

FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

AMATEUR FOOTBALL ALLIANCE

V

AARON MCELWEE

Case ID: 10820962M

WRITTEN REASONS

Background and Chronology

1. The Football Association convened a Disciplinary Commission (“the Commission”) on behalf of the Amateur Football Alliance on Wednesday 13 July at 6.30pm to adjudicate upon disciplinary charges levied against Aaron McElwee.
2. The Commission Members were Yunus Lunat (Independent Chairman of the FA National Serious Cases Panel), Colin Muncie and Kristian Jones (both Independent members of the FA National Serious Cases Panel). Vicky Collins of the Staffordshire FA acted as secretary to the Commission.
3. The charges arose out of a match played on 23 April 2022 between Old Garchonians St. James’ Old Boys Reserves in the Southern Amateur League.
4. It was reported by the referee Jason Kilby that in the 43rd minute he dismissed Aaron for shouting “*you fucking spastic*” at an opposition player in a loud and aggressive manner.
5. By letter dated 01 June 2022 Aaron McElwee was charged with the following offences:
Charge 1: - FA Rule E3 – Improper conduct (including foul and abusive language)

Charge 2: - FA Rule E3.2 – Improper conduct aggravated by a person’s ethnic origin, race, nationality, faith, gender, sexual orientation or disability.

6. The player had filed a response to the charges pleading guilty and requesting a personal hearing for a plea of mitigation before a Commission to determine sanction.
7. A remote hearing was arranged in view of the Covid 19 pandemic. The player was accompanied by his club discipline manager Josh Emmett at the hearing.
8. The following is a summary of the principal issues and matters considered. It does not purport to contain reference to all the issues or matters considered, and the absence in these reasons of reference to any particular point or submission made by any party should not be read as implying that it was not taken into consideration. For the avoidance of doubt, all the evidence and materials furnished was taken into consideration.
9. **The Relevant FA Rules:**

Rule E3.1 provides 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.

Rule E3.2 provides for:

“Improper conduct, aggravated by 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.”

Appendix 1 Part A of the FA Disciplinary Regulations stipulate:

Where a Participant commits an Aggravated Breach a Regulatory Commission shall impose an immediate suspension of between six and twelve matches on that Participant. The Regulatory Commission may impose a suspension in excess of twelve matches where aggravating factors of significant number or weight are present.

A Participant who commits an Aggravated Breach shall be subject to an education programme, the details of which will be provided to the Participant by The Association;

A Regulatory Commission may impose a financial penalty or any other sanction that it considers appropriate as provided by paragraph 40 of Part A of the Disciplinary Regulations.

The Evidence

10. The Commission had been provided with a bundle of evidence containing witness statements prior to the hearing which the Commission confirms it had read and considered in advance.

Sanction

11. As the charges had been admitted the Commission was informed of the player's previous disciplinary record over the past five seasons which was a clear record.
12. The Commission heard a plea of mitigation from the player, who expressed sincere remorse and showed insight. He explained that it was an impulsive comment in response to having his jersey pulled.
13. Reference was made to all of the FA rules including the Disciplinary Regulations and Sanction Guidelines in arriving at the sanction disciplinary sanction.
14. The following sanctions were imposed:
 - (i) Aaron McElwee will be suspended from all football for 6 matches.
 - (ii) He will pay a fine of £75.00.
 - (iii) He will complete an FA Equality Education Course online which must be undertaken and completed before the end of the match-based suspension failing which he will be suspended until such time as he has completed the Education Course.
 - (iv) St. James' Old Boys will be subjected to 6 disciplinary points.

15. There is a right of appeal in accordance with the FA Regulations.

13 July 2022

Yunus Lunat (Independent Chairman)

Kristian Jones

Colin Muncie