

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR MARCUS BIGNOT

WRITTEN REASONS AND DECISION OF
THE INDEPENDENT REGULATORY COMMISSION FOLLOWING THE
HEARING
ON 24 & 25 MAY 2022

Background

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on 24 and 25 May 2022.
2. The Regulatory Commission members were Mr Gareth Farrelly, Chairman and Independent Football Panel Member, Mr Udo Onwere, Independent Football Panel Member and Mrs Alison Royston, Independent Football Panel Member.
3. Mr Michael O'Connor, The FA Judicial Services Coordinator, acted as Secretary to the Regulatory Commission.

Charge and Reply

4. By letter dated 18 March 2022, The Football Association (“The FA”) charged Mr Marcus Bignot with Misconduct for a breach of FA Rule E3 in respect of a comment he made during a Women’s Super League fixture between Birmingham City Women FC and Tottenham Hotspur Women FC on 13 February 2022, at St Andrew’s Stadium, Birmingham.
5. It was alleged that he used improper and/or abusive and/or and/or insulting language, contrary to Rule E3(1), towards Tottenham Hotspur Manager Rehanne Skinner, namely “*maybe if you had a bit of prick in you and in your life, then maybe you’d be better for it and at your job*”.
6. It was further alleged that this breach of Rule E3(1) is an “Aggravated Breach”, as defined in Rule E3(2), as the language included a reference to, whether express or implied, to sexual orientation.
7. Rule E3.1 and E3.2 state that –

A Participant shall at all times act in the best interests 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.

A breach of Rule E3.1 is an “Aggravated Breach” where it includes a reference, whether express or implied, to any one or more of the following :- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.

8. The Football Association intended to rely on the following evidence:

- Witness Statement of Mr James Greenway, FA Integrity Investigator, dated 16 May 2022;
- Exhibit JAG/01 – Match Footage, Birmingham City Women FC v Tottenham Hotspur Women FC, 1st half incident;
- Exhibit JAG/02 – Request for interview, Marcus Bignot, dated 3 March 2022;
- Exhibit JAG/03 – Interview transcript, dated 10 March 2022;
- Exhibit JAG/04 – Match Footage, Birmingham City Women FC v Tottenham Hotspur Women FC, Incident at full time;
- Witness Statement of Emily Heaslip, dated 14 February 2022;
- Witness Statement of Rehanne Skinner, dated 17 February 2022;
- Witness Statement of Lawrence Shamieh, dated 3 March 2022;

- Witness Statement of Sarah Budd, dated 25 February 2022;
- Witness Statement of Sunny Gill, dated 17 February 2022;
- Witness Statement of Vicky Jepson, dated 25 February 2022; and
- Exhibit RS/1 – Original note made by Rehanne Skinner.

9. The FA submitted a further exhibit from the Match Referee, Emily Heaslip, EH/01 on 19 May 2022, that being an email sent on 13 February 2022 reporting on the incident. This email was written using the original notes that Ms Heaslip had taken whilst at the stadium.

10. The Charge was denied by reply on 11 April 2022. Mr Bignot requested a personal hearing. He submitted a detailed response to the charges, and a number of character references, as well as a number of photographs of the tunnel and dugout area at St Andrews, the contents of which the Regulatory Commission read and noted.

Hearing

11. Ms Rebecca Turner represented the FA. Mr Mathew Sherratt QC represented Mr Bignot. Mr Bignot's solicitor Mr John Veal was also in attendance, as was Mr James Greenway and Ms Anna Benjamin observing from the FA.

12. The following is a summary of the principal submissions provided to the Regulatory Commission. It does not purport to contain reference to all the points made, however the absence of a point, or submission, in these reasons should not imply that the Regulatory Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Regulatory Commission has carefully considered all written and video evidence in respect of this case.

13. It was noted that the burden of proof is the balance of probabilities. It is up to the FA to discharge this burden. Furthermore, it was accepted between the parties that if the charge was found to be proven, then the breach of Rule E3(2) would be made out, as the comments were discriminatory and homophobic.

