

FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

SUSSEX FA

and

JARVIS BROOK FC - Case number: 10003457M

DECISION AND WRITTEN REASONS

1. INTRODUCTION

1.1 These are the full written reasons for the decision of The Football Association Disciplinary Commission (the “Commission”) on charges brought by Sussex FA against Jarvis Brook FC (the “Club”).

1.2 I have been appointed by The FA from its National Discipline Panel to determine the matter alone, and on paper.

2. RELEVANT DISCIPLINARY RULES

2.1 Charges were brought under Rule E20 of The Rules of The Football Association.

2.2 Under the heading of “ATTENDANCE AND PARTICIPATION IN MATCHES”, Rule E20 provides:

“Each Affiliated Association, Competition and Club shall be responsible for ensuring:

- (a) *that its directors, players, officials, employees, servants, representatives, spectators, and all persons purporting to be its supporters or followers, conduct themselves in an orderly fashion and refrain from any one or combination of the following: improper, violent, threatening, abusive, indecent, insulting or provocative words or behaviour, (including, without limitation, where any such conduct, words or behaviour includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability) whilst attending at or taking part in a Match in which it is involved, whether on its own ground or elsewhere; and*
- (b) *that no spectators or unauthorised persons are permitted to encroach onto the pitch area, save for reasons of crowd safety, or to throw missiles, bottles or other potentially harmful or dangerous objects at or on to the pitch.”*

3. THE CHARGE

- 3.1 By a Notification dated 29 October 2019 the Club was charged with a breach of Rule E20 of the Rules of the Association. The Charge alleged that during a match between Jarvis Brook and St Francis Rangers Firsts on 5 October 2019 the Club’s Players/Officials/Spectators “did not conduct themselves in an orderly fashion, in that Spectators have used Foul and Abusive Language towards the opposing Club Assistant Referee.”
- 3.2 The Charge also states that “it is alleged a comment was aggravated by Sexual Orientation” [sic]. The concept of a separate category of “aggravated” offence does not exist in respect of Rule E20 in the same way as it does in respect of Rule E3(1). Use of offensive, discriminatory language is one of the various acts that constitutes misconduct pursuant to Rule E20, along with others. It is therefore not necessary to determine whether racially abusive language is used in order to found a breach of Rule E20 when other acts of misconduct have also been made out. However, a combination of factors can clearly affect the gravity

of an offence, and it is the clear policy of the Football Association that such language is punished; the use of discriminatory language will therefore affect the seriousness of the offence and the resultant sanction.

3.3 The Club responded to the Charge on 11 November 2019, pleading guilty to the charges and requesting that the case be dealt with in their absence. This is taken to be an acceptance of the facts as set out by the County in the Notification and the accompanying evidence.

3.4 These reasons will therefore focus on the appropriate sanction.

4. EVIDENCE

4.1 Although the Charge has been admitted, I will set out the most significant elements of the evidence served in support of the Charge, as that is required to assess the appropriate sanction. I reviewed all of the evidence thoroughly, and the absence of any reference to any particular part of it should not be taken to mean that I have not considered it.

4.2 The Assistant Referee in question, Dr Peter Wright, wrote to the General Secretary of the Southern Combination League on 6 October 2019 to draw his attention to the abuse he received. This included being called “a fucking cheating cunt” on at least two occasions by one supporter; many other references by supporters to being a cheat and questioning decisions; and use of the phrase “What’s the matter linesman, did your boyfriend not manage to cum over you last night.”

4.3 The letter also stated that Dr Wright did not feel supported by the Referee’s approach, which is regrettable, albeit not a matter that is before me. Neither are the suggestions that the other assistant was subject to abuse from the other set of supporters on the other touchline. This Charge focuses solely on the conduct of the Spectators of the Club.

4.4 I have also been provided with a short email from the Referee, which did not add much to Dr Wright’s letter, and a response from Mr Carl Berwick on behalf

of the Club. This admitted that some spectators “did call the linesman a cheat” but denied any “reference to boyfriends”. The response also complained about Dr Wright’s performance and suggested that in the exchange with spectators he “gave as good as he got.”

5. SANCTION

5.1 Having reviewed the evidence, I then obtained and reviewed the Club’s disciplinary record since the 2014-2015 Season. This was extensive, showing a large number of cautions and several misconduct offences, even allowing for the number of teams that the Club runs.

5.2 According to the FA’s published sanction guidance, the recommended sanction for a breach of Rule E20 is a fine of up to £50 for a low-level offence; between £25 and £75 for a mid-level offence; and between £75 and £150 for a high-level offence. Looking at the present case, the Assistant Referee was subject to a sustained series of abusive comments. The comments also involved abuse of a homophobic nature. Dr Wright does not appear to have feared for his safety and it is not alleged that non-players entered the pitch, but taking into account the sustained nature of the abuse and the homophobic aspect, in my view this particular offence is in the higher band.

5.3 I also take into account the response of the Club to the allegation. This showed little to no acceptance that the conduct of its spectators was wrong, and instead sought to justify or excuse the abuse on the basis of the Assistant’s performance. On the other hand, the Club did ultimately plead guilty to the Charge once it was rendered, so some mitigation is warranted for this.

5.4 Finally, I take into account the Club’s previous record. As I said above, this is extensive. There is a very large number of cautions, and consequent charges brought for accumulations of cautions and penalty points. There are also prior findings of misconduct for breaches of Rule E20. These include three separate charges relating to specific incidents, and three further charges for an

accumulation of penalty points. The Club was fined for reaching 75 points in each of the last three seasons and is well on course to do so again this season.

5.5 The disciplinary record displays a long-running problem with player and non-player behaviour, and shows that fines in the mid-level band have had little effect on the Club. The most recent breach of Rule E20 was less than 12 months before the present incident and led to a fine of £131.25.

5.6 I am therefore firmly of the view that the present offence is aggravated by the Club's poor disciplinary history, and a fine in excess of that levied on the last occasion is warranted.

5.7 In my view a fine of £150, the top of the recommended bands, is just about sufficient in this case. While a departure from the recommended guidance may be appropriate in a particular case, my view is that in the present circumstances the ordinary application of principles of aggravation leading to a fine at the highest recommended level is appropriate. However, if a further similar offence is committed in the near future, and subject of course to the views of the Commission that determines it, the Club should expect to be sanctioned severely.

6. CONCLUSION

6.1 The Club is to pay a fine of £150 in respect of the Charge against it.

6.2 The Club is warned as to its future conduct.

6.3 The Club is to have five disciplinary points added to its record.

6.4 Any party may appeal against this Decision in accordance with FA Regulations.

Ian McKim

12 December 2019