



**GENERAL PURPOSES TRIBUNAL  
OF FOOTBALL NEW SOUTH WALES  
FINAL DETERMINATION  
IN THE FOLLOWING MATTER:**

**GPT 15/21**

<b>Date of Hearing</b>	13 October 2015
<b>Date of Final Determination</b>	15 October 2015
<b>Respondent</b>	Glenmore Park FC
<b>Attendees &amp; Witnesses</b>	No Hearing was conducted as the Respondent pleaded Guilty and made written submissions outlining mitigating circumstances it wished to be considered in relation to potential sanction.
<b>The basis upon which the matter is before the General Purposes Tribunal</b>	Football NSW Grievance and Disciplinary Regulations Section 8.2 for alleged breaches of sections 15.3(b) and/or (f), and/or clauses 2.1 and 2.2 (c), (d), (e) and/or (f), 2.3 and/or 3.1 of the FFA Code of Conduct and/or Parts (a), (d) and/or (e) of the FFA Spectator Code of Behaviour.
<b>Key Words/Phrases</b>	Attack on referee's chair post match - Threatening or intimidating a Match Official by word or action, Bringing the game into disrepute, Failure to provide a safe environment for Participants or to maintain public order at a Match.
<b>General Purposes Tribunal Members</b>	Mr David P. Lewis (Chair) Mr Ben Jones Ms Mendo Cklamovski

## A. INTRODUCTION

Football NSW has established the following Bodies pursuant to Section 5.1 of the Football NSW Grievance and Disciplinary Regulations (“Regulations”):

A Disciplinary Committee (DC) is responsible for issuing Suspensions pursuant to section 7.2 of the Regulations and to rectify or review a disciplinary decision made by the Match Official pursuant to sections 7.3 to 7.4 of the Regulations. The DC shall only have jurisdiction to issue Suspensions that are no more than one (1) calendar year (section 7.1(b) of the Regulations). Suspensions that are greater than one (1) year shall only be issued by a Tribunal.

A General Purposes Tribunal (GPT) responsible for hearing and determining:

- I. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations.
- II. Grievances between Members as set out in Section 8.3 of the Regulations.
- III. Appeals against a decision of an Association Appeals Committee as set out in Section 8.4 of the Regulations only where that body has imposed a sanction of at least:
  - i. A suspension of six (6) or more Fixtures, or
  - ii. A suspension of three (3) or more months, or
  - iii. A fine of three thousand dollars (\$3,000), or
  - iv. A loss of six (6) or more competition points, or
  - v. Expulsion from a competition.
- IV. Any other matter the Executive considers important to the interests of football in the State to be referred to the GPT. Such a decision is to be at the absolute discretion of Football NSW.
- V. Any referral from the DC to the GPT pursuant to Section 8.5 of the Regulations.
- VI. Any other matter that the DC deems appropriate to be referred to the GPT as set out in Section 8.5 of the regulations.

An Appeals Tribunal (AT) responsible for hearing and determining appeals from the:

- VII. DC pursuant to Section 7.5 of the Regulations but subject to Section 9.2 of the Regulations, and
- VIII. GPT pursuant to sections 8.6 and 15.2 of the Regulations but subject to Sections 9.2 and 9.4 of the Regulations.

The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.

## B. NOTICE OF CHARGE

FNSW issued a Notices of Charge to the **Respondent** on 7 September 2015.

The charge related to an alleged incident during a Football NSW Under 21s State Cup Match between Glenmore Park FC and Sylvania Heights FC on Sunday 17 May 2015 at Parker Street Oval. An unidentified Glenmore Park FC Spectator approached the Referees’ marquee at the completion of the Match and destroyed the Match Official’s chair by kicking it violently.

The Notice to the Respondent specified the following charges:

### **Charge 1**

Alleged breaches of Section 15.3(b) and/or (f) of the Football NSW Grievance and Disciplinary Regulations 2014, Schedule 3 and/or clauses 2.1 and 2.2 (c), (d), (e) and/or (f), 2.3 and/or 3.1 of the FFA Code of Conduct and/or Parts (a), (d) and/or (e) of the FFA Spectator Code of Behaviour.

