

FA NATIONAL SERIOUS CASE PANEL
CONSOLIDATED DISCIPLINARY COMMISSION

on behalf of Worcestershire Football Association

PERSONAL HEARING

Of

Daniel Timms

Rubery Memorial FC

[Case ID: 11586199M]

Consolidated with

Daniel Connolly

South Birmingham Activ FC

[Case ID: 11586184M]

THE DECISION AND REASONS OF THE COMMISSION

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Introduction

1. On 14 January 2024, South Birmingham Activ FC First ("South Birmingham"), played a Terry Cup fixture against Rubery Memorial FC First ("Rubery") – collectively the "match".
2. Following the fixture, the Match Referee submitted an Extraordinary Incident Report regarding an allegation of misconduct that took place during the fixture.
3. Worcestershire Football Association ("Worcestershire FA") investigated the reported incidents.

The Charges

4. On 31 January 2024, Worcestershire FA charged Daniel Connolly:
 - 4.1. with misconduct for a breach of FA Rule E3 – Improper Conduct including foul and abusive language, **Charge 1**;
 - 4.2. with a second charge 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, **Charge 2**;
 - 4.3. It is alleged that Daniel Connolly (South Birmingham Activ FC - Player) - Used abusive and/or indecent and/or insulting words or behaviour 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 <sexual orientation>. This refers to the comment(s): "*Are you gay or something?*" and/or "*He also said a homophobic slur, I can't remember what he said but it was something along the lines of 'you gay p*ick'*" and/or "*You F*cking gay prick*" and/or "*gay prick*" and/or Daniel Connolly using such language as per his own statement as: "*Are you fucking gay*" or similar.
 - 4.4. Worcestershire FA advised in the charge letter that the range of sanction was between 6-12 matches. 6 matches are the standard minimum; a Commission may impose a suspension in excess of 12 matches where

there are significant aggravating factors. A participant found to have committed an aggravated breach will be subject to an education programme.

4.5. The relevant section of FA Rule E3 states¹:

"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.

5. In consolidation, on 31 January 2024, Worcestershire FA charged Daniel Timms:

5.1. with misconduct for a breach of FA Rule E3 – Improper Conduct (not including threatening and/or abusive language /behaviour);

5.2. It is alleged that Daniel Timms (Rubery Memorial FC - Player) - Used Improper Conduct (not including threatening and/or Abusive Language/Behaviour) however including indecent words or behaviour and/or violent conduct behaviour contrary to FA Rule E3, including but not limited to alleged language/behaviour of Daniel Timms described as: *"The forward who was fouled rolled around on the floor in pain and then rose to their feet to confront the opposing player who had committed the foul; claiming that the defender had took a hold of the forwards genatalia during the foul"* and/or *"has grabbed deliberately at my genitalia and whilst doing so also winked at me smiling. I was in excruciating pain as he literally hung off my manhood"* and/or *"In the seconds following the Rubery player can be seen reaching towards Daniels groin area shortly followed by Daniel falling to the fall clearly in pain"* and/or *"Dan Timms then winked at the Activ player as he was walking away which riled up the Activ player more"* or similar.

5.3. Worcestershire FA advised in the charge letter that the range of sanction was a suspension of between 1-3 Matches and a fine up to £40.

¹ p. 143 of FA Handbook

5.4. The relevant section of FA Rule E3 states²:

“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.

6. Worcestershire FA included with the charge letter the evidence that they intended to rely on in these cases.
7. Both Daniel Connolly and Daniel Timms were required to respond to their respective charges by 14 February 2024.

The Reply

8. The responses were as follows;
 - 8.1. For case **11586184M** Daniel Connolly, the case bundle shows an undated response via WGS of the acceptance of both charges and requesting this be dealt with by correspondence;
 - 8.2. For case **11586199M** Daniel Timms, the case bundle contains a response dated 02 & 04 February 2024 showing a denial of the charge and a request for a personal hearing.
9. During the investigation, written evidence was submitted from:
 - 9.1. Report(s) and information supplied by the Match Official(s);
 - 9.2. Statements from Rubery Memorial FC;
 - 9.3. Statements from South Birmingham Activ FC.

² p. 143 of FA Handbook

The Commission

10. A personal hearing was arranged for 29 February 2024 online via MS TEAMS. On 16 February 2024 the FA appointed the following members of the FA National Serious Case Panel, as “the Commission” to consider this case.

