

IN THE MATTER OF AN APPEAL BOARD HEARING

BETWEEN

MR STEPHEN BOWER

and

DERBYSHIRE FA

**WRITTEN REASONS AND DECISION OF THE APPEAL BOARD HEARING
HELD ON 18 SEPTEMBER 2024**

- 1) These are the written reasons for a decision made by an Appeal Board (the “Board”) which sat via videoconference on 18 September 2024.
- 2) The Appeal Board was appointed to determine an appeal brought by Mr Stephen Bower (the “Appellant”) against a decision imposed by a Commission appointed by the Derbyshire FA (the “Respondent”). The members of the Appeal Board were Ms Laura McCallum (acting as Chair and Independent Legal Panel Member), Mr Robert Purkiss (Independent Football Panel Member) and Mr David Crick (FA Council Member).
- 3) Mr Conrad Gibbons from FA Judicial Services acted as Secretary to the Appeal Board.
- 4) The following is a summary of the principal issues and matters considered by the Appeal Board. It does not purport to contain reference to all the issues or matters considered, and the absence in these reasons of reference to any particular point or submission made by any party should not be read as implying that it was not taken into consideration. For the avoidance of doubt, all the evidence and materials provided to the Appeal Board by both parties was taken into consideration during our deliberations.
- 5) All references to individual names have been redacted for data protection purposes.

Background

- 6) By letter dated 17 July 2024, the Respondent charged the Appellant with a breach of FA Rule E3 for improper conduct including violent conduct and threatening and/or abusive language/behaviour (the “Charge”) in relation to a match against Field Lane U15 Athletic on 12 May 2024 (the “Match”) in that it was alleged that the Appellant physically attacked a parent of an opposition player.
- 7) In bringing the Charges, the Respondent relied on the following documentation:
 - a) Several written statements from individuals connected to Field Lane including coaches, parents and players;
 - b) Several written statements from individuals connected to Heanor Juniors Football Club (the Appellant’s Club) including the Appellant, other coaches, parents and players; and
 - c) Letter from the Appellant.
- 8) The Appellant admitted the Charge under the caveat that he was protecting one of his players (a minor) from an adult parent connected to the opposition team. The Appellant did not request a personal hearing.
- 9) The Commission confirmed that it was unable to verify on the balance of probabilities the Appellant’s justification for his actions given inconsistency between the witness statements and the fact that the Appellant, nor those in support of the Appellant, were available for examination.
- 10) The Appellant submitted several character testimonials for consideration by the Commission at first instance. These testimonials were taken into account and referred to within the Commission’s written reasons.

- 11) In sanctioning the Appellant, the Commission considered the Appellant's role as Chairman and manager of his club, along with the fact that the incident occurred after a youth game and in full view of players, officials and spectators. The Commission considered the latter to be an aggravating factor. The Commission gave credit for the fact that the Appellant admitted the Charge and that he had a clean disciplinary record. In its reasons, the Commission stated that it placed considerable weight on the character testimonies and accepted that the Appellant had acted out of character.
- 12) The Commission considered the nature of the incident to fall into the high category of offending but considerably reduced the sporting sanction to reflect the mitigation advanced by the Appellant. The Commission therefore imposed a four-match suspension from all football (which included a ground/venue ban) and a fine of £100 (the "Decision").

The Appeal

- 13) The Appellant lodged an appeal against the Decision on the grounds that the suspension in particular was excessive and/or disproportionate under the explanation that this particular squad does not play games every week and it could be late October by the time the fourth match is played. It explained that it was detrimental to the Club for its Chairman/Manager to be away from the Club for such a period of time and that he coaches additional squads to the squad that was the subject of the Charge – these squads were also going to suffer as a result.
- 14) In its Reply, the Respondent stated that it supported the Commission in respect of the sanction imposed and referred the Appeal Board to the Commission's reasoning including its explanation and application of the aggravating and mitigating factors.
- 15) The Appeal Board reminded itself of the limitations on an appeal before it. It is not permitted to effectively rehear the matter and provide the Appellant with a '*second bite of the cherry*'. The Appeal takes the form of a review of the original decision, based on the documents that were originally before the Commission. The Appeal Board's remit is restricted, and its powers limited.
- 16) The Appeal Board carefully considered the written submissions lodged by both parties in determining the appeal, as well as the Commission's written reasons.
- 17) The Appellant admitted the charge of violent conduct. The Appellant admitted that the violent conduct involved the parent of an opposition player under the caveat that he was protecting one of his players, who was a minor. The Appeal Board is not appointed to rehear the matter but is appointed to consider the grounds progressed by the Appellant which in this case, is that the sanction is excessive and/or disproportionate.
- 18) The Appeal Board considers that the Commission was correct in categorising the incident in the high category given it occurred after the Match in front of several spectators and several players (all minors), and the Appellant accepts that he found himself "*on top of the parent, pinning him to the ground.*" This view is regardless of the justification proffered by the Appellant for his actions.
- 19) Where the Commission's consideration of the Appellant's justification for his actions is concerned, the Appeal Board concluded that the Commission acted reasonably in coming

to the finding that it was inconclusive (on the balance of probabilities) as to why the incident occurred. It was for the Appellant to discharge the burden of proof and in these circumstances, he failed to do so. As such, the Commission could not give the Appellant's justification any considerable weight when considering the nature and extent of sanction.

- 20) The Appeal Board considers that the Commission thereafter identified and applied the aggravating and mitigating factors correctly and reduced the sanction appropriately.
- 21) The Appeal Board notes the Appellant's assertion that he is unlikely to serve the four-match suspension in a period of four weeks or soon thereafter due to squad fixtures being spread out or regularly postponed and rescheduled. The Appellant failed to lodge any official fixture list to support this assertion (either at first instance or to this Appeal Board) and it would be unreasonable to expect commissions to have the awareness or knowledge of individual fixturing scheduling across the football pyramid (particularly at the lower levels where we are told that fixturing can be sporadic in nature). The Appellant had fair notice of the potential sanctioning scale prior to the hearing at first instance and could have made submissions to the Commission in respect of any detrimental impact that such sanctioning may have because of specific fixturing issues encountered at this level of the game.
- 22) To conclude, having considered the grounds of appeal, the Appeal Board unanimously finds the appeal dismissed for the reasons articulated. The original suspension imposed on the Appellant stands.
- 23) The Appeal Board considered that it would not be appropriate to award costs in this matter, but the appeal fee shall be forfeited.
- 24) The Appeal Board's decision is final and binding on all parties.

Appeal Board

Ms Laura McCallum (Chair)

Mr Robert Purkiss

Mr David Crick

19 September 2024