#### 15.3 Misconduct

*Misconduct shall mean any act or omission by a Member which:*

*(b) constitutes a breach of the FFA Rules and Regulations;*

*(f) results in the failure to provide a safe environment for Participants or to maintain public order at a Match;*

Alleged breaches of Clauses 2.1, 2.2 (c), (d), (e) and/or (f), 2.3 and/or 3.1 of the FFA Code of Conduct (effective from 1 January 2007).

*2.1 A Member must not bring FFA or the game of football into Disrepute.*

*Without limiting the generality of clause 2.1, a Member will be taken as having brought football into Disrepute if any of the following occurs:*

*2.2(c) offensive behaviour, including offensive, obscene, provocative or insulting gestures, language or chanting;*

*2.2(d) provocation or incitement of hatred or violence;*

*2.2(e) spectator or crowd violence;*

*2.2(f) intimidation of Match Officials, which may take the form of (but is not restricted to) derogatory or abusive words or gestures toward a Match Official or the use of violence or threats to pressure a Match Official to take or omit to take certain action regardless of where such action is taken;*

*2.3 A Club is deemed to have committed an offence under this section where its crowd or its spectators have engaged in any of the conduct outlined in clause 2.2.*

*3.1 A Club is responsible, and liable, for the conduct and behaviour of its supporters, whether at home or away Matches.*

Alleged breaches of Parts (a), (d) and/or (e) of the FFA Spectator Code of Behaviour (effective from 1 January 2006).

*A spectator at a Match or otherwise involved in any activity sanctioned or staged by, or held under the auspices of, Football Federation Australia Limited or an affiliated Member Federation or Club must:*

*(a) respect the decisions of Match Officials and teach children to do the same;*

*(d) not use violence in any form, whether it is against other spectators, Team Officials (including coaches), Match Officials or Players;*

*(e) not engage in discrimination, harassment or abuse in any form, including the use of obscene or offensive language or gestures, the incitement of hatred or violence or partaking in indecent or racist chanting;*

The unidentified **Glenmore Park FC spectator** allegedly engaged in conduct that:

- *constituted a breach of the FFA Rules and Regulations;*
- *was offensive, abusive, harassing and threatening;*
- *was unsportsmanlike or unprofessional;*
- *was violent and intimidating; and*
- *brought or may have brought football and/or Football NSW into disrepute and/or damaged the reputation and goodwill of the game.*

#### **Relevant Conduct**

The relevant conduct alleged exhibited by the unidentified **Glenmore Park FC spectator** was as follows:

On 17 May 2015, during the Under 21s State Cup Match between Glenmore Park FC and Sylvania Heights FC at Parker Street Oval, an unidentified Glenmore Park FC Spectator (“the Spectator”) destroyed a Match Official’s chair at the completion of the Match.

One of the Match Officials (Alfred Harms) asked some of the Glenmore Park FC players situated near the chair whether they could identify the Spectator. Some of those players replied to the Match Official that it was “Santa Clause”.

Football NSW twice wrote to Glenmore Park FC asking that it identify the Spectator. On both occasions, Glenmore Park FC replied that it was unable to identify the Spectator.

Based on the following, Football NSW alleges that a Glenmore Park FC Spectator damaged the chair and that Glenmore Park FC is liable for that damage and for the conduct of its unidentified Spectator:

1. in the 88th minute of the Match, when Sylvania Heights FC were in the lead 1-0, Glenmore Park FC was denied a penalty;
2. at the conclusion of the Match, the Spectator approached the Referees’ marquee and then walked to the Match Official’s chair and damaged it by kicking it violently;
3. after damaging the chair, the Spectator walked directly to the Glenmore Park FC team;
4. the Glenmore Park FC coach spoke with the Spectator for approximately three minutes.

### **C. THE HEARING**

The Respondent produced a Notice of Response dated 13 September 2015 and entered the following plea:

*“I am pleading GUILTY to the charge and I accept the report(s) attached to the Notice of Charge.”*

The Tribunal was scheduled to convene at Football NSW offices on 13 October 2015 and invited the Respondent and all witnesses and other persons to attend initial briefings on the conduct of the proceedings.

However, given that above plea and the fact that the Respondent was unable to identify the Spectator, the Tribunal sought the approval of both the Respondent and Football NSW for it to proceed with a Determination without the need for a Hearing. Both the Respondent and Football NSW consented to this course of action.

