

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIRMAN SITTING ALONE

on behalf of Amateur Football Alliance

CORRESPONDENCE HEARING

of

MARC COTTRELL

CARSHALTON

[Case ID:11208421M]

and

CARSHALTON

[Case ID:11208321M]

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. On 11th February 2023, Carshalton (“the Club”) played a fixture against Old Blues Thirds (“Old Blues”) – collectively the “Match”.
2. Old Blues, reported the conduct of Mr Marc Cottrell (“MC”) a Club player and the Club.
3. The Amateur Football Alliance (“Amateur FA”) investigated the reported incidents.

The Charge

4. On 5th April 2023, Amateur FA charged MC:
 - 4.1. with misconduct for a breach of FA Rule E3 - Improper Conduct (including foul and abusive language)

and/or
 - 4.2. with misconduct for a breach of FA Rule E3.2 - Improper Conduct – aggravated by a persons Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability in that it is alleged that Marc Cottrell used abusive and/or indecent and/or insulting language contrary to FA Rule E3.1, and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to Ethnic Origin and/or Colour and/or Race and/or Nationality. This refers to the comments “fucking big nose” and/or “nose” or similar.
5. On 5th April 2023, Amateur FA charged the Club:
 - 5.1. with misconduct for a breach of FA Rule E21 – Failed to ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers), conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to FA Rule E21.1. It is further alleged that the words and/or behaviour made reference to Ethnic Origin and/or Colour and/or Nationality contrary to FA Rule E21.4. This refers to the comments “this is what happens when you come to England” or similar and/or “go back to your own country” or similar.

6. The relevant section of FA Rule E3 states:

“E3.1 A Participant shall at all times act in the best interest 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.”

And E3.2 provides that 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.*

7. Further, in respect of the Club, the relevant section of FA Rule E21 states:

“E21 A Club must ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match and do not:

E21.1 use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative;

E21.2 throw missiles or other potentially harmful or dangerous objects at or on to the pitch;

E21.3 encroach on to the pitch or commit any form of pitch incursion;

E21.4 conduct themselves in a manner prohibited by paragraph E21.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.

8. The Amateur FA included with the charge letters the evidence that it intended to rely on in these cases which are being heard as a consolidated matter pursuant to Reg 13 of FA Disciplinary Regulations which provides that “where the subject matter of or facts relating to a Charge or Charges against one or more Participant(s) is sufficiently linked...The Association...shall have the power to consolidate proceedings so that they are conducted together...”.
9. MC and the Club were required to respond to their respective charges by 19th April 2023.

The Reply

10. On 19th April 2023, MC responded to the charge via the Whole Game System, denying the same and he requested the case to be dealt with in his absence at a Correspondence Hearing.
11. On 19th April 2023, the Club responded to the charge via the Whole Game System, denying the same and they requested the case to be dealt with in their absence at a Correspondence Hearing.

The Commission

12. The Football Association (“The FA”) appointed me, Karen Hall, as a Chairman member of National Serious Case Panel, to this Discipline Commission as the Chairman Sitting Alone to adjudicate in these cases.

The Hearing & Evidence

13. I adjudicated these cases on 27th April 2023 as a Consolidated Correspondence Hearing (the “Hearing”).
14. I had received and read the bundle of documents prior to the Hearing.
15. The following is a summary of the principal submissions provided to me. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that I did not take such point, or submission, into consideration when I determined the matter. For the avoidance of doubt, I have carefully considered all the evidence and materials furnished with regard to these cases.
16. Mr Dominic Roberts, from Old Blues provided an email Report dated 16th February 2023 in which he described the Match and enclosed 2 other Statements.
17. The 1st of these was from Mr Ben Capon who stated that it was a “man from the Carshalton crowd stood on the sidelines...” who in response to their goalkeeper nearly dropping the ball said “that’s what happens when you come to our country, take your family and go back to your own country”.
18. The 2nd was from Mr Campbell Docherty who stated that their goalkeeper had “been taking stick all game, they were calling him shit and talking about the size of his nose”. He goes on to say that he thinks the goalkeeper made a save and then someone from the side lines started

shouting “this is what happens when you come to England” and “you should go back to your own country”.

