

NON-PERSONAL HEARING

THE FOOTBALL ASSOCIATION

*and*

Mr MARTIN HERDMAN

Queens Park Rangers FC

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THE DECISION AND REASONS  
OF THE FA REGULATORY COMMISSION

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## **Introduction**

1. On 29 November 2014, Queens Park Rangers FC (“QPR”, the “Club”) played an U18 Professional Development League away fixture against Cardiff City FC (“Cardiff City”), with a kick-off time of 11am – (collectively “the match”).
2. The appointed Referee was Mr Tyler Ganfield and Mr Kevin Russell was one of the Assistant Referees.
3. Mr Ganfield, the Referee, reported that he dismissed Mr Martin Herdman, the Goalkeeper of QPR, from the field of play at the 65<sup>th</sup> minute of the match for kicking an opponent. It was further reported that Mr Herdman reacted to this decision and his subsequent conduct was improper.

## **The Charge**

4. On 17 December 2014, The Football Association (“The FA”) charged Mr Herdman with misconduct for a breach of FA Rule E3. It was alleged that Mr Herdman’s behaviour following his dismissal in or around 65<sup>th</sup> minute, as evidenced in the report, correspondence, statement and video clip, amounted to improper conduct (the “Charge”).
5. The FA designated this case as a Non Standard Case due to:
  - 5.1. the alleged incident occurred outside of the jurisdiction of the Match Officials; and
  - 5.2. the aggressive nature of the reported behaviour.
6. The FA enclosed, the following evidence that it intended to rely on:
  - 6.1. Report of the Match Referee, Mr Tyler Ganfield, dated 02 December 2014;
  - 6.2. EMail correspondence between Mr Ben Marshall of The FA On-Field Regulation Department and Mr Ganfield, dated 29 November – 12 December 2014;
  - 6.3. Statement of the Assistant Referee, Mr Kevin Russell, dated 09 December

2014; and

- 6.4. A video clip of the incident (viewable via the link sent to the Club).
7. Mr Herdman was required to reply to the Charge by 29 December 2014.

### **The Reply**

8. On 20 December 2014, Mr Herdman responded by admitting to the Charge, did not request an opportunity to attend a Commission for a personal hearing, and selected the option to deal with his case at a paper hearing on the content of the documents served on him and any documentation he supplied to The FA (the “Reply”).
9. With Mr Herdman’s Reply, the following documents were submitted:
- 9.1. Statement from Mr Herdman, dated 18 December 2014;
- 9.2. Letter from Ms Terry Springett, the Club’s Football Secretary, dated 20 December 2014; and
- 9.3. Letter from Ms Springett to Mr Herdman, dated 05 December 2014.

### **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 Ganfield, the Referee, reported the following (we quote the relevant text):

*“ ... After showing him a red card and sending him off from the field of play he then slapped my arm and made contact again in a very aggressive manner. He then tried causing a fight between more opposition players until he then finally left the field of play.”*

15. In response to an EMail from Mr Marshall, The FA On-Field Regulation Department, seeking clarification of the alleged contact made by Mr Herdman, Mr Ganfield replied as (we quote the relevant text):

*“Following myself showing the red card to Mr Herdman he slapped my hand. He was very aggressive in the way he did this. After this he walked away and whilst doing so he was among the other players trying to cause trouble. He was having a go at them trying to aggravate them but thankfully he was ushered off the field of play.”*

16. Mr Russell, the Assistant Referee, said in his statement (we quote the relevant text):

*“ ... I observed the referee Mr Tyler Ganfield immediately approach the QPR goalkeeper and show him the red card for the violent conduct offence. The goalkeeper then attempted to knock the red card out of the referees hand by throwing his arm towards*

*the referees outstretch arm. I believe this action was meant to knock the card out of the referees hand.*

*Tensions within both teams was raised and I entered the field of play in an effort to assist the referee by ensuring the goalkeeper for QPR left the field correctly without him or other players causing further problems.”*