10.1. **Steve Francis** (Chair)

10.2. **Jack Chapman** (Wing Member)

10.3. **Paul Mallett** (Wing Member)

11. In addition, **Ravel Cheosiaua**, a National Serious Case Panel Secretary, was retained to carry out the role.

The Hearing and Evidence

12. The case bundle was sent via e-mail to the appointed Commission 16 February 2024 for their consideration.

13. The following is a summary of the principal submissions provided. 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 we did not take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case. Where possible names have been removed from statements.

14. In the case bundle, the first inclusion is the Extraordinary Incident Report of the Match Official which was submitted on 18 January 2024. This provides the following;

14.1. In the second half of the match following a corner which was partially cleared, this led to two players becoming involved in a scuffle *“between a defender and the forward, the forward fell to the floor. I awarded a free kick in favour of the attacking side (South Birmingham Activ). The forward who was fouled rolled around on the floor in pain and then rose to their feet to confront the*

opposing player who had committed the foul; claiming that the defender had took a hold of the forwards genitalia during the foul”.

- 14.2. The Referee did not have a good view of the incident and is not able to confirm either way as to what had happened however *“The manner displayed by the forward, along with their body language was confrontational and as a result, escalated the situation. When I requested the forward to retreat and to move away from the confrontation, the player replied in manner that I deemed as dissent towards myself. I waited for the players to disperse before issuing a caution to the forward and sending him to the Sin Bin for the offence of dissent”.*
- 14.3. At the players were dispersing the Referee overheard a player stood on the field of play to shout *“are you gay or something”*. They were unable to identify the individual that had made the comment *“The players had collated and I was actively trying to see if I could see any further infringements of the law being committed. I was also the only Official allocated to the match and so I was relying on what I could see and hear at the time. As I was unable to determine the individual who made the remark, I was unable to enforce any disciplinary action”.*
- 14.4. After the incident he spoke with the managers of both teams *“and reinforced the official stance on Homophobic behaviour, which is that it is entirely unacceptable in any way, shape or manner”*. Having sought further advice, the Referee has submitted the report to make the County FA aware of the allegation.
- 14.5. In further correspondence with the County FA the Referee provided the following on 18 January 2024 in response to a request for clarification. The forward for South Birmingham who allegedly grabbed the genital area is David Connolly, he also confirms he was unable to identify the alleged offender of the homophobic remark. He then supplies the names of both managers in a further e-mail on the same date.

15. The case bundle then moves onto the statements provided by Ruberry. The first is from Daniel Timms, dated 27 January 2024, which adds the following information on the incident;

15.1. The statement begins noting the South Birmingham player had received the ball near the edge of the penalty area, he went to close him down and, as the player tried to go around him *"I went to put my arm in the way and me and the player got twisted up. The SBA player then claimed that I grabbed his penis"*. The player went down but then got straight back up and confronted him *"getting right in my face threatening me"*.

15.2. He continues noting the opponent *"After jumping around for about 5 minutes he then got back down on the floor again continuing to threaten me. He also said a homophobic slur, I can't remember what he said but it was something along the lines of 'you gay p*ick'. The Ref booked and sin binned him for getting in my face and threatening me, I believe. I was told, so I didn't hear myself, that the Ref claimed he didn't hear the homophobic language"*.

15.3. The statement ends noting he has *"foggy memory of the hole situation as if I'm being honest I don't think I grabbed his penis and didn't really take offence to anything he said so wasn't paying too much attention I'm sure the ref will agree with this as he didn't feel the need to book me as I didn't threaten back or get drawn into name calling"*.

16. The next is from a colleague of Daniel Timms who was playing in the fixture, also dated 27 January 2023⁴ this adds the following observations;

16.1. He noted the foul by Daniel Timms and the opponent *"proceeds to shout at Dan saying 'He grabbed my balls' then turning to Dan and shouted 'You F*cking gay prick' and then shouted a lot more at him which I didn't hear as I was setting up the wall for the free kick"*. He also notes that Daniel Timms had *"winked at the Activ player as he was walking away which riled up the Activ player more"*. He then notes the sin-bin for the South Birmingham player believing it to have been for the use of homophobic language.

