

**APPEAL BOARD OF THE FOOTBALL ASSOCIATION**

**BETWEEN:**

**ADAM STREETER (Appellant)**

**-and-**

**SURREY FA (Respondent)**

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**WRITTEN REASONS OF THE APPEAL BOARD**

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Appeal Board: Sally Davenport (Chair) – Independent Legal Panel Member

Robert Purkiss – Independent Football Panel Member

Billy Thomson – Former FA Council Member

Secretary: Conrad Gibbons – Senior Judicial Services Officer

Date: 16 May 2024

Venue: Held remotely via Microsoft Teams

**INTRODUCTION**

1. The Appeal Board was appointed under The Football Association’s Disciplinary Regulations – Appeals (“the Appeal Regulations”). No objection was raised concerning the composition of the Appeal Board.

2. The Appeal Board conducted a hearing on 16 May 2024 to determine an appeal submitted on behalf of Adam Streeter (“the Appellant”) against a decision of a Disciplinary Commission (“the Commission”) sitting on behalf of Surrey FA (“the Respondent”).
3. The Appellant was originally notified of the Commission’s decision by letter dated 25 March 2024. Written reasons were sent on the same date. However, the letter was incorrectly headed “wrongful dismissal”. A corrected letter was not sent until 22 April 2024. On 19 April 2024, the Appellant’s club, Tongham FC (“Tongham”), notified The FA of his intention to appeal. An application to allow an out-of-time appeal was allowed by the Judicial Panel Chair due to the mix-up over the decision letter. A Notice of Appeal (“the Notice”) was submitted, together with a screenshot of a text message exchange between the Tongham secretary and a Tongham player, Liam Gladwell (“LG”).
4. The Respondent submitted a Response to the Notice on 7 May 2024 (“the Response”).
5. The Appeal Board had before it a bundle (“the Appeal Bundle”) containing the following:
  - Notice of Appeal
  - Response to Notice of Appeal
  - Papers of First Instance
  - Appellant’s Offence History
  - Results Letters and Written Reasons
  - Original Results Letter
  - Out of Time Appeal Application and Outcome
6. This document constitutes the written reasons for the Appeal Board’s decision. The Appeal Board considered the entirety of the materials that the parties put before it. If this document does not explicitly refer to a particular point, document or submission, it should not be inferred that the Appeal Board overlooked or ignored it.

## **BRIEF BACKGROUND FACTS**

7. The Appellant is the manager of Tongham.

8. On 13 January 2024, Tongham played a match (“the Match”) against Manorcroft United First (“Manorcroft”).
9. Following the Match, the Referee submitted an extraordinary incident report dated 28 January 2024 in which he reported two incidents during the Match, including the following (“hereinafter referred to as “the Incident”):

*“Homophobic comment from Tongham Manager (Use of the word “Queer” during the fixture)”.*

10. The Respondent contacted both Clubs and asked for statements in relation to the two incidents reported by the Referee. On 8 February 2024, the Respondent sent an email to Elle-Louise Kaplicz (“EK”), the Referee Observer, asking her to provide a statement. She replied by email (the date of which does not appear on the copy in the Appeal Bundle) and commented on the Incident in the following terms:

*“Thank you for your email and apologies for the delay - I’ve been away. I can confirm that I heard the manager of Tongham FC say to a manorcroft player in front of the dugouts ‘Little queer’. I can’t remember if it was due to a foul tackle or a throw in. It happened in the second half but I do not know when.”*

11. On 13 March 2024, the Respondent charged the Appellant with improper conduct (including foul and abusive language), contrary to FA Rule E3.1. It also brought a second charge under Rule E3.2 on the basis that the improper conduct was aggravated because it included a reference to sexual orientation. Specifically, the allegation was that the Appellant used the word “queer”.
12. On 14 March 2024, the Appellant denied the charges and asked that the case be dealt with as a correspondence hearing.

