

**Matter:** Appeal – FA Rule E10 failure to comply with a decision  
**Ref:** 11545713M  
**Hearing date:** 21 March 2024  
**Decision date:** 25 March 2024

**Decision of the Football Association  
Appeal Board**

**Appellant / Participant:** Camberley Town Youth  
**Respondent / FA:** Surrey FA

**Appeal panel members:**

Miss N Zulfiqar (Independent Chair)  
Mr Y Lunat (Independent member)  
Mr R Schafer (FA Council member)

Mr S Comb (Appeal Board secretary)

**In attendance:**

Barie Funnell (Chairman Camberley Town Youth - For the appellant)  
Lucy Holmes (Camberley Town club secretary and observer)  
David Miller (Head of Governance and Discipline - Surrey FA)

**1. Matter**

- 1.1 We considered an appeal by Camberley Town Youth (Camberley) against a decision made by a Disciplinary Commission on 27 February 2024. There is no date on the notice of appeal but presumably it was made within the requisite timescales.
- 1.2 The Disciplinary Commission found that Camberley had breached rule E20 and imposed a fine of £140 on the club.
- 1.3 Camberley accepted the finding and appealed the sanction of a fine of £140.

**2. Decision**

- 2.1 We decided by a majority to uphold the appeal.
- 2.2 We impose a reduced fine of £70 on Camberly Town Youth.
- 2.3 There is no order for costs. The appeal fee is to be reimbursed to the club.

**3. Relevant FA Rules  
Disciplinary Regulations 2023/24**

- 3.1 The grounds of appeal available to participants shall be that the body whose decision is appealed against:
  - failed to give that participant a fair hearing and/or
  - misinterpreted or failed to comply with the rules and/or regulations of The Association relevant to its decision and/or
  - Came to a decision to which no reasonable such body could have come and/or

- imposed a penalty, award, order or sanction that was excessive.
- 3.2 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. 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.
- 3.3 A decision, order, requirement or instruction of the appeal board shall be determined by a majority.
- 3.4 The appeal board shall have power to:
- allow or dismiss the appeal
  - exercise any power which the body against whose decision the appeal was made could have exercised, whether the effect is to increase or decrease any penalty, award, order or sanction originally imposed
  - remit the matter for a rehearing
  - order that any appeal fee is forfeited or returned as it considers appropriate
  - make such further or other order as it considers appropriate, generally or for the purpose of giving effect to its decision
  - order that any costs, or part thereof, incurred by the appeal board be paid by either party or be shared by both parties in a manner determined by the appeal board.
- 3.5 Decisions of the appeal board shall be final and binding and there shall be no right of further challenge (except in certain circumstances).

#### **4. Documents**

- 4.1 We received and considered a bundle of documents numbered pages 1-92.

##### **Preliminary points**

- 4.2 The misconduct charge notification letter sent to the club by Surrey FA was not in our bundle. Although it should have been included, the absence of the charge letter did not materially affect our ability to make a decision in respect of the appeal.
- 4.3 We asked Mr Miller, who was representing Surrey FA why there were no reasons in the bundle regarding the decision of the Disciplinary Commission in respect of Camberley. He said that an email was sent to him on 8 March 2024 summarising the reasons for the fine. This email was sent to our panel secretary during the hearing, and we considered it.
- 4.4 We noted that the Disciplinary Commission considered three charges that arose following the game, one of which was denied, and a personal hearing was requested. The bundle contained the written reasons of the Disciplinary Commission in relation to the charge that was denied. It was against Jude Miro, the coach of the opposition team. It was alleged that he said the word 'faggot' which was improper conduct. The charge was not proven.

