

IN THE MATTER OF THE APPEAL BOARD
OF THE FOOTBALL ASSOCIATION

BETWEEN

MAVERICKS AFC

(the “Appellant”)

and

GLOUCESTERSHIRE FA

(the “Respondent”)

[Case ID: 11033919M]

THE DECISION AND REASONS OF THE APPEAL BOARD

Introduction

1. The appeal in this matter was heard as a Correspondence Hearing by *Microsoft Teams* on 19 January 2023. The parties requested this appeal to be heard in their absence as a Correspondence Hearing, based only on the written submissions made, and neither the Appellant nor the Respondent were in attendance.
2. The members of the Appeal Board (“we” / “us”) appointed by The Football Association (“The FA”) were:
 - 2.1. Mr. Thura KT Win (Chair);
 - 2.2. Mr. Nolan Mortimer; and
 - 2.3. Mr. Shaun Turner.
3. Mr Conrad Gibbons, the FA Judicial Services Officer, acted as the Secretary to the Appeal Board.
4. This summary document is the decision and written reasons of the Appeal Board. 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 we did not take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case.

Background

5. This appeal was brought by the Appellant against a decision of a Disciplinary Commission (the “Commission”), who sat as a non-personal / correspondence hearing on 14 December 2022, in respect of the disciplinary proceedings brought by Gloucestershire FA against the Appellant on 01 December 2022.
6. The disciplinary proceedings arose out of a Stroud & District Football League, Division 6, match between the Appellant (also “Mavericks”) and Brockworth Albion FC (“Brockworth”), played on 05 November 2022.
7. Both clubs at this match were charged by Gloucestershire FA with misconduct for a breach of FA Rule E20 – Failed to ensure Players and/or Officials and/or Spectators conducted themselves in an orderly fashion.
8. It was alleged that both clubs, at this match, failed to ensure their respective directors, players, officials, employees, servants, representatives conducted themselves in an orderly fashion and refrained from improper, offensive, violent, threatening, abusive, indecent, insulting or provocative words and/or behaviour, contrary to FA Rule E20.1, and, furthermore, that their conducts had caused the match to be abandoned.
9. Gloucestershire FA advised each club in their respective charge letters that the offence carried a sanction range of £0-£300 fine.
10. The Appellant denied its charge without any submissions, but Brockworth accepted their charge and submitted a statement.
11. As the offences were alleged to have been committed in the same match or there is common Association or defence evidence, the proceedings in these cases were consolidated – as per *Consolidation of Proceedings*, Regulation 13 of FA Disciplinary Regulations – and for the hearings to be conducted together, and

the charges to be determined at a joint hearing. This regulation provided for *“evidence adduced by or on behalf of a Participant shall be capable of constituting evidence against another Participant (the relevant panel shall give appropriate weight to such evidence)”*¹.

12. Based on all evidence before it and on the standard of proof required, being the balance of probability, the Commission found that the charge was correctly accepted by Brockworth and the charge denied by the Appellant was found proven.
13. After considering all circumstances in these two cases, including aggravating and mitigating factors, and the respective clubs' relevant previous disciplinary records, the Commission warned each club as to their future conduct and fined each club £150.

The Appellant's Case

14. The Appellant appealed the Commission's decision on one ground that the Commission *imposed a penalty, award, order or sanction that was excessive.*
15. The Appellant submitted that (we quote): *“Mavericks AFC are appealing the decision to charge and find guilty of misconduct with no evidence of wrongdoing*
The game was abandoned because of a violent attack on a [M]avericks player who was hit from behind [he] stood over and punch repeatedly then as he was pulled [off] by players he stamp on player on ground
We feel the Gloucestershire [FA] took little or no notice of [referee's] report or my letter explaining what happen
There was no invasion of supporters or management
Game was abandoned for the safety of [M]avericks [AFC] players in my opinion the right thing to do
If this had happened on the streets no doubt in my mind the [B]rockworth Albion 3rds player would have [been] [arrested] for assault
Thank you for your understanding in this matter which should have no place in football”

¹ p. 170 of FA Handbook

16. We noted that, whilst the Appellant had said that they were “*appealing the decision to charge and find guilty of misconduct with no evidence of wrongdoing*”, the Appellant had only appealed on one ground that the Commission “*imposed a penalty, award, order or sanction that was excessive*” – simply put, the £150 fine imposed on the Appellant by the Commission was excessive.

