

NATIONAL COUNTY FOOTBALL ASSOCIATION SERIOUS
CASE PANEL

On behalf of the Amateur Football Alliance

Personal Hearing

of

Mark GROVE [64385716]

Case ID: 10953050M

THE DECISION AND REASONS OF THE COMMISSION

Introduction/Background

1. On 8 October 2022, Civil Service Reserves FC played Nottsborough Reserves FC in the SAL Intermediate Division, held at the King's House Sports Ground, (collectively 'the match').
2. On 8 October 2022 Steve Evison, the club secretary of Civil Service FC, submitted a report to the Amateur Football Alliance ('Amateur FA') alleging misconduct.

The Charges

3. On 19 October 2022, the Amateur FA charged Mark Grove ("MG"), the coach of Nottsborough FC, with Misconduct for a breach of FA Rule E3 – Improper Conduct (including foul and abusive language) ("charge 1") and that this Improper Conduct was aggravated by a person's Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability, contrary to FA Rule E3.2 ("charge 2") [Charge 1 and 2 collectively known as "Aggravated Breach Charge"].
4. The FA Rules of the Association are contained in The FA Handbook Season 2022-23 at page 141. Rule E3 states:

E3.1 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.

E3.2 A breach of Rule E3.1 is an “Aggravated breach” where it includes a reference, whether expressed 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.

The Allegation

5. It was alleged that MG used foul and abusive language, and that this language was aggravated, as it included reference to sexual orientation. It was alleged that MG made the comment, “faggot” or similar, to an opposition player, which constituted a breach of FA Rule E3.2.

The Reply

6. On 26 October 2022, MG responded, via the whole game system confirming he accepted the charge of using foul and abusive language but denied the second charge that the language used was aggravated by reference to sexual orientation. He indicated his intention to attend a disciplinary hearing.

The Commission

7. The Following members were appointed by The FA to the Disciplinary Commission (“the Commission”):
Loraine Ladlow (Chairman)
Alan Day (Independent Member)
Paul Tompkins (Independent Member)
8. Vicky Collins, of Staffordshire FA acted as the Secretary to the Commission.
9. The Commission convened the hearing at 6.30pm on Wednesday 9 November 2022. The hearing was held virtually, via Teams.

Documents Received

10. The Commission had received and read the bundle of documents prior to determining the case, which included:

Amateur FA Evidence

- (i) Misconduct Charge Notification dated 19 October 2022;
- (ii) Statements of Adam Conant, Civil Service Reserves player, dated 8, 12 and 14 October 2022;
- (iii) Statement of John Sewell, Manager of Civil Service Reserves, dated 13 October 2022;
- (iv) Emails from Steve Evison, Civil Service Reserves secretary dated 8 and 14 October 2022;
- (v) Email statement from Troy Lewis, referee, sent 10 October 2022;

Participant charged Evidence

- (vi) Statement of MG, the participant, dated 10 October 2022;
- (vii) Statement of Stephen Martin-Lawrence, secretary of Nottsborough FC Undated and appending a further statement from MG, undated;
- (viii) A copy of the Whole Game System confirming charge one admitted and charge two denied.

Witnesses in attendance at the hearing

11. At the hearing, the Commission heard from the following witnesses who attended to give evidence:

- (1) Adam Conant
- (2) John Sewell
- (3) MG the participant
- (4) Mike Gee

12. 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, or to all the statements and information provided, however the absence in these reasons of any point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when it determined the matter. For the avoidance of doubt,

the Commission have carefully considered all the evidence and materials furnished in this case.