14. It was also emphasised at the very outset of the opening submissions that these proceedings are not concerned with the question whether Mr Bignot is homophobic. The Regulatory Commission is tasked with considering the evidence of the witnesses and determining on the balance of probabilities if Mr Bignot made the comment.

15. Ms Turner opened the case for The FA and led the Regulatory Commission through their case.

16. In summary, it was alleged that there was an incident in the 17th minute of the fixture between the manager of Tottenham Hotspur Women FC's Rehanne Skinner and Marcus Bignot, who was Assistant Manager of Birmingham City FC Women at the time. This was instigated by the Tottenham Manager claiming that Birmingham City were looking to waste time from early in the game by kicking the ball out for a throw in. Mr Bignot responded to this, and it was not in dispute that Ms Skinner said, "*Fuck off Marcus, you're a prick and you always have been*".

17. It was the FA's case that Mr Bignot then responded to Ms Skinner's comment by saying, "*Maybe if you had a bit of prick in you and in your life, then maybe you'd be better for it and at your job*". It was Mr Bignot's position that these were not the comments made, but that he had in fact said "*Maybe you should try talking to the prick and then you might calm down*".

18. It was also claimed by Mr Bignot that Ms Skinner had called him “*an obnoxious prick and you always have been*”.

19. It was the FA position that these comments were homophobic as Mr Bignot was aware of Ms Skinner’s sexuality. This was denied by Mr Bignot who claimed he was oblivious to Ms Skinner’s sexual orientation. It was claimed that Mr Bignot was aware that Ms Skinner is an openly gay woman as she is married to a player that Mr Bignot knew from his time at Birmingham City Women FC. In addition, when they both met at an LMA event that had taken place a couple of years before, Mr Bignot had asked Ms Skinner how her partner was.

20. The Regulatory Commission heard from a number of witnesses from the Tottenham staff who were credible, compelling and articulate. This ranged from the Performance Analyst who had a position on the gantry, to the staff sat in the dugout when the incident took place, to the Assistant Manager and the Sports Therapist who were both in the dugout. It was noted that there was not a large crowd at the game. Consequently, the video analyst heard the argument between Ms Skinner and Mr Bignot through his headphones. There was an open line between him and Ms Jepson, the Tottenham Hotspur Women’s Assistant Manager throughout the game. They were cogent and consistent in their accounts of the comment they had heard.

21. The Regulatory Commission also heard from the Match Referee and Fourth Official. The Fourth Official did not hear the comment made. At the end of the fixture, the Referee had correctly invited comment from those who had witnessed the incident and they provided detailed statements. At a later date, the statements were formalised and submitted as evidence by the FA.

22. It was submitted that immediately after the comment was made, Ms Skinner responded to Mr Bignot claiming, “*now you think it’s okay to make homophobic comments as well. That sums you up*”. She asked the Fourth Official if he had heard the comment and made a complaint to the Match Referee at half time. She was encouraged to focus on the game by her Assistant Manager, get a result and deal with the matter afterwards. However, during the half time break, she took the time to write down and record what she believed to have been said in a notebook. There were no further incidents in the second half of the game. Tottenham won 2-0. At full time, as evidenced in the video footage Ms Skinner refused to shake hands with Mr Bignot and claimed that she told him to “*fuck off*”. The situation was well managed by the Tottenham Assistant Manager again, and there was no escalation.

23. Ms Skinner followed up her complaint with the Match Referee at the end of the game and provided a summary of the incident and the comments made. This was recorded by the Match Referee and submitted to the FA.

24. It is Ms Skinner’s position that she has never experienced anything like this before. She believed that attitudes within the game were moving on. She believes that this was a targeted and personal attack by Mr Bignot due to her sexual orientation, of which he is fully aware. Equally, there were young players in the dugout, one of whom was a young 18 year old who had not been with the First Team for a long period and should not be exposed to these types of comments.

