

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

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MATTHEW HART (APPELLANT)

-v-

KENT FA (RESPONDENT)

INTRODUCTION

1. These are written reasons for the findings of an FA Appeal Board which met via videoconference (Microsoft Teams) on Thursday 20th March 2025 and Monday 24th March 2025. The Appeal Board considered an appeal brought by Matthew Hart (MH) of Park Regis Junior FC (Park Regis) against a decision of the Kent County Football Association Limited (Kent FA).
2. The Appeal Board was Anthony Rock (Chair - Independent Member), Peter Clayton (FA Council Member) and Emma Vase (Independent Member).
3. Rich Pallot, a member of the FA's National Secretaries Panel, acted as Secretary to the Appeal Board.
4. The Appellant elected for a personal hearing and represented himself. The Respondent was represented by the Kent FA Football Services Lead, Johnny Ricketts. In attendance as observers were three club officials from Park Regis: John Padmore, Tracey Sandy and Sherrie Brown.
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, published on Wednesday 26 March 2025, written reasons were requested by both the Appellant and Respondent.

BACKGROUND FACTS

6. On 6th November 2024, Kent FA charged MH with misconduct for a breach of FA Rule E3 - Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour). The charge relates to an U16's game ("the match/game") played between Park Regis and Barming Youth on the 20th October 2024.
7. It is alleged that MH used threatening and/or abusive 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 MH's comments

and/or actions towards the Match Official upon departing the ground, or similar. On 21st November 2024, MH pleaded not guilty to the charge and requested a personal hearing. On 30th January 2025 (hearing postponed from 3rd January 2025), his case was considered by three members of the FA's National Serious Case Panel (the "Disciplinary Commission/Panel").

8. The Disciplinary Commission found the charge proven and determined that MH is to be suspended for a period of 154 days, fined £150 and ordered to complete an on-line education programme before the time based suspension is served. His Club, Park Regis, received 9 disciplinary penalty points. Findings of the Disciplinary Commission were published on 5th February 2025.
9. Following publication of the Disciplinary Commission's findings on 5th February 2025, the Appellant submitted an application to the FA Judicial Services for the sanction to be stayed. On 17th February 2025, the Judicial Panel Chair directed that the sanction is to be stayed pending the outcome of the appeal.

APPEAL GROUNDS/APPEAL BUNDLE

10. The Appellant appealed on three grounds; the Respondent, (1) failed to give the Participant a fair hearing, (2) came to a decision to which no reasonable such body could have come to and (3) 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.
 - f. Sanction Stay Application and Outcome.
12. The Appeal Board papers are not replicated in these written reasons but were sent to all parties as part of the appeal process. If required, the papers can be obtained direct from the FA/Kent FA.
13. 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 - FAILED TO GIVE THE PARTICIPANT A FAIR HEARING

14. **Appellant’s written submission:** in his Notice of Appeal, the Appellant said he was....‘*prevented from having opportunity for a fair hearing through the actions or omissions of the Kent FA*’. He was not given the opportunity to challenge the charge and was prevented from submitting representation in his defence. He was not afforded the chance to question the referee, and the Disciplinary Commission had no opportunity to extract the best evidence from the referee. The Appellant further stated....‘*on the face of it the panel did not try to obtain all the best evidence in this case to make a reasoned decision - it appears if they had already made up their mind on the outcome of this case before the proceedings has been completed - totally against the rules of natural justice*’.
15. The Appellant stated that the referee’s testimonials had obviously been enhanced with the help of external advice. The panel failed to take the referee’s account...‘*with a large pinch of salt*’ and had discounted both the Appellant’s statement and statements from his witnesses. The Appellant understood the wearing of yellow arm bands for U18 match officials was mandatory and afforded them a level of enhanced protection. The referee in this match was not wearing a yellow arm band and at no time, either before or during the game, did the referee inform him that he was a young person. The Appellant argues that...‘*this appears to have been glanced over by the panel in their deliberations and sanctions issued*’. The Appellant stated that the findings of the panel appear to be biased...‘*the overall feel of the decision and minutes show the bias shown towards protecting the referee rather than assessing the evidence on a fair basis*’.
16. **Appellant’s verbal submission to the Appeal Board:** the Appellant said he had not received the case bundle for the initial hearing until 6.37pm on the night. He was unaware whether the case bundle had been sent to anyone else within the Club. He raised this point with the Disciplinary Commission, and the hearing was adjourned to give him time to read the papers. However, he was given very little time—only 10 minutes—to review the documents. He was told that 10 minutes was all the time available to him and did not challenge this duration. The Appeal Board specifically asked the Appellant whether, knowing he had a hearing, he had questioned why the case bundle had not been issued. The Appellant explained that he was new to the process and, after receiving the charge letter and the referee's statement, he did not expect any additional documentation.
17. Having read the case papers, the Appellant informed the Chair that there was a statement missing from the bundle. He advised the Disciplinary Commission that the statement he had requested to

be removed was still in the bundle and that the wrong statement had been taken out. The Appellant told the Appeal Board that, whilst this witness was still able to give verbal evidence, it was not fair that the Disciplinary Commission were not able to consider both his written and verbal submissions.

