

FA NATIONAL SERIOUS CASE PANEL

DISCIPLINARY COMMISSION

CHAIR SITTING ALONE

on behalf of Worcestershire Football Association

NON-PERSONAL HEARING

Of

Tenbury United FC

[Case ID: 11299449M]

THE DECISION AND REASONS OF THE COMMISSION

<u>Content</u>	<u>Page</u>	<u>Paragraphs</u>
1. Introduction	3.....	1 – 3
2. The Charges	3.....	4 – 5
3. The Reply	4.....	6 – 7
4. The Commission	5.....	8
5. The Hearing and Evidence	5.....	9 – 23
6. Standard of Proof	10.....	24
7. The Findings & Decision	11.....	25 – 29
8. Previous Disciplinary Record	12.....	30
9. Mitigation.....	12.....	31
10. The Sanctions.....	12.....	32 – 35

Introduction

1. On 02 August 2023, Tenbury United FC ("Tenbury", the "Club"), played a friendly fixture against Bromyard Town FC ("Bromyard") – collectively the "match".
2. Following the fixture, a comment was made on social media containing allegations of misconduct by a Tenbury United FC spectator.
3. Worcestershire Football Association ("Worcestershire FA") investigated the reported incidents.

The Charges

4. On 30 August 2023, Worcestershire FA charged Tenbury United FC:
 - 4.1. with misconduct for a breach of FA Rule E21 - Failed to ensure spectators and/or its supporters (and anyone purporting to be its supporters or followers) conduct themselves in an orderly fashion whilst attending any Match;
 - 4.2. It is alleged that Tenbury United FC - Failed to ensure that spectators and/or its supporters (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to FA Rule E21.1 (this refers to the comment(s) made by a spectator affiliated to Tenbury United FC as: *"what's the point in wearing black you cunt"* and/or *"you're not wearing a blue shirt you're wearing black, cunt"* or similar). It is further alleged that the words and/or behaviour made reference to <ethnic origin/colour/race> contrary to FA Rule E21.4. This refers to the comment(s) *"<fuck off you black cunt>"* or similar.
 - 4.3. Worcestershire FA advised in the charge letter the offence carried a sanction range of £0-300 fine.

4.4. The relevant section of FA Rule E21 states¹:

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

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

E21.2 throw missiles or other potentially harmful or dangerous objects at or on to the pitch; E21.3 encroach on to the pitch or commit any form of pitch incursion;

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

4.5. Worcestershire FA cited the evidence that they intended to rely on in this case which was included within the charge letter.

5. Tenbury United FC were required to respond to their charge by 06 September 2023.

The Reply

6. The case bundle contains a to the charge response via WGS on 05 September 2023 of “Deny-Correspondence”.

7. During the investigation, the evidence was submitted from:

7.1. Information supplied by the Match Official;

7.2. Statements from Bromyard Town FC;

7.3. Statements from Tenbury United FC.

¹ p. 148 of FA Handbook (2023-24)

The Commission

8. The Football Association ("The FA") appointed me, Steve Francis, as a Chair member of the National Serious Case Panel, to this Discipline Commission as the Chair Sitting Alone to adjudicate in this case.

The Hearing and Evidence

9. The case bundle was sent via e-mail to the appointed Chair 07 September 2023 to be completed within 3 working days.
10. I adjudicated this case on 08-10 September 2023 as a correspondence hearing.
11. 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 appropriate names have been redacted.
12. Below is a summary of the main points:
13. The initial complaint was submitted via social media on 02 August 2023, this states the following;
 - 13.1. The comment in full states *"After 14/15 years of football and never had a racial comment shouted at me, well that changed tonight after spectators from @TenburyUnited shouted shocking abuse. But never had the minerals to come forward. Absolute disgrace"*. There was a response from Worcestershire FA to the comment asking they raise the issue to the County FA Disciplinary team and providing the respective contact details.
14. Subsequent to the social media post, Worcestershire FA received the following e-mail on 03 August 2023 which provides the following;
 - 14.1. Noting the contact via social media they state *"Last night whilst playing for bromyard FC in a friendly match against tenbury United at their place I was*

racially abused by a supporter that shouted "fuck off you black cunt" with only 10 minutes to go the game then had to be abandoned as we as a team don't stand for it and decided to walk off". The author provides his feelings on the issue "I am appalled by the comment and would like further action taken as the club knew who it was as there was many of them on the sideline standing there".

