

THE FOOTBALL ASSOCIATION DISCIPLINARY COMMISSION

Sitting on behalf of Worcestershire Football Association

NON-PERSONAL HEARING

of

Michael Brackstone

THE DECISION AND REASONS OF THE COMMISSION

Introduction

1. These are the written reasons of Martin Hill ("Chair" or the "Commission"), having considered the matter on papers as Chair alone on a Non-Personal Hearing basis.
2. These written reasons contain a summary of the principal evidence before the Chair and does not purport to contain reference to all points made. The absence in these reasons of any particular point, piece of evidence or submission should not imply that the Chair did not take such point, piece of evidence or submission into consideration when determining the matter. For the avoidance of doubt, the Chair has carefully considered all the evidence and materials furnished in this matter.

The Charge

3. By a Misconduct Charge Notification dated 28 May 2024 (the "Charge Notification") issued by the Worcestershire FA, Michael Brackstone was charged with a breach of FA Rule E3 - Improper Conduct (including foul and abusive language). (Charge 1).
4. By the same Misconduct Charge Notification Michael Brackstone was charged with 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.
5. It is alleged that Michael Brackstone (Hardly Athletic FC - player) used abusive and/or indecent and/or insulting words or behaviour contrary to FA Rule E3.1 ("you are a fucking idiot, I wonder if you heard that?" and/or "you fucking" and/or "you fucker"), and it is further alleged that this is an aggravated breach as defined by FA Rule E3.2 because it includes a reference to . This refers to the comment(s): "you fucker cock sucker" or similar.
6. As part of the consolidated hearing, and by a Misconduct Charge Notification dated 28 May 2024 (the "Charge Notification") issued by the Worcestershire FA, Michael Brackstone was charged with a breach of FA Rule E3 - Not acting in the best interest of the game. (Charge 2).
7. It is alleged that Michael Brackstone (Hardly Athletic FC - player) - used Improper Conduct (not acting in the best interest of the game) contrary to FA Rule E3 including but not limited to when asked for his name, the participant failed to provide his name as asked to do so by the Match Official or similar. Further, Michael Brackstone alleged response was as: "He then walked towards me and when no more than two meters away I asked him for his name. He refused to tell me his name so I asked again and he told me his name was "Jack Jones". I asked him "are you sure that's your name?" to which he replied "it's the name I have given

you" as detailed by the Match Official/Referee Report. Furthermore, Michael Brackstone statement reads as: "out of frustration and anger I gave him another players name".

8. Michael Brackstone pleaded not guilty to all the charges against him via the WGS and elected for the case to be heard via correspondence.
9. Accordingly, the matter has been dealt with by me, as Chair alone, on a Non-Personal Hearing basis.

Evidence

10. Following the fixture between Hardly Athletic FC Firsts v Redditch Borough Development Sundays on 21 April 2024, Michael McDaid, Match Official, submitted a County Association Report Form dated 21 April 2024, which stated, inter alia:

"In the final few seconds of 92nd minute of the match, I awarded a foul to Redditch Borough Development Sundays (RBDS) just inside the Hardly Athletic FC (HAFC) half with score at 4-3 in favor of RBDS. Ben Brackstone (Shirt #2) from HAFC, who was standing a few meters to my right stated the following towards me: "Shall I get you a Redditch Borough Blue shirt ref?" I requested his name, he gave it to me and I gave him a caution explaining that I was giving it for dissent. In the process of doing this, Michael Brackstone (Shirt #7) from HAFC said the following when walking from behind to past me: "You have been cheating all game Ref" I blew my whistle however, he continued to walk away from me when I requested he speak to me. I continued to stop the game, gave another blow of my whistle and again repeated my request for the player to come and speak to me. He then walked towards me and when no more than two meters away I asked him for his name. He refused to tell me his name so I asked again and he told me his name was "Jack Jones". I asked him "are you sure that's your name?" to which he replied "it's the name I have given you". I then told him that I was booking him for dissent and showed him a caution. As he was walking away from me I heard him say "You fucking cock sucker". I blew my whistle and he turned around. I said "I heard that. I am sending you off." I showed him another caution followed by a red card. As he was walking off, he said "You're a fucking idiot, I wonder if you heard that?". As he was walking off the pitch I went over to the HAFC manager/ Home team contact Danny Kendall. I asked Danny to provide me the players name and told me it was Michael Brackstone. I asked that we speak after the end of the match once he had dismissed his players. I blew my whistle to resume the game, played the final few seconds of the match before blowing the fulltime whistle. I shook hands with the participants in the game, got ready to leave before speaking to Danny. I explained everything that had happened with Michael and why he had been sent off. I explained my decisions and that in my opinion what Michael had said could be interpreted as homophobic abuse and that I would be reflecting this in my match report when reporting to the FA. He understood and agreed with me before apologizing for his players actions."

11. In a further emailed written statement dated 22 April 2024, and in response to communication from the county FA seeking further information, Michael McDaid, Match Official, stated:

"In response to your questions:

1. *How low the alleged discrimination language was used on a scale from 1 (whispered) to 10 (shouting very loud)?*

I would say that this was at a slightly higher than normal conversation volume so 5/6.

2. *Did the player was facing you when the alleged discrimination was used? Did you see the player facial expression/words said as the language was used?*

He had already began walking away from me so I only had a slight angle at his face. I therefor can attribute him with the language used but couldn't comment on his facial expression at the time.

