

IN THE MATTER OF AN APPEAL

Case ID : 12112113M

FROM THE DECISION OF A DISCIPLINARY COMMISSION

OF LONDON FOOTBALL ASSOCIATION

BETWEEN :

GARY DUNN

Appellant

and

LONDON FA

Respondent

DECISION AND REASONS

Appeal Board constitution.

Abdul S. Iqbal KC (Chair – Independent Legal Panel member)

Daniel Mole (Independent Football Panel member)

Yunus Lunat (Independent Football Panel member)

Conrad Gibbons (Secretary to the Appeal Board)

Date of appeal withdrawal application hearing : 14 April 2025

1. This document sets out the written reasons for the findings of an independent FA Appeal Board which sat on Monday 14 April 2025.

2. The Appeal Board met to consider an application to withdraw this appeal brought by

the Appellant Gary Dunn (“GD”) against a decision of a Disciplinary Commission (“the Commission”) sitting at a non-personal hearing in respect of disciplinary proceedings brought by London FA against GD.

3. This is the decision and written reasons of the Appeal Board. Necessarily, this is a summary document. It is not intended to be a record of all submissions to the Appeal Board and/or all evidence adduced before the Commission.

4. For the avoidance of doubt, the Appeal Board carefully considered and took into account all the evidence and submissions made by the parties in this case.

(1) The charges.

5. By “*misconduct charge notification*” dated 10 March 2025¹ the London County Football Association (“London FA”) alleged that GD during a Kent Youth League match (“the match”) between Maidstone United Youth U14 Kent and Welling United Youth U14 on 2 February 2025, did not act in the best interests of the game contrary to FA Rule E3.

6. The particulars of the allegation within the Misconduct Charge Notification stated as follows²:

“This refers to the allegation that Gary Dunn was dismissed from the field of play as a non-playing participant for two cautions of dissent, or similar.”

7. GD admitted the charge by response dated 25 February 2025³ and requested a non-personal hearing.

(2) The Commission’s factual findings and sanction.

8. The Commission considered the evidence placed before it and on 10 March 2025 imposed the following sanction⁴:

- i. 1 match ground/venue suspension active from 17 March 2025 with the end date to be

¹ Pages 10 to 11 of the appeal bundle.

² Page 11 of the appeal bundle.

³ Page 26 of the appeal bundle.

⁴ Page 30 of the appeal bundle.

confirmed;

- ii. £20 fine;
- iii. 7 club penalty points imposed.

(3) The regulatory framework as to appeal.

9. Regulation 136 of the regulations under the title “*Appeals from Disciplinary Commission Decisions*”⁵ provides:

“136. Participants shall have the right to appeal decisions of a Disciplinary Commission to an Appeal Board in accordance with Part C: Appeals – Non-Fast Track. A Participant wishing to appeal must:

136.1 lodge notification of an intention to appeal within seven days of notification of the decision being appeal against;

136.2 submit their appeal within 14 days of notification of the decision being appeal against.”

10. Regulation 2 to Part C “*Appeals – Non-Fast Track*”⁶ provides:

“2 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.”

⁵ Page 225, FA Handbook 2024 – 25.

⁶ Page 189, FA Handbook 2024 - 25

11. Regulation 21 to Part C “Appeals – Non-Fast Track”⁷ provides:

“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.”

12. Regulation 13 to Part C “Appeals – Non-Fast Track”⁸ provides:

“13. Once an appeal has been commenced, it shall not be withdrawn except by leave of the Appeal Board (or the Judicial Panel Chairman (or their nominee) if an Appeal Board has not yet been convened). Where an appeal is so withdrawn, the Appeal Board may make such order for costs, or such order in respect of any bond lodged pursuant to paragraphs 27 to 37 below, as it considers appropriate.”

(4) GD’s grounds of appeal.

13. GD lodged grounds of appeal dated 13 March 2025⁹ against the sanction imposed by the Commission.

14. GD relied upon each possible head of ground of appeal specified within Regulation 2

⁷ Page 192, FA Handbook 2024 - 25

⁸ Page 191, FA Handbook 2024 – 25.

⁹ Pages 4 to 6 of the appeal bundle submitted by Messrs Coyle White Devine Solicitors.

of the appeal regulations cited above.

15. In the circumstances of this case, it is not necessary for the Appeal Board to formally consider the merits or otherwise of each of the grounds of appeal that were originally lodged.

(5) GD's application for suspension of sanction pending appeal.

16. Within GD's lodged grounds of appeal dated 13 March 2025, GD requested stay of sanction pending the determination of the appeal.

