

Decision of the Football Association Appeal Board Hearing on the 23rd November 2009

FA Appeal Board

Mr Peter Griffiths QC [Chairman]
Mr Maurice Armstrong
Mr Gordon Milne

Appellant

Mr Imraan Ladak

The Decision the subject of the Appeal

The Decision of the Football Association Regulatory Commission of the 27th August 2009 relating to the Penalty and other Orders imposed on the Appellant in respect of his admitted breach of FA Rule F2[b] in failing to respond to the Football Association's repeated requests for his written observations concerning media comments attributed to him following the Kettering Town FC v Fulham FC FA Cup Fourth Round fixture held on the 24th January 2009, namely:

1. Fine of £1,500
2. Order that the Personal Hearing Fee be retained by the Football Association
3. Order that the Appellant pay the adjusted costs of the Hearing.

Grounds Of Appeal

“Although Mr Ladak [the Appellant] is indeed the Chairman of Kettering Town Football Club, the club is that of non-league stature. The fine that was imposed was prepared more for a Premiership or Football League team and is very high for a club in our level. Considering the medical reasons that caused Mr Ladak to miss the hearing, having to cover the costs of that hearing as well as the £1500 fine is gross and without compassion”

Appearances

The Football Association's Regulatory Department was represented by Mr Matthew Johnson. The Appellant did not attend either in person or by way of a representative.

Preliminary Matter

In view of the Appellant's non-appearance inquiries were instituted. The Appeal Board were informed that the club [Kettering Town FC] were contending that the Appellant, apparently, was not aware that his Appeal was due to be heard today. The Appeal Board were informed of the relevant written notification[s] of today's hearing date which had been sent to the Appellant [personally and with a copy to the Club Secretary] by the FA's Disciplinary Department. The Appeal Board, having heard this and having also considered the whole history [including the Appellant's admitted breach of FA Rule F2[b] and his failure to attend the Regulatory Commission's hearing on the 27th August 09], were quite satisfied that there were no reasonable grounds for the Appellant's non-attendance. In these circumstances, in accordance with Regulation for Appeals 2.11, (Page 364 of the 2009/10 FA Handbook), the Appeal Board proceeded to determine the Appellant's Appeal in his absence.

The Hearing before the Appeal Board

Mr Johnson outlined the facts the subject matter of the admitted breach of FA Rule F2[b]. In accordance with a direction from the Chairman Mr Johnson did not introduce any new material [i.e. over and above the papers which had been placed before the Appeal Board and copied to the Appellant]. Mr Johnson confirmed that the summary of the Appellant's previous offending set out in the Regulatory Commission's Reasons was correct. In answer to a question posed by the Chairman, the Appeal Board was informed that a fine of £2,000 and costs had been imposed on the Chairman of Gillingham FC for an admitted breach of FA Rule F2 on an occasion in the past. The Appeal Board considered this of limited assistance in the instant matter. The Appeal Board then proceeded to consider, with care, the written submissions of the Appellant embodied in the letter from Justin Boyd-Navazo, Club Secretary of Kettering Town FC, dated the 23rd September 09, sent in on the Appellant's behalf. The Appeal Board also considered the various emails which had originally been before the Regulatory Commission.

The Appeal Board's Decision and Reasons

1. The Appeal Board were unanimously of the view that the fine imposed by the Regulatory Commission was entirely appropriate and could not be said to have been excessive.
2. The Appeal Board were unanimously of the view that the Order of Costs made by the Regulatory Commission and the Order that the Personal Hearing Fee be retained were both proper and appropriate Orders for the Regulatory Commission to make in all the circumstances of the case.
3. The Appeal Board dismissed the Appellant's Appeal and Ordered that the Appellant's Personal Hearing Fee for the Appeal be retained by the Football Association and that he pay the adjusted costs of the Appeal.
4. The Appeal Board agreed with the Regulatory Commission's Reasons for imposing [a]the fine which was imposed and [b] the Orders which were made. In particular Appeal Board agreed with the Regulatory Commission's assessment that the Appellant's failure to respond to the FA's letters of request was a serious matter, particularly as he was the Chairman of the Club. It should be remembered that the duty imposed on any "Participant"[let alone a Chairman] to respond to the Football Association's F2 requests is absolutely fundamental to the good governance of the sport.
5. The Appeal Board noted that the Appellant had chosen not to advance any information concerning his own financial position to either the Regulatory Commission or the Board.
6. Finally the Appeal Board take this opportunity to clarify one matter. It is clear that at the time the Appellant was failing to respond to the FA's repeated requests for his written observations concerning media comments attributed to him he well knew that he had a significant suspended penalty hanging over his head imposed for potentially similar behaviour. Be this as it may, the Regulatory Commission were technically incorrect to say that the delay caused by the Appellant's inaction "exhausted any possibility of any disciplinary action that the FA may wish to have taken with regard to the media comments....". In our judgement the FA Regulatory

Department did have the power, when they charged the Appellant with a breach of FA Rule F2[b], to also charge him with the substantive charge, namely a charge relating to his media comments in January 09----- had this course been considered appropriate. The Appeal Board observes that it may well be appropriate in future cases, should the FA's Regulatory Department consider the circumstances of a particular case justifying this course of action, for the FA's Regulatory Department to charge both the F2 charge and the substantive charge, whatever that may be.

Peter Griffiths QC
23rd November 2009