xvi. In these circumstances, therefore, the commission had to consider whether such a phrase as “*sweetie pie*” amounted to “*abusive and/or indecent and/or insulting language / behaviour*” as specified by Surrey FA in the charge ;
- xvii. Plainly the phrase was an inappropriate phrase to use towards any person. It was, at the very least, patronising. The Commission rejected on the evidence the assertion by RB that he commonly used such a phrase towards both male and female associates ;
- xviii. The Commission deprecated the use of such language as RB admitted. The use of “*sweetie pie*” in these circumstances was patronising and inappropriate ;
- xix. The Commission considered whether the phrase amounted to “*insulting*” language or behaviour. It is plainly a phrase that should not have been used. It may have caused offence if used in isolation to others ;
- xx. However, the Commission noted that for it to amount to “insulting” words or behaviour it had necessarily to be a remark “*that is said or done in order to offend someone*”<sup>9</sup> ;
- xxi. The Commission noted the evidence of HC herself that the phrases used by RB were used in a soft tone as if perhaps he did not intend her to hear what he was saying ;
- xxii. This phrase was in the judgment of the Commission used by RB in a patronising way but not in order to offend HC ;
- xxiii. In these circumstances, the Commission concluded that the phrase that RB admitted using was inappropriate but did not meet the test to fall foul of FA rule E3.1 ;
- xxiv. In such circumstances, the aggravated charge must too fail ;
- xxv. The Commission hoped, nonetheless, that RB was embarrassed by the nature of his tone during this match. The Commission hopes and expects RB not to repeat such behaviour that could easily fall foul of the FA misconduct rules in the future.

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<sup>9</sup> Oxford English Dictionary.

45. Accordingly :

- i. the allegation of improper conduct (including abusive and/or indecent and/or insulting language / behaviour) on 15/10/22 contrary to rule E3.1 of the Rules of the Football Association was found **not proven** on the balance of probability as against RB ;
- ii. the allegation of aggravated improper conduct (reference to sexual orientation) on 15/10/22 contrary to rule E3.2 of the Rules of the Football Association was found **not proven** on the balance of probability as against RB.

(ii) Leatherhead Youth

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

- i. The Commission found the evidence credible that a Leatherhead parent after the match had used the phrase “*coloured*” directed towards JL (a mixed heritage male) that caused offence to Kingston parents and indeed to JL ;
- ii. The Commission also concluded that the same Leatherhead parent had used abusive, threatening and aggressive behaviour towards JL thereafter ;
- iii. Indeed, Leatherhead Youth conceded that they were aware of the identity of that Leatherhead parent after he had been identified by the registration plate of his motor car ;
- iv. The Commission therefore concluded that the Leatherhead parent was acting in a disorderly fashion ;
- v. The Commission concluded that use of the phrase “*coloured*” by that Leatherhead parent was reference to the protected characteristic of race or ethnicity ;
- vi. It was therefore *possible* that the misconduct of this spectator was “*discriminatory in that it includes a reference, whether express or implied, to.... ethnic origin, colour, or race*”<sup>10</sup> ;
  - i. It was, however, plain on the evidence that the said spectator used that phrase in order to seek to identify JL to a Kingston parent. Whilst the phrase is inappropriate and apt to cause offence, it was this context (and this context alone, it appears) in which it was

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<sup>10</sup> FA Rule E21.4.

used ;

- ii. Thereafter, the exchanges between that spectator and JL or others did not include any further reference to such a phrase (save for that spectator seeking to justify that he did not regard that phrase as inappropriate) ;
- iii. In these circumstances the Commission concluded that the phrase “*coloured*” was not itself the misconduct or disorderly behaviour complained of. The disorderly behaviour complained of was what occurred *after* the use of that phrase in that context ;
- iv. Accordingly the Commission concluded that this case was not one that was caught by FA rule E21.4 (discriminatory misconduct) ;
- v. Accordingly, the Commission concluded that the FA rule E21.5 defence was potentially available to the club and had to be considered on its merits by the Commission ;
- vi. The nature of FA rule E21.1 is that it places liability upon a club for the acts or omissions of its players, officials or spectators in certain circumstances ;
- vii. Leatherhead accepted that the spectator concerned is the father of one of its players who played in the match and thereby a spectator associated with Leatherhead ;
- viii. It was plain that the spectator’s behaviour was threatening, violent and improper . It was thereby disorderly ;
- ix. Rule E21.1 places a responsibility upon clubs to ensure they exercise due diligence in ensuring that those categories of persons covered by rule E21.1 act in an orderly fashion and do not exhibit the prohibited behaviour set out within the rule ;
- x. A proper and diligent system would ensure that all players, club officials and spectators were aware that the club could bear responsibility for the actions of individuals who acted in an improper way as set out within rule E21.1 and the actions the club was taking to ensure compliance with that rule ;
- xi. The club did ensure every season that all participants (players, spectators and officials) were made aware of the standards of conduct expected of them by the FA’s Code of Conduct ;
- xii. Those standards had been reiterated after this incident by the club to all participants ;
- xiii. It was most unfortunate that this incident developed in the way that it did at an away

match ;

- xiv. There was no evidence before the Commission that such issues that arose involving this spectator were a recurrence of earlier similar problems involving Leatherhead supporters ;
  - xv. Mercifully, the disorderly behaviour displayed by this spectator involved no physical assault but was restricted to abusive language and behaviour ;
  - xvi. In these circumstances, the Commission concluded on the balance of probability that the relevant incident was sadly the result of circumstances over which the club had no control. The behaviour of that single parent was a unilateral decision by that spectator to behave in an unruly way after he had already been told of the standards to be expected of him by the club ;
  - xvii. The incident did not result as a result of crowd safety issues ;
  - xviii. Further, the Commission concluded on the balance of probability that the club's responsible officers or agents had used all due diligence to ensure that its said responsibility pursuant to FA rule E21.1 was discharged because the club did have a proper system of due diligence in place at the relevant time to ensure compliance with FA rule E21.1 ;
  - xix. The Commission concluded therefore that the club did on the balance of probability have the FA rule E21.5 defence to the FA rule E21.1 charge ;
  - xx. Accordingly, the Commission concluded on the balance of probability that Surrey FA had not proved that Leatherhead acted in an improper way in breach of FA rule E21.1 by failing to control its supporters.
46. Accordingly :
- i. The allegation of failing on 15/10/22 to ensure that spectators and/or supporters (and anyone purporting to be followers) conducted themselves in an orderly fashion and refrained from improper, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to rule E21.1 of the Rules of the Football Association was found **not proven** on the balance of probability as against Leatherhead.
47. There is the right to appeal these decisions in accordance with FA Regulations.

ABDUL S. IQBAL KC

JASWANT NARWAL

BILAAL SHABBIR

13<sup>th</sup> January 2023