13. The Commission having considered all the evidence, had regard to the following:

- (a) In his initial report to the Amateur FC, Adam Conant stated that during the game he got shoved off the ball by a Nottsborough player and as he went down, he heard the Nottsborough coach (MG) call him a 'faggot'. He stated that it was along the lines of 'get up you faggot' or 'you fucking faggot'. He also referred to comments made by MG to another Civil Service Reserves player, Grant, along the lines of, "you Scottish heroin wanker". In a further email, he confirmed that he did not make the referee aware of the comment as he could not quite believe someone would say it and therefore questioned himself as to whether he had misheard. He stated that John Sewell, his manager approached him when he was off the pitch and told him what he had heard, and it was the same phrase. He confirmed that he did not report the matter to the referee as he had been sent off for two cautions and was not able to go back on the pitch. In his written statement he confirmed that the incident occurred in the second half of the match, around 60 minutes and that the Nottsborough coach who made the comment was on the sideline, around the halfway line. He confirmed that the comment was along the lines of "get up you faggot" or "you fucking faggot" and that he heard the word "faggot" clearly. He stated that the Civil Service Reserves manager, John Sewell was near to the Nottsborough coach at the time and that John Sewell asked him about the comment on the sideline later. At the hearing he confirmed that he knew it was the Nottsborough coach shouting the comment to him as he had been shouting throughout the match and he recognised his voice. He also gave a description of him. He confirmed that he heard the coach say, "get up you faggot" or "you fucking faggot" when he fell to the ground after a tackle. He confirmed that he heard it clearly. He stated he was certain it was shouted at him. He confirmed whilst he was unsure of the exact words, he was certain that it included

the word "faggot" as he was shocked by the word. He stated that the reason he was not certain of the complete sentence used was because he was getting up of the floor. He was 100% certain he had heard the word "faggot" and that it was said by the Nottsborough coach. He stated that he was 15-20 yards away from the coach at the time and that the referee was some 10-15 yards behind him. He confirmed that later in the game he was sent off and that John Sewell, his coach approached him and asked him whether he had heard what had been said to him. He stated that John Sewell asked him this, unprompted. He stated John Sewell said, "did you hear what their manager called you". He confirmed that he did not report the matter to the referee because he had told his manager and therefore assumed he would take the matter forward.

(b) In his statement, John Sewell stated that he was a player/manager at the game and substituted himself off around 55 minutes into the game. He stated that as he came off the pitch and went into his marked out technical area, the Nottsborough manager encroached into the Civil Service Reserves technical area and was shouting and swearing about their team. He stated that two Nottsborough substitutes then also encroached into the technical area and began to make threats towards him and his players and he asked the referee to move them back to their own technical area. He confirmed that the referee did not say much and that the reserves did not leave. He stated that Nottsborough won a corner, which was cleared by his player, Adam Conant. He stated that from his view he was it hit Adam on the shoulder and that Nottsborough players and the manager and substitutes, shouted for a penalty. He stated that Adam Conant then chased the ball and went shoulder to shoulder with a Nottsborough player, then fell to the floor. He stated that the Nottsborough manager, who was 2-3 metres away from Mr Sewell, shouted towards Adam, "get up you fucking faggot". At the hearing he confirmed that he had been playing in the match, but he had been booked for a foul and decided to substitute himself. He stated that when he came off the pitch, MG came over into his team's technical area, with two of his substitutes, and began talking to him about the foul. He stated that the substitutes were very close and the taller one got angry and

threatened to, 'do me in' in the bar. He stated that he tried to leave the conversation. He confirmed that MG was not aggressive but was trying to get into his head and play mind games with him. He stated that MG was chatty and was frustrated as his team was losing. He stated that MG was shouting and angry towards his own players. He stated that when Adam Conant was involved in a foul, MG was 2-3 metres away from him, in the Civil Service Reserves technical area, when he heard MG shout "get up you fucking faggot" to Adam. He was certain that he heard MG make that comment. He confirmed that 10-15 minutes later when Adam was sent off, Adam was sitting down removing his shinpads when he approached him and said, 'did you hear their gaffer call you a faggot?' He stated that Adam confirmed he had heard the word "faggot" but not the full sentence. He confirmed that he was approximately 10-15 yards from Adam at the time it was said, and the referee was on the other side of the pitch, although he was not sure as he did not look to see where he was. He stated that it was said loud enough for Adam to hear and that it was projected onto the pitch. He confirmed that he did not recall anyone else being between Adam and MG. He stated that he did not report it to the referee because when he had called the referee over to get MG to leave his team's technical area, the referee was not interested in getting involved and did not take any action or speak to MG. He confirmed that it was his first year of management and he did not know the process of reporting such incidents as he had never been involved in that sort of incident before.

