



Prescribed Form 7 – Determination of Disciplinary Tribunal

Charged Party

Club	Gwelup Croatia SC
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Fixture Details

Date	1 April 2023	Time	5:15pm
Clubs	Dianella White Eagles SC vs Gwelup Croatia SC		
Competition	State League Division 1	Grade/Age	First Team

Offence Details

Offence Description	Breach of the Football West Code of Conduct. Namely: Article 3 – Bringing the Game into Disrepute Paragraph e. Spectator or crowd violence
Football West Penalty	The next three (3) State League Division 1 home matches are to be played without spectators. The next three (3) home matches being (amended on 29 May 2023): Round 12 – 17/06/23 – Gwelup Croatia SC vs Western Knights SC Round 13 – 24/06/23 - Gwelup Croatia SC vs Dianella White Eagles SC Round 15 – 08/07/23 - Gwelup Croatia SC vs MUM FC This penalty applies to all teams participating in the State League Division 1 competition; Under 18s, Reserves and First Team. This penalty has been applied in accordance with Article 21.5 of the FFA constitution.

Hearing Outcome

Finding	Guilty
Penalty	At the club's next home game (scheduled for 17 June 2023): <ul style="list-style-type: none">Matches are to be played without spectators At the club's following home game (scheduled for 24 June 2023): <ul style="list-style-type: none">Spectators are permitted to attendNo alcoholic beverages may be sold, supplied or brought into the venueFood and non-alcoholic sales are not restricted6 accredited (independent) security guards are required to be engaged by Gwelup Croatia to ensure crowd control, with at



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	<p>least one security guard stationed at the entry gate to ensure that no alcohol is brought into the ground.</p> <p>This penalty applies to all teams participating in the State League Division 1 competition; Under 18s, Reserves and First Team.</p>
<p>Summary of Determination</p>	<p>The Tribunal read, heard and considered all the material and evidence before it (noting that the club filed supplementary submissions after the hearing which referred to 5 cases (2 x CAS decisions and 3 Australian court decisions)). The Tribunal has reached its decision on the basis of all the material and evidence, but in this summary of determination the Tribunal refers only that which is necessary to provide this summary.</p> <p>Code of Conduct</p> <p>The Football West Code of Conduct (Code) “aims to promote and strengthen the reputation of football in Western Australia by establishing a standard of performance, behaviour and professionalism for its participants and stakeholders. In addition, it seeks to deter conduct that could impair public confidence in the safe, fair, honest and ethical conduct of Matches and Competitions or in the integrity and good character of Football and its participants.”</p> <p>The Code contains the following relevant provisions:</p> <ul style="list-style-type: none"> • Article 2 provides that the Code applies to all clubs; • Article 3.2(e) provides that a club brings the game into disrepute and thereby breaches the Code if spectator or crowd violence occurs; • Article 4 provides that a club is responsible and liable for the conduct and behaviour of its supporters at both home and away matches • Article 8 provides that clubs may be penalised for a breach of the Code. <p>The Table of Offences in the Football West Disciplinary and Grievance Regulations 2023 (Offence 38) allows for a club to be penalised at the discretion of either Football West in the first instance or by the Tribunal should the Football West penalty be challenged.</p> <p>Club Submissions</p> <p>The club was represented by Mr Gerhard Janssen, a legal practitioner, and called three witnesses to give oral evidence at the hearing – Ms Klaudia Mikulic, Ms Ana Denona and Ms Laura Denona. The three witnesses and Mr Mawien Deng also provided written statements of the events. The evidence of all witnesses was broadly consistent.</p> <p>The match involved the first teams of Dianella White Eagles and Gwelup Croatia in State League Division 1. The rivalry between the clubs has always been intense and on the day in question the match was close. The witnesses gave evidence that the tension between the groups of supporters increased as the match progressed especially when Gwelup Croatia equalised an earlier goal by Dianella White Eagles and again when Gwelup Croatia scored the winning goal.</p>



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The club submitted that shortly after the match ended, three Dianella White Eagles supporters aggressively approached a small group of Gwelup Croatia supporters who were mostly women, but also included Mawien Deng, the male supporter who was reported as being struck by either a bottle or glass by one of the Dianella White Eagles supporters later identified as Zeljko Petrovic. Ms Laura Denona and Mr Deng gave evidence that the group directed their approach to Mr Deng. Ms Mikulic and Ms A Denona gave evidence that they took out their mobile phones to record the male supporters' approach. The witnesses gave evidence that as the male Dianella White Eagles supporters approached the group, Mr Petrovic grabbed the arm of Ms Mikulic, took her mobile phone and threw it onto the field of play. They gave evidence that Mr Petrovic then grabbed Ms Lidija Denona by the hair and pulled her downwards by the hair.

The club submitted that as a result of these actions, Mr Deng joined the altercation in defence of both Ms Mikulic and Ms Lidija Denona and as a result was assaulted with either a glass or bottle by Mr Petrovic.

The club submitted that ground marshals were not visible at the time of the incident, and that the Dianella White Eagles club did not take appropriate actions (including in the lead up to the incident) to prevent the incident from occurring or escalating.

The club did not dispute that the incident brought the game of football into disrepute (acknowledging in its opening submissions that "the overall scene brought the game into disrepute" and that the incident was "terrible for the game"), but asked the Tribunal to consider whether there was a responsibility for Gwelup Croatia relating to the incident and consequent disrepute.

