

Matter: Appeal – FA Rules E20 & E21
Ref: 11601695M
Hearing date: 26 April 2024
Decision date: 29 April 2024

**Decision of the Football Association
Appeal Board**

Appellant / Participant: Hyde United FC
Respondent / FA: Cheshire FA

Appeal panel members:

Miss N Zulfiqar (Independent Chair)
Mr D Strudwick (Independent member)
Mr R Schafer (FA Council member)

Mr A Kay (Appeal Board secretary)

In attendance:

Mr Sam Smedley (Manager Hyde United - appellant)
Mr Garry Polkey (Compliance and Regulations manager – Cheshire FA)

1. Matter

- 1.1. We considered an appeal by Hyde United FC (Hyde) against a decision made by a disciplinary commission on 11 March 2024. Notice of the appeal was given by Hyde on 15 March 2024.
- 1.2. The disciplinary commission found that Hyde had breached rules E20 and E21 and imposed a total fine of £110 on the club.
- 1.3. Hyde have appealed the sanction on the ground that it was excessive.

2. Decision

- 2.1. We dismiss the appeal.
- 2.2. There is no order for costs.

**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 1-104.
- 4.2. Having reviewed the written reasons given by the disciplinary commission dated 20 March 2024 (pages 85-87), the chair requested a more detailed account of the hearing and reasons for the commission reaching its decision. Mr Polkey provided additional information in a letter dated 23 April 2024. These communications took place through the FA Judicial Service Office.

Preliminary points

The appeal grounds

- 4.3. Mr Smedley was asked to clarify the ground(s) of appeal the club relied upon. The county and league appeal form (page 3) asked the club to identify the appeal grounds. The following were selected:

Came to a decision to which no reasonable such body could have come.
Imposed a penalty, award, order or sanction that was excessive.

- 4.4. In its written grounds of appeal, the club provided representations in relation to the sanction being excessive. It identified mitigating factors that it said the disciplinary commission did not consider. The grounds of appeal contained a brief reference to the findings of the disciplinary commission in relation to the E21 charge.
- 4.5. Mr Smedley confirmed that the appeal is on the sole ground that the sanction was excessive.

Removal from the FA Cup competition

- 4.6. Mr Smedley raised an issue about the team being removed from the Manchester FA Cup competition and said that the appeal was lodged so that it could be re-entered into the competition.
- 4.7. Mr Polkey said that the decision in relation to removing the team was made by Manchester FA which runs the competition. The reason for this is that the Manchester FA rules state that if a team is found to have breached rules E20 or E21 (misconduct by players/supporters) it shall be disqualified.
- 4.8. Cheshire FA considered a complaint that Hyde players and supporters were involved in improper conduct during a game against Manchester South End on 26 November 2023. The charges were put to Hyde which denied them. They were considered by a disciplinary commission on 11 March 2024 which found both charges were proved. As a result of this Manchester FA removed the team from the competition.
- 4.9. Mr Smedley was informed that we had no power to consider the decision by Manchester FA. The misconduct proceedings relate solely to the E20 and E21 misconduct charges brought by Cheshire FA. If the club was successful in overturning the decision of the disciplinary commission, it could use this to support a review by Manchester FA. It later transpired that Hyde have separately appealed the decision made by Manchester FA who have stated that they are awaiting the outcome of this appeal.

The appeal - Hyde's representations

- 4.10. Mr Smedley said that the team was severely punished. Eighty percent of the team is made up of children and the opponents' goalkeeper was an adult and a dangerous player, a 30 year old attacking a 17 year old. There was no mass confrontation. The goalkeeper punched their player who reacted. The player's father came onto the pitch to protect his son.
- 4.11. Mr Smedley said that when someone's life is in danger, the 'rules go out of the window.' He confirmed that he was aware of the sanction range as it was set out in the misconduct charge notification letter.
- 4.12. It was stated that the team did not retaliate but acted to protect its players. The video showed the Hyde player and spectator. The opponents' player (goalkeeper) went towards the Hyde player in an aggressive manner.

