

IN THE MATTER OF A DISCIPLINARY COMMISSION
OF THE FOOTBALL ASSOCIATION

Before:

Robert Englehart KC

Matt Wild

Tony Agana

B E T W E E N:

The Football Association

Complainant

- and -

John Yems

Respondent

DECISION

PRELIMINARY

1. We were appointed the Regulatory Commission to determine 17 Charges brought by the Football Association (“FA”) against John Yems, the former manager of Crawley Town Football Club (“the Club”). This is a club which plays in League Two of the Football League. In the event, one of these Charges, that is Charge 17, was withdrawn by the FA. Mr Yems admitted another of the Charges, that is Charge 16. Accordingly, we had to determine the other 15 contested Charges. We held an oral hearing over three days between 15 and 17 November at which the FA was represented by Mr Matthew Radstone of Counsel, and Mr Yems was represented by Mr Craig Harris of Counsel. We are most grateful to Mr Radstone for having mastered his brief at short notice and to Mr Harris for his skilful and restrained presentation of what was for him professionally a far from easy case.
2. At the conclusion of the hearing, we were invited by both parties to give our decision on the Charges and provide our written reasons before determining the matter of sanction, including sanction on the admitted Charge 16. We agreed, and following the hearing we deliberated amongst ourselves on the Charges. The parties were then notified of our decision by letter of that evening, 17 November 2022. Our decision was that the Charges in issue were proved other than Charges 6, 7, 12 and 15. We now set out our reasons for having come to the decision notified in the decision letter of 17 November 2022.

THE CHARGES

3. There were 16 Charges by which the FA alleged against Mr Yems the use of language of a racist nature on various occasions. As noted, one of these Charges, Charge 16, was admitted although Mr Yems sought before us to

downplay its gravity. The remaining Charge, Charge 17, alleged deliberately racist conduct on the part of Mr Yems in segregation of the players at the Club along racial lines. Undoubtedly, this would have been, if established, the most serious of the Charges. However, it was withdrawn by the FA before the hearing. It is fair to say that in evidence two of the players, who had complained of the use of racist language by Mr Yems, acknowledged that there had not been deliberate segregation along racial lines at the Club.

4. The misconduct alleged against Mr Yems consisted of 15 instances of speaking in a racist way. The Charges were brought under Rule E3.2 of the Rules of the Association. Rule E3.1 provides:

A Participant shall at all times act in the best interests of the game and shall not act in a manner which is improper or brings the game into disrepute or use any one, or a combination of, abusive or insulting words or behaviour.

Rule E3.2 states:

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

5. The Charges alleged unacceptable language directed on 14 different occasions at 5 players at the Club. There were then 2 further allegations of generically unacceptable language not directed at a particular player. The issues before us raised entirely issues of fact.

THE BACKGROUND

6. Mr Yems has considerable experience in football. He told us in evidence how he had worked all over the world, including Saudi Arabia and the United States. He was familiar with people from other nationalities, ethnic origins and

religious beliefs. He also has experience with a variety of English clubs, including Millwall, Exeter City, Torquay United and Bournemouth.

7. Mr Yems joined the Club as the manager in December 2019. He had, some years previously, had a spell at the Club, and he told us that it was the players who wanted him to return. He replaced Mr Cioffi, an Italian gentleman who was liked but was apparently somewhat of a disciplinarian. It seems that initially Mr Yems made a good impression on the players, even those who subsequently came to complain about his language. He was jovial and brought a lightness of touch which was popular among the players.
8. There appears to have been relative harmony at the Club from the time when Mr Yems joined until after the whole 2019-20 season came to be cancelled on account of the Covid 19 pandemic. It was mainly from this time onwards that the events described in the Charges took place. We shall now refer to the evidence adduced by the FA and then to the evidence provided on behalf of Mr Yems.

