

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR. JESSE MARSCH

WRITTEN REASONS AND DECISION OF THE INDEPENDENT
REGULATORY COMMISSION FOLLOWING THE HEARING ON 12
SEPTEMBER 2022

1. These are the written reasons for a decision made by an Independent Regulatory Commission (“the Commission”) which sat via videolink on 1² September 2022.
2. The Commission members were Simon Parry, (Chairman, and Independent Legal Panel Member), Faye White M.B.E (Independent Football Panel Member) and Ken Brown (Independent Football Panel Member).
3. Mr. Michael O’Connor of the FA Judicial Services Department acted as Secretary to the Commission.
4. The relevant incident took place in the Premier League fixture between Brentford F.C. and Leeds United F.C. on 3 September 2022.
5. By letter dated 6 September 2022 the F.A. charged Mr Jesse Marsch (“JM”) with a breach of FA Rule E3, alleging that in or around the 64th minute of the fixture his language and/or behaviour was improper.
6. The FA further designated the case as a Non-Standard Case due to the level of aggression demonstrated in the alleged behaviour and/or the unusual nature of the reported behaviour..
7. The FA relied upon the following evidence:
 - a) The Reports of the Match Referee, Mr. R. Jones, dated 3 September 2022;
 - b) The Report of the Fourth Official, Mr. K. Stroud, dated 5 September 2022;
 - c) A video clip of the incident.

8. By written reply dated 6 September 2022 JM admitted the Charge and requested a non-personal hearing at which to advance mitigation.
9. The following is a summary of the principal submissions provided to the Commission. 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 the Commission did not take such point or submission into account when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials provided to it.

FACTS

10. In the 62nd minute of the fixture Leeds United had a claim for a penalty kick.

The Match Referee, who was close to the incident, did not award a penalty and there was no intervention from the Video Assistant Referee. The non-award of the penalty prompted the following behaviour from the Leeds United Head Coach, JM, as set out in the Report of the Fourth Official:

“After 63 minutes play, I advised the referee of the totally unacceptable and inappropriate behaviour of the Leeds United Manager, Mr Jesse Marsch following an incident in the Brentford penalty area. As the incident happened and there was no decision in favour of Leeds United, Mr Marsch ran out of the technical area, and entered the field of play, as play was still progressing, jumping and waving his arms erratically. He then came back towards me in an overly aggressive manner, throwing his arms about and shouted 'what the fuck was that? It a fucking penalty, he's got to fucking check it, it's a fucking penalty'.

He then threatened to go onto the field of play again using the 'fucking' word in some context, but I am unable to remember his words at this point. He continued to remonstrate and then left the technical area again to confront AR1, throwing his arms about aggressively, shouting 'he's got to fucking check it, he's got to fucking check it'. I advised the referee that due to the aggressive nature, the words used and the breach of technical area protocol, and a clear and sustained act of unacceptable behaviour this warranted a red card and dismissal from the technical area.”

11. The Commission had the benefit of watching the incident as it unfolded from two camera vantage points. The footage bears out that which Mr. Stroud reported above. From the tactical camera, we were able to see JM’s entry to the field of play, the constant bellowing at the Match Referee and the confrontation with AR1 in which JM wholly invades AR1’s personal space still waving his arms around and shouting. We note that the period over which JM was out of his technical area and behaving in this manner was just short of one minute. From the footage we saw that JM was repeatedly swearing, albeit there was no personal abuse directed at the Match Officials.

MITIGATION & SUBMISSIONS ON SANCTION

12. JM provided a letter in mitigation dated 6 September 2022 and we also had the benefit of a letter from Hannah Cox, Club Secretary at Leeds United. Included in the documentation on behalf of JM was the Premier League Match Delegate’s Report, to which we will return. Both JM’s letter and that of the Club apologise for his behaviour and express regret and remorse,

which we accept is genuine. JM accepted that his behaviour warranted a red card. It is clear that he has been spoken to about his conduct by his Club. Further, we are impressed by the personal mitigation put forward and which we take full account of.

13. We note the inclusion of the Match Delegate's Report. Neither JM nor the Club address what mitigation this offers. We can only conclude that its inclusion is to draw to our attention the opinion of the Match Delegate who opines "*Whilst the ensuing behavior (sic) wasn't perfect, in the context of the game I wonder if a caution and reprimand would have been sufficient. Again whilst not condoning the behavior (sic) we do see Head Coaches remonstrating with officials without such punishment.*" We do not share this view. Indeed, JM himself does not dispute that the behaviour warranted a red card. In our judgment, Mr Stroud is to be commended for drawing this behaviour to the Match referee and advising of a red card. For the reasons that we set out below and the sanction that we impose for this Charge, we find it surprising that the Match Delegate could take such a lenient view of this incident which only serves to dilute the real seriousness of such behaviour in the minds of other technical area occupants.

14. The Commission was informed that JM has no previous breaches of FA Rule E3, and we give him credit for that. Similarly, we give him credit for his prompt admission of the Charge and genuine remorse.

DECISION

15. As this was designated a Non-Standard case due to the aggressive and/or unusual nature of the behaviour, the sanction is at the discretion of the Commission. The Commission has regard, nevertheless, to the Standard Penalties for Improper Conduct (not including abusive/insulting language). We particularly note that this is not a case that has been charged as including abusive and/or insulting language, and we remain faithful to the actual Charge. The Standard Penalties do not include any form of touchline suspension. In our judgment, as a Non-Standard case and one in which we are not bound by guidelines, we are driven to the conclusion that we must sanction JM for the totality and cumulative effect of his improper conduct, and that conduct must be marked with a proportionate suspension from the touchline. JM left the technical area for just short of one minute, he was constantly shouting and swearing, in an aggressive manner, even when the Fourth Official and AR1 were indicating to him to calm down. He entered some way onto the field of play whilst the game continued. He confronted AR1, who had nothing to do with the non-award of the penalty, getting far too close to his personal space whilst still waving his arms around and shouting. Such behaviour from a Head Coach is entirely unacceptable. A period of suspension from the technical area is inevitable. In those circumstances, bearing in mind JM's previous record, remorse and acceptance of the Charge we keep the touchline suspension to the minimum of one match. Turning to the financial penalty, we have regard to JM's net

weekly income from football as declared to us. Having regard to the seriousness of the misconduct, the mitigating factors and the Standard Penalties, we take a starting point of £15,000 and reduce that to £10,000 which we consider to be a just and proportionate financial penalty. We make no order as to costs.

SANCTION

16. For the reasons outlined above the Commission imposed the following sanction: -

- (i) Jesse Marsch shall serve a touchline suspension from all domestic club football until such time as Leeds United have played 1 (one) First Team Competitive Match; and
- (ii) He shall be fined sum of £10,000.

The decision is subject to any appeal as provided by the Regulations

Simon Parry (Chairman)

Faye White M.B.E.

Ken Brown

13 September 2022

