

**IN THE MATTER OF  
THE APPEAL BOARD OF THE FOOTBALL ASSOCIATION**

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**DEAN OLDHAM (APPELLANT)**

-v-

**BIRMINGHAM FOOTBALL ASSOCIATION (RESPONDENT)**

*Note - these written reasons contain reference to offensive/abusive language.*

**INTRODUCTION**

1. These are written reasons for the findings of an FA Appeal Board which met via videoconference (Microsoft Teams) on Friday 17<sup>th</sup> January 2025. The Appeal Board heard an appeal brought by Dean Oldham (DO), a Club Assistant Referee/spectator with Hillmorton Juniors (Hillmorton), against a decision of Birmingham FA (BFA).
2. The Appeal Board was Anthony Rock - Chair (Independent Member of the FA's Appeals Panel), John Murphy (Independent Member of the FA's Appeals Panel) and Christopher Reeves (Council Member of the FA's Judicial Panel).
3. Secretary to the Appeal Board was Conrad Gibbons, the FA's Senior Judicial Services Officer.
4. The Appellant elected for the appeal to be heard on papers only.
5. This is the decision and written reasons of the Appeal Board. It is a summary document and is not intended to be a record of all submissions and evidence adduced. For the avoidance of doubt, the Appeal Board carefully considered all the evidence and submissions made in this case. Following notification of the Appeal Board's findings on Friday 17<sup>th</sup> January 2025, Hillmorton, on behalf of the Appellant, requested written reasons.

**BACKGROUND**

6. On 21<sup>st</sup> September 2024, the Appellant was acting as the Club Assistant Referee for Hillmorton in an U15s fixture ("the game/match") against Hartshill Sports Club U15 United. In the 76<sup>th</sup> minute of the game there was a verbal altercation between DO and an opposition spectator. As a result of that altercation and the Referee's subsequent intervention, DO informed the Referee that he would no

longer continue running the line and handed back his flag. When being handed the flag the Referee muttered, *'for fuck sake'* under his breath, exasperated that he needed to find a new linesman for the last four minutes of the game. The Referee accepted that his response was not ideal. After the game, whilst speaking with the Hillmorton Manager, DO approached the Referee in an aggressive manner and there was a verbal altercation between DO and the Referee.

7. On the 18<sup>th</sup> November 2024, the Respondent issued a Misconduct Charge Notification (Case - 11977009M) to the Appellant's Club notifying them that the Appellant was charged under FA Rule E3 - Improper Conduct against a Match Official - (including threatening and/or abusive language/behaviour). The charge alleged that the Appellant used threatening and/or indecent and/or insulting words or behaviour contrary to FA Rule E3.1 and it is further alleged that this constitutes Threatening Behaviour against a Match Official as defined in FA Regulations. This refers to the allegation that DO said to the Referee that he would, *'knock your fucking head off'* and/or *'it bloody well was a threat, I'll knock his fucking block off'* or similar.
8. On 26<sup>th</sup> November 2024, the Appellant denied the charge and elected for a non-personal hearing. On 13<sup>th</sup> December 2024, the charge was considered by a Chair of the FA's National Serious Case Panel sitting alone - further referred to as the Disciplinary Commission. The case was found proven. Written Reasons ("the Written Reasons") were produced by the Disciplinary Commission on 13<sup>th</sup> December 2024. On 17<sup>th</sup> December 2024, BFA published a results letter detailing that DO is to serve a suspension of 126 days from all football activity (playing, refereeing, coaching, touchline, ground/venue), fined a sum of £100 and ordered to complete a mandatory on line education programme. Hillmorton were awarded 7 Disciplinary points.
9. On 28<sup>th</sup> December 2024, the Appellant submitted a Notice of Appeal. A response to that Notice of Appeal was submitted by the Respondent on 6<sup>th</sup> January 2025.

#### **APPEAL GROUNDS/APPEAL BUNDLE**

10. The Club (Hillmorton) lodged the Appellant's appeal on two grounds; the Respondent, (1) came to a decision to which no reasonable such body could have come and (2) imposed a penalty, award, order or sanction that was excessive.
11. The bundle of documents before the Appeal Board included:
  - a. Notice of Appeal
  - b. Response to Notice of Appeal
  - c. Papers of First Instance
  - d. Appellant's Offence History

e. Results Letter and Written Reasons

12. The Appeal Board noted the following within the FA's Disciplinary Regulations, Appeals, Non Fast Track (page 189 of the FA Handbook 2024/2025):

- a. Regulation 12: *"An appeal shall be by way of a review on documents only and shall not involve a rehearing of the evidence considered by the body appealed against. 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."*
- b. Regulation 21: *"sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal"*.

