

IN THE MATTER OF THE FOOTBALL ASSOCIATION

DISCIPLINARY COMMISSION

Fixture: Old Thorntonians First v Old Salvatorians First played on 25 November 2023.

Consolidated Hearing for the following cases:

Case 1: Amateur Football Association v Old Thorntonians [Case ID: 11499347M]

Case 2: Amateur Football Association v Old Salvatorians [Case ID: 11499341M]

Case 3: Amateur Football Association v Daniel Sartori [Case ID: 11499334M]

**DECISION AND
WRITTEN REASONS**

Disclaimer:

These written reasons contain a summary of the principal evidence before the Commission and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Commission did not take such a point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials furnished with regard to this matter.

Where direct speech is quoted in a report/witness statement, it has been recorded exactly in the wording and grammar in which it appears in the report/witness statement, without making any grammatical or typing alterations to obvious typo errors.

Warning:

1. This document refers to abusive language.

1. The Football Association (“the FA”) convened a Disciplinary Commission (“the Commission”) on behalf of Amateur Association (“Amateur FA”) via Microsoft Teams at 19:00 hours on 10 January 2024.
2. The Commission constituted of three members, Miss Naila Hadid, an Independent FA appointed Chair, Mr Minesh Gupta and Ms Sue Henson-Green, Independent FA appointed Panel members. For the purposes for clarity, the Commission is independent from the parties and does not have a conflict of interest to declare.
3. Mr Jon Fancy was appointed as the Secretary (“the Secretary”) to the Commission. The Secretary did not have any input during deliberation of the Commission.
4. This was a consolidated hearing of three cases. The Commission had received and read the three case bundles prior to the Hearing.
5. Case 1 and 3 were correspondence hearings and Case 2 was a personal plea in mitigation. The Commission also heard oral submission in case 2 as summarised below.
6. The Commission’s decision is based on the evidence provided and this is outlined below.

Background

7. On 25 November 2023, there was a match (“the match”) between Old Thorntonians First (“Old Thorntonians”) v Old Salvatorians First (“Old Salvatorians”).
8. On 27 November 2023, the Match Official, Mr Anthony Smith (“the Referee”) submitted an extraordinary incident report to Amateur FA¹. The Referee reported:

“In the 88th minute of the game I gave a decision which the Old Salvatorians No 10 disagreed with. He became very angry and aggressive and was marching towards me calling me a fucking disgrace, a fucking wanker, a fucking twat. I was becoming concerned for my safety as he was only 5 yards away from me but he was restrained by two of his team mates. He was ushered off the pitch by his team

¹ Page 6 of the case bundles

mates and I didnt think it wise or prudent to ask his name (which was on the team sheet). I showed him a yellow card.

The game ended soon thereafter and as I was getting changed to go home (in between the two teams on the touchline) one of the Salvatorian team kicked a ball (at either me or the Thorntonian team) with considerable force. I was 'half changed - it missed me but hit one of the Thorntonian players. At this point there was a large melee involving an estimated 20 players. I had no boots on and had put my whistle away so was not in a position to attempt to control the situation. As the players stopped their pushing and shoving I thought it right to leave the pitch and go home.

A most unpleasant experience which caused me considerable stress and concern.”

9. Amateur FA as the affiliated County FA investigated the above matter.
10. On 27 November 2023, following enquiries by Amateur FA, the Referee provided further information about the incidents and also identified Daniel Sartori (“Mr Sartori”) the Old Salvatorians player number 10².

The Charge

11. On 6 December 2023, Amateur FA issued the following charges related to the match:
 - i. **Case 1: Amateur Football Association v Old Thorntonians [Case ID: 11499347M]**
 - **The Charge:** FA Rule E20 - Failed to ensure directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any Match.
 - **Allegation:** It was alleged that after the fixture a mass brawl took place which involved players from Old Thorntonians.
 - ii. **Case 2: Amateur Football Association v Old Salvatorians [Case ID: 11499341M].**
 - **The Charge:** FA Rule E20 - Failed to ensure directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any Match.
 - **Allegation:** It was alleged that after the fixture a mass brawl took place which involved players from Old Salvatorians.
 - iii. **Case 3: Amateur Football Association v Daniel Sartori [Case ID: 11499334M]**

² Page 8 of the case bundles

- **Charge:** E3 -Improper Conduct against a Match Official – (including threatening and/or abusive language/behaviour)
- **Allegation:** It was alleged that Daniel Sartori used threatening and/or abusive and/or indecent and/or insulting words or behaviour contrary to FA Rule E3.1 and it is further alleged that this constitutes Threatening behaviour Against a Match Official as defined in FA Regulations. This refers to the allegation that Mr Sartori marched towards the referee saying “ *fucking disgrace*” or similar, “ *fucking wanker*” or similar, “ *fucking twat*” or similar and this made the referee fearful for his safety.