25. It was noted that there were some discrepancies in the recollections of the wording used by the witnesses for the FA. All of the witnesses’ accounts were challenged robustly in cross examination. It was evident that despite some differing accounts as to exact timings, positioning and the wording used, there was a consistency as to what the witnesses claim to have heard. It is always a challenge in cases of this nature; in situations where the witness accounts submitted are the same, this can lead to alleged collusion, whereas differing accounts are presented as evidence that the words alleged were not in fact used, and what was said was not in fact that which was

heard. This goes to issues of context and language. Each case invariably turns on its own particular facts.

26. These were some of the points raised by Mr Bignot's counsel. It was claimed that the witness evidence was unreliable. The Match Referee was a police officer with previous experience of taking evidence and interviewing victims. It was submitted that evidence had been taken whilst other witnesses were either present or within earshot, and whilst not deliberate, the accounts may have been contaminated, given in order to support their Manager, not necessarily because it was what each witness had heard. It was submitted that in some way there was a confirmation bias in the evidence and accounts given. This was not accepted by the Regulatory Commission. This was by no means a normal incident. The Match Referee dealt with the matter effectively. She advised that those that wished to give a statement do so, and she spoke with each person accordingly. She took notes, checked them with the witnesses, wrote up the accounts given, and submitted them as part of her duties. The evidence did not support the claim that the Tottenham staff had colluded in any way to incriminate Mr Bignot and support the complainant based on her position within the club. There was a consistency to the evidence given by each witness, and this evidence was confirmed at the hearing.

27. It was Mr Bignot's case that he had not used the words alleged. It was claimed that Ms Skinner did not like him. It was averred that there had been a previous incident between them that had occurred last season. This was while Mr Bignot held a similar role with Aston Villa Women FC. The facts were similar. At this time, both sides were near the bottom of the table, and there was a lot at stake for both sides. Ms Skinner had passed a comment "*boring hell*" as to how Aston Villa were playing. Mr Bignot took offence to this and tried to engage with Ms Skinner. Ms Skinner's account of the incident was different. Whilst giving evidence, she claimed that after her comment Mr Bignot responded, "*carry on talking and I'll knock you out*". Aston Villa had won the game 1-0 and Mr Bignot had sought to engage with Ms Skinner after the final whistle. He wanted to explain the reason for his team's playing style. They were near the bottom of the table and scrapping for points. They were not in a position to play expansive football. These efforts were rebuked with Ms Skinner allegedly saying to him, "*tell someone who gives a fuck*".

28. It was submitted that this in some way demonstrated that Ms Skinner had an issue with Mr Bignot and this carried through to, not only the incident in question but a hangover from this previous incident. Ms Skinner denied this was the case. It was her position that whilst unpleasant, there was an acceptance that these things can happen in football. She did not make a complaint at this time. This incident was completely different as Mr Bignot had made a comment that she perceived to be homophobic. Mr Bignot claimed that he was not aware of Ms Skinner's sexual orientation. It was his position that at no time was he aware that Ms Skinner and her partner were married. He remembered speaking to Ms Skinner at the LMA event but had no recollection of what was discussed. However, he did recollect that he did not ask about Ms Skinner's partner. He claimed, in great detail that he had no dealings with Ms Skinner's partner while she was a player at Birmingham City Women. This was supported by a former coach from Birmingham City Women who confirmed that Mr Bignot did not have any direct dealings with her, during her time and development there. This was also the case when she moved on to Arsenal Women's team. This was not accepted by the Regulatory Commission. Mr Bignot, on the one hand described himself as a details man, who left little to chance by way of preparation and understanding of the opposing teams, and styles he was competing against. He is considered in many ways as a pioneer of the Women's game and has been involved, and promoted it since its inception. He has a huge depth of knowledge of the game and the participants within it. This is reflected in the character references submitted from those that he has positively influenced throughout their careers. Therefore, it is difficult to reconcile that somebody who has been embedded in the game for so long, and has an in depth knowledge and understanding of all aspects of the game and its

participants, did not know the sexual orientation of a participant who has also enjoyed a long, distinguished and high profile career within the Women's game. It was not credible that Mr Bignot did not know Ms Skinner's sexuality.

