

IN THE MATTER OF THE APPEAL BOARD

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL ASSOCIATION

BETWEEN:

CHARLWOOD VILLAGE FC (APPELLANT)

-AND-

SURREY FA (RESPONDENT)

DECISION RELATING TO APPEAL HEARING ON 28 SEPTEMBER 2023

Appeal Board

1. Evans Amoah-Nyamekye (Chair)
2. Dennis Strudwick
3. George Dorling

SUMMARY OF DECISION

This appeal was heard as a Personal Hearing, via video-conference on Microsoft Teams on 28 September 2023.

The Respondent, on 11 July 2023, charged the Appellant with a breach of FA Rule E20 - *Failed to ensure directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any Match.*

The Disciplinary Commission, in written reasons dated 27 July 2023, found the charge proven and imposed a £150 fine.

The Appeal Board, having taken into account the submissions of the parties and having given the Appeal Bundle careful consideration, make the following observations:

- a. The Appeal Board would like to thank the parties for the manner in which they made their written and oral submissions.
- b. The Appeal Board, having taken into account the submissions of the parties and given the Appeal Bundle and oral submissions careful consideration, make the following observations:

The Appeal Board noted that the Appellant was appealing on the following grounds:

1. Failed to give the Appellant a fair hearing.
2. Came to a decision to which no such reasonable body could have come.
3. Imposed a penalty, award, order or sanction that was excessive.

The Appeal Board allowed the first ground of appeal. On this basis they did not need to consider the further 2 grounds of appeal.

The Appeal Board further instructed that the case is to be referred back to the County Football Association for the charge to be re-issued and heard in line with Football Association Regulations upon receipt of a response.

There was no order as to costs and the appeal fee is to be returned.

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

The key reasoning for the decision is stated below.

The following is a record of the salient points which we heard and is not intended to be and should not be taken as a verbatim record of the reasoning, submissions or evidence considered. These written reasons contain a summary of the principal evidence before the Appeal Panel and do not purport to contain reference to all the points made or considered, however the absence in these reasons of any particular point, piece of evidence or

IN THE MATTER OF THE APPEAL BOARD

submission should not imply that the Appeal Panel did not take such point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, the Appel Panel carefully considered all the evidence and material in this matter.

INTRODUCTION

1. Charlwood Village FC, the Appellant, were charged with a breach of FA Rule E20 - *Failed to ensure directors, players, officials, employees, servants, representatives, conduct themselves in an orderly fashion whilst attending any Match.*
2. The Disciplinary Commission, in written reasons dated 27 July 2023, found the charge proven and imposed a £150 fine.
3. Charlwood Village FC now appeals the decision, in essence, he pleads that:
 - I. *a. failed to give the Appellant a fair hearing,*
 - II. *c. came to a decision which no reasonable body could have come to, and*
 - III. *d. imposed a penalty, award, order or sanction that was excessive*
4. It is alleged that Charlwood Village *failed to ensure that directors, players, officials, employees, servants, representatives conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour contrary to FA Rule E20.1.*
5. The charge refers to *the abusive language/behaviour/gestures from Charlwood Village players/officials alleged by Mid Sussex League Officials and/or Ringmer Officials and/or FC Railway such as "players and/or team officials swearing towards FC Railway spectators/club officials with hand gestures (wanker as well as abusive language such as wanker)" and/or "fuck off you cunts" or similar.*

THE ISSUES TO BE DETERMINED

6. Principally there were three (3) grounds of appeal which required determination at the hearing:
 - I. *Did the Commission fail to give the Appellant a fair hearing;*
 - II. *Did the Commission come to a decision that no reasonable body should have come to?;*
 - III. *Did the Commission impose a sanction that was excessive?*

THE RELEVANT FA RULES

The relevant FA Rules

The grounds of appeal available to Participants shall be that the body whose decision is appealed against:

2.1 failed to give that Participant a fair hearing; and/or

2.2 misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision; and/or

2.3 came to a decision to which no reasonable such body could have come; and/or

2.4 imposed a penalty, award, order or sanction that was excessive.

APPEAL BOARD DECISIONS

General

19 A decision, order, requirement, or instruction of the Appeal Board shall (save where to be made under the Rules by the Chairman of the Appeal Board alone) be determined by a majority. Each member of the Appeal Board shall have one vote, save that the Chairman shall have a second and casting vote in the event of deadlock.

20 The Appeal Board shall notify the parties of its decision to the parties as soon as practicable in such a manner as it considers appropriate; and unless it directs otherwise, its decision shall come into effect immediately.