- 14.2. On 06 August 2023 the same individual submitted a statement to Worcestershire FA adding the following details *"The game flowing as normal, at approximately the 80th minute I heard a spectator shout the words "Fuck off you black cunt" in response to this they turned to the spectators "shouted in the direction that I heard the comment "Who said that? Say it again but with your chest, who shouted that racial comment?" Nobody immediately said anything. One girl wearing a green jumper and black leggings shouted back at me "We wasn't talking to you".*
- 14.3. This was further noted by another spectator who also called over *"wearing a black top and blue jeans who was bald shouted "We was talking to the ref, not you". No action taken from the referee as it seemed he knew the team very well. It was my manager that shouted over to me "Ash what has happened?" I then told him what I had heard and he told us all that we are leaving the pitch and abandoning the game. We all then walked off the pitch back into the changing rooms whilst the managers were talking". At the time of the incident the spectators were positioned in the bottom corner by the corner flag with the player close to the penalty area.*
15. Worcestershire FA make repeated attempts to get further statements from Bromyard, further comments on the incident were submitted on 04 August 2023 and provide the following;
- 15.1. Authored by a club official which states *"I don't think I can be of any help in this matter. I was sat down by the swimming pool along with a couple of colleagues and we were quite a long way from the alleged incident, almost the bottom side of the pitch and well away from the home supporters. The first we*

knew of the problem was when the players all dashed to the middle of the field. I believe that most of the players heard the comment so they be able to help."

16. The case bundle does contain statements from other players, including the following;

16.1. On 29 August 2023 the following was submitted to Worcestershire FA *"It was late in the game, not exactly sure when, if I had to guess I'd say it was around the 80th minute mark. This was when one of the Tenbury United supporters shouted "your fucking useless you black cunt" towards one of the Bromyard Town players."* They do not recall if any action was taken by the Referee and he believes the incident has been reported by his club.

17. The case bundle then includes the statement from the Match Referee,

17.1. Having been contacted to provide observations on the allegations Worcestershire FA ask a series of questions on 07 August 2023, on the same date the Referee replies to these questions. The first is in regards to the abandonment *"It was only up to Bromyard that the game was abandoned. As they heard the discrimination they felt they did not want to continue with the match"*. It was also noted this took place in the 86th minute.

17.2. The Referee notes the comment he was made aware of to be *"you black cunt"* with the management and players of Bromyard making the allegation. As it was a friendly the Referee felt *"it would be up to both teams if they are willing to continue. I fully respect why Bromyard would not want to continue the game with the allegation being made"*. The Official also confirms the supporters were on opposite sides of the field of play *"with this coming from the Tenbury side"*.

17.3. As far as he was aware Tenbury had not identified the spectator and having spoken to the *"Bromyard players and coaches it was unclear who said the alleged comments. At one point they said it was a female and at other points they said male so unfortunately I am not able to give any information on who made the comments"*.

18. The case bundle then contains the statements from members of Tenbury United FC, the first is from a spectator who admits to use of offensive language and provides the following;

18.1. Whilst watching the game there was a nasty challenge on his son who was playing, at this point he admits they *"made a comment about to the ref about not wearing the opposition colours to which I said 'what's the point in wearing black you cunt'. Then their left back, who turned round started walking towards me and said what did you say, which I replied, "I was shouting at the ref!" The tackle was not made by the player that approached me and he was nowhere near the incident or tackle"*.

18.2. The Bromyard player shouted over to him and accused him of a racist comment *"I replied, 'I was shouting at the ref' and then he turned to his players and said I made a racist comment. It then got heated, the ref came over and said 'I don't know what was said, but they've called the game off.' The witnesses and I tried to explain that 'it was not directed at any player it was directed at you'".* He notes the Bromyard players refused to continue and the game was abandoned.

19. The next Tenbury statement is from a relative to the author of the first statement, dated 07 August 2023 this adds the following regarding the exchange;

19.1. There in the capacity of a supporter to a family member that was playing they note a rough challenge on them by a Bromyard player resulting in multiple calls of *"ref"*. Once it had quietened *"the accused person shouted, 'you're not wearing a blue shirt you're wearing black, cunt'. This was because the foul wasn't given, and the comment was aimed at the ref. A lad from the other team (who was nowhere near the incident) started shouting 'who the fuck said that?'. He proceeded to walk over to where we were standing. The goalkeeper then started to say, 'who's being racist?' Whilst the player started walking towards us, I said 'just go away and play football', repeating this 3/4 times"*.

19.2. The player then turned to other Bromyard players *"saying to the other players that the accused called him directly a 'black cunt'. This then led other*

opposing players to shout abuse at us. By this point the players were speaking to the ref saying, 'someone over there is being racist' and pointed in our direction. The ref came over to us and said, 'I don't know what was said but if it is what they are saying then we don't condone that here.' My reply was, 'that is not the case, he was talking about you.' Another witness agreed with me and said 'actually, he was talking about you ref.'". They were then informed the match had been abandoned with 10 minutes remaining.