29. Mr Bignot's counsel further claimed that the accounts put forward by the witnesses were incorrect and they had in some way misheard the words used. Each witnesses' account was challenged in turn. However, despite some anomalies in the precise wording, or accounts given immediately after the game as to what they heard, or in the subsequent witness statements in advance of the hearing, there was a common theme around the comments each of the witnesses claimed to have heard. The Regulatory Commission found the accounts of the witnesses to be credible and consistent. They did not believe that the witnesses had colluded in any way.

30. Mr Bignot's counsel questioned why the goalkeeping coach who was in the dugout that day had not provided a witness statement or attended the hearing. This was a matter for the FA, but the witnesses advised that his role on the day was to prepare the team for the tactics of Birmingham City, and focus on their set piece play, making sure that the players were switched on at all times, and did not lose their concentration. This was highly plausible given the importance of the game, and the preparation each team will undertake to address a specific strength of the opposition.

31. It was also telling that Mr Bignot was not able to rely on any witnesses that definitively supported his account of what he said in response to Ms Skinner's response to him. Whilst the Tottenham witnesses all attested to hearing similar words, there were no witnesses to endorse Mr Bignot's account. There were accounts to support his interpretation of the build up to the incident, the involvement of the Fourth Official, and the actions taken by Ms Skinner, but no support for the comment he claimed to have made that "*you should try talking to the prick and you might calm down*".

32. Moreover, in seeking to challenge the differing accounts of the FA witnesses, and any anomalies in their statements, as opposed to the accounts given straight after the game, this was equally applicable to Mr Bignot. In the statement given after the game, Mr Bignot stated that Ms Skinner had said, "*you're an obnoxious prick, you should just talk to me and calm down*". He claimed that Ms Skinner then responded that "*you are homophobic*". In his witness statement submitted at a later date, Mr Bignot claimed that his reply to Ms Skinner was that, "*you should try talking to the prick and then you might calm down*". In essence, it was asserted by Mr Bignot that his response was predicated on the fact that Ms Skinner had used the term "*prick*", because this was what Ms Skinner had called him. Again, this was not accepted by the Regulatory Commission. Ms Skinner's reaction was instant. There was no ambiguity in her understanding of the comment made. Her instant response to Mr Bignot's comment was that it was homophobic.

33. It is not accepted that Ms Skinner misheard the comment or perceived the comment in a way that reinforced any preconceived opinion of him based on their previous interactions. The preferred account was that of Ms Skinner and those whose witness account corroborated this. Her reaction to the comment was immediate. She was clearly upset and raised her grievance to the Fourth Official. It was his evidence that he did not hear what was said. Ms Skinner spoke to the Match Referee at half time. Whilst there were no incidents in the second half, Ms Skinner engaged with the Match Referee after the game to give a statement about the incident.

34. For completeness, when questioned, Ms Skinner stated that this incident was completely different to the incident that had occurred in the Aston Villa game, for the reasons set out at paragraph 25. It is unlikely that Ms Skinner would have reacted in such a way if she was not certain of the comment made by Mr Bignot. It was accepted that there are incidents that occur in

the course of games, that are not necessarily acceptable, but part and parcel of the pressure associated with the game. This was not such a case. For completeness, Mr Bignot did not make any complaint after this game about Ms Skinner's behaviour in the Aston Villa game.

35. The Regulatory Commission noted the evidence of Mr Bignot, his personal history and circumstances, and those who attended as character references. The character references were compelling. This included family members who were open and honest with the Regulatory Commission. However, the family members evidence could not assist in Mr Bignot's favour.

36. For the reasons given, the Regulatory Commission are satisfied on the balance of probabilities that Mr Bignot made the homophobic comment. Therefore, the charge is found proven.

Sanction

37. Having informed the parties of the decision of the Regulatory Commission, a further hearing was convened for representations to be made in relation to sanction. This hearing took place by video conference on 1 June 2022. The provisions of the Disciplinary Regulations relevant to sanction are as follows:

Appendix 1 - Standard Sanctions and Guidelines for Aggravated Breaches Players, Managers and Technical Area Occupants

Sanction Range

A finding of an Aggravated Breach against a Player, Manager or Technical Area Occupant will attract an immediate suspension of between 6 Matches and 12 Matches ("Sanction Range").

