

THE FOOTBALL ASSOCIATION REGULATORY COMMISSION
IN RESPECT OF 2 BREACHES OF FA RULE E10
COMMITTED BY ENFIELD TOWN FC

Introduction

1. These are the written reasons for the Regulatory Commission decision made on Wednesday 22nd April 2015.
2. The Regulatory Commission members were Major (Retd) W Thomson (Chairman), Mr S Turner and Mr D Rose.
3. Mr Robert Marsh, Judicial Services Manager of the Football Association, acted as Secretary to the Hearing.
4. The Commission was considering a charge raised by The FA for two breaches of FA Rule E10 in that it is alleged that Enfield Town FC failed to comply with an FA suspension in that Aryan Tajbakhsh participated in the following first team fixtures between 3 January 2015 and 17 January 2015:

Enfield Town FC v Hendon FC
Isthmian Premier League
10 January 2015

Tonbridge Angels FC v Enfield Town FC
Isthmian Premier League
17 January 2015

5. Mr Dario Giovannelli represented The Football Association (FA).
6. Enfield Town FC had denied the charges and requested a personal hearing.

Details

7. Mr Giovannelli introduced the case against Enfield Town FC and the Commission was referred to FA Rule E10 which reads "*Each Participant shall comply with a decision made pursuant to the Rules and regulations of the Association*".
8. Mr Giovannelli went on to explain that Enfield Town FC had breached FA Rule E10 on two separate occasions, against Hendon FC on the 10th January and against Tonbridge Angels on the 17th January 2015.
9. Mr Giovannelli acknowledged that there had been three separate records created for Aryan Tajbakhsh and it required a human hand to join all three records. He had also no dispute with the evidence produced by Enfield Town FC. However, it was a matter of fact that Aryan Tajbakhsh had received 10 cautions and directed the Commission to the FA Handbook, page

390 Cautions Offences Section D paragraph 3. Mr Giovannelli in his submission, also directed the Commission to page 397 paragraph 11(a) sub paragraph 4 of the FA Handbook. Mr Giovannelli also stated that Enfield Town had made no contact with the Football Association (FA) until the 26th January 2015.

10. Enfield Town FC was represented by Mr P Reed (Chairman) and Mr P Millington (Vice Chairman).
11. The defence of Enfield Town was that they had made all the necessary enquiries to ensure Aryan Tajbakhsh was eligible to play for Enfield Town FC. None of the ten cautions involved in this case occurred whilst Aryan Tajbakhsh was a registered player with Enfield Town FC. As such the club would not have had immediate access to the player's caution history and the club submitted that it had made all the necessary enquiries of both player and database to check the position before playing him in the games versus Hendon and Tonbridge Angels. Furthermore on receiving the 10th caution of the season prior to joining Enfield Town FC, the standard procedure is for the FA to issue a notification of suspension and notification of a £20 fine. In the case of Aryan Tajbakhsh, it was submitted that this was not received by the club or the player.
12. The club called Dr N Howard (Secretary) to give evidence on behalf of the club. Dr Howard stated that upon signing the registration form the match secretary Mr Keith Wortley asked Aryan Tajbakhsh questions regarding international clearance and whether the player was suspended. The player said he was not under suspension but had been told to miss a match earlier in the season for five bookings and also for a sending off. As he had received a number of cautions he was also asked about how many he had received, the player said that he was not sure as his former clubs had not told him, but he believed it to be around eight or nine.
13. Dr Howard went on to say that on receiving that information from the match secretary, regarding the uncertainty of how many bookings Aryan Tajbakhsh had received, he undertook a search of the suspension checker on the County FA's website. The player, Aryan Tajbakhsh DOB 27/10/1990, did not appear on the list. As a result of his enquiries the player played against Hendon FC on the 10th January and against Tonbridge Angels on the 17th January 2015.
14. Dr Howard went on to explain that as a result of Aryan Tajbakhsh receiving a caution in the game versus Maidstone United on the 24th January 2015, whilst dealing with the administration he had observed a discrepancy against Aryan Tajbakhsh. Dr Howard explained that given this discrepancy he immediately contacted the FA to rectify this.
15. On contacting the FA Dr Howard stated that a reply from Jill Roberts of the FA asked if Aryan Tajbakhsh was the same player that had played for Cheshunt VCD and Enfield Town FC. An attachment showed a number of cautions, which highlighted Aryan Tajbakhsh should have served a two match suspension starting on the 3rd January 2015.
16. Dr Howard went on to say following a conversation with Jill Roberts that Aryan Tajbakhsh was omitted from the game versus Dulwich Hamlet FC. The club submitted that a further conversation also took place between the Manager of Enfield Town FC and Mark Ives of the FA Disciplinary department and as a result of this conversation Aryan Tajbakhsh was also

