

COUNTY ANTI-DISCRIMINATION

DISCIPLINARY COMMISSION

on behalf of Somerset County Football Association

A PERSONAL HEARING

of

Mr CHRIS GREGORY

Nailsea & Tickenham FC

THE DECISION AND REASONS OF THE COMMISSION

<u>Content</u>	<u>Page</u>	<u>Paragraphs</u>
Introduction	3.....	1 - 7
The Charge	4.....	8 - 12
The Reply	5.....	13
The Commission	5.....	14 - 15
Preliminary Issue	5.....	16 - 19
The Hearing & Evidence	6.....	20 - 45
Standard of Proof	12.....	46
Our Findings	12.....	47 - 52
Our Decision	14.....	53 - 54

Introduction

1. On 29 August 2016, Nailsea & Tickenham FC (“Nailsea & Tickenham”, the “Club”) played a Somerset County Football League (the “League”) home fixture against Odd Down FC Reserves (“Odd Down”) – (collectively the “match”).
2. After the match, Nailsea & Tickenham informed the Match Referee, Mr Bob Cross, of the alleged damages caused to the Away dressing room occupied by Odd Down.
3. This was followed up by the Nailsea & Tickenham with a report to the League on the following day. Mr Cross also included his observations of the alleged damages in his report to the League. The reports of these alleged damages received from the Club and Mr Cross were forwarded by the General Secretary of the League, Mr David Braithwaite, to Somerset County Football Association (“Somerset FA”).
4. Somerset FA investigated the allegations and sought observations from Odd Down on 30 August 2016.
5. On 31 August 2016, Odd Down responded by denying the allegations of damages to the Away dressing room, and made a complaint that one of their players, Mr Ashley Scott, was insulted by Mr Chris Gregory, a Nailsea & Tickenham player, by saying to Mr Scott that Mr Scott’s girlfriend “*loved black cock*” and that “*your team must love her big bouncy boobs when she’s going up and down on them... I bet she’s been through your whole team*”.
6. The Club Secretary of Odd Down, Mrs Lorraine Brown, added that Mr Scott “*did not want to make this a racial issue, but I think as a club maybe we should.*”
7. On 31 August 2016, Somerset FA sought witness statements from Odd Down on these alleged discriminatory comments. The last piece of information from Odd Down, clarifying the identity of the Nailsea & Tickenham player was received by Somerset FA on 24 October 2016.

The Charge

8. On 26 October 2016, Somerset FA charged Mr Chris Gregory, a Nailsea & Tickenham player, with misconduct for a breach of FA Rule E3 – Improper Conduct (including foul and abusive language) and further charged that this Improper Conduct was aggravated by a person’s Ethnic Origin, Colour, Race, Nationality, Faith, Gender, Sexual Orientation or Disability, contrary to FA Rule E3(2) – (collectively the “Charge”).
9. It was alleged that after the final whistle of the match Mr Gregory used abusive and/or insulting words towards Mr Ashley Scott, an Odd Down player, and Ms Amy Keen, an Odd Down spectator, contrary to FA Rule E3(1).
10. It was further alleged that this breach of FA Rule E3(1) was an “Aggravated Breach” as defined in FA Rule E3(2) as it included:
 - 10.1. reference to colour by using the words “*loving black cock*”; and
 - 10.2. reference to gender with the use of words “*your team must love her big bouncy boobs when she’s going up and down on them... I bet she’s been through your whole team*”.
11. The relevant sections of FA Rule E3 (p. 112 of the FA Handbook Season 2016-2017) 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.*
 - (2) *A breach of Rule E3(1) is an “Aggravated Breach” where it includes a reference, whether express or implied, to any one or more of the following :- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.*...”
12. Mr Gregory was required to respond to the Charge by 09 November 2016.

The Reply

13. On 05 November 2016, Mr Gregory responded to the Charge by pleading “*Not Guilty*” and requested to attend a Personal Hearing.

The Commission

14. The following members were appointed by The Football Association (“The FA”) to this Disciplinary Commission (“the Commission”, “We/us”) to hear this case:

Mr Thura KT Win JP (Independent Chairman);

Mr Robert Fox (Somerset FA); and

Mr David Corbin (Local Football Anti-Discrimination Panel).

15. Ms Jennifer Gregory (no relation to Mr Chris Gregory), the Senior Governance Administrator of Somerset FA, acted as the Secretary to the Commission.

Preliminary Issue

16. On the morning of the Personal Hearing, Somerset FA was contacted by the Odd Down Club Secretary advising that one of the witnesses from Odd Down, Mr Mark Keen, was unable to attend due to suffering from gastric flu.
17. Mr Scott, the Odd Down player who was the recipient of the alleged comments, was still attending the Personal Hearing but Ms Amy Keen, another witness from Odd Down, *might be* affected with the same gastric flu as well.
18. Other relevant information were: the allegations had arisen from the match played on 29 August 2016, almost some four months ago; the witnesses from Odd Down were unable to make a date offered in early January 2017; the Referee was due to travel back to Far East from mid-January 2017; and Mr Gregory’s witnesses had already taken time off to attend the Personal Hearing.