3. *How sure are you that the alleged discrimination language was used towards you? Could have been used towards someone else?*

I am sure this was fortunately aimed at myself as it was in response to his initial caution for dissent. We were still in dialog with each other at the time despite him beginning to turn and walk away from me.

4. *What was the player body language when such alleged discrimination language was used?*

He was walking away from me to get into position to restart the game so his body language was normal and not confrontational.

5. *Could anyone else (in your opinion) heard the alleged discrimination language used as "you fucking cock sucker"? If so, by whom?*

It was likely heard by a few players and potentially the Hardly Athletic FC manager as the free kick was fairly close to the touchline. I didnt take a record of which players were close enough at the time. Many were taking position for the freekick and many knew it was the last kick of the ball before full time."

12. As aforementioned Michael Brackstone officially denied the charges against him, and in response stated, via a Witness Statement Form dated 30 April 2024:

"I got a yellow card as I turned away from the ref one of the redditch players laughed at me so I called him a "fucking cock sucker" I didn't shout it out load I just spoke it. Then the ref gave me a second yellow card for saying it. Out of frustration and anger I gave him another players name."

"I'm really sorry this happened I let my team down and myself. I should not have said what I said to the player and I can understand why the ref might think it was directed at him when I can assure you it wasn't. I can only apologise and learn from my mistake and not let my emotions run away with me on the pitch again."

13. In a further Witness Statement Form dated 29 April 2024 Danny Kendall, Manager, Hardly Athletic, stated:

"I was on the sideline about 15 yards from the incident. I was telling mike to calm down as I could see he was getting frustrated . I turned away to organise a substitute to come on for him . As I turned back round I seen the referee giving Micheal Brackstone a yellow card . I did not see what the initial yellow card was for . Then mike turns around walks away from the ref and says something to a opposing player . I didn't hear what he said but the ref told me after the game had finished that he had said "cock sucker" . I asked mike why he said it and he states " I said it to one of there players not to the ref" .

Determination

14. As aforementioned, Michael Brackstone officially denied the charges against him on WGS.
15. Despite Michael Brackstone pleading not guilty the charges against him, it seems clear to the commission that he does not deny using improper, foul and abusive language towards another participant. The charge does not specify whether Michael Brackstone said this to the referee or a player, and in this context that is deemed irrelevant to the charges. The comments accepted to have been made referenced sexuality in their meaning, and whilst this may not have been the intended meaning such comments are offensive and inappropriate and have no place within football. It is also accepted by Michael Brackstone that he provided an incorrect name to the match official when being cautioned, again showing behaviour that is improper in the context of the fixture. Therefore, on the balance of probabilities I find both charges Proven.
16. Having found the charges Proven, I proceeded to sanction on that basis.
17. I have had regard to the FA Sanction Guidelines, which is referred to in the Charge Notification.
18. The applicable sanction guidelines outline the following:
- Charge 1:
- The sanctioning range is 6-12 matches. 6 matches is 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.
- Charge 2:
- The sanctioning range is:
0-3 match suspension
£0 - £40 fine

19. The guidelines give me a sanctioning range, and I must now also consider aggravating and mitigating factors.
20. The Commission was made aware of Michael Brackstone's disciplinary history for the purposes of imposing a suitable sanction. There were no other misconduct charges identified over a 5-year period.
21. It is clear to the commission that Michael Brackstone's accepted behaviour at the applicable fixture is of significant concern, using discriminatory and improper language towards a participant, whether that was the match official or an opposition player, and also when asked by the match official for his name decided to give a false name. The language and behaviour shown has no place in football.
22. As to mitigation, Michael Brackstone accepted that he had used improper language, and apologised for his actions. Michael Brackstone's good disciplinary history has also been noted.
23. Taking all the above into account, and in considering a sanction that in my discretion strikes the correct balance between effective punishment, deterrence, and the protection of all participants, I impose a sanction in line with the standard minimum of the sanctioning range for Charge one, and at the lower end of the sanctioning range for Charge 2.
24. I determine that Michael Brackstone is made subject to a 6-match suspension, and he must complete an online education programme before the match-based suspension is served, for Charge 1. For Charge 2 I determine that Michael Brackstone is made subject to a further 1-match suspension and is fined £10.
25. As Michael Brackstone is a playing participant there is a requirement for the commission to impose penalty points in this case. For clarity the penalty points outlined below are part of a consolidated case and therefore have been seen as a whole by the commission, with in this circumstance a total of 8 penalty points being sanctioned.

Outcome

26. For the reasons set out above:

Michael Brackstone

Charge 1

- i. Charge 1 is found Proven by the commission on the balance of probabilities.
- ii. Shall be made subject to a 6-match suspension from all football and all football activities.
- iii. Must complete an education programme before the match-based suspension is served.
- iv. 6 Penalty Points are attributed to the club.

Charge 2

- i. Charge 2 is found Proven by the commission on the balance of probabilities.
- ii. Shall be made subject to an additional 1-match suspension from all football and all football activities.
- iii. Is fined £10.
- iv. A further 2 Penalty Points are attributed to the club.

27. This decision is subject to the right of appeal under the relevant FA rules and Regulations.

Mr Martin Hill

18 June 2024