

IN THE MATTER OF A FOOTBALL ASSOCIATION
APPEAL BOARD

BETWEEN:

MOUNT PLEASANT JUNIORS FC (“Club”)

and

WEST RIDING FA

WRITTEN REASONS AND DECISION OF
THE APPEAL BOARD
ON 25 AUGUST 2022

Background

1. These are the written reasons and decisions made by an Independent Appeal Board which sat by Microsoft Team video link on 25 August 2022 to consider the appeal raised by Mount Pleasant Juniors FC against findings of a Disciplinary Commission Panel in Case 10706259M issued on 6th July 2022.
2. The Appeal Board members were Mr Jonathan Rennie, Chairman and Independent Football Panel Member, Mr Robert Purkiss, Independent Football Panel Member and Mr Glenn Moulton, Independent Football Panel Member.
3. Mr Conrad Gibbons, The FA Judicial Services Officer, acted as Secretary to the Appeal Board.
4. By correspondence dated 20th July 2022, Mount Pleasant Juniors FC lodged an appeal notification and set out various arguments presented by their Club Chairman, Mr Yunus Lunat.
5. The Appeal Board was presented with a full appeal bundle that comprised of:
 - a. Notice of Appeal;
 - b. Response to Notice of Appeal;
 - c. Papers of First Instance;
 - d. Participant offence history;
 - e. Results Letter and written reasons.
6. The original charge against the club had concerned an alleged breach of FA Rule E20 – Failure to ensure players and/or officials and/or spectators conducted themselves in an orderly fashion. The charge resulted from a fixture on 16th January 2022 between the Club and Shelley Juniors FC and the allegation that a spectator associated with the Club had used threatening language to a Match Official to the effect of “you’re going to get slashed” or similar.

Proceedings

7. Mr Lunat presented the appeal on behalf of the Club. Mr Lunat referred to his written submissions and supplemented those with additional oral submissions. Mr Lunat attended the fixture in question and was able to present his version of events on behalf of the Club from first-hand experience.
8. Mr Lunat’s appeal grounds were two-fold. Firstly, he argued that there was not a fair hearing and secondly he argued that the Commission had come to a decision which no reasonable body could have come to.
9. Mr Lunat’s principal submission was that the incident in question had not taken place. He spent time describing the context of the game and his own approach to matchday introductions and interactions with Match Officials. He explained that often he will not communicate overly with parties pre-Game as he does not wish to expose himself to

false allegations if matters develop. Mr Lunat took the time to take the Appeal Board through the events in the game in question. He explained his belief that the original Commission had curtailed his full submissions and had instead focussed solely on the alleged incident at the end of the match. Mr Lunat suggested the original Commission had precluded him from advancing arguments by advising him that the Commission were only looking at the slashing allegation and restricted his arguments.

10. Mr Lunat's appeal argument that there had not been a fair hearing was based on his assertion that a potential argument that he wished to present around a racial motivation for the original allegation was denied to him. He said the Commission had stopped him from making submissions. Indeed this is reflected in paragraph 18 of the original decision which states:

"As a final point YL started to mention a similar previous incident which had happened in a game against Saville Town. The Commission Chair asked YL to stop as this was not something which was deemed relevant to this case, and was information that could possibly prejudice the Commission's findings."

11. The Appeal Board noted the terms of the argument Mr Lunat had intended to present at the original Commission and his argument that this was excluded at the request of the original Chairman.
12. The Appellant then turned to his second appeal ground being that no reasonable body could have come to the original decision. This argument had two components being in respect of the original Commission decision that i) there had been a failure to adequately consider his FA Rule E21 defence arguments re due diligence and ii) the decision was irrational.
13. The Appeal Board were assisted by the written submissions on the second appeal ground and to a large extent Mr Lunat repeated those written pleas. On the E21 defence he spent time explaining the club ethos, club badge, code of conduct and the endeavours the Club make with parents to instil these values. He also explained the physical layout of the pitch and spectating area and how the crowd was controlled. In essence, the argument as presented was that all reasonable steps had been taken to control the crowd and Mr Lunat raised the question of "what more could be done?". He seemed to be arguing that the original Written Reasons from the Commission were not as detailed as they might have been on this point.
14. The Appellant spent the most time on the irrationality appeal ground. He noted paragraph 23 of the Written Reasons which stated that *"the Commission questioned the overly consistent nature of MP's evidence."* Mr Lunat submitted that an inference could be drawn that there was some suspicion around the Club's submissions before the Commission but that this had not been tested with witnesses at the Hearing. Rather he indicated that the inconsistent evidence from the Match Official and others had been preferred to that of the Club and that was remarkable. Mr Lunat expected the judgment to explain why that approach had been adopted and the written reasons did not do so.