20. The next is from a further family member present to watch the fixture, submitted on 08 August 2023 this provides the following;

20.1. Confirming the date and reason for attendance they add *"The match had a few debatable tackles but one was on my partners brother. It was a bad tackle that was completely missed by the ref. My partners father then shouted, 'you're not wearing blue, you're wearing black, cunt.' This was taken and misheard by Bromyard's player who thought it was aimed at him. He was nowhere near the incident. He then proceeded to turn and ask what was said. The person who made the comment and other spectators replied 'it wasn't aimed at you, it was aimed at the ref.'"*

20.2. It then became heated with the Bromyard player involved, who believed a racial slur had been made which they denied. The match was then abandoned and the players left the field of play. They were approached by the Referee who *"stated 'I'm not sure what was said but they have refused to carry on with the match'. We explained to the ref that 'what was shouted was aimed at him and wrongly taken by the players' The accused spectator then left the field."*

20.3. The author also notes a counter allegation of discriminatory language when *"the opposition team shouted, 'This is all that stupid slag in the pink's fault' (referring to my partner). Hearing this, I'd like to put this in my statement because nothing has been mentioned about this. I stayed to talk to the players and nothing more was said. It was all taken out of context and a big misunderstanding"*.

- 20.4. The author of this statement provides further comments via e-mail noting the individual accused to be *“mortified about the situation”* and cites the impact it has made on them both at the time and since the incident took place. He also notes of the supporter who allegedly made the comment *“anyone who knows the accused knows full well that he does not stand for racial remarks or racist abuse being said let alone saying it himself to someone else. People are quick to judge and take on a little snippet of what they heard and run with it, but as all the statements will suggest and show that was never the case”*.
21. The next statement from Tenbury is from another supporter who provides the following information;
- 21.1. They were on their phone when he heard the comment *“ref, you are not wearing a blue shirt, you’re wearing black you cunt”*. Returning to the phone they saw the player *“approach the person who made the comment and say ‘do you want a fight, shouting racial comments to me like that?’ The team had to hold him back. At this point, the players were all very agitated. The ref then came over and said he ‘did not hear what was said’ and ‘the game has been abandoned’.”*
22. The final entry in the case bundle is the response from Tenbury to the charge, written on 05 September 2023 this notes the following;
- 22.1. They note they are pleading guilty to the charge but only the comments included in their own statements adding *“the individual and club is pleading not guilty for the alleged words and/or behaviour made reference to ethnic origin/colour/race contrary to FA Rule E21.4. This refers to the comment(s) “fuck off you black cunt” or similar”*.
23. That concluded the relevant evidence in the case.

Standard of Proof

24. 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

25. For case **11299449M** the E21 raised against Tenbury United FC, the Commission considered the charge against the club. The allegation is of the use of a racial slur *"fuck off you black cunt"*, noted by a Bromyard player. This is supported by a team mate who also notes the words *"you're fucking useless you black cunt"*. The report of the Referee whilst they did not hear the slur themselves, further supports the allegation insofar as these were the words reported to them by the Bromyard player at the time of the alleged offence. The decision to leave the field of play and abandon the fixture shows the level of certainty these words were heard.
26. In response, the statements from Tenbury note use of the words as alleged but in a different context, being either *"what's the point in wearing black you cunt"*, *"you're not wearing a blue shirt you're wearing black, cunt"* or *"you're not wearing blue, you're wearing black, cunt"*. In the context provided and the preceding situation they have alleged to have taken place of a foul on their family member which was not penalised they appear to provide a plausible reason for the comment being made.
27. The Commission have decided, on the balance of probability, it is more likely than not the words as stated by the supporters of Tenbury were most likely to have been those used at the time of the offence. The E21 charge has therefore been found as **Proven**.
28. For the aggravated element in this case it is believed, on the balance of probability, it has not been the intention of the supporter to use these words as a racial slur. The statements from Tenbury note the player allegedly abused was not involved in the challenge on their family member, nor in any other significant interactions. The complaint raised and the supporting statement do not include the wider circumstances and if the player had recently been involved in any such exchanges with the supporters that may have resulted in the use of such racial comments. Therefore, the aggravated element of the charge has been found as **Not Proven**.

29. It is however, noted by the Commission the comments made by the supporter from Tenbury are considered to be a very poor choice of words to use and can fully understand the way in which the player from Bromyard has interpreted them when not having heard the full context of the comments.

Previous Disciplinary Record

30. Tenbury United FC have 3 teams, the five-year offence history contains the following relevant charge;

30.1. 15 April 2023 E21 sanction £100.

Mitigation

31. Nothing has been provided in mitigation for the charge.

The Sanctions

32. For case ~~11299449M~~ E21 Tenbury United FC the sanction range for this offence is as follows:

32.1. A fine up to £300

33. Due to the seriousness of the offence the Commission placed the entry point for this offence in the high end of the mid-range of the guidelines at £140, having considered the previous history, the sanction will be:

33.1. fined a sum of £125;

33.2. A warning as to future conduct.

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

35. Signed...

Steve Francis (Commission Chair)

10 September 2023