17. The grounds of appeal stated, insofar as relevant, as follows¹⁰:

- i. *"The 1-match venue ban, if upheld, would unfairly affect Mr Dunn's ability to participate in the crucial cup final on 26 March 2025¹¹, a significant event for both Mr. Dunn and his team. The timing of the sanction, given that it stems from an incident on 2 February 2025, during a league match, is both disproportionate and unfair. The sanction is excessive and that it punishes the whole team and not just Mr. Dunn. The sanction essentially leaves a youth team managerless for an important occasion for which the team has worked so hard to qualify.";*
- ii. *"Given the significant disruption this sanction will cause to Mr Dunn's role and participation in the cup final, we respectfully request that the FA pauses the sanction until Mr Dunn's appeal can be heard. We believe this is necessary to prevent an unjust outcome that would impact Mr Dunn's ability to fulfil his duties as a manager for the U14s team.";*
- iii. *"Furthermore, we kindly ask that the FA confirm whether Mr Dunn will be permitted to attend his son's cup final on 26 March 2025¹²."*

18. In addition to the above request for stay of sanction pending appeal, GD's legal representatives entered into further correspondence with The FA seeking confirmation that the sanction would be stayed pending determination of the appeal.

¹⁰ Pages 5 and 6 of the appeal bundle.

¹¹ It is clear from the evidence that the cup final was actually scheduled on Sunday 23 March 2024 and this was a typographical error.

¹² It is clear from the evidence that the cup final was actually scheduled on 23 March 2024 and this was a typographical error.

19. In that correspondence, GD's legal representative sent the following communications:

- i. An email on 13 March 2025 at 14.34 to The FA¹³ that stated *"Please advise whether our client's sanction will be paused pending the outcome of the appeal. Without that confirmation, the appeal is going to be an unproductive process."*;
- ii. An email on 14 March 2025 at 07.21 to The FA¹⁴ that stated *"Just in response to your question about urgency, the only urgency is the application to stay the sanction pending the appeal. The sanction begins on Monday, so to an extent that application is urgent. However, the one match ban will actually take effect next weekend (22/23 March) so dealing with the application next week will not cause the appellant any prejudice. The substantive appeal can run its normal course, without urgency, once consideration has been given to the stay application. I hope this clarifies the appellant's position."*

20. GD's application for stay of sanction pending the determination of the appeal was necessarily considered urgently by The FA Judicial Panel Chair ("JPC") Christopher Quinlan KC.

21. The decision of the JPC was communicated to GD by The FA by email on 18 March 2025 at 10.18¹⁵ in the following terms:

"This application to stay the effect of a sanction were forwarded to me this morning. Given that the appeal cannot be heard before 7 April I grant the application for otherwise the applicant will have served his sanction before the matter is heard. In doing so I express no view about the merits of the appeal, which is for others to judge. This appeal must be heard during the week of 7 April 2025."

(6) GD's application to withdraw the appeal.

22. On 24 March 2025 at 11.07¹⁶, GD's legal representative sent an email to The FA in the following terms:

¹³ Page 42 of the appeal bundle.

¹⁴ Page 40 of the appeal bundle.

¹⁵ Page 39 of the appeal bundle.

¹⁶ Page 38 of the appeal bundle.

“As is clear from the appeal papers, this process was initiated because the London League did not comply with the rules and regulations relating to plea changes – in imposing its sanction on 7 March when my client had until 10 March to enter (or change) his plea.

The key component of my client’s appeal was the sanction it created, not only for my client, but for the Under 14 team he manages. I refer you to paragraph numbered 4 in our letter dated 13 March 2025 where it states: “The sanction is excessive in that it punishes the whole team and not just Mr Dunn, The sanction essentially leaves a youth team managerless for an important occasion for which the team has worked so hard to qualify.”

The above problem was remedied by the interim decision to pause my client’s sanction pending the outcome of his substantive appeal. In these circumstances and in the interests of saving time and resource for all parties concerned, our client has now decided to withdraw his appeal.

Our quite [sic] is content to serve his one match ban on a date to be specified by the London League. I believe my client has already paid his fine, but please let me know if this is not the case and I will make immediate arrangements for that payment to be made. My client also appreciates that his appeal fee will be forfeited, given the administration already conducted in relation to the appeal.”

23. There was then communication between GD’s legal representatives and The FA as to the requirements of Regulation 13 of the appeal regulations cited above and the need for permission from the appeal board or the JPC to withdraw the appeal.

24. On 27 March 2025 at 10.58¹⁷, GD’s legal representatives sent an to The FA Judicial Services Department formally making the application to withdraw the appeal in the following terms:

“To: The Appeal Board

Re: Gary Dunn (appellant) and London FA (respondent)

I represent Gary Dunn on his appeal against the disciplinary sanction delivered by the respondent on 7 March 2025.

