

**THE FA DISCIPLINARY COMMISSION**

*on behalf of Leicestershire & Rutland County Football Association*

**THE NON-PERSONAL HEARING**

*of*

**Gary Allen**

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**THE DECISION AND REASONS OF THE COMMISSION**

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## Introduction

1. On 19 April 2016, a match took place between Blaby & Whetstone Athletic (Blaby) v Ashby Ivanhoe Reserves (Ashby) (collectively “the match”).
2. Anthony Quinn, Referee, reported an incident of misconduct taking place during the match.
3. In the final few minutes of the match Mr Quinn said the manager of Blaby, Gary Allen, had run along the side line following the sending off of the Blaby goalkeeper. Mr Quinn told Mr Allen to return to the technical area. At this point Mr Allen shouted at Mr Quinn, *“you’re fucking rubbish”*. Mr Quinn told him to leave the area of play and Mr Allen shouted *“you’re not even English, you’re a fucking disgrace”*. Mr Quinn then attempted to usher Mr Allen towards the exit.
4. A few minutes later Mr Markou-Nikandrou, Assistant Referee, flagged down the Referee. By the time Mr Quinn had run over to speak to Mr Markou-Nikandrou, Mr Allen had returned to the spectator area. Mr Markou-Nikandrou advised the Referee Mr Allen had been verbally abusive and said, *“Go fuck yourself”* after he had returned to the technical area. Mr Allen was again seen trying to enter the technical area. Mr Markou-Nikandrou approached him and was told, *“If you come anywhere near me I will knock you down.”*
5. Mr Allen was charged with misconduct contrary to FA Rule E3 and E3(2).

## The charge

6. On 2 August 2016, Leicestershire & Rutland FA laid the two charges of misconduct contrary to FA Rule E3 and E3(2).
7. FA Rule E3 and Improper Conduct - including foul and abusive language and E3(2) Improper Conduct - aggravated by a person’s ethnic origin, colour, race, nationality, faith, gender, sexual orientation or disability contrary

### **The Plea**

8. Mr Allen did not enter a plea to the charges. Therefore, the plea was considered “Not Guilty” to both charges.
9. The case was considered on paper by a Disciplinary Commission appointed by The Football Association (“The FA”).

### **The FA Rules**

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.*

*(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.*

*(3) Subject to sub-paragraphs E3(4) -E3(6) below –*

*(i) Where a Participant commits an Aggravated Breach of Rule E3(1) for the first time, a Regulatory Commission shall impose an immediate suspension of at least five matches on that Participant. The Regulatory Commission may increase this suspension depending on any additional aggravating factors present.*

*(ii) Where a Participant commits a second or further Aggravated Breach of Rule E3(1), a Regulatory Commission shall impose an immediate suspension of more than five matches, taking into consideration an entry point of an immediate suspension of ten matches, and any aggravating or mitigating factors present.*

*(4) Where an Aggravated Breach of Rule E3(1) is committed –*

*(i) By a Participant for whom a match-based suspension would be inappropriate due only to that Participant’s particular role in football; or*

*(ii) In writing only; or*

*(iii) Via the use of any communication device, public communication network or broadcast media only; or*

*(iv) By reference only to nationality, a Regulatory Commission will not be bound to impose an immediate suspension of at least five matches for a first such breach, or of more than five matches for a second or further such breach. Instead the Regulatory Commission may impose any sanction that it considers appropriate, taking into account any aggravating or mitigating factors present. For the avoidance of doubt and without limitation, E3(4)(i) shall not apply to a Manager, coach or Player.*

*(5) (i) Where in youth football a Player aged 12 – 15 inclusive commits an Aggravated Breach of Rule E3(1) for the first time, a Regulatory Commission shall impose a suspension of at least five matches. The Regulatory Commission may increase this suspension depending on any additional aggravating factors present. A minimum of one match shall come into effect immediately and any remainder of the suspension shall be suspended on such terms and for such period as the Regulatory Commission considers appropriate.*

*(ii) Where a second or further Aggravated Breach of Rule E3(1) is committed in youth football by a Player aged 12 – 15 inclusive, a Regulatory Commission shall impose an immediate suspension of more than five matches, taking into consideration an entry point of an immediate suspension of ten matches, and any aggravating or mitigating factors present.*