17. Mr Herdman said in his statement (we quote the relevant text):

*“I accept my fine and deeply regret my actions. I have learnt my lessons and feel I can move on from this seeming my previous disciplinary records are very good. Please note this is out of character for me and I am normally a calm and composed individual. I have accepted the fine QPR have given me and I hope we can all move on from this.*

*Please accept this letter as my apology.”*

18. Ms Springett stated in her letter (we quote the relevant text):

*“... Martin has accepted the Charge, without question, which for a 17 year old is not always an easy thing to do – being an admission of guilt.*

*Immediately following the confirmation of his sending-off the Club levied a fine of two weeks wages on Martin and warned him as to his future conduct. A copy of the letter dated 5<sup>th</sup> December 2014 is attached herewith [as listed in para 9.3] and the original was copied to the FA on this date, along with the PFA and the Premier League. Martin has not appealed this fine...*

*... [the Referee] states ‘he then slapped my arm and made contact again in a very aggressive manner’. This is not the case. Martin made one movement, which in our opinion was try to dislodge the card from the Referee’s upheld arm – there was no secondary movement. This is clearly apparent from the video, so we would ask that this evidence is dismissed when you judge the case.*

*With regard to Martin’s actions when leaving the field, he would admit to some aggressive banter with the Cardiff players but denies this was an attempt to ‘cause a fight’. This is the opinion of the Referee only and nothing else; indeed it is not backed up by the Senior Assistant’s Report (Mr Kevin Russell) who states that there was only*

*'tensions between the two teams'. We believe the video shows Martin leaving the field of play quite calmly before he responds to comments made by a Cardiff player which then leads to several players having to be restrained, not just Martin. There is no evidence in our opinion that Martin was trying to 'cause a fight' – if anyone was causing aggravation then we believe it was the Cardiff players who can be seen approaching the QPR players in an aggressive manner.*

*Martin has already had to miss three matches as a result of the violent conduct part of this incident...*

*We believe Martin has already been sufficiently punished for this incident, and whilst we would not condone this his actions, nor wish to minimise the severity of the offence, a fine of two weeks wages and a three match suspension, neither of which Martin nor the Club appealed we feel it is fair under the circumstances..."*

19. The letter from Ms Springett to Mr Herdman, dated 05 December 2014, stated that Mr Herdman was fined one week's wage for being sent off for violent conduct and another week's wage for his conduct whilst leaving the pitch.
20. We viewed the video clip in support of the Charge multiple times.
21. We saw Mr Herdman clearly kicked a Cardiff City player before he released the ball from his hands into play. The Referee then stopped play and approached Mr Herdman and showed him a card by holding it aloft. Mr Herdman reacted immediately by making a swiping / slapping motion at the top of the Referee's raised hand. It is possible that Mr Herdman was trying to knock the card out of the Referee's hand but we could not see where the contact was made. It was probable that Mr Herdman action made a physical contact with the Referee's hand or top of his raised arm. However, we only saw one movement action.
22. Mr Herdman did not come off the pitch directly in the touchline direction but he walked towards the middle of the pitch, in the direction of the opposition half / goal – may be, the changing rooms are located at the other end of the pitch. Along his route, Mr Herdman stopped and got involved in an altercation with other players who were slightly over to his right and not in his path. Mr

Herdman was held / pushed by a couple of his teammates to prevent him going further towards the group of players. At this point, the Assistant Referee came towards Mr Herdman and the group of players.

23. There appeared to be an exchange of words between Mr Herdman and other players but we could not tell what they were saying.
24. That concluded all relevant submissions and evidence received in this case for our consideration.