THE FA's EVIDENCE

9. We heard oral evidence from 5 players whom we found to be impressive witnesses. All of them came across as pleasant and measured individuals. In our view, none of them seemed to be exaggerating, let alone telling deliberate falsehoods. We also heard from the Club chaplain, a free Church minister called Steve Alliston, and, briefly, Mr Williamson, an FA investigator. We are entirely satisfied that none of the witnesses called on behalf of the FA was fabricating his evidence.

10. Player 1 is a black footballer of African descent from East London. He joined the Club from Eastbourne Borough FC at around the time that Mr Yems was appointed. He told us that initially Mr Yems was really helpful and that Mr Yems had even asked the Chairman to increase his wages.

11. However, Mr Yems then began to use demeaning language towards Player 1. He was constantly asking Player 1 if he had eaten jerk chicken last night despite Player 1 saying that he was of Nigerian, not Caribbean, extraction and did not eat jerk chicken. To Player 1 this was simply racial stereotyping. Player 1 specifically recalled one occasion when he was playing darts in the canteen with Player 2, another black player, when Mr Yems asked what they were doing playing darts when people like them normally blow sharp objects through their mouths. Mr Yems then referred to Zulu warriors and made gestures as if using a blowpipe. Player 1 also recalled an occasion when Mr Yems referred to the actor Arnold Schwarzenegger and, in doing so, exaggeratedly mispronounced the end of his name to sound like “nigger”. Another occasion was when Mr Yems, in referring to injuries, mispronounced niggles so as to sound like “niggers”, at a team meeting.

12. Player 1 also gave evidence about how he had observed Mr Yems using offensive language towards other players, particularly Player 3 whom he likened to a terrorist. Another who suffered from Mr Yems’s “banter” was Player 4 who would be mocked about eating curry. In cross examination Player 1 agreed with the description of Mr Yems using “old school politically incorrect” language. But it got too much, and eventually with others he had complained to the PFA.

13. The second witness was Player 4. He joined the Club in August 2021 on loan from Queen's Park Rangers. He is 22 years old and of half Indian and half Irish heritage. Mr Yems would make fun of him for eating curry. On one occasion when the players were eating pizzas from a sponsor, Domino's Pizzas, Mr Yems asked him if he was upset there was no curry pizza and, on another occasion, referred to him as a curry muncher. Player 4 also recalled Mr Yems putting a cloth over his head and saying "Allah, Allah". Once, Mr Yems was singing in an Indian accent and asked Player 4 "do you sing in Pakistan" to which Player 4 replied that he came from India.
14. Player 4 became so upset about Mr Yems's constant racist "banter" that he suffered mentally. He even feigned illness in order not to return to the Club.
15. The next witness was Player 5, another black player. He left the Club in June 2022 when he was mentally in a bad state and had begun to drink heavily after being upset over things that Mr Yems said. He recalled Mr Yems saying he did not believe in the "black lives matter malarkey". On one occasion Mr Yems asked Player 5 and another black player, Player 2, if they went fishing. When they replied no, the response was that that made sense because they would stab all the fishes in the pond.
16. When Player 5 came back from representing Grenada, Mr Yems said he should not train with the squad and "look how black he is"; he then put his hand over his mouth saying he should not say that. In fact, Mr Yems would often make racist remarks such as calling one of the players a "Zulu Warrior" and talk about another player, Player 3, blowing up the stadium and having a bomb in

his bag. As Player 5 put it in cross-examination, “for him it’s a joke but not for us”.