The Respondent’s Response

17. The Respondent stated that (we quote the relevant text): “*the [Appellant’s Club Secretary], Mr Tandy, was the Referee for the match due to the alleged abandonment of the match, it was considered as a ‘Priority Case’... no written submission was provided by Mavericks FC in response to their misconduct charges the respective E20 charges were reviewed at the same on-line non-personal hearing and the Commission rightly took into account the submission received from the other club... the fine awarded to Mavericks FC has been applied with reference to the FA sanction guidelines for 2022/23*”
18. The Commission produced the Written Reasons to explain its decision in these two consolidated cases, and included it in the appeal bundle.
19. The Commission explained in their Written Reasons that:
- 19.1. “*the [C]ommission considered the evidence presented, the statement from the referee focusses on the actions of the Brockworth players as aggressors towards Mavericks playing staff. At one point he notes he has ‘entered the fray to tell people to calm down’ and ‘As players separated one another’. As there is no single team specified for this action it was accepted by the panel from the wording used, both teams needed to be separated and calm down.*”²
- 19.2. “*Within the response from Brockworth there is a line stating ‘both teams were involved’ and cites the actions of both sets of players involved in the coming together with reference to at least two players from each side involved. It was*

² para 19 in Commission’s Written Reasons

believed by the Commission that further players from each side would have also been involved above and beyond those named.”³

19.3. *“Therefore, on the balance of probability the Commission believe that Mavericks FC player s were also involved in the incident that led to the abandonment of the fixture and have found the charge against them as Proven. The Commission noted a belief that both teams were equally responsible for the abandonment of the fixture.”⁴*

19.4. *“Mavericks FC only have a single team; their five-year offence history shows one other previous misconduct relevant to this case: August 2022 E20 sanction £70.”⁵*

19.5. *“Nothing further [in mitigation] was received from either participant charged.”⁶*

19.6. *“As the match was abandoned, the Commission placed this in the High category of the sanction range, having considered the previous record and the actions of the players leading to the abandonment of the fixture, the sanction will be: fined a sum of £150; [and] A warning as to future conduct.”⁷*

The Findings & Decision

20. The Appeal Board Proceedings states that *“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.”⁸*

21. Therefore, the task for the Appeal Board is to review the document submissions received to assess whether the Commission had erred in arriving at its decisions, based on the evidence before it and on the standard of proof required, being the balance of probability.

22. With the Appellant’s charge being consolidated⁹ with Brockworth’s charge, the Commission was entitled to use the evidence adduced by or on behalf of Brockworth as being capable of constituting evidence against the Appellant, as the Commission did in finding the Appellant’s charge proven.¹⁰

³ para 20 in Commission’s Written Reasons

⁴ para 21 in Commission’s Written Reasons

⁵ para 22 in Commission’s Written Reasons

⁶ para 25 in Commission’s Written Reasons

⁷ para 27 in Commission’s Written Reasons

⁸ Regulation 12, on p. 188 of FA Handbook

⁹ para 11

¹⁰ paras 19.2 and 19.3

23. We found that the Commission came to the decision which any reasonable such body could have come in finding the Appellant's charge proven¹¹ and, with the match being abandoned, the Commission was entitled to place the seriousness of the offence to be in high category within the sanction range.¹²
24. The *Sanction Guidelines* for this offence at the high category of seriousness and culpability is a fine between £140 and £300, which the Appellant was also advised in the charge letter.¹³
25. With the Appellant denying the charge, which was subsequently found proven, a "*credit for guilty plea*" was not available to help reduce the sanction. Also, there was no submissions from the Appellant in mitigation¹⁴ for the Commission to consider, which might also help reduce the sanction.
26. And, with the Appellant's relevant previous disciplinary record¹⁵ in August 2022 when the Appellant was fined a sum of £70 would be an aggravating factor that would increase the sanction or, at least, would not help reduce the sanction.
27. Therefore, considering all circumstances in the Appellant's case, the warning and £150 fine imposed by the Commission was within the sanction range for the high category, being a fine of between £140 and £300, and we did not find it to be excessive.
28. We were unanimous in dismissing the appeal in its entirety and the sanctions imposed by the Commission are to remain.
29. We considered that in all the circumstances no order for costs is appropriate, but the Appellant must forfeit the appeal fee.
30. The Appeal Board's decision is final and binding on all parties.

For and on behalf of the Appeal Board...

Thura KT Win JP LLM MCIArb (Chair)

25 January 2023

¹¹ paras 19.1 to 19.3 inclusive

¹² para 19.6

¹³ p.10 of 33 in the appeal bundle

¹⁴ para 19.5

¹⁵ para 19.4