### **The Burden of Proof**

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

### **Our Findings**

26. Whilst Mr Herdman had indicated on the Reply Form that he admitted to the Charge, Ms Springett, in her letter, was disputing some of the facts that the Referee had reported, which The FA relied upon in support of the Charge.
27. In light of this dispute, we could not simply accept the admission of the Charge as laid by The FA. It would appear that Ms Springett was making a 'basis of plea'. We, therefore, needed to make finding of facts on the version of events that we believed took place.
28. From the video evidence, we noted that Mr Herdman had made an aggressive swiping motion in the area of the card being held aloft by the Referee. That action, which Mr Herdman might have intended to knock the card out of the Referee's hand, could have made a physical contact with the Referee's hand, or on the arm as reported by the Referee.
29. We could not see clearly in the video clip whether Mr Herdman did or did not make contact with the Referee but Ms Springett was not disputing this or Mr Herdman's aggressive motion. She was disputing the secondary movement as reported by the Referee and we would agree that we only saw one movement.



30. With reference to Mr Herdman's actions as he was leaving the field of play, Ms Springett stated that Mr Herdman would admit to some aggressive banter with Cardiff City players but denied this was an attempt to cause a fight.
31. From what we saw in the video clip of Mr Herdman's behaviour (in para 22), whilst his admitted aggressive banter and follow on actions might not have been intended to cause a fight, it was unnecessary and had a potential to further raise the tensions between the two teams that could have led to adverse reactions from Cardiff City players.
32. On the burden of proof required and on the evidence before us, we concluded that:
  - 32.1. after being shown the red card, Mr Herdman made one aggressive movement of slapping motion with his hand in an attempt to knock the card out of the Referee's hand. In that aggressive movement, his hand made a physical contact with the Referee's hand or on the arm; and
  - 32.2. when leaving the field of play, Mr Herdman got involved in an aggressive banter with Cardiff City players that was unnecessary and had a potential to further raise tensions between the two teams that could have led to adverse reactions from Cardiff City player.
33. It must be stated that Mr Herdman's Charge before us was for his subsequent behaviour after his dismissal for violent conduct. The matter before us was a separate offence, and in addition, to the standard 3-match suspension Mr Herdman would have received for his violent conduct dismissal.
34. Ms Springett stated in her letter that the Club had already fined Mr Herdman two weeks' wages but we noted that only one week's wage was related to his reported behaviour that resulted in this Charge before us.
35. We considered the nature and seriousness of the reported behaviour to be high.

### **Previous Disciplinary Record**

36. Mr Marsh informed us that Mr Herdman has no previous relevant disciplinary record.

### **Mitigation**

37. Mr Herdman had expressed his remorse and apologised. He stated that it was out of character and that he had learnt a lesson.

### **The Sanction**

38. We reminded ourselves that Mr Herdman's conduct for his dismissal was not a matter for us and we were only dealing with his behaviour after the dismissal.
39. To Mr Herdman's credit, he had admitted to the Charge and he has no previous relevant disciplinary record.
40. Mr Marsh informed us that this was a Non Standard case and there are no standard guidelines for the reported behaviour or similar cases at this level of football that we could give regard to when considering the appropriate sanction.
41. However, Mr Marsh advised us of a previous case of Ashley Barnes when Mr Barnes received a 7-match suspension for the offence of attempting to trip the Referee.
42. We were content that Mr Herdman's case was somewhat dissimilar to the case of Ashley Barnes.
43. Nevertheless, there were two incidents in this Charge for Mr Herdman. Our decision on the sanction would be based on the finding of facts we made (in para 32) and the seriousness we assessed of the reported behaviour (in para 35).
44. When considering the appropriate financial penalty, we noted Mr Herdman's declared net weekly football income.
45. After considering the nature and seriousness of Mr Herdman's reported behaviour, his admission to the Charge of this Non Standard Case, no previous

relevant disciplinary record, and mitigation presented, we considered that the appropriate and proportionate sanction would be a suspension of 5 matches and a fine of £145.

46. We, therefore, ordered that Mr Herdman be:

46.1. suspended from all domestic club football until such time as Queens Park Rangers have completed 5 (five) Non First Team matches in approved competitions, for which Mr Herdman is eligible for and would normally participate in;

46.2. fined the sum of £145 (one hundred and forty-five pounds); and

46.3. warned as to his future conduct.

47. 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