- (c) In his email statement, the referee, Troy stated that he did not hear any homophobic or discriminatory language used by the Nottsborough manager or from any of the players at the match. He stated that during and after the game at no point did players from either side, draw his attention to anything of that nature. He confirmed it was a very competitive match, but nothing more.
- (d) In his statement Mark Grove described the game as 'quite spicy' and referred to several challenges that took place. He stated that the Civil Service coach, wearing a tracksuit with the initials JS, called Nottsborough 'a load of posh kids who are always moaning' repeatedly

as a player from Nottsborough was on the floor. He stated that there had been several chat exchanges during the game between him and the Scottish number 5, CB, and that he responded by saying to him that he should give up football and get to his heroin habit, whilst smiling back at him. He confirmed that this was not a clever comment to make and that it was said in the heat of the moment, and he apologised for making it. He stated that he had no recollection of calling anyone a 'faggot' and stated that it was not a word he used. He confirmed that it was a feisty game and that there were verbal exchanges by both sides. In a further statement, he confirmed that he did respond to a comment made by their player, CB with a poorly chosen comment but it was not said in isolation as it was part of a wider 'debate' about his number 9 player. At the hearing, he confirmed that the game was a physical one. He confirmed that he got into a verbal exchange with a player from Civil Service Reserves. He also confirmed that he did give a running commentary, non-stop, throughout the match. He stated that he did not realise he was in the other team's technical area. He stated that when Adam collided with his player and grabbed his players face, he said, "get up you fuck nut" to Adam. He stated that no-one challenged what he had said. He stated that the stories from both teams were identical, but the words allegedly said were different. He confirmed that Mike Gee was a substitute and that he was close by, an arm's length away, when words were said. He stated that he was genuinely 100% certain that was what he had said. He stated that he could not explain why he did not say what he had said in his statement and confirmed that he was quite shocked when the form came through and that he was told to give a quick concise answer. He confirmed that another substitute was nearby, warming up and taking pictures for social media so he believed he was out of earshot. He also stated that another player was 10 metres away and on his phone. He confirmed that a player's wife was in the stand 3-4 metres away but did not know if she heard the comment. He confirmed that he had said to the player, Grant, "crack on with the deep-fried heroin boy" which he confirmed was in reference to his Scottish connections. He accepted he should not have made the comment, which was said in

response to something Grant had said to him. He stated that his Midland's accent gets stronger as he gets angry and that the comment "fuck nut" could have been wrongly interpreted as "faggot" but he had not other explanation for what the others had heard as it was not a word he used. He confirmed that the term "fuck nut" was something he and friends used to say at school.

- (e) Mike Gee confirmed that he had not made a statement about the incident because he had not been asked to. He confirmed that he was at the match as a substitute and that he only went onto play in around the 70th minute for a short time, due to an injury. He stated that he did not believe that the technical areas were marked out but confirmed that he was stood next to MG throughout the game. He then stated he was not next to MG but behind him. He denied making the comment to John Sewell that he had alleged. He stated that he did not recall MG talking to John Sewell when he came off the pitch, about the foul John had been involved in. He stated that he could not recall a long conversation between MG and other players. He confirmed that general curse words were used during the game by both sides and when prompted he could only recall the word "dickhead" and did not recall any specific swear words. He stated that nothing he heard caused him to raise an eyebrow. When specifically asked, he stated he had not heard the word "faggot" but had heard the words, "fuck nut". He confirmed that his recollection of what was said was only triggered when specifically asked. He stated that he had never heard that term before and that was why it had stayed in his memory. He confirmed he did not have a clue what it meant.
- (f) In his statement Stephen Martin-Lawrence stated that MG accepts that he is guilty of E3 (foul and abusive language) but in mitigation it should be noted that it was part of a wider conversation and debate around the Nottsborough number 9 getting kicked regularly throughout the match. He did not attend the hearing.
- (g) In his final summing up, MG highlighted several personal and professional reasons why he would not make the comment as alleged. He also confirmed that he did not dispute any of the witnesses' evidence other than the actual word alleged to have been said.