21 The Appeal Board shall have power to:

21.1 allow or dismiss the appeal;

21.2 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;

21.3 remit the matter for re-hearing;

21.4 order that any appeal fee be forfeited or returned as it considers appropriate;

21.5 make such further or other order as it considers appropriate, generally or for the purpose of giving effect to its decision.

21.6 order that any costs, or part thereof, incurred by the Appeal Board be paid by either party or be shared by both parties in a manner determined by the Appeal Board.

22 Decisions of the Appeal Board shall be final and binding and there shall be no right of further challenge, except in relation to appeals:

22.1 to CAS brought by FIFA or WADA pursuant to the Anti-Doping Regulations; or

22.2 concerning the amount of costs any party is ordered to pay by the Appeal Board (which is considered in paragraph 24 below).

Other Costs

IN THE MATTER OF THE APPEAL BOARD

23 Any costs incurred in bringing, or responding to, an appeal shall normally be borne by the party incurring the costs. In exceptional circumstances the Appeal Board may order one party to pay some or all of the other party's costs. Such costs will not include any legal costs. Any applications for such costs must be made at the Appeal Board and must include details of the exceptional circumstances.

24 An appeal against only the quantum of costs ordered to be paid shall be heard and determined by a single person appointed by Sport Resolutions (UK) (or a similar independent body as determined by The Association from time to time). That person shall decide all matters of procedure for how such an appeal will be conducted.

Written Decision and Written Reasons

25 As soon as practicable after the hearing, the Appeal Board shall publish a written statement of its decision, which shall state:

25.1 the names of the parties, the decision(s) appealed against and the grounds of appeal;

25.2 whether or not the appeal is allowed; and

25.3 the order(s) 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.

REGULATION 14 OF THE NON-FAST TRACK PROCEDURES

The chairman of an Appeal Board (or the Judicial Panel Chair (or their nominee) if an Appeal Board has not yet been convened) may upon the application of a party or otherwise, give any instructions considered necessary

for the proper conduct of the proceedings, including but not limited to:

14.1 extending or reducing any time limit;

14.2 amending or dispensing with any procedural steps set out in these Regulations;

14.3 instructing that a transcript be made of the proceedings;

14.4 ordering parties to attend a preliminary hearing;

14.5 ordering a party to provide written submissions.

The decision of the chairman of the Appeal Board or the Judicial Panel Chair (or their nominee) (as applicable) shall be final.

THE APPEAL PANEL

7. The following members were appointed to hear the case were:
- I. Evans Amoah-Nyamekye (Chair)**
 - II. Dennis Strudwick**
 - III. George Dorling**

The Secretary to the appeal panel was Vicky Collins to whom we are grateful for her assistance.

THE APPEAL HEARING

THE APPLICATION

The Grounds of Appeal

8. The Appellant states:
- a) ***No Fair hearing*** - *'it is a fact that we as a club had no knowledge that there was any allegation against us to respond to, that there was any charge against us, and that there was a hearing for us to attend, until 08/08/2023, after the hearing had already taken place.*
 - c) ***Came to a decision on the facts of the case which no reasonable body could have reached*** - *had we known about this charge and allegations, we would have responded, and we would have defended ourselves against the allegations, which ultimately, we do not believe to be true. Had our case and defence against these allegations been heard, we do not believe any reasonable body could have reached the decision to charge us, as ultimately we know that FC Railway have fabricated their allegations, due to the fact that they knew we were set to report them, and they very simply could not accept the fact that they were beaten by a much better team on the night in the cup final on 16th May, and also lost out to us when it came to the league title*
 - d) ***We also believe that we have grounds to appeal against d. Imposed an award order or any other sanction that is excessive*** - *we believe as a club that given the opportunity to respond and attend a hearing against this charge and allegations, we would not have been found guilty / the charge would not have been found proven, and we would not have been fined any amount of money. We protest our innocence in this matter and believe it is FC Railway who caused the severity of issues on the night of the final..*

THE RESPONDENT'S RESPONSE

9. In summary, The Surrey FA provided a very helpful and robust response:

This Association wish to make the following observations:

- a) *Charlwood Village – was charged with – Breach of FA Rule (Rule breach – E20.1) The club was charged on the 11th July with a response due by the 25th July. You can clearly see the notification screen shot on of the WGS in the email attachment (where I have screenshotted*