¹⁷ Page 37 of the appeal bundle.

This is Mr Dunn's application for permission to withdraw his appeal under Regulation 13. The principal reason for lodging the appeal was because the timing of the one match ban (to coincide with the League's Under 14 Cup Final last Sunday, 23 March) served to punish Mr Dunn's team as well as Mr Dunn. The team would have been left without a manager for the most important game of their season. It was this 'second layer' of punishment which made the sanction excessive and therefore appealable.

Having regard to Mr Dunn's successful application for his sanction to be paused (for which thanks must be extended to the Judicial Services team and the London League for facilitating this so promptly) the 'second layer' of punishment was stripped away. Now left with a one match ban to serve and a fine, Mr Dunn no longer contends that the sanction is excessive. In these circumstances he wishes to withdraw his appeal and accept his punishment.

Given the timing of this application (first notified on Monday, 24 March) before any submissions have been made on the substantive appeal, I would hope that permission can be granted with no order as to costs."

25. Thereafter, The FA necessarily sought the observations of the Respondent to the appeal (London FA) upon GD's application to withdraw this appeal.

26. The application to withdraw the appeal was then placed before the JPC on 4 April 2025.

27. The application has been referred to this independent Appeal Board by the JPC to consider and determine bearing in mind the provisions of Regulation 13 of the appeal regulations cited above and the particular circumstances of this case summarised above.

28. GD indicated to The FA that he did not seek to make oral representations to the JPC and/or the Appeal Board in respect of his application to withdraw this appeal.

(7) The Appeal Board's findings and decision.

29. Where it is necessary for the Appeal Board to come to any conclusion(s) as to the relevant facts, the test to be applied is that the Commission is satisfied an event occurred if the Commission considers that, on the evidence, the occurrence of the event was more likely than not.

30. The Appeal Board considered the totality of the documents before the Appeal Board

in relation to the circumstances of this case.

31. Regulation 13 of the appeal regulations cited above gives this Appeal Board a broad discretion in determine the application to withdraw this appeal.

32. Important issues for the Appeal Board in all of the circumstances of this case are consideration of:

- i. the principal motivation for the pursuit of the appeal;
- ii. the very high level of importance attached by GD to suspension of sanction pending the determination of the appeal;
- iii. the reasoning behind the decision to seek withdrawal of the appeal; and
- iv. the time when, and circumstances in which, that decision to seek withdrawal of the appeal was notified to The FA.

33. The tenor of and nature of the communications between GD's legal representatives and The FA in relation to the grounds of appeal, the application to suspend sanction pending determination of the appeal, and the application to withdraw the appeal make it abundantly clear that a very important consideration for GD was the fact that the sanction imposed by the Commission would mean that GD could not attend the cup final match on 23 March 2025 in which his son was a participant.

34. GD's legal representatives reiterated on multiple occasions the need for the one match ground/venue band to be suspended pending the determination of this appeal in circumstances where the appeal could plainly not be heard before 23 March 2025 (the date of the cup final).

35. GD was informed on 18 March 2025 that the sanction would be stayed pending the determination of the appeal and that the appeal could not be heard earlier than 7 April 2025.

36. These circumstances meant that GD was able to physically attend and manage the cup final on 23 March 2025.

37. It is noteworthy that GD's legal representatives informed the FA on 24 March 2025 his intention to withdraw his appeal. This was, of course, the very next day after the cup final.

38. It was plain at that stage that the Appellant had no desire to pursue any ground of appeal and was content to serve the sanction at the earliest available opportunity.

39. The Appeal Board considered the chronological sequence of events in this case carefully.

40. In all of the circumstances of this case, the Appeal Board is satisfied on the balance of probability that the prime or main purpose for the commencement of this appeal was to seek to delay the date on which the one match ground/venue ban would take effect.

41. It is plain to the Appeal Board that it was of the utmost importance to the Appellant that he should attend and manage the cup final on 23 March 2025.

42. The primary purpose of the appeal having been achieved by the JPC directing that the sanction be stayed until the determination of the appeal during the week of 7 April 2025, the Appellant waited until the cup final had been concluded on 23 March 2025 and the very following day indicated he wished to withdraw his appeal.

43. Indeed, the various communications cited above between GD's legal representatives and The FA highlight, when considered cumulatively and in proper context, that the Appellant believed that the purpose of the appeal had been achieved by the stay of sanction until a date after the cup final would have been played.

44. The Appeal Board makes it plain that the circumstances of this case amount to an inappropriate and indeed improper use by GD of both the appeal process and the discretion vested in the JPC to stay sanction pending appeal.