The Rules

12. The Rules of the Association are foreseen in Section 10 of the FA Handbook 2023/2024³.
13. Under the title “Misconduct” Section E of the Rules of the Association sets out the Rules to be observed by Participants⁴. The FA handbook 2023/24 states the following:
 - i. **E20:** *Each Affiliated Association, Competition and Club shall be responsible for ensuring that its Directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any Match and do not:*
 - **E20.1:** *Use words or otherwise behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative.*
 - **E20.2** *conduct themselves in a manner prohibited by E20.1 in circumstances where that conduct is discriminatory in that it includes a reference, whether express or implied, to any one or more of ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.*
 - ii. **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 anyone, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.*

³Available at: <https://www.thefa.com/football-rules-governance/lawsandrules/fa-handbook>.

⁴ means an Affiliated Association, Competition, Club, Club Official (which for the avoidance of doubt shall include a Director), Intermediary, Player, Official, Manager, Match Official, Match Official observer, Match Official coach, Match Official mentor, Management Committee Member, member or employee of a Club and all persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association, as per The FA Handbook 2023/2024, Section 10, Part A, para. A2.

14. Under the title “Offences against Match Officials” Categories of Offences, the FA handbook 2023/24 states the following:
- **96.1 Threatening behaviour:** *Words or action that cause the Match Official to believe that they are being threatened. Examples include but are not limited to the use of words that imply (directly or indirectly) that the Match Official may be subjected to any form of physical abuse either immediately or later, whether realistic or not; the raising of hands to intimidate the Match Official; pretending to throw or kick an object at the Match Official.*
15. Amateur FA served the evidence that it intended to rely on in these cases.

Written evidence

16. The following is a summary of the principal written evidence provided to the Commission. For the avoidance of doubt, the Commission has carefully considered all the written materials furnished with regard to this case.
17. The written evidence which Amateur FA relied upon in support of all **three cases** consisted of:
- i. The Report by the Referee⁵;
 - ii. Further information provided by the Referee via email on 27 November 2023 including Old Salvatorians’ Team Sheet⁶;
 - iii. Witness statement of Mr Peter Walsh (“Mr Walsh”), the Manager of Old Thorntonians’ dated 25 November 2023⁷;
 - iv. Witness statement of Mr Rob Jones (“Mr Jones”), Secretary/Club Photographer of Old Thorntonians’ dated 27 November 2023⁸;
 - v. Witness statement of Mr Sartori dated 28 November 2023⁹;
 - vi. Witness statement of Mr Joe Young (“Mr Young”), a player for Old Salvatorians dated 25 November 2023¹⁰;
 - vii. Witness statement of Mr Sean O’Connor (“Mr O’Connor”), 1st Team Manager of Old Salvatorians dated 01.02.2023. The Commission understands this to be a typo error and read it as 1 December 2023 (01.12.2023)¹¹.

⁵ Page 6 of the case bundles

⁶ Page 8-13 of the case bundles

⁷ Page 14 of the case bundles

⁸ Page 15 of the case bundles

⁹ Page 16 of the case bundles

¹⁰ Page 17-18 of the case bundles

¹¹ Page 19-20 of the case bundles

Standard of proof

18. The Disciplinary Regulations are foreseen in Section 11 of The FA Handbook 2023/2024.
19. The burden of proof rests with the County. As such, it is the responsibility of Amateur FA to investigate allegations, issue the charge, submit the case and evidence in relation to the charges.
20. The standard of proof is the civil standard of the 'balance of probability'. In simple terms that means the Commission must be satisfied on the evidence, that it was more likely than not that an event had occurred.
21. The assessment of the evidence is entirely a matter for the Commission. The Commission has to assess the credibility of the witness when deciding whether their evidence may or may not be relied upon. Where there are discrepancies between witnesses, it is for the Commission to accept which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for the Commission to assess if the discrepancy is important. Having considered which evidence to accept and which to reject, the Commission then has to decide if, on the balance of probability, the alleged breach of the FA Rules is established.

