

**IN THE MATTER OF**

**GRACE LOVETT**

**And**

**LINCOLNSHIRE FA**

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**WRITTEN REASONS OF  
THE INDEPENDENT APPEAL BOARD**

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**Regulatory Commission: Dominic Adamson KC**

**Thura KT Win**

**Stuart Ripley**

**Secretary to Appeal Board Conrad Gibbons**

**Date: 13 July 2023**

**Hearing Format: Personal Appeal Hearing**

**Introduction**

1. These are the written reasons for a decision made by an Appeal Board which sat on 13 July 2023.
2. On 26 February 2023 Grace Lovett of Cleethorpes Town Ladies played a fixture against Wyberton Wildcats Women. After the game, the Lincolnshire FA charged Ms Lovett with an alleged breach of FA Rule E3 – improper conduct against a match official, namely assault or attempted assault on a match official (charge 1). Ms Lovett was subject to an alternate charge of breaching rule E3, improper conduct against a match official, namely physical conduct or attempted physical contact and threatening and/or abusive language/behaviour (charge 2).

3. The Football Association (“The FA”) appointed, Mrs. Victoria Fletcher, as a chair member of the National Serious Case Panel, to a Discipline Commission as the Chairperson Sitting Alone to adjudicate in the case in accordance with Regulation 119 (Section 11) of the 2022/2023 FA Handbook page 219.
4. On 22 April 2023 the Commission reviewed the written and video evidence in respect of the charges and reached a determination. The Commission found charge 1 proven. As a consequence there was no requirement to consider the alternate charge 2. The Commission imposed a 5 year suspension on Ms Lovett, together with a requirement that she undergo an education programme.

### **Fresh Evidence**

5. On 30 May 2023 Mr Richard Winship, contacted the FA on behalf of Ms Lovett to give notice that she wished to appeal the decision. Following that, and after various procedural matters were attended to on 8 June 2023, Ms Lovett was given permission to appeal outside of the regulatory timeframes.
6. Ms Lovett applied to rely on new evidence. This included:-
  - a. A witness statement prepared by Ms Lovett dated 30 May 2023; and
  - b. Evidence of mobile phone Whatsapp communications between Ms Lovett and the Club Secretary.
7. Ms Lovett asserted that the original statement submitted on her behalf was not written by her. In fact, she did not see the original statement submitted on her behalf until 11th May 2023 (i.e. after the original decision).
8. In her written statement dated 30 May 2023 Ms Lovett stated as follows:-
  - a. She admitted that she was verbally abusive and came across aggressively. She denied assaulting or attempting to assault the referee.

- b. She explained that she is autistic. She explained that she cannot control or regulate her emotions well. She especially dislikes strangers touching her. She contended that she was seeking to remove someone's hands from her . She stated she felt 'very vulnerable'.
  - c. As to the incident which formed the subject of the charges, she said that *'I did not attempt to assault the referee. In the video I can see that I pull my arms forward with force and they're raised, this is all one motion. I can't see from the video where anyone could say I attempted to hit him, this would be a separate motion. I did not and do not want to be touched by anyone, I released his grip from my arms. It was all one motion.'*
9. At the time of the original decision the Commission had a statement which was dated 2 April 2023 which stated:-

*"The referee was then arguing and swearing at our players, he had lost all control, I walked back onto the pitch and some of the players were arguing again, the ref got in the middle of it and grabbed me from behind, I pushed him away as I really can't have someone physically touching me..."*

10. That earlier statement ended by Ms Lovett denying that she had grabbed the opposition manager around the throat. We pause to observe that we understand that Ms Lovett was charged with other breaches in connection with her behaviour in this match. The breaches were proven and there is no appeal in relation to those matters. The written reasons we have received do not address those other charges.
11. We are satisfied that Ms Lovett's account in the statement dated 2 April 2023 which was placed before the original Commission did not specifically address the allegation that she had assaulted or attempted to assault match official. We accept that she had not seen the original statement before it was submitted although it is clear she was consulted in connection with the submission of a statement. We accept that all communications with the FA were made by the club and she did not have a full understanding as to what was going on. Accordingly, we accept that Ms Lovett should be given permission to rely on

the further evidence pursuant to paragraph 10 of the Disciplinary Regulations for Appeals in Non-Fast Track cases on the basis that there is a satisfactory explanation as to why her later statement was not before the original Commission and that the content of the later statement is relevant.