15. In his appeal grounds from points 6.4.1 to 6.4.12 there are 12 identified inconsistencies of varying degrees that the Appellant identified. Mr Lunat set those out again to the Appeal Board. In Mr Lunat's submission the original Commission preferred the inconsistent evidence of other parties rather than the consistent evidence supplied by the Club. He considered that the Commission ought to have identified why they adopted that approach which he said was not logical.
16. The Appeal Board asked questions of Mr Lunat to clarify his submissions before the Respondent was given a right of reply.
17. Jack Mason, Discipline Lead replied on behalf of West Riding FA. He had not attended the original Commission and was responding to the paper submissions and those presented verbally by Mr Lunat for the Appellant.
18. Mr Mason wished to rely principally on his written submissions. On the appeal point around an unfair hearing, Mr Mason did not accept there was any issue with the original Commission excluding the Club arguing there may have been a racial motivation for the allegation. Mr Mason repeated that drawing comparison with other cases and events might prejudice proceedings. The Appeal Board questioned Mr Mason on that logic since consistency in proceedings might be considered a helpful objective but Mr Mason insisted the disciplinary focus ought only to have been on the allegation in question.
19. Regarding the two advanced arguments on no reasonable body being able to reach a decision then Mr Mason replied as follows. Firstly, regarding Rule E21 and the defence of due diligence, it was detailed that the mitigation was simply not sufficient. Secondly, regarding irrationality, Mr Mason outlined that the witnesses for the charge were found to be credible and consequently he insisted that the balance of probabilities test supported the charge being upheld.
20. The Appeal Board asked questions of Mr Mason before enabling both parties to make final submissions. In particular, the Appeal Board asked Mr Mason about the consistency of evidence presented by the Club and why this was not preferred to the inconsistent evidence against the Club. Mr Mason repeated that was the decision the original Commission had come to and they were best placed to come to that decision as they heard all the evidence.

Deliberations and Determination

21. The Appeal Board took time to reflect on the proceedings and the presentation of the arguments.
22. The Appeal Board address each of the appeal points in turn:
 - a. Unfair Hearing – the Appeal Board did not uphold this element of the appeal. It did appear that Mr Lunat had not been allowed to raise a line of argument at the original hearing. It follows that whether such argument was relevant or irrelevant is difficult to determine since it was not fully explored. The Appeal

Board noted that the Club had the opportunity to raise these concerns prior to the original Commission but they had not done so nor submitted any additional evidence to the Appeal Board on this point. Mr Lunat had been candid enough to accept that this potential argument may not have been material in any event and accordingly the Appeal Board do not find that the curtailing of one line of argument represents a material failing of the original Commission such as to render the decision unfair.

- b. No reasonable body could have come to the decision – Failed to consider the E21 defence – the Appeal Board did not uphold this element of the appeal. This was considered to be the weakest of the arguments presented by the Appellant. The due diligence measures necessary for a Club to escape sanction for spectator conduct will be significant and the Appeal Board considered the original Commission had acted reasonably in determining more could have been done by the Club around this incident. Furthermore, the Appeal Board considered it unwise that parents had been invited onto the pitch at the end of the fixture in question, particularly considering the incident with the Match Official during the game.
- c. No reasonable body could have come to the decision – irrational decision – the Appeal Board upheld this element of the Appeal. This was by majority decision. The Appeal Board are more than aware that it is a high threshold for such an appeal ground to succeed. The Appeal Board had a very significant concern about the consistency arguments advanced by the Appellant. The response from the Respondent did not address this issue and that was surprising given there were 12 written examples provided by the Appellant. It was not accepted that the Respondent's reply that the evidence was credible was sufficient enough to discharge the appeal test raised by the Club.

23. The original charge and sanction in the disciplinary cases are expunged after the appellant's appeal is upheld. That concludes proceedings.

Mr Jonathan Rennie, Chairman and Independent Panel Member

Mr Robert Purkiss, Independent Football Panel Member

Mr Glenn Moulton, Independent Football Panel Member

30 August 2022