The Reply

22. As per the Charge letters, all participants charged were required to respond to the charges by 20 December 2023.

23. **Amateur FA received the following responses:**

- i. **Case 1:** On 18 December 2023, Old Thorntonians accepted the Charge and asked for a correspondence hearing. In addition, the Club Secretary, Mr Colin Patersons ("Mr Patersons") submitted the following written submission, undated¹²:

"We consider this charge against Old Thorntonians to be harsh. Nonetheless, we are pleading guilty in order to bring the matter to a swift conclusion and on the basis that there was some disorder involving both teams at full time.

For clarity, we note that Old Salvatorians abused the referee throughout the game and kicked a ball at our player. We consider the latter to be an aggravating factor in the resulting scuffle.

We also consider the term 'brawl' to be an exaggeration and inaccurate. No punches, kicks or

¹² Page 24 of the Old Thorntonians case bundle

acts of violence were committed, other than the Salvatorians player who kicked a ball into our player's face, giving him a black eye. Some items from a nearby bin were thrown by both sets of players, which is of relative insignificance. An empty plastic bottle hit our manager, Peter Walsh, on the hand, and he considered it not even worth noting.

We apologise for our part in the disagreement and hope that we can move on swiftly."

- ii. **Case 2:** On 19 December 2023, Old Salvatorians accepted the Charge and asked for a verbal plea.
- iii. **Case 3:** On 18 December 2023, Mr Sartori or someone on his behalf accepted the Charge and asked for correspondence hearing.

The Hearing

24. The plea in mitigation hearing for Old Salvatorians took place on 10 January 2024, conducted virtually through Microsoft Teams, with Mr James Smith ("Mr. Smith") representing the Club.

The Findings & Decision

25. As all participants had accepted the Charges, the Commission was only required to deal with the dealt level of sanction to be imposed.

Sanction

26. **Case 1: Amateur Football Association v Old Thorntonians [Case ID: 11499347M]**. The Charge against Old Thorntonians was an E20 Charge and it was alleged that after the fixture *a mass brawl took place* which involved players from Old Thorntonians.
27. The Commission reminded itself that according to the FA Sanction Guidelines an Offence of E20 (Outside National League) will incur:
 - *Low: Fine £0-£70*
 - *Medium: Fine £70-£140.*
 - *High: Fine £140-£300*
28. In accordance with The FA Sanction Guidelines, the Commission took into account aggravating and mitigating factors. The Commission could deviate from the sanction guidelines where necessary, but where a mandatory minimum sanction is stated in FA Regulations, they cannot go below this.

29. The Commission considered this offence to fall under the **Medium category** due to the circumstances of the offence. A number of their players got involved in the melee but the Commission was of the view that the players reacted in response to the behaviour of the Old Salvatorians player who intentionally kicked the ball towards them which led to the mass brawl.
30. The Commission sought Old Thorntonians Misconduct Record for the previous five-year period. The Secretary informed the Commission that there had been **no finding** of Misconduct recorded against them **in the past five years**.
31. **Aggravating factors:** The Commission considered the following to be aggravating factors:
- i. **Circumstances of the Offence:** A number of players got involved in the melee. Furthermore, the throwing of objects (the bottle) by their player, during the melee was considered as an aggravating factor.
 - ii. **Lack of remorse or insight and/or failure to understand and/or appreciate the severity of the conduct and/or its impact:** The Commission held the view that, based on the Club's written mitigation submission and Mr Walsh's statement, there was a lack of remorse and insight into the severity of their players' conduct.
32. **Mitigation factors:** The Commission considered the following as mitigating factors:
- i. **Disciplinary records:** The Commission considered their clean record over the past five years as a positive factor and therefore granted relevant credit.
 - ii. **Provocation:** While the Commission does not condone violence, it acknowledged that there was a certain level of provocation that contributed to the Old Thorntonians players' behaviour.
 - iii. **Co-operation with the Association:** The Commission considered the Club's acceptance of the Charge and overall co-operation with the Association as a positive factor.
33. The Commission determined the appropriate sanction to be:
- i. Fine of £110.00
34. **Reason:** The Commission determined that this case warranted an initial Fine of £130 due to the nature of the offence (mass brawl). Taking into account the aggravating factors mentioned in paragraph 31, the Commission decided to increase the Fine by £20.00 for aggravating factor mentioned in 31. (i) and (ii) taking it to £170.00. Taking into account the mitigating factors outlined in paragraph 32, the Commission reduced the Fine by £20 for each mitigating factor, the final amount was reduced to

£110.00. The Commission is of the opinion that this was a serious charge. Therefore the Commission believes that the sanction imposed is justified.