omitted from the game versus the Metropolitan Police. This game would clear the outstanding two match suspension.

17. Dr Howard was then asked by the members of the Commission, knowing that he knew the player had a number of cautions which database had he checked, to which he replied he was unsure.
18. Dr Howard went on to say that he believed the club had acted in good faith, by immediately seeking to establish the player's disciplinary record by checking the database. He said that the incorrect recording of the player's details which led to this situation was not made by his club and was therefore outside the control of Enfield Town FC. The club had also immediately contacted the FA when the Secretary had noticed that the player only had one caution on his record following the game on the 24th and subsequently acted on the advice of the FA not to play the player in the next two games once the club had been informed of the suspension.
19. Enfield Town FC then called Aryan Tajbakhsh to give evidence which was conducted by telephone. Aryan Tajbakhsh stated that he informed Mr. Wortley that to his knowledge he was not suspended and had around eight to nine cautions. He had been suspended twice during the current season, one of which was for accumulating five cautions.
20. Mr Tajbakhsh went on to say that at no point had he received any notification from any of his previous clubs or the FA that he was suspended for reaching ten cautions. He also said that because his suspensions did not appear on the website's suspension checker, neither himself nor his club could have been reasonably expected to know he was suspended.
21. Mr Tajbakhsh also stated that having been made aware of his suspension, he immediately served those matches, still having had no formal notification and he believed this demonstrated that both Enfield Town and himself had acted with the best of intentions at all times.
22. Further evidence was produced by Enfield Town FC, in the form of an e-mail from Ben Marshall of the FA to the Isthmian League. The content of the email had indicated that the FA were only opening an investigation case against the player for playing whilst suspended for Enfield Town FC but were not intending on taking any further action in relation to the club.
23. Enfield Town FC also submitted that Mr Mark Ives of the FA Disciplinary department had relayed orally that same message that no charges would be raised against Enfield Town FC regarding this matter.
24. Mr Giovannelli did not challenge that submission from the Club but stated that only the Chief Regulatory Officer or his nominee(s) could make such a decision on charging.
25. Although the club did not raise the argument Mr. Giovannelli explained that the assurances not to charge may be capable of acting in the interest of the defence analogous to an estoppel of some form but the club would need to demonstrate that it had suffered some kind of detriment having relied on those assurances. The club submitted that during their most recent match the manager had chosen to play for the draw as opposed to the win as they were under the belief that they would not be charged. The example given by the club occurred after they had been charged by The FA and therefore any action they took during that match was in the knowledge that a charge had been raised and a points deduction may follow from the league under their

rules if the charge was found proven. The Commission was not satisfied on the submissions made by the Club that they had presented enough evidence to demonstrate an argument in their defence analogous to an estoppel.

26. Enfield Town FC also produced in evidence a Sport Resolution document in regard to a FA Rule K Arbitration involving Thurrock Football Club, the FA and the Isthmian League.
27. Enfield Town FC further argued that E10 in law cannot apply. The Commission did not agree with this submission. The Club further submitted that they were victims to the internal systems of the FA and if the case was proven, this would be detrimental to the Club. They had not tried to hide anything; in fact if they had not brought the matter to the attention of the FA then it may have gone unnoticed.