17. Player 5 has not in fact been back to the Club since he, along with Player 3, was told to “fuck off out of the club”. Mr Yems was apparently incensed by hearing that Player 3, who was sitting with Player 5 in the stand, had been laughing at another player.
18. Player 3 is a talented young footballer from Iraq and is Muslim. He was the butt of several “jokes” from Mr Yems about being a terrorist. He was asked if he slept with an AK47, and told that he could not have a GPS vest “because you people blow up stuff in vests” and asked 10 or 15 times if he carried a bomb in his bag. On another occasion, when Player 3 was saying that he was going to play for Iraq and that England would be beaten, Mr Yems said that he would probably blow up the stadium and proclaimed “Allah u Akhbar”. There was another reference to blowing up the stadium with C4 when Player 3 was in the changing room showers early in the 2021/22 season.
19. There was one occasion which Player 3 described as taking place at an end of season presentation when he, as a Muslim, was not drinking beer like other players. According to Player 3, Mr Yems then said “fuck Allah. He doesn’t even exist”.
20. Matters finally came to a head when Player 3, along with Player 5, was summoned by Mr Yems who was incensed at having heard that Player 3 had been laughing at another player. Mr Yems shouted at him to “fuck off”. Player 3 then told the Club’s former CEO, a friend of Mr Yems, that Mr Yems was a

racist; the response was simply that he should keep his voice down because fans might hear. Since then, although Player 3 was later told that he was suspended from the Club, subject to review after one month, he has not been back. He is in fact still paid by the Club.

21. The final player called by the Club was Player 2, a player of African heritage. He joined the Club shortly before Mr Yems and left to join Southend United in January 2022. He told us how under Mr Yems the players divided up into cliques. He did not believe that Mr Yems was actually a racist. Further, he had not suffered as much as other players from Mr Yems's "jokes" but he had come forward to give evidence because Mr Yems's language was not fair.
22. He told us how Mr Yems was constantly asking him if he was "going back to Peckham for jerk chicken". Player 2 would repeatedly correct him and tell him that he was neither Jamaican nor from South London, but Mr Yems would "recycle the joke". This was a very stereotypical thing to say. Player 2 also remembered an occasion when he was playing darts with Player 1. They were told by Mr Yems that they could not play darts, only use blowpipes.
23. In general, Player 2 was unhappy about the way in which Mr Yems used to make fun of people and make offensive comments so as to get others to laugh. This was even though he personally had not suffered as much as others. Player 2 thought that this was because he had made it clear that he did not appreciate Mr Yems's humour.
24. In addition to the players, Mr Alliston gave evidence. As the Club chaplain, he had no axe to grind. He was plainly uncomfortable in giving evidence against

Mr Yems and indeed was keen to emphasize how much he liked him as a person. Nevertheless, his evidence was indeed consistent with the evidence which we had heard from the players. He used to drop into the Club on Thursdays during training and attend Club games.

25. Mr Alliston heard about players being unhappy about their treatment from Mr Yems. Mr Yems would often make comments which he believed to be funny. But, in Mr Alliston's view, his humour could at best be described as outdated, and his jokes made people, including Mr Alliston, uncomfortable.
26. Mr Alliston told us how he had witnessed Mr Yems making offensive remarks about Player 3. He was, of course, a Muslim, and Mr Yems made "jokes" implying that he was a suicide bomber. Although he said in his witness statement that this was on more than one occasion, the only specific instance he could give in evidence was a remark by Mr Yems that Player 3 should not carry a bag because that made him look like a suicide bomber.
27. Mr Alliston also heard Mr Yems refer to one player of Asian heritage as a "curry muncher". That was Player 4.
28. The non-white players did not find Mr Yems's brand of humour to be funny. For Mr Alliston, it was a form of bullying even though Mr Yems did not think of himself as a bully. With hindsight, Mr Alliston thought that he should have made it clearer to Mr Yems that the things he was saying were not acceptable. All he had said to Mr Yems was that his remarks were "a bit near the mark"; he regretted this, but he had not wanted to rock the boat.

29. Finally, for completeness we should mention the short evidence of Mr Williamson. His evidence concerned the date of the match after which Mr Yems had become so angry with Player 3 and Player 5. We did not place much importance on differences of recollection about the date, for recollection may certainly vary. Nevertheless, for what it is worth, the date was likely on balance to have been that identified by the two players in question, i.e. 21 September 2021 when Joel Lynch was substituted at half time.

