

NON-PERSONAL HEARING

**THE FOOTBALL ASSOCIATION**

*and*

**Mr HAYDEN BIRD**

**Merstham FC**

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THE DECISION AND REASONS  
OF THE FA REGULATORY COMMISSION

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<b><u>Content</u></b>	<b><u>Page</u></b>	<b><u>Paragraphs</u></b>
Introduction .....	3	1 – 4
The Charge .....	3	5 – 8
The Reply .....	4	9
The FA Rule .....	4	10
The Regulatory Commission .....	4	11
The Hearing .....	4	12 – 16
The Burden of Proof .....	5	17
Our Findings .....	5	18 – 22
Previous Disciplinary Record .....	6	23
Mitigation .....	6	24
The Sanction .....	6	25 – 32

## **Introduction**

1. On 15 November 2014, Merstham FC (“Merstham”, the “Club”) played an FA Challenge Trophy away fixture against AFC Hornchurch (“Exeter”), with a kick-off time of 3pm – (collectively “the match”).
2. The appointed Referee was Mr Stuart Butler and one of the Assistant Referees was Mr Elad Amir.
3. Mr Hayden Bird was the Manager of Merstham at the match.
4. Mr Butler and Mr Amir reported Mr Bird’s behaviour around 93<sup>rd</sup> minute of the match.

## **The Charge**

5. On 20 November 2014, The Football Association (“The FA”) charged Mr Bird with misconduct for two breaches of FA Rule E3 (the “Charge”).
  - 5.1. It was alleged that in or around 93<sup>rd</sup> minute of the match, Mr Bird used abusive and/or insulting words towards the Match Referee; and
  - 5.2. It was further alleged that, following his dismissal from the Technical Area, Mr Bird used abusive and/or insulting words towards the Match Referee.
6. The FA designated this case as a Non Standard Case as Mr Bird was previously charged with a breach of FA Rule E3 following a fixture against Hythe Town FC on 08 April 2014, and as the second alleged breach occurred outside the jurisdiction of the Match Officials.
7. The FA enclosed, the following evidence that it intended to rely on:
  - 7.1. Report of the Match Referee, Mr Stuart Butler, dated 16 November 2014; and
  - 7.2. Report of the Assistant Referee, Mr Elad Amir, dated 17 November 2014.

8. Mr Bird was required to reply to the Charge by 28 November 2014.

### **The Reply**

9. There was no response to the Charge from Mr Bird by the due date. The FA then sent a reminder EMail to the Club Secretary, Mr Richard Baxter, on 03 December 2014 and yet still no response was received.

### **The FA Rule**

10. The FA Rule E3 states:

*“(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.*

*...”*

### **The Regulatory Commission**

11. The following members were appointed to the Regulatory Commission (“the Commission”, “We/us”) to hear this case:

Mr Thura KT Win, JP (Chairman);

Mrs Elaine Oram;

Mr Peter Powell; and

Mr Robert Marsh, The FA Judicial Services Manager, acted as Secretary to the Commission.

### **The Hearing**

12. We convened at 10am on 09 January 2015 by videoconference for this Non-Personal / Paper Hearing (the “Hearing”).

13. We had read the bundle of documents prior to the Hearing.

14. Mr Butler, the Referee, reported the following (we quote):

*“After 93<sup>rd</sup> minute of play my bench side assistant referee Elad Amir called me across to inform me that the Merstham Manager Hayden Bird had used offensive language towards myself calling me a ‘fucking wanker’ and a ‘fucking cheat’. I therefore asked Mr Bird to leave the technical area. As he did he told me that I was ‘fucking useless’ and that I had ‘cost’ them ‘five grand’.”*

15. Mr Amir, the Assistant Referee, reported the following (we quote):

*“On the 93<sup>rd</sup> minute I had to call the referee across to inform him that the Merstham Manager, Hayden Bird, had used offensive language towards him, calling him a ‘Fucking wanker’ and a ‘Fucking cheat’. The referee then asked him to leave the technical area, and as he was leaving he told the referee that he was ‘Fucking useless’ and that he had ‘cost’ them ‘five grand’.”*

16. There was no response to the Charge from Mr Bird and, therefore, we did not have any plea or explanations / representations from Mr Bird.

### **The Burden of Proof**

17. The applicable stand of proof required for this case is the civil standard of the balance of probability.

### **Our Findings**

18. Mr Bird did not respond to the Charge and, therefore, we treated this case as a denial of the Charge and dealt with it accordingly.
19. As we did not have any information contrary to the evidence in support of the Charge, we found the Charge against Mr Bird PROVED on the burden of proof required.
20. We noted that Mr Butler’s report had included Mr Bird using abusive and insulting language three times towards Mr Butler, over two separate occasions.
21. Based on the evidence before us, we found that Mr Bird had used abusive AND

insulting language towards the Match Referee on two occasions.

22. We considered the nature and seriousness of the reported behaviour to be high.

### **Previous Disciplinary Record**

23. Mr Marsh informed us that Mr Bird has three similar offences previously: in August 2013 (£100 fine), September 2013 (1-match suspension and £125 fine) and April 2014 (2-match suspension and £200 fine).

### **Mitigation**

24. There was no information from Mr Bird.

### **The Sanction**

25. We recalled that there was no response from Mr Bird on the Charge and we had subsequently found the Charge proved.

26. Mr Marsh reminded us that this was a Non Standard Case but for a Standard Case where a breach of FA Rule E3 was denied and subsequently found proven at this level of football (Step 4) would attract a 2-match suspension and a fine of £225.

27. We noted that Mr Bird has three previous relevant offences within a period of eight months. The last occasion was about seven months prior to the current offence and all four offences within 15 months.

28. It appeared to us that Mr Bird has not learnt from the previous sanctions and those sanctions have not had a deterrent affect on Mr Bird to refrain from re-offending.

29. There were two breaches of FA Rule E3 in one Charge and we decided on the appropriate sanction under the principle of totality, after reflecting on the aggravating and mitigating factors present in this case.

30. After considering the nature and seriousness of Mr Bird's reported behaviour, no response to the Charge and we had found it proved – with repeated abusive

and insulting words against the Match Referee, this being a Non Standard Case, Mr Bird's previous relevant disciplinary record, and having regards to the standard guidelines, we considered that the appropriate and proportionate sanction would be a suspension of 4 matches and a fine of £300.

31. We, therefore, ordered that Mr Bird be:
  - 31.1. suspended from the touchline for all domestic club football until such time as Merstham have completed 4 (four) First Team matches in approved competitions;
  - 31.2. fined the sum of £300 (three hundred pounds); and
  - 31.3. severely warned as to his future conduct.
32. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

**Thura KT Win, JP (Chairman)**

**Elaine Oram**

**Peter Powell**

09 January 2015