

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

VINCENT KOMPANY

WRITTEN REASONS AND DECISION OF
THE INDEPENDENT REGULATORY COMMISSION FOLLOWING THE
HEARING
ON 10 APRIL 2024

Background

1. These are the written reasons and decisions made by an Independent Regulatory Commission which sat by Microsoft Team video link on 10 April 2024 to consider the charge against Vincent Kompany (“VK”), Manager at Burnley Football Club.
2. The Regulatory Commission members were Jonathan Rennie, Chairperson and Independent Legal Panel Member, Faye White, Independent Football Panel Member and Udo Onwere, Independent Football Panel Member.
3. Mr Michael O’Connor, The FA Judicial Services Assistant Manager acted as Secretary to the Regulatory Commission.
4. By letter dated 2 April 2024, The Football Association (“The FA”) charged VK with misconduct for a breach of The FA Rules pursuant to Rule E3.1 in respect of the Premier League fixture between Chelsea FC and Burnley FC on 30 March 2024.
5. It was alleged that in or around the 40th minute of the fixture that VK’s language and/or behaviour was improper and/or abusive and/or insulting towards a match official and/or questioned the integrity of a match official. The case was designated as a Non-Standard case due to the repetitive nature of the reported misconduct.

Rules

6. FA Rule E3.1 states 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.”

Evidence

7. The FA included the following evidence to the Commission together with the Charge:
 - (1) Dismissal Report of the Match Referee, Mr D England dated 31 March 2024;
 - (2) Report of the Match Referee, Mr D England dated 31 March 2024;
 - (3) Interim Match Report submitted by Peter Vincenti, dated 31 March 2024;
 - (4) Report of the Fourth Official, Mr J Bell dated 31 March 2024;
 - (5) Two video clips of the incidents;
 - (6) Burnley FC letter dated 5 April 2024 with enclosures;
 - (7) Participant Behaviour Letter – Season 2023/24;
 - (8) Appendix 2 – Guidance Document for technical area dismissals, touchline suspensions and ground suspensions – Season 2023/24;
8. The Match Referee Mr England stated, in his Extraordinary Incident Report Form dated 30 March 2024–

"After sending off Vincent Kompany from his technical area he had to be reminded by the 4th official James Bell to leave the technical area on a few occasions. He then left."

9. The Match Referee Mr England stated, in his Official Report Form for Referees dated 30 March 2024:

"After awarding a penalty to Chelsea and sending off the away 20 for a second yellow card in the 40th minute of the game, my 4th official James Bell advised me that I need to Stage 2 the Burnley Manager Vincent Kompany for using offensive language after he called me a "fucking cheat" multiple times. As I approached Mr Kompany to explain why he was being dismissed he continued to call me a "fucking cheat" as I was in the process of showing him the red card."

10. The Assistant Referee Mr James Bell stated, in his Extraordinary Incident Report Form dated 30 March 2024:

"Following the award of a penalty to Chelsea in the 40th minute the Burnley Manager (Vincent Kompany) reacted angrily by moving out of his technical area throwing his arms aggressively and shouting at the referee."

As the decision was being checked I attempted to use members of his own technical area staff to calm him down but Mr Kompany persisted to insult the referee by pointing towards him and calling him "a fucking cheat" numerous times. Despite the attempts to calm him down Mr Kompany then entered the field of play, briefly, again gesturing towards the referee and shouting "you're a fucking cheat."

I informed the referee (Darren England) that a Stage 2 (red card) sanction was required for the Burnley manager. As Darren came over to issue the red card Mr Kompany again said, "fucking cheat."

After his sending off Mr Kompany remained in the technical area for some time causing a delay to the re-start of the game before he eventually made his way down the tunnel."

Reply to the Charge

11. The Charge was admitted by VK in a Disciplinary Proceedings Reply Form dated 5 April 2024. VK requested a personal hearing to attend the Commission and explain his position. Burnley FC had also written to the FA on 5 April 2024 and enclosed various appendices including VK's statement in response to the charges and the Premier League Key match incidents reporting and extracts of apologetic comments made by VK to the media before the subsequent next fixtures the club participated in.

The Personal Hearing

12. VK was represented by his solicitor, Deirdre McCarthy of Centrefield LLP whilst the FA were represented by Rebecca Turner, Regulatory Advocate.