EVIDENCE FOR MR YEMS

30. There were two witnesses who gave oral evidence for Mr Yems, namely Mr Yems himself and Erdem Konyar who gave evidence via video link. In addition, Mr Harris on behalf of Mr Yems relied on three written statements and one email from witnesses who did not attend.
31. Mr Yems explained how he was asked by Mr Konyar, the CEO, to become manager of the Club in December 2019. In his witness statement he had explained how he might be viewed as an “old school” football manager who might be “robust and industrial” in his use of language; indeed, he fairly acknowledged that he had been less concerned about speaking in a politically correct manner than he should have been. He freely accepted that his use of language tended to conform with the norms of earlier years rather than the standards of today. He is aged 62.
32. Mr Yems categorically denied that he was in any way racist. He had worked throughout his football career with a great variety of people from differing ethnic backgrounds and cultures; indeed, he himself is from “travelling stock”, and his wife was born in London to an immigrant family. He considers that he

is open minded and welcoming to all from whatever background. With regard to the players who had complained of racist language, Mr Yems noted that none were a regular first team player; they tended to be in the “bomb(ed) squad”. He attributed their evidence to disappointment at not being selected by him to play for the Club team. Mr Yems answered each of the players who had given evidence as follows.

33. Player 1 had actually been signed by Mr Yems and was initially regarded by him as a decent player. But, after the pandemic he “fell off” - he did not work hard enough – and their relationship became very frosty. Mr Yems denied the alleged incident over darts and also denied having mispronounced with emphasis the second half of Arnold Schwarzenegger’s name. The statement of Joel Lynch was wrong to say that he had corrected Mr Yems over this mispronunciation. As for the alleged jerk chicken observations, Mr Yems explained that he had simply asked about jerk chicken because he thought that Player 1 came from the Peckham area and there is a very good jerk chicken restaurant in Peckham which Mr Yems himself frequents and likes.

34. Mr Yems said that he had a great relationship with Player 3; he really liked him and his agent. However, the player had eventually been suspended for “taking the mick” out of another player. Mr Yems noted that the player had plaits in his hair which, in Mr Yems’s view, prevented him from heading the ball. But, Mr Yems said that he had not made any jokes at all about Player 3 being a terrorist. Everything said by Player 3 about associating him with terrorism had been made up and was untrue. As for the supposed remark about beer and Allah not existing, he had certainly not said what was alleged. Indeed, he himself did not

drink, and he was a good friend of the CEO who was Turkish and a devout Muslim.

35. As for Player 4, again Mr Yems claimed to have had a great relationship with him. Indeed, he had stuck up for him when Erdem Konyar had wanted to get rid of him. It was quite possible that he had said what was alleged about curry pizza, although without any racist implication. Player 4 was not joining in the general good humour whilst the players were eating pizzas from their sponsor, Domino's Pizza; he was just teased in a friendly way by Mr Yems because he was in the habit of bringing his own food, M & S curries, to the Club rather than eating the Club food. But Mr Yems had certainly never called Player 4 a curry muncher.
36. Player 5 was a player who put on a lot of weight after Covid and was "not cutting the mustard". That was a shame. But it was the CEO, Erdem Konyar, who had suspended him rather than Mr Yems. There was no incident about stabbing fish, and Mr Yems had not said how dark Player 5's skin was when he returned from representing Grenada. Mr Yems said that in fact he recalled someone else making the remark about how dark Player 5's skin was. However, he declined to identify the individual in question.
37. As for the alleged remarks to Player 2 about jerk chicken, Mr Yems repeated what he had said in relation Mr Player 1. He knew that Player 2 had played for Dulwich Hamlet, which was in roughly the same area of London as Peckham, and so he assumed that Player 2 would be familiar with the well-known jerk chicken restaurant in Peckham. Mr Yems was simply engaging in friendly conversation with Player 2 without any overtones. He had been misinterpreted.

Unfortunately, Player 2 was another player who had not been the same player after Covid.