### **D. BACKGROUND, SUBMISSIONS & EVIDENCE**

On 3 June 2015 Football NSW wrote to the Respondent providing an Incident Report of the relevant incident. Football NSW commented as follows:

*Football NSW is currently investigating this matter under section 8.2(b) of the Regulations.*

*To assist Football NSW with its investigation of this matter, please provide a the following as part of the Club’s response to the alleged incident:*

1. *Confirm the identity of the alleged offender;*
2. *Provide a response in regards to what the Club and/or alleged offender will do in regards to the costs incurred by the Referee to replace the damaged Chair;*
3. *Advise what steps the club has taken or will take as a result of the accusation; and*
4. *Provide any statements the Club or the accused seeks to rely on.*

*Once the response and any reports have been received, Football NSW will determine what, if any, further action is required.*

The Respondent replied on 5 June in a letter signed by Mr John Liepa, Secretary, Glenmore Park FC as follows:

***1. Confirm the identity of the alleged offender***

*At this point in time, the identity of the spectator who allegedly destroyed the attending referees chair remains unknown. The coach, Rod Carley provided a statement immediately after the incident and is included with this response, as Attachment A.*

*Rod has since repeatedly spoke to his team, but unfortunately this person's identity is still not known. I have also spoken directly with Rod and he advised that he has not seen this person at any game prior to and since the incident occurred.*

***2. Provide a response in regards to what the Club and/or alleged offender will do in regards to the costs incurred by the Referee to replace the damaged Chair***

*Glenmore Park FC is deeply saddened that an unknown spectator has associated himself with a Glenmore Park FC team and our club and has acted in this disgraceful manner. Glenmore Park FC will provide funding of \$100 to the referee to replace the broken chair. This payment though is of our least concern, as we have had this team and the clubs behaviour badly tarnished, which no amount of restitution can repay.*

***3. Advise what steps the club has taken or will take as a result of the accusation***

*Glenmore Park FC immediately requested statements from the coach once of hearing of this incident. Due to the limited time to be able to address all members of the U21 team in person since receiving Football NSW response request, Glenmore Park FC executive will meet with all players next week at the team's training session to again seek the identity of the spectator. Subsequent individual hearings may also be called if required.*

***4. Provide any statements the Club or the accused seeks to rely on***

*As previously mentioned, copies of the coaches statement is included as Attachment A Glenmore Park FC would also like to make a statement in regards to the U21 team and its coaching staff.*

*The U21 team, have played in Nepean Football Associations Premier 2 Reserves competition for the past 3 years. This team has been one of the leading teams within the club, in terms of sportsmanship, as well as off-field behaviour. Several players are also involved as coaches with the club, coaching junior U11/1 and U12/1 teams, and the coach Rod Carley is the clubs coaching coordinator.*

*The club has never had any behavioural issues with this team and any player that has been coached by Rod. They are one, if not the most respected senior teams within the club.*

*The team has also been Nepean Football Associations representative at Football NSW Champion of Champions in the 21 men's tournament for the past 2 seasons, having made the final on both occasions, conducting themselves in these tournaments in an exemplary manner.*

*Glenmore Park FC is very disappointed that the actions of a 'one-off' spectator have tarnished the clubs reputation. The club is very hopeful that with further time to speak with every individual of the U21 team, the spectator's identity will be forthcoming.*

Mr Rod Carley, the coach of the Under 21 Glenmore Park FC team provided written statements confirming that he had undertaken considerable inquiries in an attempt to identify the Spectator. Unfortunately none of his attempts were successful. He expressed his disgust with the behaviour of this unknown person.

Mr Carley noted in his email dated 17 May:

*“When I reminded all in earshot about the code of conduct for all players and spectators, I saw a person at the back of our huddle walk away promptly.*

I called to this person and asked him his name. I was provided with the name Mitchell Manzo. As I am aware of a person of that name (this person did not look like him) I had some doubts that was his real name. I asked for ID and this was refused and this person decided to quickly walk away.”

