

General Board of Appeal

Case ID:
11619976M

Personal Hearing

Graham Chester

Appellant

v

Kent Football Association

Respondent

The Decision and Written Reasons of The Appeal Board

Disclaimer:

These written reasons contain a summary of the principal evidence before the Appeal Board and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Appeal Board did not take such a point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, this Appeal Board has carefully considered all the evidence and materials in this matter.

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Introduction

1. This is an appeal by Graham Chester (the “Appellant”) against a decision of Kent FA (the “Respondent”) that was made by a Disciplinary Commission (the “Commission”) sitting at a personal hearing on the 21st March 2024.
2. On the 4th February 2024, there was a football match (the “match” or “game”) between *Betteshanger Welfare u15* (“Betteshanger”) and *Herne Bay Youth u15 Phantoms* (“Herne Bay”). Graham Chester was an official (coach) of Herne Bay and therefore he is a “participant” for the purpose of this case.
3. A summary of the original incident is set out in the referee’s (unamended) report as:

“...We then continued and played the last few minutes of the match, after the final whistle the Herne Bay manager came over to me still questioning my sin bin, still being relatively aggressive with the way he was saying things. While questioning me he got very close to me to the point where our chests were almost touching making me feel pretty uncomfortable and intimidated. It was at this point I put my hands on the Herne Bay manager’s chest to stop him from getting any closer and told him to move away from me, while this was going on the Betteshanger assistant manager/ linesman was walking over which may have contributed to the reason the Herne Bay manager proceeded to walk away.”

4. The incident was investigated by the Respondent and the Appellant was charged on the 19th February 2024 with improper conduct against a match official – including threatening and/or abusive language/behaviour (E3). The Appellant responded to the charge and elected a personal hearing where the charge was subsequently found proven. The Commission Chair produced written reasons dated 25th March 2024 explaining how the decision was reached and the Appellant now appeals on a single ground set out below.

The Appeal Board

5. This Appeal Board (“We”, “Us” and “Panel”) was appointed under The Football Association’s (“The FA”) Disciplinary Regulations - Appeals 2023/24. Assisting the Appeal Board on this occasion was an FA appointed secretary providing guidance to the Appeal Board on rules and regulations as and when necessary. For the purpose of fairness, there were no conflicts of interest between the Appeal Board and parties in this case.

The Grounds of Appeal

6. The Appellant communicated to the Respondent by way of Notice that they had made the decision to appeal the Disciplinary Commission’s decision on the following grounds:

Ground 4

Imposed a penalty, award, order or sanction that was excessive.

The Hearing and Evidence

7. The Appeal Board heard this appeal on the 22nd May 2024 from 6pm online via Teams. The Appellant represented himself but requested to have an observer in attendance. This observer was Jon Warden, the club secretary. Representing the Respondent was Jonny Ricketts, Football Services Lead within Kent FA. The Appellant was reminded that this was a review and not a re-hearing of the decision made by the Disciplinary Commission.
8. The following documents were presented to us for this appeal:
- 8.1. Notice of Appeal;
 - 8.2. Response to Notice of Appeal;
 - 8.3. Papers of First Instance;
 - 8.4. Participant Offence History;
 - 8.5. Results Letter and Written Reasons;

Ground 4

9. In summary, the Appellant argued that the sanction he received was excessive because the Commission had not taken into account the impact this would have on his wider and social involvement of football. Initially, the Appellant spoke of the incident itself and provided some further clarity as to the order of events. He acknowledged and appreciate that he does not go behind the decision that the charge was found proven. He reminded the Panel of his written submissions (notice of appeal) and expanded on various elements of impact this sanction would have. The Appellant told the Panel that the Commission had not sufficiently taken into account that others would be left without coaching and development as a result of his suspension. The Appellant said that the Commission went too high in their sanction and that he should have received a ban reflecting only a few matches. He based this assessment by referring the Panel to two cases that he had located on the FA website for which he sent screenshots for to consider (which the Panel did). The first case was not relevant given that it related to a charge not containing threatening behaviour towards a match official. The second appears to relate to a similar charge but there was no further context or information provided and while it referred to a low sanction (3 matches) there was a high charge of £350. The Appellant argued that it was wrong for the Commission to use the “match official under 18” as an aggravating factor because he did not know he was under 18 given the referee was not wearing a yellow armband. It was pointed out to him that the reasons state there was a “clear disparity” of age between him and the referee, to which the Appellant said that age should not make a difference and that most people who are younger than him look the same (so he could not have known the referee was under 18). The Appellant was reminded by the Panel that it was optional to wear a yellow armband for the referee. He was asked why he did not express any remorse to the Commission regarding the incident, to which he responded that he did express remorse to

the Commission but it wasn't recorded in the written reasons. The Appellant also submitted that since he was not the manager, he should bear less responsibility when it came to considering this as an aggravating factor. He was asked by the Panel whether he thought the Commission were fair in awarding 112 days as they could have gone higher if they further considered aggravating factors such as premeditation, match official under 18 and entering the field of play. The Appellant disputed this and responded that his good record and plea in mitigation meant that 112 should have been reduced, meaning it is currently not fair and excessive.

9.1. In response to submissions made above, the Respondent re-iterated that 112 days was the entry point and that any mitigation afforded would have been countered with aggravating factors. He told the Panel that the Commission made reference to the disparity in age rather than using "match official under 18" as a specific aggravating factor. The Respondent also stated that the Commission's lenience is also apparent by awarding the Appellant the minimum fine of £50 where they had discretion of up to £100.

The Decision

10. The Appeal Board listened carefully to all points and arguments made by the Appellant. However, we were not satisfied that the Commission had delivered an excessive sanction. We took into account that the recommended entry point is one of 112 days. Such a charge warrants a time-based suspension rather than match ban. This is what the Commission considered to be appropriate after weighing up aggravating and mitigating factors. It is noted that the Commission gave credit for previous history and also took into account the Appellant's plea in mitigation that a sanction would impact his wider football involvement. These mitigating factors would have been countered against aggravating factors that the Commission referred to as the clear disparity of age, the position of the Appellant and the

previous behaviour earlier in the game. The Panel reminded itself that this sanction could have gone even higher if the Commission had also taken into account premeditation, match official under 18 (which was applicable) and general observations such as entering the field of play, lack of remorse and the public nature of offence. These latter points are all in line with aggravating factors as per The FA Handbook, page 181-182 (2023/24 edition). Further to this the Commission could have also added a further 30 days, well within reason to make it 142 days, as per Regulation 101 of the FA Handbook to take into account the off-season that the Appellant will be serving his suspension (while there are no qualifying games). Taking these points into account, another body could have not only come to the same reasonable sanction but could have made an even greater sanction and this would have arguably still not been excessive. Therefore, the award of 112 was fair, appropriate and not excessive.

11. The Appeal Board would like to thank both parties for their submissions and the way in which they conducted themselves throughout the entire hearing;
12. The Appeal Board dismisses the appeal on the single ground 4;
13. There is no order made as to costs and the appeal fee is to be forfeited;
14. The Appeal Board's decision is final and binding on all parties.

Alban Brahimi, Chair

Alec Berry

Emma Vase

Vicky Collins, Secretary

29th May 2024