38. Mr Yems simply denied the more general allegations of mispronouncing both Arnold Schwarzenegger and niggles. It was either untrue or he had been misheard. Joel Lynch's statement was wrong about his having corrected Mr Yems over the mispronunciation.
39. Turning to his having said that black women were more aggressive than white women, Mr Yems admitted the Charge. The circumstances were that he had been asked by Joel Lynch to "wind up" Mark Marshall who had been proclaiming the difference between white women and black women. He had done what Joel Lynch had suggested and had entered into the fun. There was nothing more sinister than that.
40. As noted above, the other witness to give evidence for Mr Yems was Erdem Konyar. He did so by video link from Turkey. He was very complimentary about Mr Yems whom he had appointed. He noted that Mr Yems liked to get everyone laughing, but he never saw anyone in distress or unhappy over anything Mr Yems said. Some players were unhappy over not being selected, but that was different.
41. Mr Konyar was not familiar with the detail of the Charges, but he never heard Mr Yems saying anything racist or untoward. No player had ever complained to him, and he had heard nothing despite being a hands-on CEO who came to training every day and was often at the Club. It is right to say that Mr Konyar is Turkish and a devout Muslim. He would not have tolerated any racism at all.

42. Specifically, Mr Konyar addressed the allegation of Mr Yems having said to Mr Player 3 “fuck Allah” and “he does not exist”. Mr Konyar had certainly never heard anything like that despite having been at the end of season celebration at which this was supposedly said.

43. In his witness statement Mr Konyar discussed the various players at some length, but it is not necessary for present purposes to elaborate on that aspect of his evidence. It is sufficient to record that Mr Konyar had nothing but positive things to say about Mr Yems. He never heard him do or say anything racist or discriminatory. It was unimaginable that he would not have heard if there was such widespread racist language by Mr Yems as alleged. He was emphatic that it did not take place.

44. In addition to the oral evidence, reliance was placed on the contents of three statements from players and a statement by way of character evidence from Eddie Mitchell in an email sent by Brenda Mitchell. The three players who had given statements said that they had not witnessed any remarks of a racist nature by Mr Yems. This is apart from Joel Lynch mentioning in his statement that on one occasion he had commented to Mr Yems on his having mispronounced the name of Arnold Schwarzenegger in what might appear to be inappropriate.

SUBMISSIONS OF THE PARTIES

45. For the FA Mr Radstone firstly drew our attention to Rules E3.1 and E3.2 under which the Charges were brought. He then submitted that there were three important features of the evidence in this case. First, these were very specific factual allegations. Secondly, there was support among the witnesses for many

of the allegations; their accuracy did not only depend on the word of one individual. Thirdly, there was no motivation for any of the witnesses to be lying. Indeed, the fact of their evidence being measured was reflected in their not supporting the extreme segregation allegation which had been the subject of Charge 17.

46. Mr Radstone also invited us to bear in mind that there were aspects of the players' evidence which tallied with things Mr Yems himself said. For example, Mr Yems was concerned about what he termed canes in Player 3's hair and spoke about coloured people. Moreover, we were urged to bear in mind the statement of Joel Lynch, someone who was very sympathetic to Mr Yems, whose evidence was consistent with the allegation about mispronunciation of Arnold Schwarzenegger's name.

47. Mr Harris commenced his submissions on behalf of Mr Yems with some observations of a general nature. He asked us to remember that the fact of so many allegations does not mean that they are true. In his submission, this was a case where FA investigators, having themselves decided on Mr Yems's guilt, had demonstrated tunnel vision in blindly pursuing a case. Thus, other players could have been compelled as witnesses and would have been supportive of Mr Yems's case, but the FA did not call them or even interview them. There were two aspects of the case which we were particularly asked to bear in mind. First, Mr Yems was an "old school" type of manager who did not adopt politically correct language. Secondly, the players who had given evidence were antipathetic to Mr Yems because they were not selected by him for the Club team. This had unquestionably coloured their evidence.

