

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

**BETWEEN:**

**SANWAL HUSSAIN**

**Appellant**

**and**

**BERKS & BUCKS FA**

**Respondent**

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**WRITTEN REASONS OF THE APPEAL BOARD**

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**Introduction**

1. The appeal board (**‘the Appeal Board’**) was appointed to consider an appeal by Sanwal Hussain (**“the appellant”**) under The Football Association’s (**‘The FA’**) Disciplinary Regulations (**‘the Appeal Regulations’**) brought by the Appellant against the decision of the Berks & Bucks FA.
2. The appeal was heard on 16 January 2025 by way of MS Teams. The appellant had requested the appeal to be considered on the papers and written submissions by way of a non – personal hearing.
3. The Appeal Board had before an Appeal bundle which included, (1) the original charges details and evidence (2) results letters, (3) the Appellants’ Grounds of Appeal and (4) the Berks & Bucks FA response.

**The Appeal Board**

4. The members of the Board were:
  - Yunus Lunat (Chair).
  - Glenn Moulton.
  - Chris Reeves.

5. No objection was raised concerning the composition of the Appeal Board.
6. The Secretary of the Appeal Board was Conrad Gibbons whose assistance was greatly appreciated.

### **First Instance Decision**

7. On 19 October 2024 Aylesbury Vale Toqueers Titans First played AW FC (“the match”).
8. On 14 November 2024 the Berks & Bucks FA charged Sanwal Hussain with a breach of FA Rules E3 – Improper Conduct against a match official (including physical contact or attempted physical contact and threatening and/or abusive language/behaviour) (Case Ref 11964207M).
9. The Appellant denied the charge and asked for it to be determined by way of a correspondence non – personal hearing.
10. The Charges was therefore considered by a Disciplinary Commission on 30 November 2024 who found the Charge proven (*‘the Findings of Breach’*). The Disciplinary Commission imposed a 530 day suspension from all football and imposed a fine of £215. (*‘the Sanction’*).
11. The Appellant appealed the decisions and sanctions on the grounds that the Commission:
  - (i) misinterpreted or failed to comply with the rules;
  - (ii) came to a decision which no reasonable such body could have come to on the evidence;
  - (iii) Imposed an award order or any other sanction that is excessive.

### **The Appeal Regulations**

- (i) Regulation 2 of the Regulations, sets out the grounds upon which the Appellant may appeal the first instance decision(s) – 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.”

(ii) Regulation 12 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.”*

## **Submissions**

12. The following is a summary of the principal submissions made to the Appeal Board.
13. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that the Appeal Board did not take such point, or submission, into consideration when it considered the matter.
14. For the avoidance of doubt, the Appeal Board carefully considered all the materials provided, and submissions made, with regard to this case.
15. The Appellant submitted that the evidence did not substantiate actual physical contact but only attempted physical contact. He stated that there were inconsistencies in the evidence which did not support the conclusion of physical contact. He also submitted that the sanction was excessive in view of the appellant’s previous clean record, acknowledgement of the red card and the lack of intent to harm or injure.
16. The Respondent relied upon the written reasons the Commission.
17. The Appeal Board considered the Regulations, and the submissions made.

## **The Legal Test**

18. As is clear from Regulation 12 the task of the Appeal Board is to conduct a review of the first instance decision, and not a de novo hearing. In other words, the Appeal Board is not considering the matter afresh but, instead, reviewing the first instance decision. It is not open for the Appeal Board to interfere with the decision simply because it would have reached a different decision.

19. An Appeal Board should be slow to interfere with evidential assessments and factual findings made by the Commission. It should only be interfered with if they are clearly wrong or if wrong principles were applied.
20. The test for the Appeal Board to apply in determining whether the Commission acted '*irrationally*' or '*perversely*' or '*came to a decision to which no reasonable body could have come*' is essentially the *Wednesbury* test applied in public law in cases of judicial review. The test is different to showing that the decision was simply unreasonable or that the Appeal Board would have reached a different decision.
21. Any appellant who pursues an appeal on the ground that a Commission has come to a decision to which no reasonable such body could have come therefore has a high hurdle to clear.
22. In accordance with the above the Appeal Board retired to consider the parties' submissions.
23. The Appeal Board considered the Regulations, and the submissions made.

## **Conclusion**

24. The Appeal Board unanimously rejected the Appeal on the first two grounds. The Commission had correctly applied the rules. The Appellant had not shown any evidence of how or where the rules were misinterpreted or not complied with. As for ground 2, the Commission correctly weighed the evidence that it was presented with in arriving at its decision, which cannot be criticised, let alone be considered as one which no reasonable such body could have come to. The Commission reached a decision which it was open to reach on the evidence and submissions before it. The Appellant appeared to want a second opportunity to have his charge reheard which was not an option for the Appeal Board.
25. However, the majority of the Appeal Board concluded that the sanction was excessive for a first offence even allowing for the serious nature and circumstances of the offence. The majority was of the view that a 90 day enhancement to the entry of 365 days was an appropriate sanction and therefore pursuant to Regulation 21 of the Non – Fast Track Appeal Regulations varied the sanction to a 455 day suspension on the same terms as originally imposed.

26. The minority view was that the suspension was not materially more than that which was necessary or proportionate in the circumstances of the case and was therefore not excessive.
27. The Appeal Board made no order as to costs and also ordered that the appeal fee is to be returned to the Appellant.
28. Accordingly, this decision of the Appeal Board shall be final and binding and there shall be no right of further challenge.

22 January 2025

Yunus Lunat (Appeal Board Chair)

Glenn Moulton

Chris Reeves