Burden and Standard of Proof

14. The burden of proof rests with the County FA. The applicable standard of proof required for this case is the civil standard of proof namely, the balance of probability. In simple terms, this means that the Commission must be satisfied, based on the evidence, that it was more likely than not that an event occurred.

Findings of Fact

15. The Commission found the following facts on the relevant evidence:

- a) The referee confirmed in his written statement that he had not heard discriminatory language during the match and no matters of that nature were reported to him. Adam Conant and John Sewell confirmed that the referee was not in the area at the time the comment was made.
- b) MG accepted that throughout the match he was vocal and that, in response to a comment made to him, he had made a comment towards the Civil Service Reserves player Grant, namely “crack on with the deep-fried heroin boy”. He accepted that the comment was foul and abusive, and he apologised for doing so. The Commission noted that this was not part of the charge, but found it was relevant in terms of the language used by MG during the match.
- c) Adam Conant was uncertain about the exact comment made by MG, but certain it included the word ‘faggot’. His evidence was corroborated by John Sewell and unchallenged and accepted by MG, save for the reference to the word “faggot”. The Commission noted that his oral evidence was consistent with the complaint he had made to the Amateur FA on the same day of the match and his written statement made two days later. The Commission noted that whilst there was uncertainty in his recollection of the exact words, he was certain he had heard the word ‘faggot’. The commission found his account consistent and credible.
- d) The Commission noted that Adam Conant had not reported the matter to the referee but found his explanation, namely that he had

reported it to his manager and believed that the matter would be dealt with by him, to be credible.

- e) The Commission noted that there had been no interaction between Adam Conant and MG prior to the incident and had no previous knowledge or contact with MG.
- f) John Sewell's evidence corroborated Adam Conant's evidence, namely that he had heard MG make the comment which included the word "faggot". His oral evidence was consistent with his written statement and was accepted by MG, save for the content of the comment made. The Commission found his evidence consistent with Adam Conant and credible.
- g) The Commission noted that whilst John Sewell had heard MG make the comment, did he not challenge MG at the time, particularly as he was near MG. The Commission took into consideration John Sewell's evidence, accepted by MG, that MG had encroached into the Civil Service Reserves technical area with his substitutes, prior to the incident and that there had been an exchange. The Commission noted that although John Sewell stated MG was not aggressive, he did refer to being threatened by a Nottsborough substitute, Mike Gee, who was also present, although this was denied by Mike Gee. The Commission also noted that John Sewell had previously asked the referee to intervene and move MG out of his team's technical area, which again was unchallenged by MG. The Commission noted that MG agreed that he was vocal throughout the match. The Commission concluded that whilst John Sewell had the opportunity to challenge MG about the comment, John Sewell had given evidence of factors that were at play which may have influenced his decision not to raise the matter directly with MG at the time.
- h) John Sewell confirmed that he did not report the matter to the referee. The Commission accepted his explanation that a previous request to the referee to intervene and move MG and his substitutes out of his technical area had not been successful and that based on this, he did not feel confident to report the matter to the referee. The

Commission also noted that he is a relatively inexperienced manager with no prior experience of reporting matters of this nature.