Cheshire FA response

- 4.13. Mr Polkey said that the sanctions imposed by the disciplinary commission were in the lower range of sanctions available. The mitigating factors were considered, and it was noted that the goalkeeper had behaved aggressively.
- 4.14. The disciplinary commission viewed the relevant sections of the video footage of the game and concluded that the spectator had been aggressive towards the player. Also, the officials had come onto the pitch at an earlier point in the game when there was an altercation between the goalkeeper and a player which was not seen by the

referee. We noted this earlier incident was not charged by Cheshire FA although it was referred to in the written reasons. It was confirmed by Mr Polkey that this earlier incident was not considered by the disciplinary commission when it considered the sanction.

- 4.15. Mr Polkey said Manchester South End and also the goalkeeper had been charged with misconduct and the matter had been dealt with.
- 4.16. In conclusion, Mr Polkey said it was reasonable for the disciplinary commission to impose the sanction of a fine of £30 for the E20 charge and £80 for the E21 charge. The fines were at or around the entry point (or minimum amounts) for each charge.

5. Summary of background

- 5.1. On 26 November 2023 Hyde U21 played Manchester South End FC in the Manchester FA Sunday Amateur Cup. There was an incident in the first half where the Manchester goalkeeper hit one of the Hyde players. The incident was not seen by the referee. This led to some trouble between the teams and two supporters came onto the pitch. The referee spoke to the Hyde manager, the Manchester South End captain and to the goalkeeper. There were no further incidents.
- 5.2. After the game the Manchester South End goalkeeper walked over to a Hyde player, offered his hand, and then struck the Hyde player in the face. This led to a confrontation between the teams with one spectator described by the referee as going 'berserk'.
- 5.3. Charges were brought by Cheshire FA and Manchester FA as appropriate against both clubs. Hyde denied the two charges brought against it relating to misconduct by its players and spectators (E20 and E21).

The reasons of the Disciplinary Commission

- 5.4. A hearing took place on 11 March 2024 and the reasons of the disciplinary commission state that it considered the written evidence, the video footage of the game and the evidence given in person. This included evidence given by the referee. It was not clear from the written reasons who attended the hearing. Mr Polkey clarified the witness attendance in his letter dated 23 April 2024. The disciplinary commission said it questioned the witnesses.
- 5.5. The written reasons were produced after Hyde notified the FA of its intention to appeal. We were informed that written reasons are not usually provided or required in E20 and E21 cases.

6. Reasons

- 6.1 We carefully considered the representations made by Mr Smedley and the reasons of the disciplinary commission supplemented by the letter from Mr Polkey. This was not a rehearing of the evidence, but a review of the decision reasons. 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 and imposed a sanction that was excessive.
- 6.2 Although the written reasons were sparse, on a balance of probabilities we did not find the sanctions were outside the bounds of reasonableness. The disciplinary

commission heard oral evidence from Mr Smedley and other Hyde witnesses at the hearing. They reviewed the video footage and weighed up the aggravating and mitigating factors leading to the altercation between the teams/spectators.

- 6.3 The disciplinary commission took into account the provocation by the goalkeeper, the disciplinary record of the club and placed the E20 offence in the low category and the E21 charge in the middle category. Both sanctions were at the FA guidelines entry point level.
- 6.4 The points raised by Mr Smedley in the appeal grounds were not new and mainly repeated the representations made to the disciplinary commission.
- 6.5 Based on the above, we concluded that the sanctions imposed were not excessive and there was no reason for us to interfere with the decision of the disciplinary commission.
- 6.6 As a final point, we note that Mr Smedley said that where a player's life is in danger the rules 'go out of the window'. He was not able to say what the rules require a manager or official to do when an incident occurs during a match. We are concerned about his view and do not agree with it. He is in a position of responsibility and where incidents happen between teams in a game, as they invariably do, he should be aware of his responsibilities. The club should also ensure that its players, officials and supporters understand the rules and the standards of conduct expected of them.
- 6.7 Our decision is final and binding on all parties.

Miss N Zulfiqar
Appeal Board Chair
03/05/2024