

**IN THE MATTER OF THE FOOTBALL ASSOCIATION
FA DISCIPLINARY APPEAL BOARD PROCEEDINGS**

COMMISSION MEMBERS:

**ELLIOTT KENTON (CHAIR)
BILLY THOMSON
NOLAN MORTIMER**

BAYLEY VAUGHAN

and

THE FOOTBALL ASSOCIATION

WRITTEN REASONS OF THE APPEAL BOARD

SECTION A – BACKGROUND

Request for Written Reasons

1. These Written Reasons have been prepared, at the request of Essex FA (the “**Respondent**”) on 19 July 2023, following a decision being reached by this Appeal Board on 18 July 2023.
2. Regulation 26 of the FA Disciplinary Regulations 2022/23, Appeals – Non-Fast Track (the “**Regulations**”), set out the relevant authority for a request of written reasons of the Appeal Board.

26 The Appeal Board shall, upon the request of the appellant or the respondent (such request to be received at The Association within three days of the date of the notification of the decision), give written reasons for the decision.

3. The Appeal Board were satisfied that the request submitted by the Respondent would constitute a request for written reasons and was requested in time in accordance with Regulation 26. Accordingly, the Appeal Board has set out their reasons for their decision reached at the Appeal Board proceedings.

The Appeal Board

4. The Appeal Board that was constituted in this case comprised of Elliott Kenton who acted as Chair, Billy Thomson and Nolan Mortimer.
5. The Appeal Board heard this appeal on 18 July 2023 as a personal hearing. At the hearing were Bayley Vaughan (the “**Appellant**”) and the Appellant’s father, Scott

Vaughan who acted as an observer but assisted the Appellant with his submissions. The Respondent was represented by Mr Greg Hart, the Head of Football Services for Essex FA.

6. At that hearing, the Appeal Board unanimously allowed the Appellant's appeal based on two grounds, the first being that the Appellant had not been afforded a fair hearing and the second being that the First Instance Commission had misinterpreted the rules and regulations of the Football Association, namely in relation to a misinterpretation of the sanction guidelines. The Appeal Board directed that the matter is remitted back to Essex FA for a charge to be issued again and the Appellant afforded an opportunity to properly respond to the charge.

SECTION B – THE FIRST INSTANCE HEARING

The Charges

7. On 5 May 2023, the Appellant was charged by the Essex FA for breaching the following FA Rules:
 - (a) FA Rule 3.1 – Improper Conduct (including violent conduct and threatening and / or abusive language / behaviour) (the “**Charge**”).
 - (b) The particulars of the Charge were the Appellant was involved in an incident with an opposition spectator.
 - (c) The Appellant did not formally respond to the Charge. Therefore, in accordance with the FA Regulations, this was deemed as a denial of the Charge and remitted to a correspondence hearing (the “**First Instance Commission**”).

The Evidence Available to the First Instance Commission

8. This matter related to a fixture between Collier Row Youth U14 Red and Springfield Y U14 Black which took place on 5 February 2023.
9. The Commission comprised of Mr Ian Walkom, who was assisted by Kevin Seymour and Anthony Mercer. The Appellant's case was a correspondence case, meaning that there was no oral evidence and the First Instance Commission considered whether the Charge was proven based on the documentary evidence before him.
10. The evidence bundle available to the First Instance Commission included, but was not limited to:
 - 10.1 Extraordinary Incident Report Form of James Springfield dated 6 February 2023.
 - 10.2 Statements from:
 - (a) Hayley Springfield.
 - (b) Scott Vaughan, the Collier Row Youth Manager.
 - (c) Dan McGuire, Springfield Manager.
 - (d) Darren Patten, Springfield parent.

- (e) Adam Lepley, Springfield parent.
- (f) Joseph Callimore, Springfield parent.
- (g) Nicola Lipscombe, Springfield parent.

Decision on Liability & Sanction

- 11. After consideration of the evidence before him, the First Instance Commission found the Charge proven on the balance of probability.
- 12. Accordingly, he sanctioned the Appellant as follows:
 - (a) A 2 match ban;
 - (b) A fine of £25.

