

**APPEAL BOARD OF THE FOOTBALL ASSOCIATION**

**BETWEEN:**

**JAMIE REID (Appellant)**

**-and-**

**GLOUCESTERSHIRE FA (Respondent)**

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**WRITTEN REASONS OF THE APPEAL BOARD**

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Appeal Board: Sally Davenport (Chair) – Independent Legal Panel Member

Leon Bird – Independent Football Panel Member

Christine Harrop-Griffiths – Independent Football Panel Member

Secretary: Jack Mason – FA National Secretary

Date: 9 October 2023

Venue: Held remotely via Microsoft Teams

Attending: Jamie Reid – Appellant, Observer

Jody Bevan – Director of Football, Fairford Town FC, representing  
the Appellant

Mark Ives – Sport Integrity Matters, representing Gloucestershire

FA

Chris Lucker - Head of Football Services, Gloucestershire FA,

Observer

## **INTRODUCTION**

1. The Appeal Board was appointed under The Football Association’s Disciplinary Regulations – Appeals (“the Appeal Regulations”). No objection was raised concerning the composition of the Appeal Board.
2. The Appeal Board conducted a hearing on 9 October 2023 to determine an appeal by Jamie Reid (“the Appellant”) against the decision of a Disciplinary Commission (“the Commission”) sitting on behalf of Gloucestershire FA (“the Respondent”).
3. The Appellant submitted a Notice of Appeal on 5 September 2023 (“the Notice”).
4. The Respondent submitted a Response on 25 September 2023 (“the Response”, together with various documents requested by The FA, including written reasons of the Commission dated 4 September 2023 (“the Written Reasons”).
5. The Appellant made an application for a stay of the sanction, which was granted by the Judicial Panel Chair nominee.
6. The Appeal Board had before it a bundle (“the Appeal Bundle”) containing the following:
  - Notice of Appeal
  - Response to Notice of Appeal
  - Papers of First Instance
  - Appellant’s Offence History
  - Results Letter and Written Reasons
  - Sanction Stay Application and Outcome

7. The Appellant attended the appeal hearing as an observer. His case was presented by Mr Bevan. The Respondent was represented by Mr Ives. The Appeal Board is grateful to both Mr Bevan and Mr Ives for their submissions and assistance.
8. This document constitutes the written reasons for the Appeal Board's decision. The Appeal Board considered the entirety of the materials that the parties put before it. If this document does not explicitly refer to a particular point, document or submission, it should not be inferred that the Appeal Board overlooked or ignored it.

### **BRIEF BACKGROUND FACTS**

9. The Appellant is the manager of Fairford Town FC ("Fairford").
10. On 15 August 2023 Fairford played a match against Brimscombe and Thrupp First ("the Match").
11. Following the Match, the Referee submitted an extraordinary incident report in which he stated that he had sent off the Appellant for foul language following an exchange of words with him after a challenge on one of the Fairford players in front of the Fairford technical area ("the Incident"). Specifically the report stated that the Appellant had said to the Referee "*look after my fucking players*". A report from one of the Assistant Referees corroborated the Referee's account.
12. On 18 August 2023 the Respondent charged the Appellant with Improper Conduct against a Match Official (including abusive language/behaviour), contrary to Rule E3.1 of the Rules of the Football Association.
13. The Appellant accepted the charge and asked for the matter to be dealt with by correspondence. Mr Bevan also submitted an email to The FA on the Appellant's behalf in which he gave context to the Incident and to the admission. He also asked for leniency.

## **FIRST INSTANCE DECISION**

14. The Commission considered the case on 31 August 2023. It found the case proven and imposed the following sanctions:

- (a) A six-match suspension from all football activity starting on 4 September 2023, including a ground/venue ban;
- (b) A fine of £100.

## **THE APPEAL REGULATIONS**

15. Regulation 2 of the Appeals - Non-Fast Track Regulations (“the Appeal Regulations”) sets out the grounds upon which an participant may appeal a first instance decision. They are:

*“... 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.”*

16. Regulation 12 of the Appeal Regulations states:

*“An appeal shall be by way of a review on documents only. The parties shall however be entitled to make oral submissions to the Appeal Board. Oral evidence will not be permitted,*

*except where the Appeal Board gives leave to present new evidence under paragraph 10 above.”*

17. Regulation 21 of the Appeal Regulations sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal.

### **SUBMISSIONS (INTRODUCTION)**

18. As stated in paragraph 8 above, the following is a summary of the principal submissions made to the Appeal Board. It does not purport to contain reference to all the points made. The absence of a particular point or submission should not imply that the Appeal Board did not take that point or submission into consideration when reaching its decision.

### **THE APPELLANT’S SUBMISSIONS**

19. In the Notice the Appellant stated that he relied on one of the grounds of appeal cited in paragraph 15 above, namely that the Commission had imposed a penalty, award, order or sanction that was excessive.

20. From the written submissions in the Appeal Bundle, the Appeal Board understood the Appellant’s case to be that the sanction imposed was excessive for the following reasons:

- The Appellant only swore because he was concerned about his injured player.
- The Appellant did not show aggression towards the Referee and was not abusive.
- The sanction was disproportionate to the offence.
- There were many instances of people using the word “fucking” during the Match, but the Appellant was the only one punished. Such language is commonplace in football.
- The normal sanction for a red card for foul and abusive language would be a one-match ban. The Appellant had been given the maximum match ban and the maximum fine, which was “unfairly harsh”.
- The match ban significantly impacted and restricted Fairford, given the wide range of tasks performed by the Appellant within the club.