**FIRST GROUND OF APPEAL - UNREASONABLE DECISION**

13. In the Notice of Appeal the Club stated why the decision was so unreasonable that no other such body would have come to that decision. They noted that there were four eye witness statements which state that DO did not threaten the Referee. Consequently, the case, in their view, came down to one person's word (the Referee) against that of five witnesses from Hillmorton. They submitted that DO admitted swearing at the Referee, but this was away from the young players involved in the game. They further submitted that if DO wanted to threaten the Referee he would have done so at the time of being sworn at, instead of waiting until later?

14. In the Respondent's written submission, they '*respectfully*' reminded the Appeal Board of the test facing them in regard to this ground of appeal. Fundamentally they argued that, even if the Appeal Board may have come to a different finding, the Disciplinary Commission had come to a decision that they were entitled to make. They submitted that it was an assertion that DO did not commit the offence and an assertion that it was the Referee's word against five others. For reasons detailed in the Written Reasons, the Respondent argued that the Appellant falls a long way short of succeeding on this ground of appeal.

**SECOND GROUND OF APPEAL – IMPOSED A PENALTY, AWARD, ORDER OR SANCTION THAT WAS EXCESSIVE**

15. In regard to the second ground of appeal, the Notice of Appeal provides no detail as to why the sanction is excessive. The Club simply state that they are appealing on that ground.

16. The Respondent said that the Misconduct Charge Notification, issued by BFA on 18<sup>th</sup> November 2024, outlines the likely sanction if the charge were to be found proven and that the sanction imposed is well within the FA Sanction guidelines permitted. They also draw attention to the

mitigating and aggravating factors detailed in the Written Reasons. The Respondent argues that the Disciplinary Commission came to a decision on sanction that they were entitled to make and that this limb of the appeal should also be dismissed.

### **ROLE OF THE APPEAL BOARD**

17. The role of the Appeal Board is to exercise a supervisory jurisdiction. Therefore, the Appeal Board must apply the following principles to the grounds of appeal:

- a. An appeal such as this proceeds by way of review of the decision of the Disciplinary Commission, it is not a re-hearing.
- b. It is not open to the Board to substitute their decision for that of the Disciplinary Commission simply because the Appeal Board might themselves have reached a different decision. If the Disciplinary Commission has reached a decision which it was open to them to reach, the fact that the Appeal Board might have reached a different decision is irrelevant.
- c. The Appeal Board should be slow to intervene with evidential assessments and factual findings made by the Disciplinary Commission. It should only be interfered with if they are clearly wrong or if wrong principles were applied. This is likely to be where there is no evidential basis whatsoever for a finding of fact that had been made, and/or where the evidence was overwhelmingly contrary to the finding of fact that had been made.
- d. Any appellant who pursues an appeal on the ground that a Regulatory/Disciplinary Commission has come to a decision to which no reasonable such body could have come has a high hurdle to clear or a high threshold to pass.

### **FINDINGS OF THE APPEAL BOARD**

18. The Appeal Board, having taken into account the submissions of both parties and having given the Appeal Bundle careful consideration, make the following findings. For clarity, the Appeal Board has referenced each individual ground of appeal.

#### **19. First Ground - came to a decision to which no reasonable such body could have come.**

Applying the test often referenced in these cases (*Associated Provincial Picture Houses Ltd v Wednesbury Corporation*), the Appeal Board found that the Disciplinary Commission's decision was fair and reasonable. The decision was neither perverse nor unlawful. The Disciplinary Commission had considered the evidence available to them at the time and detailed their findings as to why they found the charge proven. They did not agree that the decision, subsequently argued by the Club, simply came down to the word of the Referee against five statements submitted by

Hillmorton. The Appeal Board concluded that the Disciplinary Commission came to a decision that they were entitled to make.

20. **Second Ground - imposed a penalty, award, order or sanction that was excessive.** The Appeal Board considered the sanction and the reasons why the Disciplinary Commission had imposed such a sanction. The Appeal Board noted the mitigating and aggravating factors and concluded that the sanction is fair and certainly not excessive. Indeed, the Appeal Board noted that the sanction imposed is below the FA's recommended entry point of 147 days and that the fine imposed, £100, is the FA's mandatory minimum sanction. The education sanction imposed is also mandated by the FA.

### **OUTCOME**

21. The Appeal Board determined that:

- a. The appeal is unanimously dismissed on both grounds
- b. The sanction imposed by the Disciplinary Commission on 13<sup>th</sup> December 2024 is to remain in place.
- c. There is no order as to costs and the appeal fee is to be forfeited.

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

Anthony Rock (Chair)

John Murphy

Christopher Reeves

Tuesday 21<sup>st</sup> January 2025