A Regulatory Commission shall take all aggravating and mitigating factors into account, including but not limited to those listed in these guidelines when determining the level of sanction within the Sanction Range.

The lowest end of the Sanction Range (i.e. 6 Matches) shall operate as a standard minimum punishment (the "Standard Minimum").

A Regulatory Commission may impose an immediate suspension in excess of 12 Matches in circumstances where aggravating factors of significant number or weight are present.

Exceptions to the Standard Minimum

*A Regulatory Commission may only consider imposing a suspension below the Standard Minimum where the following specific (and exhaustive) circumstances arise such that the Regulatory Commission determines that the Standard Minimum would be excessive:
Where the offence was committed in writing only or via the use of any communication device
and:*

- Where the Regulatory Commission is satisfied that there was no genuine intent on the part of the Participant Charged to be discriminatory or offensive in any way and could not reasonably have known that any such offence would be caused; or*
- The age of the Participant at time of the offence (e.g. where the Participant was a minor at the time the offence was committed); or*
- The age of the offence (e.g. a social media post made a considerable time ago).*

For the avoidance of doubt, the existence of the circumstances above will not necessarily result in a departure from the Standard Minimum. A Regulatory Commission must be satisfied that the unique circumstances and facts of a particular case are of such significance that a departure from the Standard Minimum is justified to avoid an unjust outcome for the Participant Charged. In reaching a decision, the Regulatory Commission must also consider whether or not it is in the best interests of the game in tackling all forms of discrimination to depart from the Standard Minimum. In any event, a Regulatory Commission shall impose a suspension of no less than 3 Matches.

All Other Participants

Where a finding of an Aggravated Breach is against a Participant who is not a Player, Manager or Technical Area Occupant, a Regulatory Commission may assess that a Match-based suspension is not appropriate.

In such circumstances, a Regulatory Commission shall impose an appropriate time based suspension that is commensurate with the breach, having regard to the specific roles and responsibilities of the Participant.

Education

Any Participant who is found to have committed an Aggravated Breach shall be made subject to an education programme, the details of which will be provided to the Participant by The Association.

Other Penalties

A Regulatory Commission may impose any one or more of the other penalties as provided by paragraph 40 of Part A to the Disciplinary Regulations.

Factors to be Considered When Determining Sanction

A Regulatory Commission will have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction and whether (and to what extent) to depart from the Sanction Range.

In so doing, the Regulatory Commission shall give consideration to any aggravating and mitigating factors, to include but not limited to:

Aggravating factors

- *Repeated use of discriminatory language or conduct during commission of the offence.*
- *The public nature of the offence (e.g. the commission of the offence in a public place, via broadcast media or a social media platform (particularly via an account on a social media platform with a high number of followers in relative terms)).*
- *The profile of the Participant, including where they hold a position of responsibility within their Club or organisation (e.g. Club captain, Chairman, member of senior management).*
- *The relative ages of the Participant and the victim(s) at the time of the offence, particularly where the victim was a minor and the Participant was not.*
- *Failure to co-operate with The Association.*
- *Previous disciplinary record of the Participant.*
- *Any attempt to conceal the breach.*

- *The extent of any premeditation.*

Mitigating Factors

- *Admission at the earliest opportunity where the factual conduct forming the basis for the charge would be capable of being disputed.*
- *Demonstration of genuine remorse.*
- *Co-operation with The Association.*
- *Where it is accepted that the Participant had a legitimate expectation of privacy.*
- *Inexperience of the Participant by reference to their age or background at the time of the offence.*

38. The FA drew the Commission to the applicable provision, namely the standard minimum sanction. As this was a first time offence, it was submitted that an immediate sanction of between 6 and 12 matches should apply. It was submitted that the Commission consider Mr Bignot's role at the club; Assistant Manager, this was a position of responsibility. The incident took place in the technical area, there was a risk that the comment would have been overheard by others, there were young players in the vicinity of the technical area at the time, this could have impacted on them. Also, Mr Bignot had denied the charge. Therefore, any mitigation in relation afforded to him was lost.