Video Evidence

The Tribunal viewed various videos, which corroborated some elements of the witnesses' evidence. However, the videos also showed that:

- Ms Lidija Denona had struck or attempted to strike Mr Petrovic (a fact that was not raised by the witnesses until questioned), and she had done so (1) whilst advancing towards him, not while defensively backing away, (2) with a closed or semi-closed fist, and (3) at a time when Mr Petrovic had his back turned away from Ms Lidija Denona and appeared to be walking away from the group of Gwelup Croatia supporters.
- As Ms Lidija Denona was advancing towards Mr Petrovic during the strike/attempted strike, Mr Petrovic pushed Ms Denona away, as opposed to Mr Petrovic independently pulling Ms Lidija Denona's hair to pull her downwards.
- Mr Mawien Deng had entered the fray from some distance away at considerable speed and leapt into Mr Petrovic, and he did so (1) at a time when Mr Petrovic was backing away defensively from Ms Lidija Denona and the group of Gwelup Croatia supporters (not advancing towards them), (2) whilst



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other spectators, including one individual wearing a Dianella White Eagles jacket, were trying to separate the individuals involved in the fray, and (3) in a manner that pushed through the spectators who were trying to separate the individuals involved in the fray.

Self-Defence and Defence of Others

Mr Janssen argued strongly that the actions of Ms Lidija Denona and Mr Deng were entirely within the realm of self-defence (by which it was apparent that he meant the defence of others). He maintained that it is a basic human right to defend oneself, and those who are more vulnerable, against violence. He contended that the actions of Ms Lidija Denona were justified in response to Mr Petrovic grabbing the arm of Ms Mikulic and taking her mobile phone, and that the actions of Mr Deng were justified in response to Ms Lidija Denona having her hair pulled by Mr Petrovic.

Mr Janssen also argued that because they were taken in self-defence the actions of Ms Lidija Denona and Mr Deng should not be considered “violence”.

Tribunal Findings

Article 3.1 of the Code provides that “a Club Associate must not bring Football West or the game of football into Disrepute”. As Mr Janssen conceded in his opening statement to the Tribunal, “the overall scene brought the game into disrepute”, and the incident was “terrible for the game”. The club’s submission regarding the disrepute created by the incident is acknowledged, and the Tribunal accepts that the incident brought disrepute to the game of football in WA.

For the reasons that follow, the Tribunal considers that the Gwelup Croatia Soccer Club holds at least some responsibility for the disrepute caused by the incident.

Clubs have a responsibility to abide by the Code which, among other things, impliedly requires that clubs de-escalate incidents of violence.

As spectators of the club, each of the witnesses (Ms Laura Denona, Ms A Denona, Ms Mikulic and Mr Deng) and Ms Lidija Denona are Club Associates within the meaning of the Code. The Tribunal notes that at least two of the witnesses are also Club Officials, but their roles in this capacity have not been separately considered.

The actions taken by Ms Lidija Denona and Mr Deng escalated, and did not attempt to de-escalate, the physical interaction between the two clubs’ supporters. Further, whilst they took place within the context of a tense interaction between adverse supporters, the Tribunal notes that the actions each of Ms Lidija Denona and Mr Deng in the incident were not defensive in the true sense of the word, nor were they proportionate to the relevant circumstances – in each case, the Gwelup Croatia supporters advanced towards a retreating Dianella White Eagles supporter and physically struck him. Nor was evidence presented to the Tribunal to demonstrate a reasonable basis for a belief by Ms Lidija Denona or Mr Deng that their physical actions towards the retreating Dianella White Eagles supporter were



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	<p>necessary. That is, the evidence did not establish that their actions were in self-defence (or in defence of others).</p> <p>The Tribunal notes that in the absence of a definition in the Code, the normal definition of “violence” should be used. The Oxford English Dictionary defines violence as “the exercise of physical force so as to cause injury or damage to a person...”. The Tribunal considers that the actions of Ms Lidija Denona and Mr Deng satisfied the definition of violence.</p> <p>The Tribunal finds that the supporters of Gwelup Croatia – Ms Lidija Denona and Mr Deng – escalated rather than de-escalated the violence. The club is responsible, and liable, for the actions of its supporters, including those of Ms Lidija Denona and Mr Deng. For the above reasons, the Tribunal finds the Gwelup Croatia Soccer Club guilty of breaching Article 3.2(e) of the Code of Conduct (bringing the game into disrepute on the basis of spectator or crowd violence).</p> <p>The Tribunal accepts that the behaviour of the ground marshals – which is the responsibility of the home club Dianella White Eagles – fell below that which is expected at a State League match.</p> <p>Penalty</p> <p>The unchallenged penalty imposed on Dianella White Eagles was a ban on spectators at its next three home matches. The Tribunal is cognisant of this penalty, with a view to ensuring comity between offences arising from the same factual circumstances.</p> <p>The Tribunal considers that the penalty imposed on Gwelup Croatia should be less than the penalty imposed on Dianella White Eagles, on the basis that as the home club for the fixture, Dianella White Eagles bore a greater responsibility to control any incidents.</p> <p>For this reason, the Tribunal has issued a penalty that it considers to be approximately half of the penalty imposed on Dianella White Eagles.</p>
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Date of Notice	14/06/2023
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Right to Appeal

The decision of the Disciplinary Tribunal may be appealed in accordance with Article 21 of the Disciplinary & Grievance Regulations 2022.