48. Against the above background, Mr Harris made some specific submissions on each Charge as follows:-

Charge 1

We were asked to note the difference between the evidence of Player 1 and Player 2. The former had spoken of Mr Yems talking of Zulu warriors whereas the latter had made no mention of that.

Charge 2

It was most likely that Mr Yems had simply been misheard, and that was consistent with Joel Lynch's statement.

Charge 3

Mr Yems's questions about jerk chicken might be entirely innocuous. Context is critical. It was noteworthy that there were no complaints to Mr Konyar.

Charges 4-9

These Charges are denied in their entirety, and we were invited to find that Player 3 was an unreliable witness.

Charges 10-11

Charge 11 is wholly denied, and in relation to Charge 11 Mr Harris again submitted that context is all important. Player 4 was notoriously fond of curry, and there were no racial overtones about the remark in the factual context of Player 4 looking glum whilst the others were eating pizza.

Charge 12

It is notable that Player 2, although identified by name in Charge 12, in fact gave no evidence in support of the Charge.

Charge 13

This Charge is denied, and we were asked to note Mr Yems's evidence that it was someone else who said the words in question.

Charge 14

This is another jerk chicken allegation. The same points arise as in relation to Charge 3.

Charge 15

The same applies as in relation to the pronunciation of Arnold Schwarzenegger's name. There is obviously room for Mr Yems being misheard.

49. In conclusion, by way of general comment Mr Harris noted the complete absence of any complaint from Mr Alliston to either Mr Yems or Mr Konyar. This was inexplicable if remarks had been made by Mr Yems as Mr Alliston now said. Apart from his own evidence and that of Mr Konyar, there were two features which supported what Mr Yems says: first, he had readily admitted Charge 16 although it was no different in kind to the other Charges and, secondly, the most serious segregation allegation had had to be withdrawn.

DISCUSSION

50. Having heard Mr Yems give evidence, and in the light of the other evidence, we should like to make it clear at the outset that we are confident that Mr Yems as a person is not a racist. Nor did Mr Yems ever intend to make racist remarks. Nevertheless, it is how what he said from time to time would be perceived by those to whom it was addressed which is what matters rather than his subjective intent.
51. Certain aspects of this case stand out. Mr Yems is a man of jocular disposition. His aim is to encourage bonding among players by cracking jokes and joining in fun with them. He constantly sought to get a laugh from some, regardless of the effect of his words on others. Secondly, Mr Yems describes himself as "old school" and someone who is not concerned with the niceties of political

correctness. It is fair to say that he has no appreciation that much of the sort of language which might have been in common usage some 40 or 50 years ago has no place in modern society.

52. There was a considerable weight of evidence to the effect that Mr Yems was in the habit of, in his perception, cracking jokes which were perceived as racist by those who were the butt of the jokes. Probably, Mr Yems gave no thought at all to the effect of his language on those at whom the “jokes” were aimed. Nor did he give any thought at all to the likely reaction of others to the language he used.

53. In our view, Mr Yems was not deliberately lying in his evidence about not having said many of the things alleged. Indeed, he may well think that he did not in fact say what is alleged. In our view, he simply gave no thought at all to the effect of what he was saying from time to time. For him, there was nothing unusual or out of the ordinary in his language so as to make it memorable. Nevertheless, for those who were the butt of the comments the position was entirely different. We have already noted our finding that the players who gave evidence before us were impressive witnesses. We have no doubt that they were intending to tell us the truth, and we reject categorically the suggestion that any of them was lying. This is not to say that we accept every allegation made by a player as necessarily proved. As recorded in the decision letter, there were four of the Charges where we were not satisfied on the balance of probabilities, and it was right to give Mr Yems the benefit of a doubt. In light of the above, we now turn to address each of the Charges and our specific findings on each Charge.