35. **Case 2: Amateur Football Association v Old Salvatorians [Case ID: 11499341M]**. The Charge against Old Salvatorians was an E20 Charge and it was alleged that after the fixture a mass brawl took place which involved players from Old Salvatorians.

36. **In mitigation, Mr Smith submitted the following:**

- i. Mr Smith stated that it was the first time in 13 years that their club had been promoted to the Premier League, and therefore there was a great excitement. Although they had competed against teams of similar calibre in the past, they had not previously encountered Old Thorntonians.
- ii. Mr Smith stated that the Referee's decisions had a significant impact on the game. For instance, they were leading in the first half (2-0), but in the second half, a disputed penalty was awarded against them, causing frustration among their players. A second occurred where a corner was given against them. The Referee was in a conversation with their player, who was arguing with the Referee and had asked for the Captain to join. However, whilst the interaction was ongoing, an Old Thorntonians player scored, tying the game at 2-2. This turn of events contributed to Old Thorntonians ultimately winning the game with a further goal.
- iii. He stated that their players shook hands with others, however, an Old Thorntonians player started celebrating, using offensive language and taunting them by calling them "cunt". This provoked one of their players to retaliate by kicking the ball, which led to the melee.
- iv. Mr Smith mentioned that Old Thorntonians continued their celebrations in the changing room, banging on their doors in an attempt to provoke a reaction. Therefore, they decided not to stay for the post-match drinks to avoid any further escalation.
- v. Mr Smith stated that following the incident, he and the manager issued a warning message in their WhatsApp group, reminding the players that such behaviour should not occur again. He mentioned that a similar message was shared in the Captains' group as well.
- vi. He confirmed that Mr Young was the Captain on the day of the incident and was the player who kicked the ball at an opposition player.

37. The Commission reminded itself that according to the FA Sanction Guidelines an Offence of E20 (Outside National League) will incur:

- *Low: Fine £0-£70*

- *Medium: Fine £70-£140.*
- *High: Fine £140-£300*

38. In accordance with The FA Sanction Guidelines, the Commission took into account aggravating and mitigating factors. The Commission could deviate from the sanction guidelines where necessary, but where a mandatory minimum sanction is stated in FA Regulations, they cannot go below this.
39. The Commission considered this offence to fall under the **High category** due to the circumstances of the offence, number of the players involved in the brawl and the Commission's view that their players were the instigators to the melee.
40. The Commission sought Old Salvatorians Misconduct Record for the previous five-year period. The Secretary informed the Commission that there had been **one finding in the past five years of E20 Offence** recorded against and the Commission was informed of the sanction imposed.
41. **Aggravating factors:** The Commission considered the following to be aggravating factors:
- **Role of the players involved:** The Commission took that the involvement of Mr Young; the Captain was an aggravating factor. He kicked the ball which led to escalation of all the players' behaviour.
 - **Circumstances of the offence:** Their players was the instigator of the mass brawl. The behaviour of Mr Sartori and Mr Young led to the mass brawl.
 - **Lack of remorse or insight and/or failure to understand and/or appreciate the severity of the conduct and/or its impact:** The Commission was of the view that Mr Smith's verbal plea was primarily focused on criticising the Referee's decision rather than acknowledging their players' failure to conduct themselves in an orderly manner. Therefore, the Commission was of the view that there was a lack of remorse and understanding.
 - **Previous Disciplinary record:** This is the second E20 offence in the past 5 years.
42. **Mitigation factors:** The Commission considered the following as mitigating factors:
- i. **Admission at the earliest opportunity:** The Club accepted the Charge at the first opportunity.
 - ii. **Co-operation with the Association:** The Club cooperated with the ongoing investigation and when required provided the necessary information and therefore, the Commission considered this to be a mitigating factor.