- 16.2. The statement confirms the location of the incident the author was at the halfway line when the foul was committed by was within 5-10 yards when he heard the homophobic comment. The use of a yellow card sin-bin for this incident was queried *"why it wasn't a red, the ref said he only heard part of what was said so could only act on what he had heard"*.
17. The final Rubery statement was submitted by a club official who was also a player in the fixture, also dated 27 January 2024 this provides the following;
- 17.1. The witness confirms defending the corner when their player *"who is called 'D-Con' by his teammates and I understand to be called Daniel Connolly, moved towards the ball and controlled the ball forward first with his chest. Our winger, Daniel Timms was tracking back from the halfway line to try and recover the ball. He ran around the opposing player in trying to compete for the ball. In doing so, he held on to the opposing player's shirt which resulted in the referee awarding the opposing team a free kick"*.
- 17.2. As Daniel Timms was running around the opponent *"he ended up goal side of the opposing player which obscured my line of sight of the opposing player. Once the free kick was awarded to the opposing team, the opposing player called 'ref, he grabbed my balls.'" The two players then stood face to face with each other. The opposing player Daniel Connolly then said to our player Daniel Timms "gay prick"."*
- 17.3. The Referee claimed he had heard *"some form of homophobic language from Daniel Connolly which led to the referee giving Daniel Connolly a yellow card with the player sent to the sin bin. I questioned the referee as to why it wasn't a red card as under the rules of the game, such an offence would be deemed to be 'foul and abusive language' rather than any yellow card offence. The referee responded by saying he didn't hear all of what I had heard the opposing player say. The game then continued with the free kick to the opposition that the referee had awarded for the foul by Daniel Timms"*.

18. The case bundle then moves onto the statements from South Birmingham, the first is from Daniel Connolly and is dated 22 January 2024. He provides the following information;
- 18.1. His statement in full reads *"Whilst in close quarters challenging for a ball with a Rubery player, the ball has then gone away from us. A player from Rubery Memorial ("Dan" surname and/or shirt number unknown) has grabbed deliberately at my genitalia and whilst doing so also winked at me smiling. I was in excruciating pain as he literally hung off my manhood. My response to this was "Are you fucking gay". Which i was then disciplined for by the ref with a caution and sinbin"*.
- 18.2. He believes the Referee would likely have been unsighted *"of the sexual assault on myself as I believe his back was to us but I'm not sure as i was on the floor at this stage."*. He also feels *"have not and most likely will not but I strongly believe that what I was subjected to is defined by uk law as a sexual assault especially as it was a deliberate act and not just by accident"*.
- 18.3. On 23 January 2024 Worcestershire FC contact South Birmingham for clarification of a few points which are subsequently provided via a club official. The first is regarding a description of the alleged offender, this is provided and Daniel Connolly also believes he would be able to visually identify him. Of the level of pain this is rated at 10 out of 10 and this was clear to see *"due to the amount of time spent on the floor writhing in agony on the pitch and for the majority of the 10mins sin bin"*.
- 18.4. The length of the squeeze was placed at 3-5 seconds, although it felt longer the figure given is more realistic as to what had taken place. No further professional treatment was required over and above the ice-pack used at the time. Of any Police action *"he has not pursued with involvement of police nor does he intend to. But wishes to reiterate that it was a deliberate act by the offending player and if this was a mixed sex sport It may be deemed a whole lot more serious perhaps? Just because it's male vs male does not make it acceptable"*.
19. The final statement is from a team official who was also playing in the fixture.

- 19.1. *The were on the touchline and could see his team attacking "10-15 yards into the Rubery half of the pitch there was a ball to be contested. The players involved were D Connolly (SBA) and an unknown to me Rubery player, shirt number I could not remember but I do remember him having light brown hair. So the ball was contested and came away from both involved players. In the seconds following the Rubery player can be seen reaching towards Daniels groin area shortly followed by Daniel falling to the fall clearly in pain".*
20. There is also a statement from Daniel Timms in response to the charge that has been raised against him, this states the following;
- 20.1. *He believes he has "committed an innocent foul unintentionally. I do not believe that I grabbed the player's genitalia, however I must have gone near the region because of the way the player reacted. While I still don't think that I grabbed the players genitalia his reaction has given me doubt. If anything like that would have happened then it was completely unintentional land I'm sure the Ref would agree with me as it couldn't have looked like I was trying to do anything intentionally".*
21. That concluded the written evidence in the case.
22. The personal hearing for Daniel Timms took place on 29 February 2024, during the introductions Daniel Timms noted he had not received the case bundle. The Commission adjourned to discuss, when the Panel returned the participant charged had located the bundle. Having read through these, Daniel Timms confirmed when asked by the Commission chair directly, that he was content to proceed with the hearing. There were three witnesses for the County FA, the first was the Match Referee, when questioned he relayed the following information;
- 22.1. This is his first season as a Referee which he feels is going well and he is enjoying it. Of the initial challenge the Referee recalled Daniel Timms coming into the back of Daniel Connolly, he did not see any grab by either player with the only contact being into the back of Daniel Connolly for which he awarded a free kick. He was then aware of Daniel Connolly lying on the floor clutching at their waist area; he remained there for 15-

20 seconds. Daniel Connolly had then stood and was confronting Daniel Timms aggressively, he did recall Daniel Connolly saying to him *"he has just grabbed my fucking balls"* and he issued a caution sin-bin for this.