19. The Chairman of the Commission sitting alone was required to make a ruling on this Preliminary Issue and, in the interest of fairness and justice, he ruled that the Personal Hearing would proceed as scheduled on that evening.

The Hearing & Evidence

20. We convened at 7pm on 21 December 2016 at Somerset FA's Offices for this Personal Hearing (the "Hearing").
21. We had received and read the bundle of documents from all parties prior to the Hearing.
22. On the Preliminary Issue, the Commission members agreed and supported the Chairman's ruling to proceed with the Hearing as scheduled.
23. The Hearing was attended as the Association's witnesses by Mr Ashley Scott, Odd Down player, and Mr Bob Cross, the Match Referee. Mrs Lorraine Brown, the Odd Down Club Secretary who was not at the match, attended in support of Mr Scott as an Observer.
24. Mr Chris Gregory was in attendance, and was represented by Mr Dan Cook, with his witnesses: Mr Jason Mellor and Mr Rob Gregory (who is referred to as Mr R Gregory in this document, to avoid confusion with Mr Chris Gregory).
25. As Mr Scott was first to give oral evidence as the chief-witness. We had noted his written witness statement, undated, in which Mr Scott stated (we quote the relevant text): *"On Monday 29th August, Chris Gregory Nailsea and Tickenham No 3 and I had a slight altercation on the football pitch as he had been provoking me the whole game. However, I did not react to this in sportsmanship, after the final whistle when we were celebrating our win, he then bitterly made racial remarks that my girlfriend 'loved black cock' and clearly that comment went past football banter and therefore I was very upset after he made these nasty racial comments. Being upset about these remarks I did react towards him on the pitch but my team mates calmed me down and said it wasn't worth the hassle as after all we did win the game... I feel a victim of racism but had let it go..."*

26. During his live witness evidence, Mr Scott confirmed his statement and told us that: both he and Mr Gregory came on as substitutes; Mr Gregory was making other comments throughout the match to provoke him, which he did not react to; Mr Gregory knew his girlfriend's name and mentioned it; he thought "here we go, what's it all about?"; it all 'kicked off' at the final whistle and his team mates had to split them apart; Mr Gregory also said about his girlfriend having big boobs and that the whole team had her, which were not in his original written statement; he was angry and irate; some of Mr Gregory's comments could be heard from the side line; the Referee might have heard them; he did not know Mr Gregory and there were no previous issues between them; he got Mr Gregory's name from the team sheet after the match; he knew these were serious matters but he did not report the comments to the Referee and did not think it will come to a hearing; he told Mr Mark Keen after the match; Mr Gregory was trying to 'get him lose his head'; Mr Gregory mentioning his girlfriend's name 'got him going'; and he indicated the positions of players and Referee at different times during and after the match.
27. Mr Bob Cross, the Match Referee, was next to give live evidence. There was no report from Mr Cross relating to the incidents in the Charge (but there was a report relating to the alleged damages to the changing room). However, during the investigations by Somerset FA, Mr Cross provided an EMail, dated 29 September 2016, in which he stated (we quote the relevant text): "*...I didn't hear any comments before, during or after the game and no one made me aware of anything that was said. I was at the ground after the Odd Down squad had left as I inspected their changing room and like I said nobody mentioned anything of this nature to me...*"
28. During his live witness evidence, Mr Cross confirmed the content of his EMail and told us that: he did not hear any racial or derogatory comments; no one had reported them to him either during or after the match; he was still at the ground for at least 30 minutes after the match had ended; it was a competitive match and a normal game; there was a heated discussion, not a melee, between two sets of players at the final whistle which led to about half-a-dozen players

from each side getting involved; he was close by and there was no need for him to get involved or to move the players on; there were no violence or aggression; there were opportunities after the match for people to come and report any incidents to him, as did by the Nailsea & Tickenham Chairman after the match about the damages to the changing room; and he indicated the positions of players and himself at different times during and after the match.