39. Mr Bignot's counsel submitted that his client had accepted the findings of the Commission. It had been his position that if the charge was found proven, it followed that the comment was both unacceptable and homophobic. It was proffered that the comment could be made without Mr Bignot being homophobic, in the heat of the moment. It was this heat of the moment exchange, between himself and Ms Skinner, and the escalation of the incident that had led to his reaction, and comment. It was averred that there had been some degree of provocation.

40. It was submitted that this was totally out of character and would never happen again. Mr Bignot understands the issue of diversity, and this was confirmed by the character references submitted on his behalf, endorsing his character. He also has an unblemished record.

42. The Commission were informed that Mr Bignot had lost his position at Guiseley AFC because of results, he had been suspended and subsequently lost his position with Birmingham City Women FC due to this case, and his role with the England U-19 was also suspended pending the outcome of the case. This case may have disproportionate consequences on his coaching career. He had made a significant contribution to the Women's game.

Suspension

41. Firstly, this case did not relate to discriminatory language or comment in broadcast media or on social media. The Commission considered the detailed submissions of both the FA and Mr Bignot in detail.

42. The Commission accepted in cases of this nature, that being accusations of discrimination, there are sensitive issues to be addressed. This is applicable to both parties. For the complainant, there is the stress associated with the incident, and then the subsequent investigation, charge and hearing. It is not an easy process, nor a step taken lightly by those involved. This is then balanced against the consequences for the accused.

43. The Commission considered the aggravating and mitigating factors in relation to this case. For completeness, if Mr Bignot had accepted the charges and apologised for his behaviour, that would have afforded him considerable mitigation. By fighting the case, he has lost the benefit of

that. Furthermore, Mr Bignot did seek to conceal the breach. There was a degree of premeditation around this. He denied that the comment was made, claiming it was misheard, that the allegation had been made due to a previous incident, and Ms Skinner did not like him. He immediately spoke to his staff member asking what 'obnoxious' meant, as a means of preparing a justification for the response, and how this fitted in his version of the incident. This was found not to be the case. This was an aggravating factor.

44. The Regulatory Commission acknowledges Mr Bignot's previous unblemished record in the game, as well as the character references submitted on his behalf. The Regulatory Commission accepts that Mr Bignot was under pressure at the time of the incident. His team was fighting relegation and every result was critical. It is accepted that this was a retaliatory response to the initial comment from Ms Skinner. The Regulatory Commission also acknowledges his contribution to the Women's game. This is not without merit.

45. Given Mr Bignot's current employment situation, the Regulatory Commission has not imposed a financial sanction.

46. As set out previously, the Regulatory Commission are not concerned with the question whether Mr Bignot is homophobic, nor does it make any finding of such. He has been found to have made a comment which was obviously homophobic and wholly unacceptable. It is particularly important that homophobic comment, the kind made by Mr Bignot, is punished severely.

Conclusion

47. Therefore, the Regulatory Commission, having carefully considered all the evidence have imposed the following sanction on Mr Marcus Bignot:

- (i) He is suspended from the touchline of all domestic club football with immediate effect, until such time as he has completed seven (7) First Team Competitive Matches in approved competitions.
- (ii) He is ordered to pay the full costs of the Regulatory Commission which will be confirmed to him in due course.
- (iii) He is ordered to attend a mandatory face-to-face education programme the details of which will be provided to him by The Football Association. That programme is to be completed within a four month period commencing with the date of this Decision Letter. If he fails to satisfactorily complete the programme in that period, he will be immediately suspended from all domestic club football until such time as the mandatory programme is so completed.

48. This decision is subject to the relevant Appeal Regulations.

Mr Gareth Farrelly, Chairman and Independent Football Panel Member
Mrs Alison Royston, Independent Football Panel Member
Mr Udo Onwere, Independent Football Panel Member
20 June 2022