### **The Appeal on Charge 1**

12. The original Commission concluded as follows:-

*“The commission finds that the participant charged looked over her shoulder and saw that the person who had made contact with her was the Match Official, it is therefore considered that the participant charged was wholly (sic) aware of who had approached her and made contact before she turned and swung her arm to strike. The commission considers that the actions of the Match Official do not limit the liability of the participant charged. The commission concludes that a reasonable member of the public on the balance of probability would find it more likely than not that the strike or attempt strike was made in an attempt to cause injury due to the aggressive and violent manner in which the arm was swung towards the Match official.”*

13. We remind ourselves that the FA Handbook defines assault or attempted assault as follows:-

*“acting in a manner which causes or attempts to cause injury to the Match Official (whether or not it does in fact cause injury), examples include, but are not limited to, causing and/or attempting to cause injury by spitting (whether it connects or not), causing and/or attempting to cause injury by striking, or attempting to strike, kicking or attempting to kick, butting or attempting to butt, barging or attempting to barge, kicking or throwing any item directly at the Match.”*

14. By way of contrast, physical contact or attempting physical contact is defined as follows:-

*“physical actions (or attempted actions) that are unlikely to cause injury to the Match Official but are nevertheless confrontational, examples include but are not limited to: pushing the Match Official or pulling the Match Official (or their clothing or equipment)”*

15. Like the Commission, we had the benefit of watching video evidence of the incident. The critical footage is between 1 minute 27 seconds and 1 minute 32 seconds. This is summarised at paragraph 37 of the Written Reasons:-

*“Video evidence shows the following:*

*1.26 The Referee approaching the participant from behind and make contact with her by having his arms outstretched and a hand on the top of each upper arm.*

*1.27 participant charge’s arms drop down to sides, referee is still holding on to each upper arm with arms outstretched.*

*1.27 participant charged steps and pulls forward, turning head over left shoulder. Referee has been pulled 1 step forward.*

*1.28 participant is sideways to referee having stepped round 90 degrees to the left with lower body. Referee is still holding participant charged firmly in the same place with both hands.*

*1.28 participant charged is still looking over left shoulder, starts to pull right arm forward.*

*1.28 participant charged has swung right arm free from the hold of the referee (appears that left arms have also become free due to the force of the swing)*

*1:29 participant charged is facing the referee having tried to make contact with the referee. The referee has leant back to avoid contact.*

*1:29 referee has turned to the side participant charged is still looking directly at the referee arms by side.*

**1:29 referee steps towards the participant charged, participant charged steps back and brings right arm up with elbow behind**

**1:30 participant charged hand is raised behind shoulder, face on to referee who is not retreating.**

1:30 participant charged has dropped arm down to side.

1:31 participant charged has both arms outstretched to side, referee has turned away.

1:32 referee walks away.

1:32 participant charged starts walking away.”

16. In our view this is a reasonable summary of the content of the video evidence. The most important part is that highlighted in bold. At paragraph 39 of the Written Reasons the Commission held that Ms Lovett “*swung her arm to strike*”.

17. The critical finding that Ms Lovett swung ‘*to strike*’ is not referred to or described in the Commission’s summary of the video evidence above. The Commission describes Ms Lovett swinging her arm to free herself from the hold of the referee. In our view, this falls short of an attempted assault. We accept and would add that Ms Lovett’s posture was aggressive and intimidatory. She was confrontational. In our view, the video evidence is the best evidence of what occurred on that day at the critical moment.

18. In our view, the Commission came to a view which no reasonable body could have reached because in our view the video evidence does not support the view that Ms Lovett attempted to assault the Match Official. Accordingly, this appeal must be allowed in relation to charge 1.

19. We are conscious that there were also a significant number of witness statements which did support the view that Ms Lovett attempted to strike the Match Official. Mr Winship in both written and oral argument identified these passages of the written evidence. He submitted they were demonstrably inaccurate. These extracts he highlighted included (but were not limited to) the following:-

- a. Dane Harper was the referee. He stated "*I approached from behind to ask her this and when she turned around she threw a punch towards me*".
  - b. Liam Smith of Wyberton stated that "*The Clee number 18 went on to push the referee.*"
  - c. Callum Thornalley, the Wyberton manager stated, "*The player subsequently turned round clocked it was the referee and flew a punch towards him.*"
20. It would appear that the Commission was influenced by these characterisations of Ms Lovett's actions given that these were referred to (amongst others) in paragraphs 33 to 37 of the Written Reasons in the section headed "*the Finding and the Decision*". None of this written evidence was tested by cross-examination or subject to critical submissions. It ought to have been.
21. Mr Winship argued that it was strange that in none of these accounts was there any mention of the Ms Lovett being held by the referee. We do agree that it is curious. That he did so is evident from the video evidence. We repeat these are matters which ought to have been tested by cross-examination.
22. There was ample evidence before the Commission that Ms Lovett had behaved in a thoroughly objectionable manner prior to the incident which gave rise to charge 1. For example:-
  - a. Dane Harper referred to an incident where Ms Lovett pushed another player. He went over to break it up. He went onto refer to Callum (Thornalley) entering the pitch to try and break up a melee and he was strangled by Ms Lovett. It was necessary for Ms Lovett to be wrestled to the ground by her own players and coach.
  - b. Liam Smith stated that Ms Lovett had "*threatened numerous players to the point where she lost her head and assaulted the Wyberton manager by grabbing him by the throat.*" She is alleged to have called the Wyberton manager a "*cheating cunt*" as well as telling him to "*fuck off*".