Determination

28. The Commission had sympathy with Enfield Town FC but Enfield Town FC were informed by the player, Aryan Tajbakhsh, that he had received a number of cautions (eight or nine according to his evidence) and had even been suspended during the course of the current season for reaching five cautions. This should have given Enfield Town FC cause to check the definitive position in respect of the player's caution tally and eligibility with the Association. No contact was made with the Association until the 26th January after the player had already completed the two fixtures for the club.
29. There is some confusion with the Club Secretary as to whether he had checked only the suspension checker available on the County FA website or whether he had also checked the Member Services database. If he had checked the latter then alarm bells should have rang when that database would have shown the player to have had no cautions when the Club had been told by the player that there would be eight or nine. By checking only the former that would only flag players who were currently under suspension assuming duplicate records did not exist and would not inform the club of the total number of cautions a player had received.
30. Although it is not the fault of Enfield Town FC that duplicate records had been created for the player, the origin of such duplicate records is unknown, but the rule which the Club are alleged to have breached is in effect one of strict liability. The Club, in playing a suspended player had breached FA Rule E10 which states "Each Participant shall comply with a decision made pursuant to the Rule and regulations of the Association".
31. The player had reached 10 cautions and he should have been suspended for the two fixtures in which he played on the 10th and 17th of January which was agreed by both parties. A decision had been made by the Association pursuant to Regulation 11(a)(iv) of the Disciplinary Procedures which apply which states that "If a Player accumulates ten cautions in any Competition between the opening day of the Playing Season and the second Sunday of April in the same Season, he will be suspended automatically for a period covering: - Two First Team matches plus a fine of £20". Such a suspension came into immediate effect and in accordance with Regulation 3 of the Disciplinary Procedures which apply the punishment takes effect "...regardless of whether or not the notification of it from The Association is received before it is due to take effect...".

32. The Commission could not be certain if assurances had been provided to the Club without hearing from Mr. Ives although even if such had been provided to the club the Commission do not believe that to have a nullifying effect on the charge.
33. Having given consideration to all the evidence presented and the Rules as they stand the Commission found the charge against Enfield Town FC of two breaches of FA Rule E10 proven.

Sanction

34. The Commission noted that the club had no previous record of similar misconduct and considered the mitigation submitted on behalf of the club. Mr. Giovannelli on behalf of The FA submitted that the sanction on the club should be no more than a warning as to their future conduct.
35. The Commission considered the fact that the Club had felt that it had done all it could to ascertain whether the player was suspended before playing him. The Commission note that the Club had made some checks although it had stopped short of directly contacting the FA to ascertain whether the player was eligible to participate or as to his accurate caution total. In fact when the club did contact the FA on the 26th January the FA identified the other records for the player, therefore, if such contact had been made before the 10th January it is likely that the player's suspension would have been identified. The Commission would have expected a Club to have conducted better research into the player's caution total once the player had confirmed he was unsure whether his total was eight or nine cautions for the season, a number which takes him close to the suspension threshold and one that a club would presumably want to monitor.
36. We further considered that none of the offending cautions had occurred whilst at Enfield Town FC and that the duplicate records on the system were not the fault of Enfield Town FC. The first duplicate record was created as a result of the incorrect spelling of the player's name and the second due to an incorrect date of birth. The origin of these duplicate records is unknown and they may have been created when the player was registered by previous clubs or reported for misconduct by match officials, in any event it was not Enfield Town FC who had created them.
37. Having considered all of the evidence provided, the mitigation presented and the circumstances of the case the Commission Members were unanimous in ordering that Enfield Town FC be only warned as to their future conduct.
38. The personal hearing fee was ordered to be retained but the Commission did not order any costs against either party.
39. There is a right of appeal against this decision.

Major W Thomson

24th April 2015

Chairman