19. In addition, Mr Alex Gibson, Old Blues Captain, stated that the goalkeeper was being called “big nose” through the Match.
20. Mr Gibson then provided a formal undated Statement in which stated that during the Match there were the usual “verbals” directed at the goalkeeper but there were several comments about the size of his nose. An Old Blues player challenged the player who made those but the insults continued. Mr Gibson states that it was the Club Number 7 who was challenged.
21. The Match Official, Mr Deen Olugunna, provided a Report dated 17th February 2023 in which he stated that at half time in the Match an Old Blues player advised him of derogatory comments being made by some of the Club players, though he did not point out any players in particular. Mr Olugunna asked him to wait until the end of the Match to discuss it further. At that point he said that the goalkeeper had been called “nose” referencing his middle eastern origin. The Referee had not heard any such comments. He noted that the person who had made the comments could not be identified. In response to further questions posed by the Amateur FA, Mr Olugunna stated that he was not aware of any abuse by the Club supporters.
22. Mr Jack Pannett, an Old Blues player, provided an undated Statement in which he states that throughout the Match the goalkeeper was referred to as “nose”. He states that this was “mostly” by the Club number 7 but a centre half too.
23. Mr Remi Olokun, an Old Blues player, provided an undated Statement in which he states that he spoke to the Referee at half time in the Match regarding the comments about the goalkeepers nose. The Referee stated that he hadn’t heard the comments and when they spoke again after the Match the Referee said that he would report the comments.
24. Mr Emmanuel Antwi-Bawuah, an Old Blues player, provided an undated Statement in which he states that from the first whistle the Club number 7 was making comments. In particular he called the goalkeeper “nose” at every corner. Mr Antwi-Bawuah states that he spoke to the Club Number 7 and said “nah don’t do that it’s too far”, to which he replied “what mate” and he said “you wouldn’t dare say it if he was black”. The Number 7 said “Ahhh don’t pull that card mate, we’re just stating a fact. He has a fucking big nose” and he responded and said “Bro just play football. No need for that” and the Number 7 said “What mate, it’s true look at him he has a big nose”.
25. Mr Michael Akuwanu, an Old Blues player, provided an undated Statement, in which he states that the Club were the “mouthiest team” he had come across and in particular they referred to the goalkeeper’s nose. They mentioned this to the Referee at half time who said that he would address it at full time. During the second half they again mentioned the comments to the Referee who told everyone to “cut it out”.
26. Mr Roberts also included a Statement from the goalkeeper, Barbod, who stated that from the beginning of the Match they started on him saying “go back to your country. What are you doing here”.
27. MC was identified as the Club number 7 after a number of photographs were provided to Old Blues.
28. In response to be made aware of the allegations against him, MC stated that he did not remember anything being said of a racial nature through the Match and that the Referee did not

speak to him about anything having been reported. In response to the Charge MC provided a Statement in which he noted that he was not identified as having said anything to the Referee during the Match nor was he identified until his photo was pointed out.

29. In response to the charge, the Club state that they can not manage external spectators who come to watch games, although they do have a large number of staff/volunteers who do so. They note that the Referee did not take this matter up with them or if Old Blues had, they would have dealt with the matter.

30. That concluded relevant evidence in this case.

Standard of Proof

31. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, I would be satisfied that an event occurred if I considered that, on the evidence, it was more likely than not to have happened.

The Findings & Decision

32. In respect of MC and the Club, both had denied the charges.

33. In respect of MC, the evidence despite MC's assertion to the contrary, is that the Club number 7 used the phrase "nose" to refer to the Old Blues goalkeeper. The Referee confirms that derogatory language was pointed out to him at half time and I must express my disappointment that he did not address it at this point, instead waiting until full time, when he said there wasn't much he could do except report it to the league. MC is correct that he was identified by his photograph but that is after he was identified by shirt number and the team sheet did not have numbers on it. Mr Antwi-Bawuah provided detailed evidence of a conversation with MC. I note that he does not deny this taking place. I found that the evidence from Old Blues is entirely corroborated. Therefore, in respect of the allegation that MC was guilty of improper conduct, including foul and abusive language and that in addition this was aggravated by a person's Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Gender Reassignment, Sexual Orientation or Disability in that he said "fucking big nose" and/or "nose", I found that the Charge was PROVEN.

34. In respect of the Club, on the basis on the evidence above in particular that of Mr Capon and Mr Docherty who were clear in what they heard from the side line, both corroborating the comments alleged, the charge of misconduct for a breach of FA Rule E21 – Failed to ensure Spectators conducted themselves in an orderly fashion, I find the charge PROVEN.

Previous Disciplinary Record

35. After finding the charges proven, I sought the participants offence history. I note that MC has no previous misconduct charges in the preceding five years. I note a dismissal for violent conduct in January 2020. In respect of the Club, there are no proven misconduct charges in the preceding five years.

Mitigation

36. Within the bundle there was no mitigation from MC or the Club.

The Sanction

37. In respect of MC, the relevant FA Disciplinary Regulations on sanction states that the guidelines for a breach of FA Rule E3.2 is a sanctioning range of a suspension of between 6-12 matches

where 6 matches is the standard minimum. A participant found to have committed an aggravated breach will be the subject of an education programme in addition.

38. After taking into account the facts of this case I note that MC made a number of comments for which he has made no apology nor shown any remorse. I also note his previous disciplinary record, both of which I found to be aggravating factors. In this case, I found it necessary to deviate from the minimum sanction.
39. After taking into consideration all circumstances in this case, Mr Cottrell is:
 - 39.1. to serve an immediate suspension from all football and football activities for 7 (seven) matches.
 - 39.2. to satisfactorily complete an online mandatory education programme before the match-based suspension is served, or Mr Cottrell be suspended until such time he successfully completes the online mandatory education programme, the details of which will be provided to him; and
 - 39.3. 7 (seven) Club Disciplinary Points to be recorded.
40. In respect of the Club, the relevant FA Disciplinary Regulations on sanction states that the guidelines for a breach of FA Rule E21 is a fine between £0 - £300.
41. After taking into consideration all circumstances in this case, in particular the comments towards the goalkeeper and noting the previous disciplinary record, the Club is:
 - 41.1. fined a sum of £130 (one hundred and thirty pounds);
42. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Karen Hall F.C.Inst.L.Ex (Chairman)

27th April 2023