- 22.2. When asked he recalled the whole incident of the challenge lasted for 5-10 seconds with the actual challenge lasting for a few seconds. He tried to talk with Daniel Connolly to de-escalate the situation but he felt he was out of control and not able to calm down. The Referee did not recall any shirt pulling as part of the offence by either party and stated a belief it was just a collision. During the challenge both were stood, and he felt it was akin to a shoulder challenge from behind. He did not see a hand go around the players and had a clear view; he believed he would have seen any contact from the position he was in.
23. The second witness was Daniel Connolly, who provided the following;
 - 23.1. He notes they were battling for the ball side-by-side at the time when he stated Daniel Timms to have reached over and grabbed hold of his genitals. He did not believe the Referee had seen the incident at all and was not sure if a free-kick was given. He described the actions of the grab as *"he was hanging off me"* and *"had everything in his hand"* and this lasted for 4-5 seconds but felt like a lifetime. He then confronted Daniel Timms who did not say a word to him but had winked.
 - 23.2. Of the pain he felt physically sick and was down in pain for around 2 minutes before leaving the field of play, he was still suffering for around half of the time he was in the sin-bin. He admitted to being in *"a bad state of mind"* when he stood up and confronted Daniel Timms; he only focussed on him and was not able to confirm if others were around. The state of mind was also given as the reason for the comment used. Alleging Daniel Timms was aware of what he had done before he spoke with him, and he feels the Referee had not understood the situation even when he had told him.

- 23.3. When asked Daniel Connolly stated he felt the contact was deliberate and *"not a chance it was accidental"*; a belief that he felt was reinforced by Daniel Timms winking at him. He has struggled with this since and stated he has felt like he was sexually assaulted and had nearly quit football because of it. He added this should not happen and he also considered getting the Police involved.
24. The final testimony was from a team official of South Birmingham who provided the following information;
- 24.1. He recalled the incident and placed the two players involved both tussling for the ball with neither in full control and was there to be won. He was positioned on the sidelines around 30 yards from the incident and had a clear front on view. He saw the hand of Daniel Timms go across and grab onto and pull on the genitals of Daniel Connolly. The whole incident lasted for around 6-7 seconds with the contact between the players genitals to have been around 2-3 seconds.
- 24.2. When questioned he confirmed he had seen a grabbing motion, this resulted in a yelp from Daniel Connolly who then fell to the floor. The witness, when asked about the greater detail provided in his verbal testimony noted the responsibility of the County FA to have requested more. He then noted during the grab Daniel Timms had *"hung on for a bit"*. He also confirmed he gave Daniel Connolly an ice pack to ease the pain he was still suffering during the majority of his sin-bin.
- 24.3. He further described the contact as Daniel Connolly being grabbed and pulled to the floor, he could not recall if Daniel Timms had also gone to ground as part of the incident. Daniel Connolly remained on the floor for a few minutes then was sin-binned, from his position he was not able to see if there had been a wink as alleged. When specifically asked he stated he was certain it was an intentional act. He also noted he had submitted the statement on behalf of Daniel Connolly and had responded to the questions on his behalf as he did not have any IT to do so.

25. This concluded the County FA witnesses. Daniel Timms then provided his account of the incident, when questioned by the Commission Daniel Timms stated the following;

25.1. Daniel Timms recalled the events as per his written statement, the ball was cleared from a corner and then he challenged the opponent for the ball. The opponent went to ground and then confronted him, he did not recall much of what was said as he did not believe it to have been anything serious. He thought they were face on before Daniel Connolly had turned his back to him to shield the ball and did not believe he made any contact with Daniel Connolly at the time let alone the alleged grab.

25.2. He did not recall using his arms at any point during the incident and was not able to state what his hands were doing at the time as they tussled. He does not recall trying to pull the shirt of his opponent. Since reflecting on the incident, he is not as confident due to the reaction and allegations that have since been made. He may have made contact but there was no grab and if there had been contact it would have been unintentional.

25.3. After being involved in the incident he recalled Daniel Connolly confronting him then going to ground due to the pain he was in. When he was confronted by the opposing player, he recalls him shouting in his face but is not able to recall what was said. He was not taking it seriously at the time as he did not believe he had committed the act as alleged. He also found the situation farcical as he believed he had not done anything which is why he winked at Daniel Connolly.