- i) MG accepted he had made a comment to Adam Conant but disputed the content of the words used. At the hearing, MG stated that he had said “fuck nut” to Adam Conant. He stated that with his Midland’s accent it may have been misheard, but he was certain these were the words used and apologised for his language. The Commission noted that when probed, MG could not explain how the two words could have been confused as they are pronounced differently. He stated that his Midland’s accent became more pronounced when he became angry.
- j) In his initial statement, made two days after the incident, MG stated that he had no recollection of calling anyone a ‘faggot’ and stated it was not a word that he used. He did not refer to using the term “fuck nut” or explain that it could have been misunderstood due to his accent in either of the written statements he had provided. At the hearing, he explained that he did not include the words he used in his statements as he was asked to be concise. The Commission noted that MG’s statement, provided a few days after the incident, was two pages long and included a lot of detail. The Commission concluded that this was information that, if it were correct, it would have been reasonable to expect MG to have included in his initial and subsequent statement as it went to the heart of his case. On that basis the Commission concluded that MG’s evidence was unreliable.
- k) The Commission did not have the benefit of a written statement from Mike Gee but accepted his explanation that he had not been asked to provide one. The Commission noted that MG had not referred to Mike Gee in his written statements. Given that in MG’s oral evidence he identified Mike Gee as a person who was near to the incident and stated that he would have heard what had been said the Commission concluded that it was reasonable to have expected MG to have referred to Mike Gee as a potential witness to the incident in his written evidence, as it went to the heart of his case.

- l) Mike Gee gave evidence that MG was shouting at Civil Service players and that he was also screaming at the referee regarding decisions that had been made during the match. He did not recall any specific swearing comments other than general cursing words, including 'dickhead'. He could not recall any further comments.
- m) The Commission noted that Mike Gee could only recall the comment MG stated he had made, when prompted. Specifically, Mike Gee was asked whether he heard the word "faggot" which he stated he did not. When asked if he had heard the comment "fuck nut" he responded saying he remembered that he had heard that comment. The Commission noted that in his response he was hesitant, then glanced down and appeared to be reading or referring to something in front of him. He explained that it was only when the Commission had told him the comment that it had triggered his memory. He then went onto say that he had never heard that term before and that was why it stayed in his memory. The Commission found his evidence confused, inconsistent and unreliable.
- n) The Commission were satisfied that the comment made by MG to Adam Conant included the word 'faggot'.

Decision

16. After considering all the evidence and the standard of proof, the Commission found there was sufficient evidence to support the charge, that MG had used foul and abusive language amounting to improper conduct and that such language was aggravated by reference to sexual orientation therefore found the charges PROVEN.

Previous Disciplinary Record

17. The Commission, having found the first charge proven, sought the participant's previous disciplinary record, and noted that he had one previous misconduct charge in March 2019 for which he received a £15 fine and no suspension.

The Sanction

18. The Commission noted the Disciplinary Regulations of the FA Handbook Season 2022-23 on sanction, which state:

Where a Participant commits an Aggravated Breach for the first time, a Regulatory Commission shall impose an immediate suspension of at least six matches on that Participant, The Regulatory Commission may increase this suspension depending on any additional aggravating factors present.

Whether or not a suspension has been imposed by the Regulatory Commission in respect of an Aggravated Breach, that Regulatory Commission must order that the Participant who commits an Aggravated Breach be subject to an Education Programme and may impose a financial penalty or any other sanction that it considers appropriate.

19. The Commission also considered the Football Association Sanction Guidelines, as set out in the FA Handbook 2022/23. The sanction was dependent on the Commission's assessment of the case, including the aggravating and mitigating features present.

20. Having regard to the aggravating features, the Commission found that the word used by MG was foul and abusive and that Adam Conant was shocked by the word.

21. The Commission noted that MG had a previous misconduct charge however it was not of a similar nature.

22. The Commission also noted that MG accepted he had used foul and abusive language towards another player and that he had sworn at Adam Conant, even though he had denied he was responsible for saying 'faggot'.

23. The Commission took into consideration that the participant had been involved in football for a number of years. The Commission also noted the impact the finding would have on him personally and professionally.

24. After taking all the aggravating and mitigating factors present, the Commission assessed the level of seriousness and imposed the following sanctions:

- (1) A fine of £75.00
- (2) A six-match suspension ground ban from all football activities.
- (3) Ordered to complete the FA's Equality Education Course, online, the details of which will be provided to him in due course by the FA. The online course must be completed before the match-based suspension is served. In the event that MG fails successfully to undertake the course within 3 months, he will be further suspended from all footballing activity until such time as this course is completed.

25. The decision of the Commission is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed

Lorraine Ladlow

Paul Tompkins

Alan Day

11 November 2022