- iii. **Response to the incident:** The Club held their players involved accountable for their behaviour. As submitted by Mr Smith, they ensured that Mr Young, the instigator, provided a statement regarding his involvement in the incident.
43. The Commission considered this offence to fall under the **High category** due to the circumstances of the offence and number of the players involved in the brawl. In particular, the fact that their player instigated the melee by kicking the ball which led to the mass brawl.
44. The Commission determined the appropriate sanction to be:
- Fine of £200.00
45. **Reason:** The Commission determined that this case warranted an initial Fine of £180. Taking into account the aggravating factors mentioned in paragraph 41, the Commission decided to increase the Fine by £30.00 for aggravating factor mentioned in 41.(i); By £20.00 for aggravating factors mentioned in 41. (ii) and (iii) and by £10.00 for aggravating factor mentioned in 41(iv) taking the total to £260.00. Taking into account the mitigating factors outlined in paragraph 42, the Commission reduced the Fine by £20 for each mitigating factor, the final amount was reduced to £200.00. The Commission is of the opinion that this was a serious charge and therefore the Commission believes that the sanction imposed is justified.
46. **Case 3:** Amateur Football Association v Daniel Sartori [Case ID: 11499334M]. The Charge was an E3 - Improper Conduct against a Match Official – (including threatening and/or abusive language/behaviour) and the allegations were that Mr Sartori marched towards the referee saying “*fucking disgrace*” or similar, “*fucking wanker*” or similar, “*fucking twat*” or similar and this made the referee fearful for his safety.
47. According to the FA Sanction Guidelines an Offence of this nature will incur:
- *suspension from all football activities for a period of between 56 days and 182 days. The recommended entry point, prior to considering any mitigating or aggravating factors is 112 days.*
 - *a fine of up to £100, with a mandatory minimum fine of £50.*
 - *an order that the Participant completes an education programme before the time-based suspension is served.*

48. In accordance with The FA Sanction Guidelines, the Commission took into account aggravating and mitigating factors. The Commission could deviate from the sanction guidelines where necessary, but where a mandatory minimum sanction is stated in FA Regulations, they cannot go below this.
49. The Commission sought Mr Sartori's Misconduct Record for the previous five-year period. The Secretary informed the Commission that there had been **no finding** of Misconduct recorded against him **in the past five years**.
50. **Aggravating factors:** The Commission considered the following aggravating factors present:
- i. **Overall impact on the reputation and integrity of the game:** Mr Sartori's behaviour was in response to the Referee's decision, thereby demonstrating a disregard for the rules of the game and bringing disrepute to the integrity of the game. The Referee was concerned for his safety (did not ask for his name) and was quite shaken by the experience.
 - ii. **The degree of force or threatening behaviour used/Repeated behaviour:** The aggressive marching towards the Referee was of serious concern. Mr Sartori repeatedly used foul and abusive language. The Commission considered this repeated behaviour as an aggravating factors.
 - iii. **Escalation of the incident:** The Commission took the view that Mr Sartori's behaviour from foul and abusive language escalated to threatening behaviour was an aggravating behaviour.
 - iv. **Involvement.** The referee stated that player No 10 marched towards him and had to be restrained by two of his team mates as he was only 5 yards away from him. The Referee said that he was quite shaken by the experience.
51. The Commission also identified the following relevant mitigating factors:
- i. **Admission at the earliest opportunity:** Mr Sartori accepted guilt at the earliest opportunity, partly in his statement and then the acceptance of the charge.
 - ii. **Disciplinary record:** The Commission considered Mr Sartori's good record as a mitigating factors. Mr Walsh also stated that this was out of character of Mr Sartori.
 - iii. **Co-Operation with the Association:** Mr Sartori provided a witness statement as part of the investigation and gave his version of the events.
52. The Commission determined the appropriate sanction to be:
- Suspension for 126 days
 - Fine of £50.00
 - 7 penalty points to his club

- Complete the online education programme before the suspension is served.

53. The Commission determined that the case warranted an entry point of 112 days suspension. The Commission increased the suspension by 14 days for each aggravating factor which took the total to 154. The Commission reduced 7 days for mitigating factor mentioned in 50.(i) and (ii) and 14 days for mitigating factor 51. (iii) taking the total to 126 days. Given the current societal context and the rising cost of living, the Commission considered that a £50.00 fine to be reasonable. The Commission deemed 7 penalty points to be justifiable as the offense involved threatening behaviour against the Referee and was a repeated occurrence.

Compliance with the order

54. Failure to comply with this order will result in a Sine-Die suspension being issued against the Participant until they have fulfilled this order in its entirety.

Right of Appeal

55. There is a right of appeal against these decisions in accordance with the relevant provisions set out in the prevailing FA Rules and Regulations of the Association.

Naila Hadid (Chair)

Minesh Gupta

Sue Henson-Green

15 January 2024