29. Whilst Mr Mark Keen, Assistant Manager of Odd Down, could not attend due to gastric flu as advised to Somerset FA earlier in the day, we noted his written statement, undated, in which he stated (we quote the relevant text): *"...There was however an incident after the final whistle with N&T player Chris Gregory who was insulting one of our players talking about his girlfriend, her assets and how she must love I quote 'black cock'. Our player reacted to this racial remark and had to be calmed down by team members whilst leaving the field. The referee witnessed the melee as we left the field of play but he didn't act upon it..."*
30. From Mr Cross's evidence about the opportunities for reporting incidents, such as by the Nailsea & Tickenham Chairman reporting the alleged damages to the changing room, Mr Cross just happened to mention that he inspected the changing room only with Mr R Gregory and another member of Nailsea & Tickenham, after Odd Down had left the ground, and saw some damages. However, Mr Keen's evidence in his written statement contradicted that evidence, which may question Mr Keen's correct recollection of the events, when Mr Keen stated *"...The referee inspected the door with their manager and myself after the game and found nothing wrong with it..."*
31. Whilst Ms Amy Keen, a spectator of Odd Down, also could not attend which we assumed due to the same gastric flu as Mr Keen had, we noted her written statement, undated, in which she stated (we quote the relevant text): *"...After the final whistle I heard a Nailsea player talked degradingly about a fellow player's girlfriend before a melee broke out between other players. I found his comments extremely offensive to women... The offensive remarks I heard the player say were 'your*

team must love her big bouncy boobs when she's going up and down on them' followed by 'I bet she's been through your whole team'."

32. We also noted that Ms Keen had identified the Nailsea & Tickenham player who she alleged had made the comments as #12, which was communicated to Somerset FA by the Odd Down Club Secretary on 23 October 2016.
33. In an EMail from the Odd Down Club Secretary on 31 August 2016, Mrs Brown stated "*...I was told that there were also derogatory and racial remarks made towards our same black player by the same Nailsea & Tickenham player at the preseason friendly with our 1st team, these remarks were mainly made towards our player's girlfriend who was at the friendly match but not at the match on Monday, the remarks included comments about her breasts and that she probably slept through all our black and mixed race players. Ash Scott our player targeted by the Nailsea & Tickenham player did not want to make this a racial issue, but I think as a club maybe we should.*"
34. That concluded the Association's witnesses and evidence in support of the allegations in the Charge.
35. Mr Gregory was next to give live evidence and we had received his three-page written statement, undated, in which he had explained: there were no issues at the pre-season friendly and there were no complaints; how he knew Mr Scott's girlfriend name and had seen her public professional profile through one of his colleagues finding her on LinkedIn in relation to possible recruitment in his prior role; he and his colleague found her Facebook profile subsequently and one of her pictures was alongside Mr Scott who he recognised having played football against him previously; and detail events of the match in question.
36. In his live evidence, Mr Gregory confirmed his statement and told us that: both he and Mr Scott had started the match as substitutes; he replaced an injured colleague at about 43rd minute of the match and Mr Scott came on to the pitch early in the second-half; there was a challenge between them in the match but they shook hands immediately after the tackle; he asked Mr Scott if her girlfriend was Beth Bateman; he had never spoken to her at all; Mr Scott got

angry and kept asking how did he know her; it was in Mr Scott's head; Mr Scott was gloating after the final whistle and was threatening to hit him after he said to Mr Jason Mellor if he knew Beth Bateman; he stood his ground and other players took them apart; he did not say any of the words alleged at all; the Referee was close by as he turned and shook hands with the Referee; he was disappointed at losing the match but was shaking hands; he saw a lady with two children who was walking down the side line (identified as Ms Keen); he did not dispute the identity that it was him; and he indicated the positions of players and Referee at different times during and after the match.

37. Mr Jason Mellor, the Club and 1st Team Captain of Nailsea & Tickenham, was the next witness to give live evidence. We had received Mr Mellor's written statement, undated, in which he explained there being no altercations at the pre-season friendly game, his recollection of the events at the match in question, he did not hear any derogatory or racial comments, neither the Referee nor anyone else had made him aware that such comments were made either during or after this match.
38. During his live evidence, Mr Mellor confirmed his statement and told us that: at the end of the match, Mr Gregory asked if he knew Mr Scott's girlfriend was Beth Bateman - he knew of her; Mr Scott reacted and had to be held back by other players; the Referee was immediately behind by then; Mr Gregory did not say any of the words alleged; he had played against Mr Scott a couple of times; and Mr Scott is a tough, strong and aggressive player; and he indicated the positions of players and Referee at the end of the match.
39. Mr Rob Gregory, Chairman and Manager of Nailsea & Tickenham, was next to give live evidence and we had received his written statement in which he questioned a number of comments in various statements from Odd Down in support of the allegations. Mr R Gregory stated that he heard none of the racial or gender abuse and included him recalling " *...during the game where there was a tackle that involved both Chris Gregory (the accused) and Ashley Scott (the accuser)*

and shortly after the incident I heard Ashley repeatedly say to his manager 'when the whistle blows he's having it'. The manager told him to get on with the game."