13. The Hearing proceeded to hear from VK and his representative. The representative wanted to outline the factual context to VK's admitted outbursts and to expand upon the written submissions provided by the Club.
14. It was explained that VK was not in attendance at the personal hearing to justify his behaviour and rather he wanted to take the opportunity to apologise personally. VK's solicitor explained that the incident in question was very out of character for VK and that the "red mist" had overtaken him and he responded emotionally to what he considered to be incorrect decisions made by the Match Referee.
15. The Commission were directed to the Premier League Match Incidents report for Match Round 30. In respect of the 40th minute incident, the report noted the decision to award a penalty as being incorrect and a "*clear and obvious error*" and that the dismissal decision was also "*incorrect*". The point proposed by VK's solicitor was that because the decisions from the Match Referee appeared to be incorrect that went some way to explaining why VK felt so aggrieved and that his outbursts were then more explainable.
16. It was argued on VK's behalf that at this key stage of the season incorrect decisions can potentially have enormous consequences for the club in the relegation zone. The Club correspondence detailed that "*Retaining Premier League status is our highest priority at the moment in order to safeguard a more robust future for our players and staff at every level of the Club... Whilst we do not want to make excuses for the language used, it is certain that the intense pressure which Mr Kompany is under at this point in the season will have contributed to his outburst at Mr England after the decisions he made following Lorenz's tackle on MM.*"
17. The Commission were further asked to have regard to the Interim Match report dated 31 March 2024. The text of that report is self-explanatory and reads:

"Burnley Manager Vincent Kompany accompanied by Club Secretary Matthew Williams visited the officials room after the final whistle. He also engaged in conversation with the referee in respect of the decision made on the day and furthermore some which had gone against his team in previous fixtures. It should be noted that Vincent Kompany was apologetic in regards to his comment made, accepting the referee's decision and was extremely respectful during this interaction with the officials."

It was suggested that VK very quickly calmed down and then spoke to the Match Referee as soon as he could to apologise and to try and redeem the situation.
18. The Commission then heard directly from VK. He said that it was easy for him to apologise for using the expression "*fucking cheat*" because he did not believe in the term used. Rather he had felt a sense of injustice in that moment and not expressed himself in the correct manner. He explained that "*in the moment*" his emotional overload was such that he reacted in the wrong way. He set high standards for himself and felt that over the course of the season there had been a compounding effect of poor decisions that caused him to suddenly and temporarily lose control.

19. VK believed that he had been a positive role model for 11 years during his time as a player and as club captain of Manchester City FC and he had encouraged his teams to be respectful of referees. He said that he only realised the impact of his words after the outburst and that the word “cheat” would have a significant impact on the Match Referee and was effectively questioning his integrity. VK said he did not mean the term in that fashion. He did not believe the referee had deliberately intended to make a bad decision or that he had bad intent.
20. VK said that he believed match refereeing had been poor this season and he would value a more constructive dialogue around that and he wanted to be part of the solution rather than part of the problem. He reminded the Commission that he apologised for both what he said and the manner in which he said it.
21. The Commission were then taken by VK’s solicitor to two extracts from the pre-match press conference comments made by VK on 1 April 2024 before the Burnley FC game against Wolverhampton Wanderers that was due to be played the following day:
- “Obviously, I slightly disagreed with the fouled decision. I think after the game it’s important to say I did go in to see the officials and apologise about the choice of words. Definitely also my intention was not to say, at all, or to suggest, that an official would get into his car on the day of the game and come to the game with the intention to referee against the team.”*
22. The Commission were also taken to the extracts from post-match press conference comments made by VK on 2 April 2024 after the Burnley FC game against Wolverhampton Wanderers:
- “Rewind to the phase where we concede the set play and you’ll notice how calm I stayed, right? Probably that’s the way I should have expressed it last time against Chelsea. There is absolutely no excuse for the way I expressed it at that time. I just beg you to understand the frustration that’s all. It’s just too many times. If you know how many points it’s cost us this season – you’d be writing praises beyond if it hadn’t happened that way.”*
23. VK’s solicitor said that these comments supported the proposition that VK was remorseful and apologetic and that he addressed his apology widely in the media. It was also argued that VK did not mean his choice of words “fucking cheat” although no explanation was provided as to exactly what other meaning those words might have.
24. VK’s solicitor said that he had been punished enough by reason of his sending off and missing the second half of the game in question. It was also proposed that because the express language of “fucking cheat” had not been publicised in the media then there was limited damage to the integrity of the game as there were currently no headlines around the precise language used. His solicitor reminded the Commission of VK’s exemplary disciplinary record to date.
25. The FA’s Regulatory Advocate asked VK if he accepted using the alleged language on multiple times and he confirmed that he agreed with that. VK was also asked if he had

read the Participant Charter and the sections on behaviour in the technical area and he said that he had. However, at the same time he indicated that he did not need the Charter because he set very high standards for himself and recognised the need for better behaviour.