18. The Appellant told the Appeal Board that the Chair had not asked him, or other members of the Disciplinary Commission, to raise their virtual hand if they had any further questions for the referee. The Appellant also said that the referee had lied about contacting the club to discuss the events of the day and to obtain the names of the players/manager who were involved. He argued that if the referee had lied about this particular matter, it raises the question of what else he might have lied about. He said the referee was simply an unreliable witness. The Appellant added that, at the end of his verbal evidence, the referee was cut off from the call and neither he nor the panel were given the chance to ask him questions.
19. The Appellant also informed the Appeal Board that he had not been sent the complete appeal bundle. He had received the decision letter and the Disciplinary Commission's written reasons, but nothing else. When asked specifically about the protocols for questioning young witnesses, the Appellant said he was aware of the protocols and had chosen not to submit initial questions through the Chair. He was informed by the Disciplinary Commission's secretary that he would be able to ask the referee questions on the night, but he was not allowed to do so. In regard to the two other young players giving evidence, the Appellant said he was not able to ask them questions either. Both players had said their piece and then left the hearing. Once again, the Chair did not instruct the Appellant or other members of the Disciplinary Commission to raise their virtual hands if they had any questions for the witnesses.
20. **Respondent's written submission:** in written response to the Notice of Appeal, the Respondent acknowledged that the wrong statement had been removed from the case papers sent to the Disciplinary Commission, but contested the Appellant's position that such evidence was not considered fairly. The Respondent made reference to the Disciplinary Commission's written reasons (paragraph 20 of those reasons) where the Appellant confirmed that he was satisfied to proceed with the hearing based on the fact that the Disciplinary Commission would be able to receive verbal evidence from the witness.
21. The Respondent also made reference to the Appellant's submission that the referee could not be questioned further once he had given his initial verbal evidence. The Respondent stated the proceedings were held in strict accordance with the FA's Young Person Protocols, and drew attention to the Disciplinary Commission's written reasons (paragraph 21.8 of those reasons) in

which the Chair outlines how he ensured that all questions had been exhausted prior to the referee being discharged from proceedings.

22. **Respondent's verbal submission to the Appeal Board:** the Respondent said that it is often the case that witnesses in defence of a charge attend without having submitted written evidence. As such, this was not an unusual scenario for the Disciplinary Commission. The Respondent again made reference to the Disciplinary Commission's written findings, in which the Chair makes specific reference to how the referee was questioned and how the Appellant was afforded an opportunity to ask further questions by the raising of the virtual hand within the MS Teams function.
23. The Respondent said that, in advance of the hearing, the County FA had initially sent case papers to the Secretary of Park Regis on 3rd December 2024. Further emails were sent to the Club on 19th December 2024 and 8th January 2025, asking the Club to confirm they had all the paperwork required for the hearing on 30th January 2025. The Club made no request for the papers to be re-sent.

SECOND GROUND OF APPEAL - CAME TO A DECISION TO WHICH NO REASONABLE SUCH BODY COULD HAVE COME

24. **Appellant's written submission:** in his Notice of Appeal the Appellant questioned how the panel could make... *'a decision without hearing all the evidence submitted by both sides'*. He said that most of the referee's story was refuted by several witnesses on the day. He further argued that...*'the evidence of the appellant and witnesses clearly indicates the level of threat and intimidation was no higher than that of one stranger meeting another stranger'*.
25. **Appellant's verbal submission to the Appeal Board:** the Appellant said there was no evidence to suggest that he had threatened the referee. The four statements submitted by his witnesses corroborated his version of events. The sole evidence supporting the charge came from the referee, yet much of his testimony is untrue. During the discussion, the Appellant mentioned that his son had made a comment regarding the referee. However, the referee did not ask the Appellant for his son's name and did not show his son a yellow or red card. Any suggestion from the referee that he did ask for the player's name is simply not true, but another example of the referee not telling the truth.
26. **Respondent's written submission:** the Respondent said that the Disciplinary Commission's decision making process...*'must also assess and determine the credibility and strength of the evidence submitted. Coming to a decision which differs from the view of the Appellant does not assert that the decision is one that no other reasonable such body could have come to'*. The Respondent disagreed with the Appellant's conclusion that by saying...*'I am an under 18 Match*

Official and I am intimidated by his behaviour', the referee's submission has been externally influenced or legalised. The Respondent said it is not for them to comment on how the Appellant had reached such a conclusion.