## **5. Summary of background**

- 5.1 On 10 December 2023 Camberley played The Tradesman Arms in the Aldershot and Camberley Sunday Football League. Allegations were made by Camberley that players and officials from The Tradesman Arms used foul and abusive language towards them. This included the comment 'faggot' which was alleged to be homophobic.
- 5.2 In the 70 minute of the game, Camberley walked off the pitch and the referee had to abandon the match.
- 5.3 Three charges were brought by Surrey FA: i) against Camberley for a breach of rule E20, ii) against Jude Miro for aggravated improper conduct and iii) against Gary Clayton for improper conduct.
- 5.4 Camberley admitted the charge against it. Mr Funnell said he was told that if the Disciplinary Commission found the charge against Jude Miro proven, the charge against the club would be dismissed or would not be upheld. Mr Miller supported this approach.
- 5.5 On 27 February 2024, the Disciplinary Commission did not find the charge against Jude Miro proven. They dismissed the case.
- 5.6 Camberley had admitted the E20 allegation against it. The related to the players, supported by the match officials walking off the pitch in the 70 minute of the game. On 1 March 2024 the FA sent Camberley a letter informing it of the outcome. The allegation was proven and a fine of £140 was imposed.

### **The reasons of the Disciplinary Commission**

- 5.7 We had no written reasons explaining why the charge was proved. We were informed that reasons are not usually provided or required in E20 cases that are admitted.
- 5.8 An email sent on 8 March 2024 from Pearl Aguis FA National Serious Case Panel Manager to David Miller elaborated as follows on the reason for the fine:

'The chair has provided me with the following response:

The Commission made the decision of the penalty to be imposed on Camberley Town based on the mitigating and aggravating factors.

In terms of mitigation, the guilty plea and apology from the Club Chair Mr Funnell were considered by the Panel.

As for aggravation, the club had four previous misconduct findings and a key factor was that the discrimination protocol was not applied by the team before they took the decision to abandon the game.

In totality the Commission dealt with this as medium category and the agreed sanction was to levy a fine of £140.

I trust the above is satisfactory.'

## **The appeal**

5.9 In summary the notice of appeal said:

- The club accepted that if the alleged comments were not proven then it would face the E20 charge.
- The decision around sanction only is being appealed.
- In mitigation the club record should be taken into account. There are 65 teams and in the last five years they have not had an E20 charge relating to the abandonment of a game.
- The team has not had any misconduct charges over the last four seasons.
- A letter of mitigation was attached apologising and stating they will do everything possible to avoid the situation arising again.
- There were three levels of outcome, and the Disciplinary Commission should not have put the sanction in the high category.
- In relation to aggravating factors, there were only three E20 charges, not four as stated in the reasons. None of the charges related to the team involved in the incident. It was unfair and unjust to include this as an aggravating factor.
- The conduct of the opposition team was reported to the referee who failed to implement the protocol for match officials.
- As chairman he has never seen a protocol about what to do in such a situation. He has searched on the website and cannot locate a protocol. He also asked Surrey FA for a copy of it and has not received it.
- The FA should be looking to educate the teams and not punish them.

5.10 Surrey FA in its response to the appeal said it had no observations to add.

### **Representations at the appeal hearing – 21 March 2024**

5.11 In summary, Mr Funnell mainly repeated the appeal grounds. He said that he had requested a copy of the relevant protocol and has still not received it. The club has not been told about the protocol. The record relied on by the Disciplinary Commission was incorrect. The team have never had a misconduct charge against it relating to abandoning a game. This was its first offence.

5.12 Mr Funnell focused on the importance of education and not punishing teams. He has since talked to the team and informed the players that they must not walk off the pitch. The reason they walked off was because of the word allegedly used but they accepted the Disciplinary Commission found it was not said by the coach.

5.13 Following a question from a panel member, Mr Funnell said that as the Disciplinary Commission found the comment was made, but by someone other than the coach, then the sanction was excessive and also the case against the club should have been dropped as explained by Surrey FA.

5.14 Mr Funnell said the Disciplinary Commission relied too heavily on the aggravating factors and as this was a first offence the sanction range should have been in the low category. When informed that the Disciplinary Commission could properly take into account the E20 and E21 charges Mr Funnell said it was unfair to take four previous misconduct charges into account as aggravating factors. The team did everything it could to stop the conduct and he does not think it will be repeated.

- 5.15 On behalf of Surrey FA Mr Miller apologised for not sending the protocol document requested by the club. He will ensure it is sent. He accepted that the protocols are not circulated to clubs. They are put on social media or on their website. He agreed that the protocol is not easy to find on the website.
- 5.16 He confirmed that if a game is abandoned the club causing the abandonment is charged. In consolidated cases, if the aggravated charge is proved then the abandonment charge is expunged.
- 5.17 Mr Miller said the outcome appeared harsh to him. However, he could not comment on the decision as he was not part of the panel. The sanctions in such cases are usually minimal, such as a warning.

