

# RFU INVESTIGATION INTO NEWCASTLE FALCONS

## EXECUTIVE SUMMARY

1. Following allegations made by Luther Burrell (“the Player”), in the Mail on Sunday article dated the 26<sup>th</sup> June 2022 and Newcastle Falcons (“the Club”) announcing they would carry out an investigation to see if the incidents occurred during the Player’s time at the Club, the RFU and the Club agreed that an investigation of those allegations would be undertaken by the RFU and that the evidence from a wide range of sources would be reviewed by an independent Queen’s Counsel (now King’s Counsel), Joseph O’Brien.
2. The RFU investigation team interviewed 93 employees of the Club who were present during the 2020/21 and 2021/22 seasons. This included players, coaches and staff who continued to be employed with the Club, as well as players, coaches and staff who had left the club. The interviews were conducted either in-person or on video link. In order to create an environment whereby individuals would feel able to provide information to the investigation, individuals were given the opportunity to provide evidence on a confidential basis.
3. The Rugby Players Association (“RPA”) provided Barristers or RPA staff to individuals who wished to be supported in the process.
4. Disclosure of policies and other relevant information was freely given by the Club who have co-operated in the investigation throughout. The club were given opportunity to provide additional detail regarding these policies to ensure the report accurately reflects the position at the Club during those seasons.
5. The Terms of Reference and the procedure for the investigation were agreed between the RFU and the Club. Mr O’Brien KC was tasked with determining five matters:

- (a) Whether the Player suffered any discriminatory behaviour or inappropriate behaviour during his time at the Club.
  - (b) The extent, if any, to which individuals have suffered/witnessed discriminatory/inappropriate behaviour at the Club.
  - (c) Whether there is any need for education/training or recommendations that should be ordered for any individual and/or the Club in accordance with RFU Regulation 19.1.21.
  - (d) Whether there could be prudence made to any reporting processes or mechanisms for discriminatory/inappropriate behaviour.
  - (e) Whether the RFU should consider whether a disciplinary investigation should follow based on the information obtained.
6. The independent report was written by Mr O'Brien KC having reviewed the written evidence supplied by all parties and having listened to the audio recordings of all those interviewed.
7. The report has concluded that on the balance of probability the allegations made in the Daily Mail article are true but there is insufficient evidence to say whether these allegations occurred at the Club, save for the WhatsApp message which contained a racist comment. The report finds in respect of a further two specific incidents of racial verbal abuse at the club (one directed at the Player and one witnessed by the Player), and therefore that the Player was subject to racial abuse and witnessed racial abuse that were made both orally and in the WhatsApp players group. Whilst corroboration of the allegations made by the Player is not required to support those allegations, in fact there was support for what the Player alleged in the evidence of at least two other employees of the Club. Furthermore, a highly relevant piece of evidence was a WhatsApp post which contained a racist comment (the Club have made clear that this was a group which only players could access and not set up by the Club). The report finds the evidence of the Player to be reliable. His motivation for making the allegations now was his wish to eradicate such racist behaviour from Rugby Union.

8. In relation to the extent, if any, to which individuals have suffered or witnessed discriminatory or inappropriate behaviour of the Club, it is found that other individuals suffered or witnessed discriminatory behaviour. Some individuals were present when the Player was subjected to racist comments and abuse (as detailed in paragraph 7). Players at the Club had access to the WhatsApp group and will have viewed the posting which contained the wholly inappropriate racist term. In addition, there was other inappropriate behaviour including two fights on two separate occasions involving players at the Club. In the main, many of the employees stated that culture at the Club was good, however, there was “banter” between players which was sometimes harsh, even brutal. The report can go no further in its findings than saying that a number of witnesses spoke of this “banter”. The appropriateness of this “banter” between players needs to be considered by the Club. However, as made clear in the report, racist, homophobic, and misogynist abuse is not “banter” and categorising such abuse as “banter” seeks to minimise the seriousness of such abuse.
  
9. In relation to whether there is a need for education training or recommendations that should be ordered for any individual and/or the Club to receive such training in accordance with RFU Regulation 19.1.21, the report makes specific recommendations. It has concluded that there was little training at the Club before the allegations were made public, however, the club had already put in place plans to implement training and education before the allegations came to light. The Academy appears to have supported the younger members of the Club on a range of issues from mental health promotion, to safe social media usage and educating young members on race, sex, and sexuality discrimination. However, almost all senior coaches and players confirm that there had been no Equality, Diversity and Inclusion training or education on safe social media use. The Club had policies in place to address equality, diversity and inclusion but commitment to the aims of these policies did not involve any training sessions for staff until May 2022. The report was concerned over the lack of training on these policies over a period of 10 years but has found that since the allegations were made, the Club has committed time and resources to a robust training programme. For these reasons, it is recommended that pursuant to RFU Regulation 19.1.21 training must be given to all staff and players in relation to Equality, Diversity and Inclusion,

Whistleblowing, Harassment, Bullying, active bystander intervention training and Safe social media under RFU Regulation 19.1.21.

10. In relation to whether there could be improvements made to any reporting process or mechanisms for discriminatory or inappropriate behaviour, the report has made a number of recommendations about the “sign-posting” which staff and employees should follow for whistleblowing including email addresses and identified individuals who can be approached in confidence. The training of staff and players must be recorded and the effectiveness of courses and the effectiveness of individual participation should be audited by the Club.
  
11. Finally, should the RFU consider whether a disciplinary investigation should follow based on the information obtained? The Player has made serious allegations of racist abuse and it should not be categorised as banter. The abuse was hurtful, undermined the dignity of the Player and clearly had an adverse effect on him. The report has found that, on the balance of probability, the allegations made by the Player in the Mail on Sunday article are true (although save for the WhatsApp message the report has not found sufficient evidence to say they occurred at the Club). The report recommends that the RFU should consider a disciplinary investigation based on the information obtained, whilst also considering the most effective ways of achieving its aim to diversify the game, as set out in the Annual Report 2021 and Inclusion and Diversity statement, and the impact that any investigation may have on the individuals that have made any allegations.