27. **Respondent's verbal submission to the Appeal Board:** the Respondent said that the referee felt threatened and intimidated by the Appellant. That was a conclusion the referee was entitled to make. The Respondent did not support the Appellant's point of view that the referee had somehow been influenced in coming to such a conclusion.

THIRD GROUND OF APPEAL - IMPOSED A PENALTY, AWARD, ORDER OR SANCTION THAT WAS EXCESSIVE

28. **Appellant's written submission:** in reference to the award of an excessive penalty, the Appellant made a brief submission stating that... *'any misconduct against a match official who is clearly not identifiable as U18, and later relies on it, should be considered a mitigating factor'*.
29. **Appellant's verbal submission to the Appeal Board:** the Appellant said that he had a *'simple/non- confrontational'* conversation with the referee, and questioned how referees can make progress if they are not prepared to engage with players and managers. He didn't chase after the referee and, in the circumstances, felt that he should have been warned as to his future conduct. As a maximum, his sanction should have been no more than a month's suspension. He didn't understand why he had been given a ground/venue ban. There was nothing in the FA's guidance to say that such a ban should have been imposed. The team he manages will now be without a coach and he is not able to watch his son play football. He said the Disciplinary Commission had not considered that the referee was not wearing the compulsory yellow arm band, clearly identifying him as a young person (U18). The Appellant said the referee looked to be over 21 and had he known he was U18 he wouldn't have approached him. At no point did the referee identify himself as U18.
30. **Respondents written submission:** the Respondent stated that the sanction imposed is 7 days above the recommended entry point for the charge and, for reasons highlighted within the written reasons, is a mid-range fine. As a result, the Respondent failed to see how the sanction imposed can be considered excessive. The Respondent also refuted any suggestion by the Appellant that it should be a mitigating factor if the match official is not identifiable as a child. The Respondent further stated.... *'FA Disciplinary Sanction Guidelines highlight that where the Match Official is identifiable as a child with the optional yellow armband, this should be an aggravating factor. Whilst this is not applicable in this instance, its absence does not afford mitigation'*.

31. **Respondent's verbal submission to the Appeal Board;** the Respondent said that it is not mandatory for young match officials to wear a yellow arm band. The Disciplinary Commission had considered this point during their deliberations and concluded that, in this instance, the absence of a yellow arm band was neither an aggravating or mitigating factor.

STATUS OF MH (PARTICIPANT OR NON-PARTICIPANT)

32. During the latter part of the appeal, the Appeal Board raised the question in regard to MH's status on 20th October 2024. It was unclear to the Appeal Board if the Appellant on that day was or was not a Participant. The question had not been raised during the initial hearing on 30th January 2025, and neither MH nor his Club had disputed that he was a Participant. For reference (FA Rules of the Association, Chapter 10, Part A - Participant) - Participant means: *'an Affiliated Association, Competition, Club, Club Official (which for the avoidance of doubt shall include a Director), FA Registered Football Agent, Intermediary, Player, Official, Manager, Match Official, Match Official, Match Official observer, Match Official coach, Match Official mentor, Management Committee Member, member of employee of a club and all persons who are from time to time participating in any activity sanctioned either directly or indirectly by The Association'*.
33. After receiving initial views at the appeal hearing, the Appeal Board determined that both parties should be given the opportunity to submit written statements in regard to MH's status. The Appeal Board requested written observations from the Respondent initially and then further observations from the Appellant. Submissions were to be submitted to the Appeal Board by 1300 hours on Monday, 24th March 2025. At that time, the Appeal Board would reconvene to assess MH's status, and if deemed a Participant, the Board would then proceed to consider the appeal in detail. The written submissions are summarised as follows:
- a. **Appellant:** the Appellant said he could see no evidence to identify him as a team official or Participant. He accepted helping and speaking with the Park Regis Manager on the day, which may have given the *'inexperienced referee'* the incorrect impression that he was some type of assistant or club official. As previously stated at the appeal hearing on 20th March 2024, he said he was wearing a coat from a club he managed 6 years previously. He had no dealings with the players on the day, did not help them warm up and did not coach them. He did accept helping the team by providing coaching/mentoring and help to the manager, but he had no direct involvement with the team. The Appellant stated...*'I have clearly proved beyond reasonable doubt and high probability that I was not a match official, I was not a coach, I was not a manager and I was not a participant in this game or any other until the date I took control of the team'*. The Appellant concluded his statement

by saying that the legal system is based on proving matters ‘*beyond reasonable doubt*’ and it is unfair to determine a case such as this on the balance of probability.