## 6. Reasons

- 6.1 We carefully considered the representations made by Mr Funnell and the reasons of the Disciplinary Commission. This was not a rehearing of the evidence, but a review of the decision reasons contained in the email dated 8 March 2024. We reminded ourselves that we can only interfere with the decision if we consider the Disciplinary Commission has acted outside of the bounds of reasonableness.

### **The charge against Camberley should have been expunged.**

- 6.2 A panel member raised the question about whether the Disciplinary Commission did in fact find the E3.1 aggravated charge proved because it said in its reasons that there was ‘compelling evidence that the person who used the word ‘faggot’ was much older than the other coach.’ By a majority we did not consider that this amounted to a finding of fact that the Disciplinary Commission found the word was said by someone else. This was a comment or observation of the Disciplinary Commission and not one which it was asked to decide. It had a specific allegation made against Jude Miro which it did not find. It was not asked to find whether anyone else made the comment. It relied on this as a reason for not finding the comment was said by Jude Miro.
- 6.3 Further, it would have been unfair for the Disciplinary Commission to find that another person made it (we believe it was suggested in evidence that Jude Miro’s father made the comment), without this individual having the opportunity to answer any allegation. Ultimately, the charge against the person alleged by the Camberley players to have made the comment was not proven.
- 6.4 For these reasons, we do not consider that the Disciplinary Commission found the charge proven and there is no basis on which to interfere with it.
- 6.5 By contrast the view of the dissenting member was that the Commission had made a finding of fact that there was “*compelling*” evidence of the offending word faggot being shouted by someone other than the participant charged. In the view of the dissenting member compelling meant overwhelming evidence, satisfying the burden of proof on a balance of probability that the offending word was more likely than not shouted. The view of the dissenting member was that the guidance is clear that where the participant charged is guilty of an E3.2 charge then the E20 charge against a club for walking off in the face of offensive abuse falls away. The guidance is however silent on the situation where a Commission finds that the offensive comment was made by someone other than the participant charged. The dissenting member

was of the view that it would be an anomaly if the same protection was not afforded to a club in such a scenario. It would be contrary to the FA's position of zero tolerance to such abuse.

**The Disciplinary Commission imposed an excessive sanction.**

- 6.6 We went on to consider whether the sanction was excessive. We decided that it was for the following reasons:
- 6.6.1 The reasons given by the Disciplinary Commission were sparse. It did not specifically identify why a high sanction was imposed.
- 6.6.2 We accept the submission of Mr Funnell that the club was not made aware of the discrimination protocol. This was supported by Mr Miller. It was also confirmed by Mr Miller that the protocol is difficult to locate on the website. The failure to comply with this protocol was considered by the Disciplinary Commission to be an aggravating factor.
- 6.6.3 The Disciplinary Commission is entitled to consider previous misconduct charges concerning the teams within the club. It is not limited to only considering the previous disciplinary history of a particular team. We were advised that the club had four previous E20/E21 charges. Three of these related to players/officials and one related to spectator conduct. We accept that there have been no abandonment charges against the club.
- 6.6.4 We understand the club apologised and this apology was considered by the Disciplinary Commission. However, it was not clear what was said in the apology. We took into consideration Mr Funnell's submissions that he had since spoken to the team and advised the players that they must not walk off the pitch again. There is a low risk of repetition.
- 6.7 For these reasons we considered that the sanction imposed by the Disciplinary Commission was excessive. Due to the mitigating factors, we decided that the fine should be reduced to £70, which is at the low level.

**Dissenting reasons on the outcome.**

- 6.8 The dissenting member was of the view that if the original decision was to be upheld then the unusual circumstances and findings meant that the Club should solely be cautioned with no financial penalty, particularly where Surrey FA admitted that the Guidance was not shared with the Club and it is not easy to find.
- 6.9 We recommend that Surrey FA should circulate to all clubs the relevant protocols for their players, officials, and supporters to follow and remind them of the standards of behaviour expected of them.
- 6.10 Our decision is final and binding on all parties.

Miss N Zulfiqar  
Appeal Board Chair