

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

**GPT 15/25**

<b>Date of Hearing</b>	29 September 2015
<b>Date of Final Determination</b>	7 October 2015
<b>Respondent</b>	Ms X
<b>Attendees &amp; Witnesses</b>	<p>Ms X, Respondent, Player U13 Sutherland FC,  Ms Y, Parent, Sutherland FC  Mr Z, Parent, Sutherland FC  Mr A, Sutherland FC</p> <p>Ms C, Player U13 Inter Lions FC,  Ms B (Mother of C), Inter Lions FC,  Mr D, Coach U13 Inter Lions FC.</p>
<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 (e), and/or clauses 2.1 and 2.2 (c) FFA Code of Conduct.
<b>Key Words/Phrases</b>	Alleged biting by junior player.
<b>General Purposes Tribunal Members</b>	Mr David P. Lewis (Chair) Mr Ben Jones Ms Courtney McLean

## 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:

- II. DC pursuant to Section 7.5 of the Regulations but subject to Section 9.2 of the Regulations, and
- III. 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. NOTICES OF CHARGES

FNSW issued a Notices of Charges to the **Respondent** on 10 September 2015.

The charge related to an alleged incident during a Football NSW Round 13 Under 13s Women’s National Premier League 2 (WNPL2) fixture between Inter Lions FC and Sutherland Shire FA on Sunday 2 August 2015 at Concord Oval.

The Notice to the Respondent specified the following charges:

## **Charge 1**

Alleged breaches of Section 15.3(b) and/or (e) of the Football NSW Grievance and Disciplinary Regulations 2014, Schedule 3 and/or alleged breaches of Clauses 2.1 and 2.2(c) of the FFA Code of Conduct.

15.3 Misconduct

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

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

*(e) is unsportsmanlike or unprofessional;*

Alleged breaches of Clauses 2.1, 2.2(c) 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;*

The relevant conduct alleged exhibited by X allegedly engaged in conduct that:

- *constituted a breach of the FFA Rules and Regulations;*
- *was unsportsmanlike or unprofessional; 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 X was as follows:

The referee reported that around the 18<sup>th</sup> minute of the first half Ms C from Inter Lions FC reported to him that she had been bitten by X from Sutherland Shire FC in the lead up to their goal. The referee did not see the incident and therefore included the allegation in his Match Report.

Ms C reported this allegation to her coach at the end of the match and to her mother on her return home.

## **C. THE HEARING**

The Tribunal convened at Football NSW offices at 7pm on 29 September 2015 and invited the Respondent and all witnesses and other persons to attend initial briefings on the conduct of the proceedings.

The Respondent did not produce a Notice of Response however entered the following plea:

*"I am pleading NOT Guilty to the Charge."*

As this Hearing involved children, the Tribunal took the unusual decision to include all parties and witnesses in the same room at all times. This was done to minimise the impact of the Hearing process on both the Respondent and the principal witness for Inter Lions. Both girls were aged 13. This ensured that their respective parents remained part of the complete process.

#### D. BACKGROUND, SUBMISSIONS & EVIDENCE

The Respondent provided a video of the relevant incident. This was displayed for all witnesses to view prior to the presentation of oral evidence. The Inter Lions FC representatives had not seen this video prior to the Hearing. This video captured the moments surrounding the incident and C and the Inter Lions FC witnesses accepted the video as an accurate record of the alleged incident.

Ms C spoke to her written report. In that report she noted:

*“As I was trying to run to make the tackle on the other Sutherland girl, X was holding my forearm and bicep. She the (sic.) bit me and I went down. The bite was on my elbow.”*

Ms C was asked about her claim of both holding and the claim that she “went down” after the bite, as the video did not support this evidence. Ms C stated that she wrote the report some time ago and that these comments were an error.

Ms C tendered a photo of her arm that clearly shows a mark that might be consistent with a bite.

Ms C reported the incident to the referee straight away however as he did not see the alleged incident all he could do was include the allegation in his Match Report. Ms C stated to the Tribunal that she believed that the incident was an accident and that the Respondent did not mean to bite her.

The Respondent was asked about the incident and she said that she did not recall anything about the incident and was surprised when she was asked by her coach after the match about the allegation. She claimed that it was an accident and that she simply collided with Ms C and that she had no other recollection of the incident.

#### E. CONSIDERATION & DETERMINATIONS

The Tribunal accepted that Ms C made an immediate claim to the referee that she had been bitten. All her evidence and the corroborating evidence was consistent in that it was clear that contact with the Respondent resulted in a minor injury to her arm and that whilst it did not pierce her skin, it was an injury that she felt needed to be reported and the Tribunal found that she had acted quite properly in doing so.

Equally the Match Officials acted in accordance with proper procedure. The referee did not see the incident and therefore all he could do was include the allegation in his match Report.

The video showed what looked like a minor collision between the Respondent and Ms C a few seconds before Sutherland FC scores a goal. The Respondent is shorter than Ms C and in that video one can see that the Respondent’s head is roughly level with the upper arm level of Ms C at the time of the relevant incident. The respondent’s face seems to make contact with Ms C’s arm and it is entirely plausible that her teeth may have made contact with her arm and that is the cause of the injury.

However, the video also led the Tribunal to the conclusion that this incident was no more than an minor accidental collision between the players and that there was no intent by the Respondent and no movement of her mouth towards Ms C in a biting motion.

#### F. FINDINGS

The Tribunal found that **Ms X** was NOT GUILTY of the Charge.

The Tribunal notes that the complaint made by Ms C that gave rise to this matter was wholly appropriate.

It was clear to the Tribunal that Ms C suffered an injury to her arm that was consistent with teeth marks, it was completely appropriate for her to raise this matter with both the Match Officials and her Team management.

Subsequent to those reports, Football NSW adopted the responsible approach of referring this important matter to the Tribunal for determination.

The Tribunal found that an accidental collision took place between the players and that whilst Ms C suffered a small injury that may have been consistent with a bite, the evidence showed that this injury was an accident.

The Tribunal was impressed with both young ladies as they conducted themselves with dignity and respect well beyond their years. They are both to be commended.

#### G. SANCTIONS

No sanctions were imposed by the Tribunal.

The Tribunal made no order relating to the costs of the Tribunal processes.

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

7 October 2015

# **The Schedule**

## **Index of Documents**

### **ANNEXURE – MATCH OFFICIAL INCIDENT REPORTS**

ANNEXURE MO1 – Match Official Incident Report, S (Referee)

ANNEXURE MO2 – Match Official Incident Report, T (Assistant Referee)

### **ANNEXURES**

Annexure A – Statement, C, Player, Inter Lions FC (1 page)

Annexure B – Statement, B, Mother, Inter Lions FC (1 page)

Annexure C – Statement, D, Coach, Inter Lions FC (1 page)

Annexure D – Photo supplied by B (1 page)

**NOTICE OF CHARGE 9 Sept 2015 – Ms X**

**VIDEO of Incident provided by The Respondent**