

OLD TRAFFORD JUNIORS FC (Appellant)

-and-

MANCHESTER FA (Respondent)

DECISION OF THE APPEAL BOARD 18 January 2024

1. The Matter was heard via Microsoft Teams video conference. The Appeal Board comprised:
 - a. Roger Burden (Chair) - Former FA Council Member
 - b. Glenn Moulton – Football Panel Member
 - c. Ian McKim – Football Panel Member

Vicky Collins - (FA National Secretary) was Secretary.
2. The parties were represented by:
 - a. Dr Philip Boast, Club Secretary, for the Appellant
 - b. Andy McAnulty – Football Services Officer, for the Respondent

Background

3. The Appellant was charged by the County FA under FA Rule E12 – Failed to comply with a decision of the Association - as it was alleged that Rhodri Giggs, whilst under suspension from all football activity, coached the Appellant’s U9s on 28 October 2023.
4. The Appellant had pleaded not guilty to the charge and asked for the matter to be dealt with via correspondence.
5. The Commission found the charge proven, imposed a £30 fine, which is at the top of the low category within the sanction guidelines, and warned the Appellant as to its future conduct.

The Appeal

6. The Appellant appealed on the grounds that the Commission came to a decision to which no reasonable body could have come.

The Original Commission and the Papers of First Instance

7. The original Commission had before it

- a. A team sheet showing that Mr Giggs was Manager for the Appellant at a game played on 28 October 2023.
- b. Mr Giggs' disciplinary record showing that he was suspended for 140 days between 28 October 2023 and 15 March 2024.
- c. A statement from the Appellant, accepting that Mr Giggs did attend the match in his capacity as Club Coach but stated that it could not reasonably be expected to comply with the suspension as it had not been informed and was not aware.
- d. Some systems issues were identified but the Commission considered that Mr Giggs was aware of his suspension and should have reported it to the Appellant.

The Appellant's Submissions

8. The Appellant did not deny that Mr Giggs participated for the Appellant whilst under suspension but emphasised that it was completely unaware of his suspension. The Appellant accepted that Mr Giggs should have informed the Appellant of his suspension but his failure to do so was an honest mistake.
9. Without knowledge of the suspension, the Appellant submitted there were no measures that it could have taken to have avoided the matter.
10. When addressing the Appeal Board, Dr Boast said that the Appellant was not concerned about the sanction, but it objected to having misconduct on its record.
11. Although accepting that Mr Giggs should have informed the Appellant of the sanction, Dr Boast said Mr Giggs was not an officer of the Appellant club and has no administrative responsibilities with the Appellant, so the Appellant should not be considered to have been aware of the suspension without it having been specifically brought to its attention.
12. Dr Boast told us that the Appellant did not have any formal process in place to ensure that any of its participants informed it of any suspensions and, even if such a process had been in place, it would not have worked in this case as Mr Giggs did not realise that his suspension applied to youth football.
13. Dr Boast said that he relies on the FA system in these matters and always receives an automatic email informing him of any suspensions. This did not happen in this case, due to a systems error and therefore the Appellant could not comply with the rule.

The Respondent's Submissions

14. For the Respondent, Mr McNulty said that the Appellant did not dispute the fact that Mr Giggs participated for it whilst under suspension and therefore the Respondent was obliged to charge the Appellant.
15. He said that Mr Giggs should have informed the Appellant, then if there was any doubt that the suspension only covered adult football, the Respondent would have explained to the Appellant that it covered all football.

16. Mr McNulty confirmed that there was an issue with the system and that the Appellant would not have had any notification of Mr Giggs' suspension but, as a failsafe, suspended participants are aware of any suspension and are expected to inform their clubs.
17. The Appeal Board questioned Mr McNulty as to whether FA Rule E12 was the correct rule in this case as it refers to players and Mr Giggs was not a player for the Appellant. Mr McNulty said that it has always been custom and practice to use that rule for all participants.

Closing Submissions

18. For the Respondent, Mr McNulty had nothing to add to his previous submissions.
19. For the Appellant, Dr Boast said that the wording of Rule E12 was not the basis of the Appellant's argument. The Appellant's argument was that it was wholly unaware of Mr Giggs' suspension due to the systems failure and due to the fact that Mr Giggs did not realise that the suspension applied to youth football.
20. He said that he agreed with the County's argument that Mr Giggs should have told the Appellant, but he didn't tell it.

The Appeal Board's Deliberations

21. It was not disputed that Mr Giggs participated for one of the Appellant's teams whilst he was under suspension from all football.
22. FA Rule E12 states "*A club shall do all things necessary to ensure a player associated with it complies with a penalty or order imposed pursuant to the Rules and regulations of The Association*".
23. Although Mr Giggs was not one of the Appellant's players, he was a registered player with another club, and our reading of the rule was that he only had to be associated with the Appellant for this rule to apply, notwithstanding that other Rules may also have been applicable.
24. In addition, the Appellant did not dispute that FA Rule 12 applied in this case.
25. FA Rule 12 makes it clear that a club shall do all things necessary to ensure compliance with a penalty or order. In this case, the Appellant had no procedure in place to ensure its participants informed it of any suspension.
26. Because of this, we agreed that the Commission's decision to find the case against the Appellant proven, was correct and was not one to which no other reasonable such body could have come.
27. We then considered the sanction.

28. There was no doubt that there was an FA systems failure resulting in the system not informing the Appellant of the suspension.
29. Although the Commission considered this as a mitigating factor, together with the Appellant's offence history (which showed no other FA Rule E12 charges) and put the case in the low category of the FA's sanction guidelines (in which the range of fines is £0- £30), it placed the fine at the top of that category and imposed a fine of £30.
30. We were unanimous that, based on all the evidence available to the Commission, the decision to place the fine at the top of the range was irrational and was one to which no other reasonable body could have come. The Commission's reasoning in this regard appeared to us to ascribe Mr Giggs' error to the Appellant and did not properly assess the Appellant's own position. We believed that having proper regard to the facts of the matter, and notwithstanding that a technical breach of Rule E12 had been proven, it was not appropriate to impose any sanction on the Appellant.
31. In addition, although the Commission did not appear to include a warning as to future conduct, such a warning was included in the decision letter to the Appellant. We were unanimous that it should not have been, based on the evidence, and it not appearing in the Commission's decision.

The Appeal Board's Decisions

32. The Appeal fails with regard to the charge being proven as per 26. above.
33. The Appeal succeeds with regard to the sanction as per 30. above.
34. To give effect to this decision, the Appeal Board, in accordance with Regulation 21 of the Non-Fast Track Appeal Regulations, places the fine at the lowest end of the range (£0) and removes the warning as to future conduct, thereby removing the sanction in its entirety.
35. There is no order as to costs.
36. The Appeal Board's decision is final and binding on both parties.

Roger Burden
Glenn Moulton
Ian McKim

22 January 2024