54. *Charge 1*

Both Player 1 and Player 2 gave evidence relevant to this Charge about them, as of African stock, being more used to blowpipes than a game of darts. If what is alleged was said by Mr Yems, albeit jokingly, it was undoubtedly a racist and insulting comment. There were two minor differences between the evidence of the two players. The dates which they gave for the incident differed. Furthermore, Player 2 made no mention of Mr Yems referring to Zulu warriors. However, it is hardly surprising that there are minor differences in recollection about an event of some time ago. We were impressed by the evidence of Player 1. It seemed to us that this was exactly the kind of so-called joke which fitted with the general picture of the character of Mr Yems as portrayed in the evidence. Despite the minor divergences of Player 2, we were on balance satisfied that this Charge was made out.

55. *Charge 2*

This Charge concerned the apparently deliberate mispronunciation of the second half of Arnold Schwarzenegger's name. There is obvious room for the possibility of someone being misheard. But what we heard about Mr Yems laughing is not consistent with some mistake. Furthermore, we noted the written statement from Joel Lynch, a player who was close to Mr Yems. This statement also supports the Charge. Despite Mr Yems's denial, we find that this allegation is made out.

56. *Charge 3*

This Charge concerned Mr Yems repeatedly asking Player 1 if he had had jerk chicken for dinner. We agree with Mr Harris that context is critical. In the abstract, the bare question whether jerk chicken had been eaten for dinner might

carry no racial stereotyping overtones. However, we accepted the evidence of Player 1 that Mr Yems carried on asking him about eating jerk dinner despite being told that Player 1 was African, not Jamaican, and Africans do not eat jerk chicken. We were of the view that Mr Yems's explanation about a Peckham restaurant renowned for its jerk chicken was rather contrived. In our view, this was an example of racial stereotyping by Yems and we found this Charge proved.

57. *Charge 4*

This Charge concerned Mr Yems saying to Player 3 that he could not have a vest because "your people blow up stuff with vests". It is notable that the witness statement of Player 3 himself makes no mention of this incident, even though in oral evidence Player 3 said that he was 100% sure that it had occurred. The evidence of Player 1 about this occurrence was, however, clear, and we accepted it. We found Charge 4 to be established. Again, this Charge was consistent with the kind of "jokes" that Mr Yems used to make at Player 3's expense.

58. *Charge 5*

There is a misprint in the Charge letter in that Charge 5 should refer to Iraq rather than Iran. Apart from that minor point, we were quite satisfied that what is alleged in Charge 5 did occur. The weight of the evidence clearly supports it. Not only Player 3 but also both Player 1 (witness statement paragraph 22) and Player 5 (witness statement paragraph 36) confirmed that it happened as alleged, Unless the witnesses put their heads together to invent a case, which we entirely reject, it happened as alleged. We cannot accept Mr Yems's view that this is "bullshit".

59. *Charge 6*

This allegation is different in kind from the other allegations about things said about Player 3. It could not have been some misplaced attempt at a joke. If Mr Yems did in fact say what is alleged, it would have been a truly shocking thing to say. Given the gravity of the allegation, we looked for cogent evidence whilst bearing in mind the civil standard of proof. Whilst Player 3's evidence was clear, there was a lack of other evidence. Player 5 was supposedly present but did not mention the incident in his evidence. Given this, together with the fact that Mr Yems himself apparently does not drink and that the CEO, Mr Yems's friend and a devout Muslim, would have been in close proximity, we gave Mr Yems the benefit of the doubt. The Charge was not established.

60. *Charge 7*

The allegation is that Mr Yems started to talk in the changing room about Player 3 blowing up the stadium with C4. No witness other than Player 3 makes this allegation despite his saying that the statement was made to other people present. Player 3 also says that it was witnessed by three other named players. Yet, none was called to give corroborative evidence. We have no doubt that Player 3 was trying to recollect events truthfully in his evidence. Nevertheless, we felt that there was sufficient uncertainty as to entitle Mr Yems to dismissal of the Charge.

