



# Reasons for Decision

These reasons are issued in accordance with Article 18, paragraph 11 of the Disciplinary & Grievance Regulations 2023.

## Hearing

<b>Charged Party</b>	Mandurah City FC
<b>Hearing Date</b>	5 July 2023

## Reasons

Mandurah City FC (**Mandurah**) was charged with offence 38, breach of the Spectator Code of Behaviour (**Behaviour Code**) after a State League Division 1 against Rockingham City FC (**Rockingham**) at Lark Hill Sports Complex, Rockingham's home ground, on 6 May 2023 (**Match**). While Mandurah pleaded guilty to the charge, the proposed penalty was disputed.

## Background

The following facts are not in dispute:

1. The Match was streamed, including for several minutes after the conclusion of the Match.
2. At the end of the Match, when the Mandurah players were leaving the field of play, the Rockingham supporters were abusive of the Mandurah players. One supporter in particular, who appeared to be significantly intoxicated, was extremely abusive.
3. Will Dobbs, a Mandurah Club Associate, proceeded to flick the ear of the intoxicated supporter and to slap his head. He Dobbs then went down the race.
4. The intoxicated Rockingham supporter threw a bottle he was holding at Dobbs and the followed him down the race, while Rockingham ground marshals attempted to prevent him from doing so. The intoxicated supporter was eventually removed from the race and returned to the stand. He was later removed from the stand.
5. During this incident and afterwards, there was clear abuse directed by both sets of fans to each other, including swearing and flicking obscene gestures. It is based on those actions of its own supporters that Mandurah accepted guilt.
6. Both Dobbs and the Rockingham supporter (as well as others) have been sanctioned by Football West (**FW**).

## Tribunal Hearing

Mandurah was represented by the following:

- (a) Trent Petherick, Lawyer;
- (b) Nigel Mann, President;
- (c) Iain McLean, Saturday Football Director; and
- (d) Euan McKenzie, Junior NPL Coordinator.

FW was represented by Jamie English, FW Disputes and Grievances Officer.

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## ***Mandurah's Position***

Mandurah took the view that the fault was completely that of Rockingham and that Mandurah had notified FW in advance that there was the likelihood of trouble. Indeed, flares had been brought into the ground and five were lit during the Match, which could have caused injury.

They had suggested that Rockingham should have engaged accredited security guards to prevent the flares and later trouble. Also, intoxicated persons were being supplied with alcohol and that alcohol was provided in glassware, rather than plastic, which is Mandurah's practice.

Accordingly, their position was that the trouble which ensued was as a result of Rockingham failing to provide a safe place for supporters.

Alternatively, FW should have punished those individual Mandurah supporters shown to have breached the Code.

As an aside, they pointed out that Dobbs and the intoxicated Rockingham supporter are indeed neighbours, which is why Dobbs took the actions he did.

However, at the end of the day, they acknowledged that their own spectators had breach the Behaviour Code due to their actions on the day.

In relation to the proposed penalty imposed by FW, Mandurah believed that it did not accurately reflect culpability in the offence. They relied upon the following:

- (a) a day of intimidation by Rockingham supporters;
- (b) there was inadequate (in terms of numbering, suitability, and effectiveness) security for a local derby when abuse against one of its own players was likely to be intense;
- (c) their prior actions intended to reduce the possibility of such activity;
- (d) the fact that FW should have taken action against specific supporters rather than punish those supporters who had behaved by imposing a Club punishment;
- (e) that the actions alleged are seen at most football grounds each weekend;
- (f) that a supporter ban would impact the Club financially in fiscally difficult times, which would have a consequential impact on junior football in the Club;
- (g) it was only because the streaming of the Match continued after the end of the Match for much longer than usual that the offence came to light;
- (h) FW had taken action as a result of media coverage and political pressure, which resulted in significantly higher punishment than was necessary or appropriate;
- (i) Mandurah's ground was not suitable to exclude spectators, because the actual playing fields were open to the public;
- (j) it was against FW's (and football generally) policies to excluded spectators when they should be following their own purposes and objectives, including to "*bring the game to life*"; and

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- (k) a “carrot” approach was more appropriate than a “stick” approach.

When questioned on the latter point, it was suggested that imposing a suspended penalty would enable the Club to educate its supporters as to their behaviour because of the potential future impact.

Mandurah also confirmed that no action had been taken by it against any of the supporters shown in the streaming clip, although Dobbs had been punished by FW.

They had not reported the flares or any assault to the police, again relying on someone else, presumably FW, to take such action. Dobbs did not wish to pursue any action against his neighbour.

Further, Mr Petherick had provided lengthy submissions in writing to the Tribunal, as well as a copy of Mandurah’s agreement with the City of Mandurah for the facilities at the ground, which did not include the actual playing fields.

