

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

**BETWEEN:**

**ARDEN FOREST FC**

**Appellant**

**and**

**BIRMINGHAM 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 application to appeal, and if successful the appeal itself, by Arden Forest FC (**“the club”**) under The Football Association’s (**‘The FA’**) Disciplinary Regulations (**‘the Appeal Regulations’**) brought by the Appellant against the decision of the Birmingham FA.
2. The appeal was heard on 24 September 2024 by way of MS Teams.
3. The Appeal Board had before it two bundles, an application bundle and an addendum bundle which included, (1) the original charges details and evidence (2) results letters, (3) the Appellants’ Grounds of Appeal (4) the Birmingham FA responses and (5) emails between the appellants’ club and the FA in respect of an application to have the appeal heard out of time.

**The Appeal Board**

4. The members of the Board were:
  - Yunus Lunat (Chair).
  - Daniel Mole.
  - William Thomson.

5. No objection was raised concerning the composition of the Appeal Board.
6. The Secretary of the Appeal Board was Jack Mason of the West Riding FA whose assistance was greatly appreciated.

### **Attendees**

7. The Appellant club was represented at the hearing by its Chair Mr Wayne Brownhill.
8. The Respondent was represented by Mr Mark Ives of Sport Integrity Matters.
9. The Appeal Board is grateful to all parties for their submissions and assistance both during the appeal hearing, and in the documents within the Appeal Bundle.

### **First Instance Decision**

10. On 21 April 2024 Catshill Under 9 played Arden Forest Under 9 in the Central Warwickshire Youth League (“the match”).
11. On 08 July 2024 the Birmingham FA charged Arden Forest with breaches of FA Rules E20 for failing to ensure players, officials... attending any match do not behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative and FA Rule E1 – for failing to comply with the Rules and Regulations of the Association (Case Ref 11767284M). The Birmingham FA also charged the Club with a breach of Rule E21 (Case Ref 11767285M) for failing to ensure its spectators...conduct themselves in an orderly manner whilst attending any match.
12. The club did not respond to the charges.
13. The Charges were therefore considered by a Disciplinary Commission as consolidated non-personal hearings on 17 July, who found each Charge proven (*‘the Findings of Breach’*). The Disciplinary Commission imposed fines of £100 for each charge (*‘the Sanction’*), totalling £300.
14. The Appellant club appealed the decisions and sanctions on the grounds that:
  - (i) The Respondent FA failed to give the club a fair hearing. The club argued that they did not receive notification of the charges and only learned of the sanctions when the outcomes were posted onto the club’s Whole Game System Portal (WGS) on

Monday 12th August 2024. Further, the E20/E1 charge (case ref 11767284M) was determined on 17 July, 5 days before the response was due.

- (ii) the Respondent 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**

- (iv) 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.”*

- (v) 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**

- (vi) The following is a summary of the principal submissions made to the Appeal Board.
- (vii) 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.
- (viii) For the avoidance of doubt, the Appeal Board carefully considered all the materials provided, and submissions made, with regard to this case.

- (ix) The Appeal Board invited submissions on the out of time issue firstly to determine whether to allow the appeal out of time as directed by the Judicial Panel Chair.
- (x) On behalf of the Appellant Mr Brownhill submitted that the club only became aware of the charges on 12 August when they were prevented from affiliating for the new season. This is when they say the results letter appeared on the WGS. He maintained that the cautions issued in the match were also not showing on the WGS.
- (xi) Mr Ives relied upon the written response on behalf of the Respondent and elaborated upon these. The Respondent explained that both charges were created on 26 June but due to an administrative error charge 11767284M was left on the WGS as pending until 8 July when it was published. This meant that the response for charge 11767284M was due by 22 July. The Respondent conceded that this charge was determined on 17 July, 5 days before the response was due. The Respondent therefore conceded that this charge should be expunged from the record. It was maintained that charge 11767285M was correctly created and posted on the WGS on 26 June and the response was therefore due by 10 July. This charge was therefore correctly determined after this date on 17 July.
- (xii) The Appeal Board considered the Regulations, and the submissions made.

## **Conclusion**

- (xiii) The Appeal Board unanimously determined not to allow the appeal out of time. The Appeal Board was not convinced by the Appellant club's submissions. The club had received notification of the outcome letters on the WGS so queried why the charges were not seen. The Respondents maintained that the WGS did not have any technical issues and that the charges were on the system at all times. The Appeal Board noted that pages 37 and 52 of the Application bundle showed real time status of the respective charges that no responses had been received. These are screenshots taken from the WGS which show the charges as posted on there.
- (xiv) Pursuant to Regulation 21 the Appeal Board did however allow the Respondent's request to withdraw charge 11767284M and for that sanction to be expunged from the record.
- (xv) The appeal not being allowed out of time meant that the club's other grounds of appeal on merits and sanctions fell away and did not need to be determined.

- (xvi) The Appeal Board made no order as to costs and also ordered that the appeal fee is to be forfeited.
- (xvii) Accordingly, this decision of the Appeal Board shall be final and binding and there shall be no right of further challenge.

2 October 2024

Yunus Lunat (Appeal Board Chair)

Daniel Mole

William Thomson