

**PRELIMINARY DETERMINATION.**

**Reference is made to the following Tribunal:**

<b>Date of the Tribunal</b>	14 June 2017
<b>Tribunal that heard the case</b>	General Purpose Tribunal (GPT)
<b>Tribunal reference number</b>	17/11
<b>Tribunal Members</b>	Ben Jones (Chair), Courtney Scallan Louis Fayd'herbe
<b>Venue of Tribunal</b>	FFA Headquarters Level 22, 1 Oxford Street, Darlinghurst NSW 2010
<b>Time of Tribunal</b>	7pm
<b>Respondent</b>	Tarik Ercan

This document constitutes a Preliminary Determination under section 9.5(g) of the Football New South Wales (FNSW) Grievance and Disciplinary Regulations 2017 (**Regulations**), resulting from the Tribunal listed above. Pursuant to section 9.5(f) of the Regulations, the GPT determined not to issue a Final Determination in relation to this matter.

**Charges**

The Respondent was charged by FNSW under sections 9.2 and 16.4 of the Regulations for alleged breaches by the Respondent of sections 16.4(d) or (f) of the Regulations, namely Schedule 3, Table C, Offence Code 31-01 or, in the alternative, Schedule 3, Table C, Offence Code 03-01.

The charges related to the following social media post on Twitter directed at the NSW National Premier League Twitter Account on 27 May 2017, which the Respondent is alleged to have made:

*“Refereeing has been piss poor all season ... @NPLNSW do something to fix it”.*

FNSW proposed that the Respondent receive the following sanction:

- suspension of eight (8) Fixtures;
- the Respondent immediately remove the post from Twitter; and
- the Respondent undertake an on-line harassment and discrimination course provided by “Play By The Rules” within two weeks from the date of accepting the proposed sanction, with FNSW to be provided with proof of completion of the course.

The proposed sanction of eight (8) Fixtures represented one of the minimum sanctions available in respect of the alleged breach of section 16.4(d) of the Regulations, by way of Schedule 3, Table C, Offence Code 31-01.

The Respondent pled guilty to the Offences but disputed the penalties proposed by FNSW.

The GPT informed the Respondent that, subject to section 13.12 of the Regulations, section 9.5(c) of the Regulations requires the sanction imposed by the GPT in respect of an offence not to be below the applicable minimum sanction or suspension.

## Submissions of the Respondent

The Respondent provided the GPT with evidence surrounding the personal circumstances which existed at the time of the offence, along with a number of character references. The Respondent also made submissions expressing his remorse.

The Respondent then submitted that he be issued with a time suspension, and that pursuant to section 13.12 of the Regulations, the GPT order that part of the suspension come into immediate effect, with the other part not to come into effect unless and until an additional offence is committed by the Respondent.

The GPT notes that FNSW did not oppose the issuing of a time suspension, or the suspension of part of that sanction.

## Determination of the GPT

The GPT accepted the guilty plea from the Respondent and found the Respondent guilty of the charges.

Subject to section 13.12 of the Regulations, section 9.5(c) of the Regulations requires the sanction imposed by the GPT in respect of an offence not to be below the applicable minimum sanction or suspension. The minimum sanction for the first breach of section 16.4(d) of the Regulations, by way of Schedule 3, Table C, Offence Code 31-01 is either 8 fixtures or a time suspension of 2 months.

Section 13.12 of the Regulations provides that in respect of a time suspension of less than six (6) months the GPT may order that part of the suspension come into immediate effect, with the other part not to come into effect unless and until an additional offence is committed during a specified probationary period.

Section 15.5(d) of the Regulations provides a Respondent issued with a time suspension is ineligible to participate in all Football Related Activities (as defined within the Regulations) for the duration of the suspension, unless the GPT determines otherwise.

Having regard to the submissions provided by the Respondent, and in particular to the personal circumstances which existed at the time of the offence, the GPT determined:

- to issue the Respondent with a time suspension;
- to issue the minimum time suspension for the offence, which is 2 months;
- that pursuant to section 13.12 of the Regulations, one month of the minimum 2 month suspension (being half) come into immediate effect, with one month not to come into effect unless and until the Respondent commits any further offence under the Regulations during a 24 month probationary period, which commences from the date of this Preliminary Determination;
- that pursuant to Section 15.5(d) of the Regulations, the time suspension precludes the Respondent from participating as a player in fixtures for both eleven-a-side football and futsal, but does not preclude him from participating in any other Football Related Activities, such as coaching or training for either eleven-a-side football or futsal; and
- that the Respondent be required to undertake an on-line harassment and discrimination course provided by “*Play By The Rules*” within two weeks from the date of this Preliminary Determination.

The GPT notes that the relevant post was removed from Twitter shortly after it was posted.

## **Sanction**

The Respondent is therefore suspended from participating in both eleven-a-side football and futsal for one month from the date of this Preliminary Determination. The Respondent also has a one month suspended sentence which will be activated immediately if the Respondent commits any further offences under the Regulations during the 24 month probationary period.

The Respondent must also undertake an on-line harassment and discrimination course provided by “*Play By The Rules*” within two weeks from the date of this Preliminary Determination.

The GPT wishes to note that its determination to issue the Respondent with a time suspension as opposed to a fixture suspension, and to suspend part of that sentence was due to exceptional circumstances which cannot be publicly disclosed. Accordingly, this determination should not be utilised as precedent in matters involving similar conduct.

## **Additional Matters**

The GPT wishes to note the admission of the Club with which the Respondent was registered, St George Saints, that they had failed to educate their players on appropriate social media conduct, despite external training received from FNSW. This failure has let players within the Club down, and the Club should take immediate steps to adequately educate their players on the appropriate use of social media.

Pursuant to section 13.17 of the Regulations, the Respondent is to pay the costs of the Tribunal process as assessed by Football NSW.

The Respondent may appeal this Preliminary Determination of the GPT to the Appeals Tribunal in accordance with the Regulations, and in particular section 9.6. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to [tribunal@footballnsw.com.au](mailto:tribunal@footballnsw.com.au) with the relevant Application Fee (\$750), within 7 days of this Preliminary Determination of the GPT being issued by Football NSW.

Sincerely,

**Ben Jones**  
**Vice Chair**  
**GENERAL PURPOSES TRIBUNAL**