SECTION C – THE APPEAL

- 13. The Appeal Board were in receipt of a Notice of Appeal on behalf of the Appellant.
- 14. Pursuant to paragraph 2 of the Regulations, the Appellant has four grounds of appeal available to them whose decision they wish to appeal against:
 - (a) Failed to give the participant a fair hearing;
 - (b) Misinterpreted or failed to comply with the rules and / or regulations of the FA;
 - (c) Came to a decision to which no reasonable such body could have come; and / or
 - (d) Imposed a penalty, award, order or sanction that was excessive.
- 15. The Appellant appealed on the ground that the First Instance Commission imposed a sanction that was excessive. They did not rely upon the other Appeal grounds in their submissions.
- 16. The Appellant (through his father, Scott Vaughan) made further submissions in support for their appeal ground as follows:
 - 16.1 It was unfair for the Appellant to receive the sanction he received as his behaviour was not his fault and he was only defending himself in the heat of the moment. This is because a Springfield spectator had grabbed him by the collar and dragged him over the respect barrier, with the Appellant grabbing the man back and defending himself.
 - 16.2 The Appellant is also a young coach who is choosing football coaching as a career and is doing a football course at university. Having the sanction on his record for an incident that was out of his control was unfair.
 - 16.3 In a further email, Mr Vaughan also states that they were not informed by their club secretary that the FA were investigating and was only told that he needed a report about the incident which was supplied. The Appellant was not told about the disciplinary until they received the outcome, which is the reason why they didn't make a plea or advance a proper case.

Appeal Board Proceedings – 18 July 2023

17. The Appeal Board heard submissions from the Appellant at the Appeal Board Hearing. In his submissions, the Appellant made brief submissions on how the decision reached was unfair.
18. On further questioning, the Appellant stated that the decision was unfair as he had acted in self-defence to a Springfield parent. He explained the circumstances of the offending further and told the Appeal Board that his sanction was harsh in these circumstances.
19. The Appeal Board asked further questions in relation to the Appellant's knowledge of the proceedings against him. The Appellant relayed that he was not aware of the investigation or Charge until he received the decision letter dated 31 May 2023. The Appeal Board directed the Appellant to page 43 of the Appeal Bundle to confirm whether this was the same decision letter the Appellant received when he first became aware of the Charge. The Appellant confirmed it was.
20. The Appellant's father was permitted to address the Appeal Board as he had provided a statement to the Collier Row Youth Club Secretary. Mr Vaughan was told by the Club Secretary to provide a statement shortly after the incident which Mr Vaughan erroneously believed would be submitted to the Brentford League. The Club Secretary did not inform the Appellant that his actions had been investigated, he was subject to a Charge or he was required to respond to the Charge.
21. The Appeal Board also heard from the Respondent. The Respondent confirmed that an investigation was commenced following receiving the Match Official's report of the misconduct and once a Charge had been raised, this was served on the Collier Row Youth secretary pursuant to the FA Regulations. The Respondent pointed out that the Appellant had provided a statement as part of that investigation but Collier Row did not formally respond to the Charge and therefore the matter was remitted for a correspondence hearing pursuant to the Regulations.
22. On further questioning by the Appeal Board, the Respondent confirmed that only when a decision had been made in relation to the Charge would there be a communication to the Club Secretary and the person charged. This was standard operating procedure in accordance with the FA Regulations.

Appeal Board Decision

23. The Appeal Board retired to deliberate on the appeal. The Appeal Board were sympathetic to the Appellant's position. Although the Respondent had notified the Club Secretary of the Charge in accordance with the Regulations, this had critically not been passed on to the Appellant. Although the Appellant had provided a short statement, this was under an erroneous belief that it was for the purposes of submitting it to the league and not to address a Charge that had been raised against the Appellant.
24. The Appeal Board considered that in the interests of the overriding objective in the FA Regulations that the first instance proceedings should achieve a just and fair result, this had not been achieved in the Appellant's case. This was not the fault of the Respondent or the First Instance Commission that considered liability and sanction based on the documentary evidence before him. Nevertheless, the Appeal Board unanimously concluded that the Appellant had not had a fair hearing because he did

not have an opportunity to understand the case against him, the evidence available and did not have an opportunity to formally respond to the first-instance proceedings.

25. The Appeal Board also considered that there had been a misinterpretation by the First Instance Commission of the Rules and Regulations of the Football Association. Although the Appeal Board concluded that the sanction imposed by the First Instance Commission was not excessive, the written reasons refer to the FA Sanction Guidelines as referred to in the Charge Notification.
26. On review of these Sanction Guidelines, they do not appear to be the current 2022/2023 Sanctioning Guidelines for offences of this type. This was a mistake by the First Instance Commission as he had relied upon the charge letter issued by the Respondent that referred to the incorrect sanctioning guidelines.
27. Therefore, the Appeal was allowed by the Appeal Board on the grounds that the Appellant had not had a fair hearing and that the First Instance Commission had misinterpreted the rules and regulations of the Football Association. In order to draw this matter to a resolution, the Appeal Board considered the best course of action would be for the matter to be re-charged by the Respondent and put to the Appellant to afford them the opportunity to respond. The Respondent should also review their charge notifications to ensure that they refer to the correct sanctioning guidelines.

Elliott Kenton (Chair) on behalf of the FA Appeal Board
19 July 2023
Amended 24 July 2023