## **FIRST INSTANCE DECISION**

13. The case was considered by a Commission consisting of a Chair sitting alone on 20 March 2024. In addition to the charge letter, the Commission had the following documents before it:

- The referee’s report referred to in paragraph 9 above.
- The statement from EK referred to in paragraph 10 above.
- A statement from the Appellant.
- A statement from Richard Swain, the Tongham Assistant Manager.
- A statement from Luke Quinnell, the Assistant Referee (from Tongham).
- A statement from Les Oakley, the Tongham Chairman.
- Email communication between the Respondent and Tongham.
- Screenshots of allegation from Tongham to Manorcroft.

14. The Commission found the charges proven. It imposed an eight-match suspension and ordered the Appellant to complete an education programme.

15. The Appellant was notified of the outcome of the case by a letter dated 25 March 2024 (see paragraph 3 above).

## **16. THE APPEAL REGULATIONS**

17. Regulation 2 of the Appeals - Non-Fast Track Regulations (“the Appeal Regulations”) sets out the grounds upon which a participant may appeal a first instance decision. 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.”*

18. Regulation 12 of the Appeal Regulations 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.”*

19. Regulation 10 deals with the circumstances in which new evidence may be admitted on appeal. It states:

*The Appeal Board shall hear new evidence only where it has given leave that it may be presented. An application for leave to present new evidence must be made in the Notice of Appeal or the Response. Such application must set out the nature and the relevance of the new evidence, and why it was not presented at the original hearing. Save in exceptional circumstances, the Appeal Board shall not grant leave to present new evidence unless satisfied with the reason given as to why it was not, or could not have been, presented at the original hearing and that such evidence is relevant. The Appeal Board’s decision shall be final. Where leave to present new evidence has been granted, in all cases the other party will be given an opportunity to respond.*

20. Regulation 12 of the Appeal Regulations 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.”*

21. Regulation 21 of the Appeal Regulations sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal.

## **THE APPELLANT’S SUBMISSIONS**

22. As stated in paragraph 6 above, the following is a summary of the principal submissions made to the Appeal Board. It does not purport to contain reference to all the points made. The absence of a particular point or submission should not imply that the Appeal Board did not take that point or submission into consideration when reaching its decision.

23. In the Notice, the Club stated that it was appealing on grounds 2.3 and 2.4 of Regulation 2. It expanded on its grounds of appeal in the following terms:

*“First of all, I feel the appeal heard was an unfair outcome. This can be outlined in the hearing evidence due to the referee's assessor being the only person to name Adam Streeter. We submitted numerous strong impartial statements of factual evidence and I feel that was not heard. Mr Adam Streeter was very honest in his statement, stating that he is passionate and does use foul language in the heat of the moment, but never homophobic or offensive language. I appreciate that he was dismissed last season for foul language, but none of the sort he was accused of. This is damaging to his reputation, his future in football and also his integrity. The fact a panel came to a decision based on one person's suspicions against 5 others, including an opposition official is beyond me.*

*Secondly, since the outcome of the result, I have had one of our Player's, Mr Liam Gladwell admit to the case. Since this, we have not played Liam as a result of the discipline. He is a character who would use such language and was on the bench at the moment of the incident. It is a serious allegation to make towards Adam Streeter and the mistaken identity could cause damaging effects if it is not withdrawn. I have attached a screenshot of evidence from Liam Gladwells admission. It seems his admission has come due to the punishment unfairly to Mr Streeter. Please take all the above in to consideration and the fact that Adam Streeter's reputation, future in football and character are all at risk of being damaged by this mistake from the assessor. I appreciate mistakes happen, but not to this nature where someone is accused of homophobic slurs. As a club we have worked hard to diminish our discipline and misconduct issues and that is why I will fight this cause. We hope you can see that we have done things from our side to replicate that of battling against discipline issues. Adam is set to miss his eighth game this week , so unfortunately he has served his ban despite the mistaken identity. I ask that his record is what we want to tackle now with regards to not having this accusation on there.”*