61. *Charge 8*

The weight of the evidence was certainly that Mr Yems used to make comments about Player 3 carrying a bomb in his bag. It was not only the latter's evidence. Player 5 confirmed that it was said on more than one occasion. Importantly, Mr Alliston, the Club chaplain, also told us how he had heard Mr Yems say it. We were confident that Mr Yems did make this misplaced joke, and we found the Charge proved.

62. *Charge 9*

This Charge concerns a joke similar in kind to that in Charge 8. Player 3 was firm about being asked if he slept next to an AK47. It is again the sort of “joke” that Mr Yems would commonly make. We found the Charge established.

63. *Charge 10*

We agree with Mr Harris that to ask if Player 4 was unhappy about there being no curry pizza could be innocuous, particularly where Player 4 was well known to be especially fond of curry. On the other hand, it could be an example of Asian stereotyping. Context is important. We were impressed by the evidence of Player 4 about this. We also noted that in his interview with Mr Williamson of the FA Player 1 told how Mark Marshall and another player said that Mr Yems had gone too far with this comment. We also noted that Mr Yems clearly regretted what he had said. He apologised to Player 4. He also rang Chris Ramsey of QPR, from whom Player 4 was on loan, to tell him about the incident. We decided that on balance this remark was Asian stereotyping by Mr Yems and found the Charge proved.

64. *Charge 11*

We were quite satisfied, despite Mr Yems’s denial, that Mr Yems did refer to Player 4 as a curry muncher. The evidence from Player 4 himself was clear. Moreover, Mr Alliston confirmed hearing Mr Yems call Player 4 a curry muncher. Also, Player 1 gave added confirmation both in his interview with Mr Williamson of the FA and in his witness statement before us. This was an offensive name to call Player 4. We found this Charge proved.

65. *Charge 12*

The allegation is that Mr Yems asked two black players, Player 5 and Player 2, if they went fishing; he then said that he understood that they would not, since they would stab all the fish in the pond. Player 5 did give evidence about this incident. However, Player 2 made no mention of it. Also, Player 2 very fairly said that Mr Yems would refrain from making jokes in his presence because he knew what Player 2's reaction would be. We were in some uncertainty over this allegation, and on balance we decided that this Charge was not proved.

66. *Charge 13*

Player 5 gave clear evidence about Mr Yems once saying "Look how dark his skin is" on his return to the Club after representing Grenada. Mr Yems in fact agrees that this was said, although his evidence was that it was someone else saying it. In evidence, Mr Yems refused to identify the individual who had made this racist remark. This was certainly unsatisfactory. We found that it was likely to have been Mr Yems himself who made the offensive remark.

67. *Charge 14*

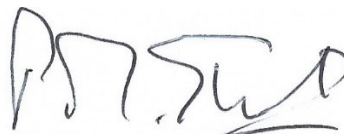
This Charge is very similar to Charge 3 except that questions about jerk chicken were also said to have been addressed to Player 2 as well as Player 1. We found this Charge proved for similar reasons as we found Charge 3 proved. It was racial stereotyping by Mr Yems despite being repeatedly told by Player 2 that he came from East London.

68. *Charge 15*

Player 1 was the only witness to give evidence about an apparently deliberate mispronunciation of the word niggles by Mr Yems at a team meeting. If this did happen, it would have been consistent with the mispronunciation of Arnold Schwarzenegger's name. However, there is obvious scope for mishearing. Furthermore, initially Player 1 himself actually wondered if he had heard Mr Yems correctly. We decided that there was sufficient doubt as to entitle Mr Yems to a finding that the Charge was not established.

CONCLUSION

69. In summary, we found 11 of the 15 extant Charges to have been established on the balance of probabilities. Of the other two Charges, as noted above, one had been admitted and the other withdrawn. As requested by the parties, we will consider the question of sanction after hearing their representations. We have already made directions about the service of written submissions on sanction, and we await the representations of the parties as to whether an oral hearing on sanction is required.



Chairman on behalf of the Disciplinary Commission

London, 25 November 2022