On 24 June Football NSW wrote again to the Respondent and provided a name of a person who it was alleged was the Spectator. Glenmore Park FC confirmed that this person was a registered player with their club. However, in relation to this allegation, Mr Carley responded to Glenmore Park FC in an email dated 24 June:

*“As per my previous statements, I did not witness the incident so I cannot confirm if Matthew was the person involved.*

*However, given the allegations made by FNSW today I have called Matthew tonight and put these allegations to him.*

*Matthew denied being the person who broke the chair. Given that I have known Matthew for over 10 years, I have no reason believe he is not telling me the truth.”*

This latter observation raises questions with Mr Carley’s 17 May observations, notably written on the day of the incident, where he notes that he saw the Spectator and spoke with him. On the basis of Mr Carley’s statement dated 24 June in which he states that he saw the Spectator at the back of the team huddle and his acknowledgment that has known Mr Matthew Duff for over ten years, it seems likely that he would have known whether the relevant Spectator was Mr Matthew Duff or not. In these circumstances it appears incongruous that Mr Carley would need to put the allegation to Matthew.

Mr Matthew Duff and others subsequently tendered Statutory Declarations to Football NSW denying any involvement in this incident.

## E. CONSIDERATION & DETERMINATIONS

### FNSW GPT 14/15 - Rockdale City Suns

In GPT 14/15, the Tribunal found that the Respondent, **Rockdale City Suns**, was responsible for the misconduct of its Supporters.

During the NPL FNSW Men’s 1 fixture between Rockdale City Suns at Blacktown Spartans on 29 March 2014 at Blacktown Football Park, a group (approximately 10) of Rockdale City Suns spectators engaged in offensive and violent conduct that included but not limited to:

Throwing plastic bottles and twigs onto the field;

Throwing a plastic bottle at an official FNSW photographer;

Throwing of flares;

Verbal abuse of participants and spectators;

Carrying/Holding the Macedonian flag which is prohibited from all FFA and FNSW competitions;

Carrying/Holding a political banner “Ilinden Forever” which is prohibited from all FFA and FNSW competitions.

The Tribunal determined that **Rockdale City Suns** was liable under section 2.3 of the FFA Code for the breach of section 2.2 (k) of the Code by its supporters in the use of a flare at the NPL FNSW Men’s 1 fixture between the Club and Blacktown Spartans on 29 March 2014, and so in breach of Sections 15.3 (b) and (g) of the Regulations (2014).

However, **Rockdale City Suns** only escaped a major sanction as the Tribunal accepted that the Respondent had conducted its own thorough and detailed investigation immediately following the game, had swiftly identified the supporters responsible, had delivered an apology to Blacktown Spartans, and had imposed a 12 month ban on those responsible.

#### **ESFA v Lions FC 20 June 2007 [2007] AUESFA 27**

In this matter the referee noted a spectator known as 'Eddy' entered the field of play and came towards him and pushed him. The referee could not identify this spectator as he did not play in the relevant match however he was aware that he was sitting with the Lions FC team. When the referee asked the Lions FC Registered Team Official (RTO) who this spectator was, the Lions FC RTO said "*none of your business*". The referee further noted: "*At this point the RTO made no effort at all to remove other abusive players and the spectator 'Eddy' was still on the field and was abusing the referee.*"

The ESFA Judiciary Committee initially heard this matter and directed Lions FC as follows:

*Lions FC is to provide the identity of the person who is referred to as 'Eddy' in the referee's Incident Report to the ESFA office before 5pm Tuesday 12<sup>th</sup> June.*

*In the event that such information is not provided, sanctions will be imposed on Lions FC and/or its AA7 team.*

As the above directions were not complied with, Lions FC were held in contempt of the ESFA Judiciary. The Judiciary therefore imposed the following sanctions on Lions FC at its hearings on Tuesday 12<sup>th</sup> June 2007:

1. *The Lions AA7 team is to have three (3) competition points deducted; and*
2. *The Lions Club is fined \$1,000; and*
3. *\$500 of this fine will be suspended if Lions FC provides the identity of the person who is referred to as 'Eddy' in the referee's Incident Report to the ESFA office before 5pm Tuesday 19<sup>th</sup> June; and*
4. *The person identified is to appear at the JC Hearing on Tuesday night 19<sup>th</sup> June.*

The ESFA Judiciary observed as follows:

*The Judiciary is of the opinion in this case that a significant deterrent again must be given to ensure that unregistered players do not take the field under ESFA and that any person who breaches the rules of ESFA is brought to account. Clubs must also accept strict liability in relation to the control of their spectators and players on the sideline. There must however, be a greater deterrent imposed if a club is unwilling or even unable to identify such a person. Mere reluctance could be expedient and the Judiciary believes that a clear message must be sent to ESFA member clubs in this regard. The Judiciary wishes to stress that it does not accept as satisfactory that a club has used its 'best endeavours' to obtain this information.*

## **F. FINDINGS**

The Tribunal finds the Respondent GUILTY of all charges.

In this matter, GPT 15-21, Glenmore Park FC has attempted to identify the Spectator and have regrettably failed to do so. It is clear from the relevant regulations, codes and the above precedents that the Respondent is to be held responsible for the conduct of its Spectators and it is clear on the evidence that the Spectator was in some way related to the Respondent.

The Tribunal finds that the Spectator was associated with the Under 21 team and, notwithstanding that the Respondent has made efforts to identify this person, their failure to do so does not excuse the behaviour of that person nor does it absolve the Respondent for responsibility under the FFA Statutes and the FNSW Regulations.

## G. SANCTIONS

The Office of State Revenue (OSR) in NSW applies sanctions and fines in relation to the behaviour of NSW drivers. In the case of a detected driving offence, the OSR issues a Penalty Notice to the registered owner of the relevant vehicle. If that registered owner is a corporation then the OSR requires that corporation to nominate the identity and Driver's Licence number of the responsible driver if the offence carries Demerit Points.

In the case of a speeding offence of under 10Km per hour over the permitted speed, the OSR imposes a fine of \$545 on the corporation that will be reduced to \$109 and 1 demerit point on the nomination of the identity of the responsible driver.

If the corporation does NOT disclose the identity of the responsible driver, the corporation will be fined an additional amount of \$1,200 for the first offence and \$3,000 for a second or subsequent offence. The Courts may further issue additional fines of up to \$11,000.

There is a clear established principle that a corporation must identify the responsible driver and is responsible for so doing. Substantial sanctions are applied where there is a failure to comply with this obligation.

The Tribunal strongly endorses the reasoning in the decision of the 2007 ESFA Judiciary in *ESFA v Lions FC* [2007] AUESFA 27 and the Tribunal agrees that a strong deterrent is required to ensure that Clubs disclose the identity of persons who have clearly breached standards of behaviour.

The Tribunal notes that the Glenmore Park Under 21 team was excluded from the 2015 Champions of Champions however that was a decision made by the Nepean FA and not by FNSW. It is therefore irrelevant to these proceedings.

Glenmore Park FC have had six (6) months to provide the identity of the Spectator and have failed to do so. Given that the 2015 football season has come to a close, the most appropriate sanction available to the Tribunal is a fine. Table D Item Number 2 grants the Tribunal the power to impose 'a fine or costs' and it is the determination of the Tribunal that it should impose both these sanctions on Glenmore Park FC.

Glenmore Park FC is fined \$2,000. This fine is to be paid to Football NSW on or before 31 December 2015.

The Tribunal determined that the Respondent also pay the costs of the Tribunal processes as determined by FNSW.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with articles 8.6 and 9.2 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 13) to [tribunal@footballnsw.com.au](mailto:tribunal@footballnsw.com.au) with the relevant Application Fee (\$750) within seven (7) working days of the Final Determination of the GPT being sent to the Club.



David P. Lewis

Chairman

15 October 2015

# **The Schedule**

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#### **ANNEXURES**

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Annexure B – First response from Glenmore Park FC dated 5 June 2015

Annexure C – Additional statement from Glenmore Park FC, Rod Carley dated 9 June 2015

Annexure D – Email from FNSW identifying Participant dated 24 June 2015

Annexure E Response from Glenmore Park FC dated 25 June 2015

Annexure F Email from Matthew Duff (Glenmore Park FC) dated 1 July 2015

Annexure G Email from FNSW requesting Statutory Declarations dated 23 July 2015

Annexure H Statutory Declaration – Matthew Duff

Annexure I Statutory Declaration – Alan Duff

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