25.4. When asked about the winking at Daniel Connolly he explained he did so as at the time he did not think it was serious and had done so to wind the opponent up. He admitted he should not have done this and has since regretted doing so. He also noted other opponents were joking with him about the allegation which further reinforced his belief it was not so serious.

- 25.5. When Daniel Connolly returned following the sin-bin he did not recall any further interaction between them but did note they were both playing as forwards for their opposing teams and not likely to have done so.
26. That concluded the relevant live evidence in this case.
27. Daniel Timms summed up by stating as follows;
- 27.1. He does not think he is guilty of the alleged offence; he did not think he had done so at the time and believed there had been no contact. He now doubts himself regarding any contact but if there had been it was accidental.
28. Daniel Timms finished by confirming he had received a fair hearing.

Standard of Proof

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

The Findings & Decision

30. For case **11586184M**, Daniel Connolly has accepted his charges, the Commission are satisfied the threshold for both of the charges has been met and both have been found **Proven by Admission**.
31. For case **11586199M**, Daniel Timms has denied the charge, he is alleged to have grabbed the genitals of his opponent which has been the catalyst for the aggravated comments from Daniel Connolly. The allegation is supported by the written and live testimony of a South Birmingham team official but was not seen by the Match Referee.
32. The Commission considered the evidence presented to them both written and live. The witnesses provided differing versions of the initial contact, the Referee noted from behind with the two County FA witnesses noting from the side and

Daniel Timms believing initially from the front but then his opponent had turned. The two South Birmingham witnesses note they had either seen or felt the grab which lasted for between 2-5 seconds. This was denied by Daniel Timms and not seen by the Referee.

33. The allegation was made to the Referee at the time of the incident and the physical reaction from Daniel Connolly was further evidence that there had been contact between the two individuals. The winking was considered by the panel, this was admitted to by Daniel Timms; the reason given by was considered to be a plausible explanation and was believed to be likely to have been an attempt to antagonise the South Birmingham player.
34. The degree of the contact and alleged length of time the grab was discussed by the Commission in detail. A grab of the time alleged would have been clearly visible to the Referee and more than likely others around. It was also believed likely that a grab for up to 5 seconds would be highly likely to have resulted in a more forceful reaction from Daniel Connolly towards Daniel Timms at the time of the grab.
35. The Commission did not believe it likely the grab had taken place, it is noted by the panel and was unanimously accepted that contact had been made between Daniel Timms and the groin area of Daniel Connolly. This contact was further considered by the Panel, whilst it had caused considerable distress to Daniel Connolly it was believed unlikely to have been intentional.
36. The Commission, having considered all evidence presented to them have, on the balance of probabilities, found it to be more than likely the contact between Daniel Timms and the groin area of Daniel Connolly to have been accidental. Therefore, the charge was found **not proven**.

Previous Disciplinary Record

37. Daniel Connolly's five-year offence history only contains 4 cautions prior to this fixture.

Mitigation

38. For case **11586184M** the aggravated charge for Daniel Connolly, as this has been accepted the "*credit for a guilty plea*" can be considered. He has also provided the reason for the comment within both his written and live submission and this was accepted by the Commission as, although they did not believe it to have been intentional, would still have caused distress and discomfort to Daniel Connolly.

The Sanction

39. For case **11586184M** the E3.1/E3.2 charges for Daniel Connolly the sanction range for this offence is as follows:
- 39.1. Suspension of 6-12 Matches
 - 39.2. A fine at the discretion of the commission
 - 39.3. Mandated FA Education
40. The offence committed, and aggravating factor of additional use of offensive language present. would normally attract a suspension of 7-8 matches, a fine around £90 and mandated education. The Commission noted the excellent record of Daniel Connolly and acceptance of the charge in mitigation. After taking this into consideration, the Commission awarded the following sanction;
- 40.1. To serve the minimum suspension of 6 matches from all football activity;
 - 40.2. fined a sum of £65;
 - 40.3. Daniel Connolly is to satisfactorily complete a mandatory online education programme before the suspension is served or be suspended until such time, he successfully completes the mandatory education programme, the details of which will be provided to him; and
 - 40.4. 5 (five) Club Disciplinary Points to be recorded;
 - 40.5. A warning as to future conduct
41. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.
42. Signed...

Steve Francis (Commission Chair)

Jack Chapman (Wing Member)

Paul Mallett (Wing Member)

01 March 2024