*(6) Where an Aggravated Breach of Rule E3(1) is committed in youth football by a Player aged under 12, no disciplinary charge will be brought. The primary aim in such cases will be education. (7) Where two or more Participants from a Club commit any Aggravated Breach of Rule E3(1) in any twelve month period, regardless of whether any such breach falls within sub-paragraph E3(4), the Club itself will be liable to a sanction imposed by a Regulatory Commission. The Regulatory Commission may impose any sanction that it considers appropriate, taking into account any aggravating or mitigating factors present. For the purpose of this Rule, a decision of a Regulatory Commission that a Participant has committed an Aggravated Breach of Rule E3(1) will be conclusive evidence of that fact, unless that decision is or may be subject to appeal in accordance with FA Rules or regulations. (8) A Regulatory Commission may impose a*

*financial penalty or any other sanction that it considers appropriate in respect of an Aggravated Breach of Rule E3(1) whether or not it has imposed a suspension in respect of the same breach.*

- (9) *A Participant who commits an Aggravated Breach of Rule E3(1) will be subject to an education programme, the details of which will be provided to the Participant by The Association.*

### **The Commission**

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

Mr K Singh (Chair);

Mr K Johnson (Council Member);

Mr R Cader (Local Football Anti-discrimination Panel Member) ; and

Miss R Scase, Football Services at Leicestershire & Rutland County Football Association acted as the Secretary.

### **The Hearing**

12. We convened at 8 PM on 3 October 2016 at Leicestershire & Rutland FA offices at Holmes Park, Whetstone.
13. The Commission had received and read the bundle of documents containing the statements and correspondence from all parties.
14. In support of the charge we received County Association Report Form and Extraordinary Incident Report of, Referee, Anthony Quinn; and, Extraordinary Incident Report of James Anderson and Mr Markou-Nikandrou, Assistant Referees, all dated 20 April 2016. In addition, The Commission had before it the email correspondence of Mr Markou-Nikandrou dated 28 June 2016.
15. Mr Allen had provided a witness statement which stated that at the time of the second sending off both managers had approached the Referee to establish which team’s player had been sent off. The Referee asked Mr Allen to return to his technical area and he did.

16. Mr Allen then went onto refer to being abused by the Assistant Referee, Mr Markou-Nikandrou. The alleged abuse carried out by Mr Markou-Nikandrou is not the subject of this case.
17. Mr Quinn's and Mr Markou-Nikandrou's account of what took place has already been set out paragraph 3 and 4 above.

#### **Burden and standard of Proof**

18. The burden of proof is on Leicestershire & Rutland Football Association. The applicable standard of proof required for this case is the civil standard of the balance of probability. The balance of probability standard means that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

#### **Our Findings**

19. The Commission noted the vagueness of Mr Allen's witness statement. This contrasted with the detailed accounts of Mr Quinn and Mr Markou-Nikandrou.
20. Further, Mr Allen's witness statement did not acknowledge that he had been dismissed from the field of play and that he had returned to the technical area when he should not have. Mr Allen simply referred to him being asked to return to the technical area by the Referee. This is despite him having stated that both managers approached the Referee. In The Commission's view, had both managers approached the Referee, on the balance of probabilities, they would have both been asked to leave the field of play. The Commission did not accept that both managers had approached the Referee but only Mr Allen.
21. Moreover, The Commission noted that Mr Allen described an incident involving Mr Markou-Nikandrou that seemed to occur without any explanation. In the circumstances, the Commission considered this unlikely.
22. After taking into account the vagueness of Mr Allen's statement, the inconsistency referred to above and the probabilities of what Mr Allen said

occurring The Commission did not accept his account. Instead, it found as a fact Mr Allen said to Mr Quinn and Mr Markou-Nikandrou the abusive words set out in paragraph 3 and 4 above.

### **The Decision**

23. As a result of our findings, The Commission unanimously found proven charges 1 and 2.

### **The Sanction**

24. After considering Mr Allen's disciplinary record, the seriousness of the incident and the circumstances in which it took place, Rule E3(4) and the Sanctioning Guidelines The Commission ordered:

24.1. A Fine of £75;

24.2. 5 match ground ban;

24.3. 5 penalty points for Blaby; and,

24.4. Satisfactorily complete a mandatory FA Education programme within 4 months or Mr Allen will be automatically suspended until such time he successfully completes the mandatory Education programme, the details of which will be provided to Mr Allen.

### **Appeal**

25. This decision may be appealed in accordance with the relevant regulations within the prevailing FA Handbook.

Signed...

**Mr K Singh**

**Mr K Johnson**

**Mr R Cader**

7 October 2016