

IN THE MATTER OF THE FOOTBALL ASSOCIATION
FA DISCIPLINARY APPEAL BOARD PROCEEDINGS

APPEAL BOARD MEMBERS:

ELLIOTT KENTON (CHAIR)
DENNIS STRUDWICK
SHAUN TURNER

UPCHURCH COLTS

and

KENT FA

WRITTEN REASONS OF THE APPEAL BOARD

SECTION A – BACKGROUND

The Appeal Board

1. The Appeal Board heard this appeal on 8 May 2025 (the “**Appeal Hearing**”) following the appeal by Upchurch Colts (the “**Appellant**” or the “**Club**”) of a decision made on 14 April 2025 by a Disciplinary Commission (the “**First Instance Commission**”) in respect of the Club.
2. The Appeal Board comprised of Elliott Kenton who acted as Chair, Dennis Strudwick and Shaun Turner. The Appellant was represented by Katie Kemlo, who is the Club Secretary and Kent FA, who were the respondent to the appeal (the “**Respondent**”) was represented by Jonny Ricketts.
3. At that hearing, the Appeal Board unanimously dismissed the Appellant’s appeal based on three grounds, which are outlined further below.

SECTION B – THE FIRST INSTANCE HEARING

The Charges

4. On 21 March 2025, the Appellant was charged by Kent FA for breaching the following FA Rules:
 - (a) FA Rule E21 - Failed to ensure spectators and/or its supporters (and anyone purporting to be its supporters or followers) do not behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative whilst attending.

(the “**Charge**”).

- (b) The Club accepted the Charge and elected for a non-personal hearing where a First Instance Commission would consider the matter relating to sanction based on the documentary evidence alone.

First Instance Commission’s Decision

- 5. The First Instance Commission comprised of a panel consisting of Barry Cooke who was the Chair, Rupert Bonny and Danny Coyle.
- 6. As the Club had accepted the Charge, the First Instance Commission considered sanction alone. In their written reasons, the First Instance Commission noted that the Club had stated in their Charge response “*we fully acknowledge that supporters from Upchurch entered the field of play, however this was only due to the actions of the Chatham manager.*”
- 7. Accordingly, the First Instance Commission imposed a sanction of £75 and the imposition of penalty points.

SECTION C – THE APPEAL

The Grounds of Appeal

- 8. The Appeal Board were in receipt of a Notice of Appeal on behalf of the Appellant.
- 9. The Appellant relied upon three grounds in the written Grounds of Appeal:
 - (a) The First Instance Commission failed to give the Club a fair hearing.
 - (b) The First Instance Commission came to a decision to which no reasonable body could have come.
 - (c) The First Instance Commission imposed a sanction that was excessive.

Failure to give the Club a fair hearing

- 10. In their written representations, the Appellant states that the Club were not afforded a fair hearing because Ms Kemlo, the Club Secretary was the only person to enter the field of play, and it was in response to the opposition team manager pushing two Club players.
- 11. In her oral submissions, Ms Kemlo provided further clarity as why she entered the field of play, to ensure the welfare of the children and therefore she is guilty of the Charge, although she did what she thought was right at the time. After questioning from the Commission, Ms Kemlo admitted to the Commission that other spectators entered the field of play, but this was in response to the opposition team’s manager violent conduct.
- 12. Ms Kemlo also told the Commission that the league had deducted points as a result of the Charge which was not fair and the Club should not have been fined at all.

The First Instance Commission came to a decision to which no reasonable body could have come

13. In their written submissions, the Appellant states that the actions of the opposition manager were a safeguarding concern, and the Club has now been charged and had their points removed due to no fault of their own.
14. Ms Kemlo reiterated this point at the Appeal Hearing that she had been made to feel that she had done something wrong by reporting a safeguarding concern, which led to the Charge. Ms Kemlo outlined that as a result of this Charge, the league has removed points, and won't give them back.

The First Instance Commission imposed a sanction that was excessive

15. In their written submissions, the Appellant states that the Kent FA have charged the opposition coach for his actions, and therefore, the Club is not at fault. The deduction of points is unfair, and the team have done nothing wrong.
16. In the Appeal Hearing, the Appeal Board raised with Ms Kemlo the range of sanction that is available to the First Instance Commission and asked her to comment whether she considered the sanction to be excessive in light of this. She stated that it is not about the sanction imposed, but the imposition of the Charge which she considered excessive.

SECTION D – APPEAL BOARD DECISION

17. The Appeal Board unanimously dismissed the Appeal on all three grounds.
18. The Appeal Board considered that from the outset, this was an Appeal that was misplaced, although the Appeal Board noted that this was based on a misunderstanding of the FA Disciplinary Regulations and the Appeal Regulations.
19. The Appeal Board noted that the submissions primarily related to a contention that the Club should not have been charged because the Club's actions were a result of a safeguarding concern and / or the opposition manager was at fault. There are some inherent difficulties with this argument. The Club had accepted the Charge in its entirety and provided submissions to the First Instance Commission affirming their acceptance. For example, in the Charge response, Ms Kemlo writes "*we fully acknowledge that supporters from Upchurch entered the field of play, however this was only due to the actions of the Chatham manager.*" In her witness statement prepared as part of the Respondent's investigation, Ms Kemlo also admitted to the Club spectators entering the field of play.
20. The Appeal Board did not consider that the First Instance Commission did not afford the Club a fair hearing. The First Instance Commission's role is not to question or test the Respondent as to why the Charge was raised, but to determine the matter based on the Charge and the Club's response. This was a case, where the Club had accepted the Charge, served positive statements affirming this plea (as above), and requested a non-personal hearing. The Appeal Board considered the First Instance Commission could not have done more to provide a fair hearing in these circumstances.
21. The Appeal Board did not consider the First Instance Commission came to a decision which no reasonable body could have come to for the reasons outlined above. Therefore, the Appeal Board could not identify any features whereby they had come to a decision which was extraordinary.

22. The Appeal Board noted the Appellant's submissions in relation to excessive sanction. The Appeal Board considered that the sanction applied by the First Instance Commission was not excessive, and within the Sanction Guidelines afforded to the First Instance Commission in such circumstances. The resultant actions of a league are not the responsibility of a First Instance Commission, as it was not a sanction that they imposed.
23. Therefore, the Appeal Board dismissed the Appeal on all three grounds.

Elliott Kenton (Chair) on behalf of the FA Appeal Board
14 May 2025