- The only reason for the lengthy ban was the Appellant's previous record. If the maximum ban was imposed every time he faced a charge, he was never going to escape that record.
- In his oral submissions Mr Bevan emphasised and expanded on these points, stating that the Appellant had been involved in over 40 competitive games since his last misconduct offence and there had been no issues in any of them. He submitted that the Appellant had learnt his lesson and said that he was working with him to ensure that there would be no repetition of his previous behaviour. He again indicated that a stadium ban was a particular problem because of the Appellant's other roles, suggesting that other managers simply faced a touchline ban.

## **THE RESPONDENT'S SUBMISSIONS**

21. In the Response, the Respondent highlighted the following:

- A player dismissed from the field of play would receive an automatic two-match suspension, increased for multiple offences in the same season.
- There was a greater responsibility and expectation of positive behaviour, given that the Appellant was a technical area occupant and the Fairford manager, and hence a role model.
- The sanction imposed was within the range open to the Commission and should not therefore be interfered with or re-evaluated.

22. In oral submissions Mr Ives stressed that it was clear that the Appellant's history was a major aggravating factor for the Commission. He pointed out that the Appellant was suspended for around 28% of last season, submitting that this was a damning indictment, particularly at a time when the game as a whole is trying to clean up behaviour. He accepted that the Appeal Board might consider the sanction to be on the stiff side, but it was not open to it to interfere with it unless it was so excessive that it should not have been imposed in the first place.

23. In response to Mr Ives submissions, Mr Bevan said that some of the previous charges had been for playing offences. He also suggested that one of the sanctions might be wrong, given that an aggravated charge had been dropped, and said that had they realised the significance of a poor record, they might have appealed one of the charges from last season.

## LEGAL TEST

24. Regulation 12, cited in paragraph 16 above, makes it clear that the task of the Appeal Board is to conduct a review of the first instance decision rather than a *de novo* hearing. In other words, the Appeal Board is not considering the matter afresh.

25. Guidance on how this review should be carried out is to be found in previous cases, including:

(a) The FA v Bradley Wood, 20 June 2018, which states, at paragraph 23:

*“When considering evidential assessments, factual findings and the exercise of a judicial discretion in the context of an appeal by way of review, a Commission must be accorded a significant margin of appreciation. Accordingly, such evidential assessments and factual findings should only be disturbed if they are clearly wrong or wrong principles have been applied. That threshold is high and deliberately so. When assessing whether a sanction is unreasonable the same margin of appreciation applies. It is not for the Appeal Board to substitute its own opinion or sanction unless it finds that the Commission’s decision as unreasonable.”*

and

(b) The FA v José Mourinho, 18 November 2018, which states, at paragraph 54:

*“It is not open to us to substitute our decision for that of the Commission simply because we might ourselves have reached a different decision. If the Commission has reached a decision which it was open to the Commission to reach, the fact that we (or a different Regulatory Commission) might have reached a different decision is irrelevant. To put it another way, it is not for us to ‘second guess’ the Commission; ...*

*... We are permitted to 'intervene' only when there has been an error or principle by the Commission. To put it another way, we are not permitted to interfere with the decision of the Commission unless we are satisfied that the Commission has gone 'plainly wrong'.*"

## **DETERMINATION**

26. The Appeal Board considered the parties' submissions in accordance with the principles set out in the authorities cited above. It reminded itself that its task was not to consider the penalty that it would have imposed if it had been sitting at first instance, but rather to determine whether the sanctions imposed by the Commission were excessive in the sense that they were outside the range of penalties that were properly open to it. The fact that the Appeal Board might have imposed a lesser sanction was not relevant.
27. The Appeal Board noted that the Commission had imposed the maximum suspension and the maximum fine set out in the Guidelines, whilst also noting that a Commission can deviate from the guidelines if necessary, subject to the mandatory minimum. It noted that the Commission had not expressly stated its starting point within the sanction range, but in all the circumstances it did not consider that this rendered its decision unreasonable. The Commission was entitled to, and did, have regard to the Appellant's previous disciplinary record, including the fact that there was a pattern of bad behaviour towards match officials. It was entitled to take the view that the Appellant had learned very little from his previous periods of suspension. There was no reason for the Appeal Board to interfere with those conclusions. Furthermore, it could not go into the details of the Appellant's past record.
28. While the Written Reasons do not expressly state that the Commission considered whether there were any mitigating factors, the Appeal Board was satisfied that it had considered the evidence and submissions from the Appellant. The Appeal Board could not characterise the factors taken into account and the decision reached by the Commission as excessive or unreasonable. It concluded that the sanctions imposed by the Commission were ones that were properly open to it. It therefore had no basis for changing those sanctions.



## **CONCLUSION**

29. The Appeal Board dismissed the Appellant's appeal.

30. The Appeal Board made no order as to costs.

31. The decision of the Appeal Board is final and binding and there is no further right of challenge.

Sally Davenport

Leon Bird

Christine Harrop-Griffiths

15 October 2023