40. During his live evidence, Mr R Gregory confirmed his statement and told us that: nothing as alleged were said as he was in good earshot with only 10m to 15m away from coming together of Mr Gregory, Mr Scott and other players at the end of the match and he would have heard the comments; he confirmed that it was the Referee, a Nailsea & Tickenham Committee member and himself who inspected the changing rooms after Odd Down had left the ground.
41. As part of the evidence in support of Mr Gregory's case, we received an EMail dated 31 October 2016 from Mr Chris Ham, who said he refereed the pre-season friendly game involving these two teams, stating there were no problems between two sides during that game, which was played in right spirit and ended the game in a friendly way.
42. We also received the Nailsea & Tickenham team sheet from the match identifying Mr Gregory wearing #12, statements from others which were not relevant to the Charge against Mr Gregory, and there was also a character reference which was not relevant unless if, and when, the Charge was to be found proven.
43. In closing, Mr Cook, on behalf of Mr Gregory, summarised that Mr Gregory did not say the words alleged; there were opportunities to report any racial or derogatory comments to the Referee and/or to Nailsea & Tickenham team management but they were not reported; these allegations were not made until after the allegation of damages to the Away dressing room; these allegations were counter complaint and Mr Scott said that he did not think his allegations would reach this far to a hearing; no evidence from other Odd Down players who were closer to the alleged incident at the end of the match than a spectator on the side line; there were no previous history between Mr Scott and Mr Gregory as indicated by Odd Down; the independent Referee did not hear the comments and had stated that it was a competitive game played in good spirit.

44. That concluded all the evidence in this case and Mr Gregory was satisfied that all relevant evidence had been heard and that he had a fair hearing.
45. We wish to record our thanks to everyone who submitted written statements and attended the Hearing to help us with this case.

Standard of Proof

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

Our Findings

47. In assessing the evidence we received, the agreed facts were that: Mr Gregory asked Mr Scott if his girlfriend was Beth Bateman; there was exchange of words between Mr Gregory and Mr Scott at the end of the match; Mr Cross, the Referee, was close by to the incident at the end of the match and did not hear the alleged comments; neither Mr Scott nor Mr Keen, as the Assistant Manager of Odd Down, nor any Odd Down players or spectators reported the alleged abusive comments to the Referee or to Nailsea & Tickenham team management immediately after the incident; neither did anyone from Odd Down reported these serious allegations to Somerset FA nor to the League after the match; these allegations were only raised after the allegation of damages to the Away dressing room was initiated by Nailsea & Tickenham against Odd Down; Mr Gregory was trying to get Mr Scott 'lose his head'; Mr Gregory mentioning Mr Scott's girlfriend's name 'got Mr Scott going'.
48. It was disputed that Mr Gregory had said Mr Scott's girlfriend was "*loving black cock*" and "*your team must love her big bouncy boobs when she's going up and down on them... I bet she's been through your whole team*".
49. We believed Mr Scott when he told us that Mr Gregory mentioning his girlfriend's name "got him going", he thought "here we go, what's it all about?", Mr Gregory was trying to "get him lose his head", he was angry and

irate about Mr Gregory mentioning his girlfriend's name, and reacted at the end of the match when Mr Gregory asked Mr Mellor if he knew Mr Scott's girlfriend, when other players had to split them apart.

50. However, Mr Scott, knowing these are serious allegations, did not report these comments to the Referee immediately; Mr Keen, as the Assistant Manager, did not seem fit to report it to the Referee of these serious allegations; Mr Keen's recollection of the inspection of the dressing room were not consistent with Mr Cross (and Mr R Gregory) and we were in some doubt of his recollection of these allegations; Mr Scott did not mention in his written statement that Mr Gregory also said about his girlfriend having big boobs and that the whole team had her, which he only told us at the Hearing; Ms Keen stated that she heard the second comment but did not mention the preceding first comment; other Odd Down players who would have been closer when these comments were allegedly made at the end of the match did not report these comments or submitted written statements; the independent Referee, Mr Cross, who was also close to the exchanges of words at the end of the match did not hear the alleged comments - we were of the opinions that if Mr Gregory had made the second comments loud enough so that Ms Keen could have heard it behind the touchline then the Referee should have at least heard them but Mr Cross told us that he did not hear them; and these allegations against Mr Gregory were only reported after the allegation of damages to the Away dressing room were made against Odd Down.
51. Of the live witnesses at the Hearing, we found Mr Scott's evidence to be lacking in some credibility but found the evidence of Mr Cross, Mr Gregory, Mr Mellor and Mr R Gregory to be credible.
52. We unanimously found on the standard of proof required that Mr Gregory did not say Mr Scott's girlfriend was *"loving black cock"* and that *"your team must love her big bouncy boobs when she's going up and down on them... I bet she's been through your whole team."*

Our Decision

53. We, therefore, found the allegations and Charge for breaches of FA Rule E3(1) and FA Rule E3(2) against Mr Gregory NOT PROVED.
54. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Thura KT Win JP (Chairman)

Robert Fox

David Corbin

21 December 2016