- c. Callum Thornalley provides details of Ms Lovett *“pushing and shoving one of [Wyberton’s] younger players, this of course caused more players to be involved. I entered the field and stood in between both sets of players. I had my players behind me and some Cleethorpes players in front of me. I was trying to protect both sets of players from each other and from the situation developing into anything worse, this then led to the Cleethorpes No18 putting both hands on my neck and strangling me, she also shouted at me that “she could sort me out””*.
23. None of the evidence described in paragraph 21 is directly relevant to the question of whether Ms Lovett had assaulted or attempted to assault the referee. It might well explain why the referee sought to restrain Ms Lovett as she advanced towards another player in the moments prior to the incident which formed the basis of charge 1. It may also have influenced the witnesses perception of Ms Lovett’s behaviour at the crucial moment although we make no finding in that regard.
24. It will be apparent from the above that we have some sympathy for the Commission. This was not a case which, in our view, was suitable for resolution by a paper hearing only because there was tension between what was present on the video evidence and what was described in the (disputed) statement evidence. The Commission was not assisted by the earlier statement produced on behalf of Ms Lovett which did not adequately address the allegation that she had attempted to punch the match official.
25. It is imperative that participants (and clubs) give proper consideration to whether a paper hearing is appropriate. That did not happen here.
26. It follows from our decision that the sanction imposed by the Commission in respect of charge 1 must be set aside.

### **The Alternate Charge 2**

27. Under paragraph 21 of the Disciplinary Regulations we can exercise any power which the body whose decision the appeal was made could have exercised. We therefore consider whether we are satisfied that the alternative charge is proven. We are.



28. Mr Winship sought to persuade us that the second charge was not proven although he conceded that in argument that if Ms Lovett had been sanctioned only in respect of the second charge it was unlikely that the Appeal would have been brought.
29. We are satisfied that the alternative charge 2 (physical contact or attempted physical contact) is proven because:
- a. The video evidence does show Ms Lovett behaving in a confrontational manner. In freeing herself from the hold of the referee she was unlikely to cause physical injury to the match official. But in our view her conduct was sufficient to meet the definition of physical contact or attempted physical contact referred to above. We repeat paragraph 17 above.
  - b. We also note that in her statement dated 30 May 2023 Ms Lovett's admits that she was '*verbally abusive and came across aggressively*' (which would in itself amount to improper conduct).
30. The relevant sanction guidelines indicate that for a charge relating to physical contact or attempted physical contact a suspension from all football activities for a period of between 112 days and 2 years. The recommended entry point, prior to considering any mitigating or aggravating factors is 182 days.
31. We have regard to Ms Lovett's clean disciplinary record. We also have regard to the potential provocation by the match official by reason of the fact that he initiated the physical contact. However, we repeat that Ms Lovett's behaviour was objectionable. The video evidence we have seen was a dismal spectacle.
32. We also note that when faced with the original charge in her Whatsapp exchanges with the Club Secretary, Ms Lovett showed little, if any, remorse for her conduct. When she was shown the video evidence she commented about the referee's reaction to her behaviour by stating "*not my fault he's a fanny and flinches*". Whilst we appreciate that she may never

have expected that communication to be utilised in a disciplinary hearing she has disclosed it in support of her appeal and we are entitled to take it into account.

33. In all the circumstances we impose the following sanction:-

- a. A suspension of 150 days from all football. This will run from 23 March 2023 until 20 August 2023.
- b. We also impose the mandatory minimum fine of £75.
- c. Ms Lovett to undergo a face-to-face education programme before the time-based suspension has been served (assuming it has not already been completed).
- d. The Club will also be issued with 8 Club penalty points.

34. There is no order as to costs.

35. This Appeal Board's decision is final.

**Dominic Adamson KC**

**31 July 2023**

**Amended 2 August 2023**