- b. **Respondent:** the Respondent stated...‘*it is therefore imperative to consider the evidence available from the fixture, which speaks to the role that the Appellant actually held on 20 October 2024 and their participation in an activity sanctioned by The Association*’. The Respondent argued that the referee clearly had reason to identify the Appellant as a team official based on their involvement and interaction on the day. Kent FA requested identification of the team official from Park Regis who responded by saying....‘*the issue on the day with the ref involved a person called Matthew Hart who was helping our manager on the day*’. The Respondent further identified examples, including comments from the Appellant himself, which clearly confirmed to the County FA that the Appellant was a Participant. They concluded by saying that throughout the Disciplinary Commission on 30th January 2025, the Appellant was consistently referenced, directly or indirectly, in their role as a Participant and the Respondent could see no evidence in the Disciplinary Commission’s written reasons of this being challenged, clarified or corrected by the Appellant.

34. **Determination:** having considered both submissions and all evidence available to them, the Appeal Board unanimously concluded there was sufficient evidence to confirm that, in accordance with the FA’s definition of a Participant, on the 20th October 2024 MH was a Participant and that Kent FA were correct in charging him as such. The Appeal Board then went on to consider the appeal in detail.

LEGAL TEST FOR GROUND OF APPEAL/ROLE OF THE APPEAL BOARD

35. As stated in Regulation 12 of the Non- Fast Track Appeal Regulations, the task of the Appeal Board is to conduct a review of the Disciplinary Commission’s decisions. It is not a new hearing or an opportunity to consider the matter afresh. Guidance on how this review should be carried out is to be found in:

- The FA v Bradley Wood, 20 June 2018, which states: “*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 was unreasonable.*”

36. When deliberating on their findings the Appeal Board applied the following principles in its approach to the ground(s) of appeal:
- a. An appeal such as this proceeds by way of a review of the decision of the Respondent/Disciplinary Commission. It is not a rehearing of the evidence and arguments at first instance.
 - b. It is not open to the Appeal 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. Evidential assessments should only be interfered with if they are clearly wrong or if the wrong legal principles were applied to the making of those factual findings.
 - 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

37. 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.
38. **First Ground of Appeal - failed to give the Participant a fair hearing:** the Appeal Board were not persuaded by the Appellant's version of events that he was not given the opportunity to ask questions of those witnesses in attendance. Specifically, the Appeal Board did not accept that the Disciplinary Commission Secretary had advised the Appellant that he would be able to directly ask questions of the referee. This would have been contrary to the protocols applied when young persons, in this case the referee, are assisting a Disciplinary Commission. In recognising the Respondent's error in removing the wrong statement from the case bundle, the Appeal Board concluded that the Disciplinary Commission was able to test the witness's evidence through verbal questioning. This was not challenged by the Appellant at the initial hearing. The Appeal Board concluded that the Appellant had been given a fair hearing and dismissed this ground of appeal.
39. **Second 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 concluded that, on the evidence available to them, the Disciplinary Commission came to a decision that they were entitled to make. The Appeal Board dismissed this ground of appeal.

40. **Third Ground - imposed a penalty, award, order or sanction that was excessive:** the Appeal Board noted the points considered by the Disciplinary Commission, including mitigating and aggravating factors, and concluded that they had imposed a sanction that was in line with the FA Regulations and Guidelines. The sanction was not excessive. The Appeal Board also dismissed this ground of appeal.

OUTCOME

41. The Appeal Board determined that:
- a. The appeal is unanimously dismissed on all three grounds.
 - b. The original sanction imposed by the Disciplinary Commission is to be reinstated on Monday 31st March 2025. In agreeing that date, the Appeal Board gave due consideration to the fact that the Appellant is involved in a youth team and arrangements may have to be made to cover his absence.
 - c. There is no order as to costs and the appeal fee is to be forfeited.
42. The Appeal Board's decision is final and binding on all parties.

Anthony Rock (Chair)

Peter Clayton

Emma Vase

Friday 28th March 2025