

PETTS WOOD YOUTH (Appellant)

-and-

LONDON FA (Respondent)

DECISION OF THE APPEAL BOARD 27 OCTOBER 2023

1. The Appeal Board comprised:
 - a. Roger Burden (Chair) - Former FA Council Member
 - b. Evans Amoah-Nyamekye – Legal Panel Member
 - c. Jamie Russell – Legal Panel Member

Conrad Gibbons (Senior Judicial Services Officer) was Secretary.

2. The Appeal was held on-line and was determined on the basis of the papers provided to it. The Appeal Board carefully read and considered all the papers. The fact that some matters are not referred to in this summary should not be assumed to mean that they were not considered.

BACKGROUND

3. Following a game played between the Appellant and Club Langley, played at Club Langley on 7 May 2023, the Appellant was charged under FA Rule E21- Failed to ensure spectators and/or its supporters (and anyone purporting to be its supporters or followers) conducted themselves in an orderly fashion whilst attending any match.
4. The Appellant denied the charge and requested a personal hearing which was conducted by an FA Regional Disciplinary Case Panel on 21 September 2023.
5. The Appellant relied on FA Rule E21.5 which states:

“it shall be a defence to a charge in relation to Rules E21.1 to E21.3 (only) if a Club can show that all the events, incidents or occurrences complained of were the results of circumstances over which it had no control or for reason of crowd safety, and that its responsible officers or agents had used all due diligence to ensure that its said responsibilities were discharged. However, when considering whether this defence is made out a Regulatory Commission will have regard to all relevant factors including:

. The extents to which the Club has discharged its duty:

. The severity of the issues involved:

. The extent to which similar issues have occurred previously in which case whether the Club took sufficient action in preventing further incidences.”

6. The charge was found proven and the Appellant was fined £20.

The Appeal

7. The Appellant appealed on 2 grounds:

- a. That the Commission failed to give the Appellant a fair hearing.
- b. That the Commission came to a decision to which no reasonable body could have come.

Summary of the Original Commission

8. The Commission had before it, amongst other documents-

- a. Several written statements alleging that, after the match, one of the Appellant's spectators/supporters used offensive and/or threatening language towards an opposition player.
- b. A written response from the Appellant, not denying that the incident took place, but suggesting that it was not possible for the Appellant to ensure the behaviour of the individual (a parent) as the incident could not have been anticipated, happened well after the end of the match and some distance from the pitch.

9. The Commission heard evidence from the Match Referee who said that he had heard offensive language as participants were making their way to the car park.

10. The Match Referee was asked by the Appellant's Representative whether he anticipated any such incident, to which he replied that he did not.

11. The Appellant's Assistant Coach gave evidence on behalf of the Appellant but he had not witnessed the incident. The Appellant's Representative asked the Coach if there had ever been any concerns regarding the particular parent and the Coach replied that there had not and he therefore had no reason to anticipate any issue.

12. The Assistant Coach informed the Commission that the matter was the Manager's responsibility and that, to his knowledge, a conversation had taken place. He also said that there had been a bit of an altercation at the final whistle whereby there had been a number of provocative comments when the parent's son came on the pitch, but he did not think that anything would result from it.

13. In considering its decision, and the Appellant's defence under FA Rule E21.5, the Commission noted that there had been a minor dispute at the end of the game, which might have raised concerns and, when the actual incident occurred, neither the Appellant's Assistant Coach, or Manager, attempted to immediately investigate it. The Commission unanimously agreed that it was unable to grant the Appellant a defence under FA Rule E21.1.

14. Having found the case proven, the Commission assessed the offence to be at a low level and, having taken into account all factors, applied the fine of £20.

The Appellant's Appeal

15. The Appellant suggested that the hearing had been unfair because the Commission Chair had pressed the Appellant to change their plea to guilty, or the Commission would show no leniency.
16. The Appellant also claimed that the Chair said that the information in the pack indicated guilt, leading the Appellant to conclude that the Chair had already decided that the Appellant was guilty before the start of the hearing.
17. With regard to the decision being unreasonable, the Appellant emphasised the key points in the submissions in which the Appellant's case was that, although an incident had taken place, it was not anticipated, was outside their control or ability to intervene and took place away from the pitch, all of which provided a defence under FA Rule E21.5.

The Respondent's Written Response to the Appeal

18. The Respondent referred the Appeal Board to the written reasons provided by the Chair.
19. The Respondent said that there was discussion at the Commission, as a preliminary matter, as to how the Appellant wished to proceed, for clarification, as the Appellant had accepted what had happened but had denied that it was within their control.

The Appeal Board's Deliberations

20. An Appellant has a high threshold to overcome when suggesting that a Commission came to a decision to which no other reasonable body could have come. As is well established, an Appeal Board should only interfere with an original Commission's decision under this heading in exceptional circumstances, where the decision is so irrational that no other reasonable such body could have found the charge proven.
21. The written reasons covered the evidence presented and set out, in detail, the Commission's reasoning for its decision, including its reference to FA Rule E21.5, before reaching its decision.
22. We agreed that, whilst some matters within FA Rule E21.5 can be difficult to resolve, given all the evidence available to it, the Commission's decision was in no way irrational.
23. In considering whether the Commission failed to give the Appellant a fair hearing, we read very carefully the Commission's analysis of the case. We found it to be detailed and fair.

24. Importantly, the range of fines available to a Commission for this offence is £0-£200. Although the Appellant claimed that they had been told that the Commission would show no leniency if the Appellant did not change its plea, the Appeal Board noted that the Commission assessed the seriousness of the offence to be at a low level and set the fine at only £20, which the Appeal Board agreed was lenient and fair.

The Appeal Board's Decision

25. The Appeal Board unanimously dismissed the Appeal on both grounds.

26. The Appeal Fee is to be forfeited.

27. There was no order as to costs.

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

Roger Burden
Evans Amoah-Nyamekye
Jamie Russell

1 November 2023