26. VK's solicitor provided submissions on the charge. She argued that this ought not to be a Non- Standard case and rather it ought to be viewed as a single incident and therefore should have been categorised as a Standard case. The Standard penalty in that event would be a 1 match touchline ban and a fine of £8,000 and that ought to be the territory for the sanction. It was argued that the mitigation in favour of VK included:
- a. He admitted the Charge
 - b. His apology and the fact he did that as soon as he could and via the media also;
 - c. His attendance at a personal hearing which showed his commitment to apologising in person;
 - d. That the Match Referee had made errors and that was objective fact;
 - e. VK's exemplary disciplinary record; and
 - f. The media had not published the comments and so they were not widely in circulation.
27. VK's solicitor provided case authorities for the Commission to consider and they were i) FA v Joseph Barton, 25 February 2020 and ii) FA v Mauricio Pochettino, 4 March 2019 and iii) FA v Steven Reid, 20 March 2024. The Commission listened to the distinguishing features of each of those cases and how they might be the same as or different from the instant case in terms of sanction.
28. The Commission heard from the FA Regulatory Advocate who submitted that there was a persistent and repeated abuse of the referee and that had been admitted by VK. This was more than a single outburst and merited the designation as a Non-Standard case. The language did call into question the integrity of the referee and that as VK was in a high profile position as a manager he ought then to have been acting as a better role model for his club and players.
29. It was helpfully pointed out by the FA Regulatory Advocate that the Premier League Match Incidents report VK was referring to was in fact published after the match and he would not at the time of the incident have known the Premier League's view. It was further proposed that VK's personal attendance ought not to count as mitigation as otherwise there would never be any paper hearings if additional favourable weight is provided to those that make the time to attend. Also, the point was made that whether the media picked up the comments or not was irrelevant as that was not within the control of VK and so not linked to his actual admitted conduct. The aggravating features were therefore the repetitive abusive language and the questioning of referee integrity by a high profile Premier League Manager.

Sanction

30. The Charge having been admitted and the Commission having heard from VK personally then the Commission was required to weigh up the mitigation presented and compare to any aggravating features of the Charge.
31. 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 of a point, or submission, in these reasons should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all written and video evidence in respect of this case.
32. It was suggested that the misapplication of the laws of the game by the referee contributed to VK's outbursts. Whilst the Regulatory Commission fully understand the context and the impact of debatable referee decisions, it is not uncommon for there to be disputed decisions and this cannot be seen as legitimising participant misconduct.
33. VK admitted the language he used and accepted that it was directed to the referee and that he used it on multiple occasions. In his own words at the Disciplinary Commission he was "emotionally out of control" and "could not remember if I said the words once or five times." The Commission formed a literal plain reading of the words "fucking cheat" and did not accept that there could be an alternative interpretation to the expression when it had been used on multiple occasions.
34. The Commission appreciated VK attending the Hearing and providing his version of events. That was not a mitigating factor of itself. It was helpful to hear his personal apology and to have the factual context of the incident in question. The apology appeared genuine and was offered on multiple occasions after the incident.
35. The Commission did not agree that the fact the comments had not been reported in the mainstream media was relevant at all. That was not in the control of VK and did not alter his admitted offending behaviour. That was not a mitigating factor.
36. The Commission noted that the Standard penalty for this charge within the Premier League would be a 1 match touchline ban and a fine of £8,000. This case was designated as Non-Standard and the Commission proceeded accordingly to exercise its discretion on sanction. Given the admitted repetitive nature of the breach then the Commission agreed with the case classification.
37. Whilst the Commission were provided with case authorities by VK and Burnley FC that were said to be analogous to the current case, these are distinguishable and the Commission are not bound by precedent in the instant case. That is particularly so when the Participant Charter for season 2023/24 sets out a new set of guiding principles for technical area participants and was not in existence previously. As the game evolves and new measures are introduced to protect match officials then naturally the

Commission are required to look at the set of facts as presented uniquely within each new case.

38. The Regulatory Commission noted that VK had no previous disciplinary record before the FA in each of the preceding 5 seasons and this was the first occasion he had appeared before a Commission.
39. VK evidently did feel remorseful about his emotional outbursts which did appear out of character. His multiple apologies at the earliest opportunity were considered to be the strongest mitigating factors together with his clean disciplinary record. Nonetheless he is a high profile manager that has admitted using the language of cheating against a referee on multiple occasions.

Conclusion

40. The Regulatory Commission is aware that the clubs have been issued with the Participant Charter for the season 2023/24 and that this sets out the principles of good conduct in the game and highlights the desire to provide referees with additional support and protections and for them to be treated with respect.
41. The Regulatory Commission, having carefully considered the Regulations and the mitigating factors, have imposed the following sanctions:
 - a. VK be fined the sum of £10,000 and be subjected to a touchline ban for a period of 2 games with one of those banned games suspended provided VK does not appear before the FA for a similar offence before 31 December 2024.
42. The Regulatory Commission takes this opportunity to remind VK and Burnley FC that the terms of the Participant Charter apply to technical area staff and that it is expected that they familiarise themselves with those principles and abide by them in their future conduct.

“As per paragraphs 43 and 44 of the General Provisions of the Disciplinary Regulations, the Commission decided there were “clear and compelling reasons” for the suspended element of the sanction being that VK specifically committed to enter into more constructive dialogue with referees on how to work together and said that he wanted to be “part of the solution” rather than the problem. It is therefore anticipated that VK has the opportunity to rectify his behaviour and to better work with match officials over the suspended period and if he does not do that then the additional match ban becomes effective.”

Appeal

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

Jonathan Rennie, Chairman and Independent Legal Panel Member

Udo Onwere, Independent Football Panel Member

Faye White, Independent Football Panel Member