

In the matter of an Appeal brought by Nikki Martin (the ‘Appellant’ or ‘NM’)
against a decision made by a Disciplinary Commission of the Middlesex FA
(“the Respondent”).

Written Reasons

Background

1. The Middlesex FA had received complaints on misconduct by the Appellant at a tournament organised by London Tigers FC on 10th July 2021. The complaints concerned allegations of swearing and abusive language towards under 13 players including statements such as *“What the fuck are you doing there”*; *“you’re meant to be playing in xyz position”*; and *“shut the fuck up”*.
2. On 30th September 2021 NM was charged under FA Rule E3 with Improper Conduct (including foul and abusive language).
3. NM responded to the Charge pleading not guilty and requested that the case be heard by way of a paper hearing in her absence. NM had submitted a response accusing the referee of being very biased; conceding that she had addressed the referee several times to the point of shouting across to him as she felt her protests were being ignored; that she was very angry as she felt cheated and that she approached the organisers and voiced her opinions.
4. The Case (10508675M) was considered by a Commission appointed by the Respondent FA on 21st October 2021 with John Davies as Chair.
5. The Commission imposed a sanction of a 5 match ban from all football activity and a £75. In addition, NM was severely warned as to her future conduct and her club had 8 disciplinary points imposed upon it.
6. The decision and sanction were relayed on 21st October 2021.

7. NM appealed the Commission's decision on the basis that the Middlesex FA (1) *"came to a decision to which no reasonable such body could have come"* and (2) *"imposed a penalty, award or sanction that was excessive"*. She denied the behaviour she had been accused of and challenged the statements from the London Tigers parents.
8. In its Response to NM's Notice of Appeal, Mr Davies stated that the evidence was considered by the Commission and the charge was found proven. The Commission concluded that document 3 showed abusive language was evident throughout and that this had not been counteracted by NM. The Commission also cast doubt on the statements from her players as they did not appear to be consistent with being written by under 14 players. They were in any event character witness statements rather than addressing the allegations.

The Appeal

9. The Appeal was heard via Microsoft Teams video link on 7th January 2022. The Appeal Board Members were Yunus Lunat (Chair and Independent Panel Member), Stuart Ripley and Marvin Robinson (Football Panel Members).
10. Conrad Gibbons of the FA acted as Secretary to the Appeal.
11. The Appellant NM was in attendance.
12. Middlesex FA was represented by Kayleigh Saunders.
13. The Appellant NM addressed the Panel and set out her position. This was essentially the background facts that are set out in his written grounds of appeal. She gave the impression that she did not hold a genuine belief in the appeal and conceded that she did not expect the Appeal Board to make any changes and that the Board would do what it needed to do. She was more concerned about the effect on the teams that she managed.
14. Middlesex FA and Mr Davies were asked if there was any change to the position that had been set out in the Response to Notice of Appeal. Mr Davies confirmed that the Respondent had not changed its position on the matter.

Appeal Panel's Conclusions

15. The Appeal panel unanimously dismissed the appeal on all grounds. The conclusions of the Commission were as follows, with the numbering reflecting the numbering of the grounds of appeal in paragraph 7 above:

- (1) An appeal such as this one proceeds by way of a review of the decision of the Commission; it is not a rehearing. It is not open to the Board to substitute their decision for that of the Commission simply because the Board might themselves have reached a different decision. If the Commission has reached a decision which it was open to them to reach, the fact that the Board (or a different Commission) might have reached a different decision is irrelevant; it is not for the Board to 'second guess' the Commission. It should only be interfered with if they are clearly wrong or if wrong principles were applied. This is likely to be where there was no evidential basis whatsoever for a finding of fact that had been made, and/or where the evidence was overwhelmingly contrary to the finding of fact that had been made. The test for the Board to apply is whether the Panel acted '*irrationally*' or '*perversely*' or '*came to a decision to which no reasonable body could have come*'. The Appeal Board unanimously concluded that was not the case here. Any appellant who pursues an appeal on this ground that a Commission has come to a decision to which no reasonable such body could have come has a high hurdle to clear or a high threshold to pass. . The fact of the matter here was that rather than address the allegations made about her conduct, the response from NM focused upon her grievances and responses on the day about the refereeing, which were tantamount to admissions of misconduct.
- (2) In relation to the sanction imposed, this was dealt with in the Appeal Response by Mr Davies who made it clear that the Commission considered all the necessary mitigating and aggravating factors proportionately. It had not gone unnoticed that NM had three previous misconduct offences on her record. The Board unanimously concluded that the Commission imposed a sanction that was within their range, which was open to them. The Board should only interfere if it is so wrong that it fell out of the range open to the Commission.

16. The Appeal Board unanimously concluded that the appeal was without any merit whatsoever.

The Appeal Board also noted NM's dismissive attitude towards the appeal and the representations made on behalf of the Respondent. The Board therefore ordered NM to pay costs limited to £50.00.

17. The Appeal Board's decision is final and binding on all parties.

12 January 2022

Yunus Lunat – Appeal Board Chair

Stuart Ripley

Marvin Robinson