24. In the Response the Respondent limited itself to setting out the procedural history of the case.

## **DETERMINATION**

25. The Appeal Board noted that the Appellant had failed to comply with Regulation 10, quoted in paragraph 19 above. He had not applied for leave to adduce new evidence, nor had he explained why the evidence of LG could not have been obtained prior to the hearing. Tongham was invited by the Respondent on 8 February 2024 to provide statements and had ample opportunity to speak to everyone who was in or around the Tongham bench during the Match. Had the Appeal Board proceeded to consider the appeal in full, it would not have admitted the new evidence for these reasons. It was also concerned that the Appellant had

completely changed his case. Initially the evidence provided on his behalf was that no discriminatory comment had been made. Within 24 hours of the outcome of the hearing, a completely different case was being advanced, namely that the comment had been made, but that it had wrongly been attributed to the Appellant. The Appellant had changed his case and was now advancing an argument of mistaken identity. However, despite its views on the Appellant's case, the Appeal Board considered itself bound to allow the appeal, for the reasons set out below.

26. When preparing for the appeal hearing, the Chair of the Appeal Board noted that in paragraph 7 of the Written Reasons, when detailing the evidence that it had considered, the Commission referred to the statement from the Referee that is quoted in paragraph 9 above and to a "further clarifying statement" from him, in which he stated:

*"During the match I heard the word "queer" come from the area where the benches were situation. I could not identify who the culprit was as I was not facing towards where the homophobic language originated from however, my observer for the fixture EK, identified the culprit from the TFC managed team. She informed me of this after the match and stated I should fill out a report and she would do her own"*

27. The Chair could not find that statement in the Appeal Bundle, nor did it appear to have been sent to the Appellant ahead of the first instance hearing. The Respondent was therefore asked to provide a copy of the statement. The Respondent forwarded to The FA an email exchange between David Miller ("DM") of the Respondent and the Referee on 21 March 2024.

28. At 1.51pm on 21 March 2024 DM emailed the Referee in the following terms:

*"Hi Charles  
Hope you're well.  
I'm currently investigating the below game  
Manorcroft United First v Tongham First 13/1/24  
Allegations from original report below:  
Can I confirm that you actually heard the words. Or was it just reported to you.  
Please can you respond ASAP  
David"*

29. The Referee replied at 2.20pm the same day, stating as follows:

*“Afternoon David,  
Please find attached form:  
As stated on the phone, I heard the homophobic language used but could not identify where  
or who it came from with precision. This was picked up by my observer Elle Kaplicz instead,  
who has, I believe, submitted her own report into the incident.  
Regards  
Charles”*

30. The Referee attached a statement to his email. The statement was dated 21 March 2024. The wording used to describe the Incident was identical to the wording quoted in paragraph 26 above.
31. The Respondent provided no explanation as to how the Commission could have considered a statement at a hearing on 20 March 2024 that was not even requested by the Respondent until after that hearing had taken place. The Appeal Board noted that in coming to its decision that the charges were proven on the balance of probabilities, the Commission placed weight on the fact that *“two independent sources had heard the word queer come from the [Tongham] bench area”*. For the reasons set out above, when the Commission heard the case on 20 March 2024, it could not have known that the Referee had heard the comment himself.
32. The Appeal Board concluded that it would not be safe to hear the substantive appeal in light of the discrepancies it had identified and decided that the Appellant had not had a fair hearing for the reasons stated in paragraphs 26 to 31 above. It therefore quashed the sanction.
33. Given that it had not determined the case on the basis of the Appellant’s own grounds of appeal, the Appeal Board concluded that the proper course was to remit the case back to the Respondent so that it could consider whether or not to issue fresh charges in relation to the Incident.
34. In light of the failings that it had identified, the Appeal Board debated whether to make a costs order against the Respondent but decided not to do so.

## **CONCLUSION**

35. The Appeal Board allowed the Appellant's appeal.

36. The Appeal Board made no order as to costs.

37. The decision of the Appeal Board is final and binding and there is no further right of challenge.

Sally Davenport

Robert Purkiss

Billy Thomson

22 May 2024