45. The Appeal Board therefore considers that this appeal amounts to a vexatious and/or frivolous appeal designed to delay and dilute the sanction that was imposed by the Commission. In short, it amounts to an abuse of the appeal process itself.

46. It is necessary in all such cases for an Appeal Board to start with the presumptive position that appeals are lodged in good faith and are pursued on the basis of a proper assessment of their merits.

47. Vexatious and/or frivolous appeals create an additional burden for all concerned. Such category of appeals, when appropriately identified, should be marked by an appropriate sanction by the Appeal Board.

48. The Appeal Board gives leave pursuant to regulation 13 of the appeal regulations to the appellant to withdraw the appeal.

49. The next consideration for the Appeal Board is whether any additional order is

appropriate in this case.

50. In cases of unsuccessful appeals from a determination of a Disciplinary Commission, The FA has produced guidance as to the issue of the costs of the appeal in the document entitled “*Costs Order Guidance for County & League Appeal Hearings*” (“The costs guidance”) and updated on 11 September 2024.

51. The costs guidance states, amongst other things, as follows:

- i. “The Appeal Board has the power to order an unsuccessful Appellant to pay some, all, or none of the costs. This is due to there being a cost to constituting an Appeal Board beyond the appeal fee submitted when lodging an appeal. The decision is strictly a matter for the Appeal Board to determine as it deems appropriate. The following should firstly be considered as a threshold in such instances:
 - a. Did the appeal have no reasonable prospect of success? and/or
 - b. Did the appeal amount to an abuse of the appeal process?”
- ii. Any order for costs must be proportionate;
- iii. Non-exhaustive factors to consider for proportionate costs orders are as follows:
 - a. Appellant’s conduct in relation to pursuing the appeal;
 - b. Any relevant submissions from the parties as to the costs order;
 - c. The Appellant’s financial circumstances/ability & time to pay
 - d. The league level of the applicable Appellant
 - e. Inexperience and/or lack of understanding regarding appeal process;
 - f. Whether forfeiture of appeal fee and any applicable fine is already sufficient;
 - g. Quantum costs fixed *pro rata*, as applicable.
- iv. The “costs range” indicated for “Players/Officials - Outside NLS (including Youth Leagues)” is £25 to £75.

52. The Appeal Board considered the above factors in deciding whether a costs order is appropriate in this case.

53. The Appeal Board notes that:

- i. The Appellant was provided a copy of the cost guidance by The FA;
- ii. The Appellant was specifically reminded by The FA in writing of the need to make submissions as to costs. This is especially so if he elected a “paper” appeal hearing.
- iii. The Appellant has simply submitted in writing that the Appeal Board should make no order for costs;
- iv. The Appellant has not disclosed any financial constraints despite being given the costs guidance document;
- v. The Appellant’s conduct in pursuing the appeal amounts to an abuse of the appeal process;
- vi. The Appellant engaged solicitors to pursue his appeal;
- vii. The Appellant is an official of a youth team;
- viii. The Commission imposed a modest £20 fine;
- ix. The Appeal Board’s costs are not the entirety of the administrative costs borne by The FA and the Respondent in relation to the lodged appeal.

54. The Appeal Board concludes in all of these circumstances that it is necessary and proportionate to mark by a costs order the fact that this was an appeal that amounts to an abuse of the appeal process.

55. The costs range identified above in the costs guidance itself envisages the situation of an appeal that amounts to an abuse of the appeal process.

56. However, the Appeal Board concludes that the identified top of the range of costs is insufficient to adequately mark the circumstances of a serious and obvious case of abuse of process of the appeal system as occurred in this case. It is therefore necessary for the costs sanction to be significantly higher than the top of the range identified within the costs guidance.

57. Accordingly, the Appeal Board orders that the Appellant shall pay a £500 contribution towards the Appeal Board’s costs.

58. To summarise therefore, the Appeal Board orders:

- i. The Appellant is granted leave to withdraw the appeal;
 - ii. The Appellant shall pay £500 towards the Appeal Board's costs within 35 days of the date of this decision. Failure to do so will result in an automatic increase of 25% of the amount due. Failure to then pay within a further 35 days may result in an automatic suspension from all football and football-related activity;
 - iii. The stay of sanction imposed by the Commission is lifted with immediate effect.
58. Accordingly, the sanction imposed by the Commission is confirmed.
59. The appeal fee is to be retained.
60. There is the right to appeal the quantum of costs ordered in accordance with FA Regulations.

ABDUL S. IQBAL KC

DANIEL MOLE

YUNUS LUNAT

14 April 2025