IN THE MATTER OF THE APPEAL BOARD

the page) It shows it being read (highlighted in yellow) Despite being made aware of the charge they failed to respond to the charge within the timeframes and so was set as a Deny correspondence case. Again, the notifications were clearly highlighted on the WGS, and we also can see the notifications were Read. (Screenshots in email attachment). The club have only responded to the case once the sanctions were added to the system. These notifications were picked up from the same portal that all previous notifications were present on. Surrey FA are unable to make comment in regard to the investigation process as the investigation was carried out by SIM (on behalf of Sussex FA). Surrey FA were recommend to charge and did so accordingly. b) Charlwood Village did not respond via the whole game portal. The case was dealt with as a Deny Correspondence on the 26th July. The case was heard with a Chair Sitting Alone c) The Commission's decision was that Charlwood Village were found proven of the Charge on the evidence produced. The clubs previous good disciplinary record was taking into consideration before issuing a sanction. The club were fined £150.

The Panel were Members of the FA were Karen Hall (Chair). The case was a joint investigation by both Sussex/Surrey FA. There were 3 charges which were heard as part of this hearing.

10. In evidence Surrey FA could not give an account as to why the written reasons indicated that a response to the charge given. Surrey FA confirmed that no response was given by Charlwood Village FC.
11. Surrey FA fairly and properly confirmed that they could not provide an exact time or date for when the response by Charlwood Village FC was entered onto the whole game system.
12. The Panel was provided with the Chair who sat alone of the original Commission's written reasons.

THE APPEAL PANELS CONCLUSIONS

13. From the clear evidence from Surrey FA it was a matter of fact that Charlwood Village FC **DID NOT** respond to the 3rd charge via Whole Game System as per the assertions of the written reasons.
14. Therefore, the Commission predicated the hearing on a false pretence that there was a response /denial to the charge. This is of course not only wrong but it is also not fair as proceedings are concerned. It simply cannot be right or fair for a Participant to have a hearing in absence with incorrect information being concluded as correct by the Commission, especially in relation to a plea. The Appellant if given the opportunity would have attended the hearing at the Disciplinary Commission.
15. Surrey FA was fair and honest when they confirmed that it could not confirm when the response was actually responded to the Appellant on the whole game system. There was no evidence to support or contradict the Appellants assertion that they did not receive or respond to the charge notice.
16. The Appeal Panel concluded that it was not fair to expect Charlwood Village FC to locate the charge on the whole game system when the charge related to a previous season 2022/2023 yet the drop-down box and charge was in the current season of (*July*) 2023/2024, there was no training provided to assist Participants as to where to locate such out of season charges.
17. The Appeal Board did not accept that it was fair for the County FA to email or follow up charges with Participants even if previous approaches have been done in this way. The Appeal Board feel that although helpful for those charged to have such an approach it cannot and should not be seen as a prerequisite in order to make the process fair as this would place an overburden on the county FA's. In this case the County FA did what was expected of them; the issue was simply a case of how the Whole Game System worked when charges are applied out of season. The County FA is to be commended for previous approach in assisting participants but can not be criticised in this instance.
18. For reasons given above allow the appeal on Ground 1, therefore in light of this consideration of the remaining grounds is not required.

ANSWERS TO THE ISSUES TO BE DETERMINED

19. Principally there were three (3) grounds of appeal which required determination at the hearing:
- I. *Did the Appellant have a fair hearing? NO, and*
 - II. *Did The Disciplinary Commission come to a decision to which no reasonable such body could have come? **In light of above no consideration required.***
 - III. *Did the Commission impose a sanction that was excessive? **In light of above no consideration required.***

CONCLUSION

20. This decision is subject to *Regulation 22 of Part C (Appeal Non-Fast Track) of the FA Disciplinary Regulations 2020/21*; therefore, this decision is final.
21. Decisions of the Appeal Panel shall be final and binding and there shall be no right of further challenge, except in relation to appeals:
- I. to CAS brought by FIFA or WADA pursuant to the Anti-Doping Regulations; or
 - II. concerning the amount of costs any party is ordered to pay by the Appeal Board.
22. The Appeal Board further instruct that the case is to be referred back to the County Football Association for the charge to be re-issued and heard in line with Football Association Regulations upon receipt of a response.
23. Nothing in these reasons should effect the outcome of any further Disciplinary Commission's decision to either find the case proven or not proven.

Signed The Appeal Board:
THE APPEAL BOARD

1. **Evans Amoah-Nyamekye (Chair)**
2. **Dennis Strudwick**
3. **George Dorling**

4 October 2023