

THE FOOTBALL ASSOCIATION

Judicial Commission

These are the written reasons for decisions made by a judicial commission which sat on Friday 31st December 2020 to hear a charge raised by the Sussex FA (SFA) against Hastings United FC. I, Mr Peter Clayton, a member of The FA's Serious Cases Chairmen's Panel was appointed by The FA to sit alone to hear this non-personal case.

The charges against the club resulted from alleged incidents in the match Montpellier Villa AFC Women's v Hastings United on 6th December 2020 in the Sussex County Women's and Girls' Football League.

The incidents resulted in a charge of a breach of FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion. It was further alleged that the language and/or behaviour was of an aggravated nature as it referred to Gender. The evidence relied upon was a match report from Match Referee Chris Macinnis and statements from members of Montpellier Villa AFC Women's. It was alleged that supporters of Hastings United FC made transphobic comments, questioning the gender of an opponent player Blair Hamilton.

The referee reported that he had not heard the alleged comments, but he was informed at half time that comments had been made. He added that he spoke to both managers at that time but was advised by them that they also had not heard anything specifically.

The principal witness to the alleged comments was Harry Lees who was the player's partner. He reported that he approached two men wearing Hastings United hats after he heard them saying "this isn't fair", "that's not a woman" and "he shouldn't be playing football". After speaking with the two men, Mr Lees stated that he went on to the pitch to speak to the referee.

Another witness, Tayna Procter stated that her daughters said to her that they had overheard two 'visiting supporters' say, "it shouldn't be allowed" and "that's a man and he shouldn't be playing football".

Mr Brooks, a member of Montpellier Villa Ladies confirmed that he was standing with the referee at half time when Mr Lees approached Mr Macinnis and made the allegations of the discriminatory comments. He also confirmed that one of the Hastings Utd coaches went to the area where his club's spectators were standing and spoke to them. He also states that there were no further issues from the spectators in the second half after they had been spoken to.

In response to the allegations that Hastings United supporters had made discriminatory comments, Mr Billy Wood, Chairman of Hastings United FC stated that at half time, he went over to their club's supporters and asked them what had been said. They denied involvement but confirmed that "a man in the crowd" said something regarding Blair Hamilton.

As the Independent Chairman, I was required to look at all the evidence and decide whether the charge was proven. The burden of proof is that of the civil standard which is, was it more likely than not on the balance of probability (at least 51% to 49%) that the incident(s) as described, happened?

Whilst it was stated by Montpellier Villa that the player Blair Hamilton had not heard the comments, this is, of course, immaterial to the issue as it has to be considered whether the alleged comments caused offence. By Mr Lees' reaction, he was indeed offended at what he reported he had heard. The statements indicate that discriminatory comments were made.

I had to consider whether the comments were made by supporters of Hastings Utd. Mr Lees identified the two individuals he approached as wearing Hastings Utd hats. There were Hastings Utd spectators present at the game as Mr Woods confirms he approached them and spoke to them at half time. I noted that, after he had

spoken to them, it was reported that there were no further comments reported thus his words had apparently had the desired effect.

It was suggested by the Hasting Utd spectators that, although they were not responsible for the comments, a "a man in the crowd" had said something. I disregard that the comments were made by an individual who was not a supporter of Hasting Utd. Clearly the comments would not have been made by an individual attached to Montpellier Villa against one of his own club's players. If he had been just a member of the public who happened to be watching the game, it is not logical that he would have made such specific comments when he would not have loyalty towards either club. On the balance of probability, I determine that the comments were made by supporters of Hasting Utd FC and I find the charge proven.

Having made my decision on guilt, I received Hasting United's previous disciplinary record. This shows that the club has 15 teams. The records show that the Club had seven previous proven breaches of FA Rule E20 since the 2016-17 season. This is a poor record.

I note that Mr Woods' intervention at half time caused the comments to stop and I give some credit for that action being taken.

However, several comments, which were discriminatory and therefore an aggravating factor, had been made and not acted upon during the first half. The fine of up to £150 is recommended for a standard E20 breach. I consider that the aggravating nature of the comments makes this a high-level offence as the comments were highly objectional and serious. It is fortunate that Ms Hamilton did not hear them as they would have been distressing. I am permitted to go above the recommended level of sanction and so I order that the club shall be fined £175 and shall pay £50 towards the cost of the hearing. The club is also seriously warned as to its future conduct.

These decisions are subject to appeal to The Football Association in accordance with the appropriate regulations.

Peter Clayton

Chairman

01/01/2021