

BEFORE A FOOTBALL ASSOCIATION APPEAL BOARD

BETWEEN:

THE FOOTBALL ASSOCIATION

Appellant

- and -

(1) SURREY FOOTBALL ASSOCIATION

(2) BENJAMIN DYSON

Respondents

STATEMENT OF REASONS

1. The appeal before the Appeal Board was brought by the Football Association (“**FA**”) against the decision of a Disciplinary Commission, convened by the Surrey FA, which was notified to the parties on 2 November 2022. In its decision, the Disciplinary Commission upheld a charge against Benjamin Dyson, which Mr Dyson had accepted, of a breach of FA Rule E3 (Improper Conduct against a Match Official (including abusive language/behaviour)) and imposed a 3-match suspension and a £45 fine.
2. The basis for the appeal against the decision of the Disciplinary Commission was that Mr Dyson was charged in his capacity as a technical area occupant of Dorking Wanderers FC U19, who compete in the National League (U19 Alliance) South Division. As such, the Appellant argued that Mr Dyson could only be charged by the FA itself, and the charge heard by a Regulatory Commission convened by the FA. The Appellant submitted that the decision of the Disciplinary Commission should be set aside on the grounds that it lacked jurisdiction to hear the charge and that the Appeal Board should proceed to impose the same sanction upon Mr Dyson as had been imposed by the Disciplinary Commission.
3. The Respondents did not contest the appeal. The Appeal Board (Jason Coppel KC, Leon Bird and Nolan Mortimer) held a Paper Hearing on 22 December 2022.
4. The Appeal Board accepted that the appeal was well-founded, in that the Disciplinary Commission did not have jurisdiction to hear the charge against Mr Dyson.

5. Under paragraph 4 of the “Scope” section of the On-Field Regulations (p. 191 of the FA Handbook 2022-23 (“**the Handbook**”)),

*“Section Four of these On-Field Regulations applies to Technical Area Occupants associated with:  
4.1 Clubs in Category 1 playing First Team Competitive Matches; and  
4.2 Clubs or teams in Category 3 and Category 5 (as set out above).”*

6. Mr Dyson was a Technical Area Occupant associated with a team in Category 3, namely a “*team competing in the National League (North and South Divisions) .. playing Matches in any League*”. The fixture in question, between Beaconsfield Town FC U19 Academy and Dorking Wanderers FC U19 was a League fixture in the National League U19 Alliance (South Division) competition. Therefore, at the material time Mr Dyson was subject to section four of the On-Field Regulations.

7. Paragraphs 1-2 of Section 4 provide as follows:

*“1 The Association may issue a Charge against a Technical Area Occupant in relation to an incident whether or not the same incident has been dealt with by the Referee and/or pursuant to this Section Four.*

*2 A Regulatory Commission considering a Charge pursuant to paragraph 1 above shall have regard to any automatic suspension or sanction imposed pursuant to paragraphs 6 to 9 below for the same incident when considering any penalty in accordance with paragraph 41 of Part A: General Provisions Section Two.”*

8. It is, therefore, the FA (“the Association”) rather than the Surrey FA which had the power under the On-Field Regulations to issue a charge against Mr Dyson. Once issued, that charge would be referred to a Regulatory Commission convened by the FA. The Disciplinary Commission had no jurisdiction to rule upon a charge which was wrongly issued against Mr Dyson by the Surrey FA. In doing so, it “*misinterpreted or failed to comply with the Rules and/or regulations of the Association relevant to its decision*”, which is a ground of appeal under paragraph 1.1 of the “*Appeals – Non-Fast Track*” section of the Disciplinary Regulations (p. 186 of the Handbook).

9. Under paragraph 21.2 of the Disciplinary Regulations (p. 189 of the Handbook), the Appeal Board had the power to:

*“exercise any power which the body against whose decision the appeal was made could have exercised, whether the effect is to increase or decrease any penalty, award, order or sanction originally imposed;”*

10. We do not accept, however, that it is open to the Appeal Board in this case simply to substitute a fresh penalty against Mr Dyson, as the Appellant has submitted. The Appeal Board can only exercise a power which the body appealed against, the Disciplinary Commission, could have exercised. Our decision in the present case is that the Disciplinary Commission was not entitled to exercise any power in respect of Mr Dyson, as it had been presented with a charge which the Surrey FA ought not to have issued. It follows that the Appeal Board is also unable to exercise a power of sanction.
11. Accordingly, the Appeal Board sets aside the decision of the Disciplinary Commission. The charge against Mr Dyson must be issued by the FA and referred by the FA to a Regulatory Commission.
12. The Appeal Board makes no order as to costs.

Jason Coppel KC (Chairperson) - 04/01/23