Mr Petherick submitted that the adverse media coverage should not be an aggravating feature.

Mandurah has also submitted that any decision and punishment should not be published, in case it encourages others to seek to derail Mandurah’s promotion push by causing trouble at their home games.

## ***FW’s Position***

Basically, FW’s position, as set out in its own written submissions, was that both sets of fans were culpable for the abuse between the fans at the Match, but Rockingham had:

- (a) been punished under the Code of Conduct, rather than the Behaviour Code;
- (b) received a significantly more onerous penalty; and
- (c) been penalised separately for the flare incidents.

Mandurah’s fans were clearly shown on the stream using abusive language and gestures and the incident with the intoxicated fan resulted from Dobbs flicking his ear and slapping his head, which are clearly assaults, whatever his reason for doing so or the relationship between the protagonists.

On the point that FW was being overly sensitive to political and media attention, resulting in that being an unavailable aggravating feature, Mr English referenced paragraph 6.2(c) in the FA National Code of Ethics, which provides, relevantly:

### ***Factors to consider***

- (c) *In determining any sanction under this Code, the Football Administrator may consider:*
  - (i) ...;
  - (viii) *the need to deter such conduct;*

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- (ix) *the damage done to the reputation of Football or FA by the relevant conduct;*
- (x) *the damage that might be done to the reputation of Football if a suitable sanction is not imposed;*
- (xi) *the need to publicly denounce the conduct for the benefit of Football;*

FW requested that the Tribunal uphold its original penalties, albeit that, due to time between the original infringement notice, the next home game would be on 8 July 2023.

## ***Tribunal Findings***

On the basis of a guilty plea, the Tribunal only had to consider penalty. The Tribunal acknowledged that there were practical difficulties with a spectator ban and also that it could significantly impact on the viability of Mandurah as a club.

Of course, such issues would not be a reason on their own to reduce the penalty. The Tribunal accepted that there had been issues which Mandurah had foreseen and had attempted to take precautions by proactively approaching FW and the police.

However, the Tribunal found that the incident with the intoxicated Rockingham supporter had been exacerbated by Mandurah Club Associate, Will Dobbs, and perhaps would not have resulted in any breach of the Behaviour Code without it.

The Behaviour Code, relevantly, provides as follows:

*Spectators attending a Match or otherwise involved in any activity staged or sanctioned by Football Australia, Australian Professional Leagues, Member Federation, District Association or Club must:*

- 4. *Never use violence in any form towards another person including fellow spectators, Players or Match/Team Officials (including Coaches).*
- 5. *Not engage in acts of discrimination, harassment or abuse towards any person, including: a. the use of obscene or offensive language and/or gestures; b. the incitement of hatred or violence.*
- 11. *Refrain from any disorderly conduct or conduct that may injure the reputation and goodwill of Football Australia and the code of Football generally.*

Mandurah accepted that the behaviour of its spectators clearly breached the Behaviour Code. It also accepted that:

*Each Club is responsible and liable for the conduct of its supporters at a Match and may be penalised in line with the table of offences for the conduct of its supporters. (Article 27(4) Disciplinary & Grievance Regulations)*

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While the Tribunal was disappointed that Mandurah had not taken any action proactively against any of its supporters, and that it expected FW to do so if FW believed there was spectator behaviour which should be punished, the Tribunal was prepared to acknowledge the benefit of a “carrot” as opposed to a “stick” approach.

The Tribunal was not prepared to withhold any immediate punishment but would partially suspend such immediate penalty to allow Mandurah to educate and control its supporters in the future.

On the question of non-publication of result and reasons, the Tribunal sees no good reason for non-publication. Any penalty which is suspended is only imposed if there is a breach of the Behaviour Code by Mandurah’s own supporters.

## ***Decision***

In that light, the Tribunal imposed the following penalty:

1. Fine of **\$5,000.00**.
2. One (1) home match to be played without spectators.
3. At the Club’s home game against Rockingham City FC (currently scheduled for 22 July 2023 but whenever played):
  - Spectators are permitted to attend
  - Six (6) professional accredited (independent) security guards are required to be engaged by Mandurah City FC to ensure crowd control, with at least one (1) security guard stationed at the entry gate to ensure no flares or other prohibited items are brought into the ground and to exclude potential trouble-makers.

This penalty applies to all teams participating in the State League Division 1 competition: Under 18s, Reserves, and First Team.

## **Suspension of Penalty**

**\$4,000.00** of the fine specified above and the one (1) Match spectator ban is suspended unless there is a further breach of the Spectator Code of Behaviour by a Club Associate during the 2023 season.

The suspended penalty may be imposed in addition to any other penalty imposed by Football West or the Tribunal as a result of such a breach.

For the avoidance of doubt, the Tribunal fee shall not be refunded.