

APPEAL BOARD OF THE FOOTBALL ASSOCIATION

BETWEEN:

THE FOOTBALL ASSOCIATION

Appellant

-v-

(1) CARLA HOBSON

(2) ROTHWELL JUNIORS

Respondents

WRITTEN REASONS OF THE APPEAL BOARD

Appeal Board:	Gareth Graham (Chair)	Independent Legal Panel Member
	Roger Burden	Former FA Council Member
	Christine Harrop-Griffiths	Independent Football Panel Member
Secretary:	Conrad Gibbons	Senior Judicial Services Officer
Date:	1 October 2024	
Venue:	Held remotely via Microsoft Teams	

Introduction

1. The Appeal Board was appointed to determine an appeal by The FA against the decision of a Disciplinary Commission (“the Commission”) sitting on behalf of West Riding FA (“the County FA”) made on 19 July 2024.
2. No objection was raised concerning the composition of the Appeal Board.
3. In advance of the hearing, the Appeal Board was provided with a bundle of documents (of 125 pages) that contained the following documents:
 - 3.1. The Notice of Appeal;
 - 3.2. Response to Notice of Appeal;

3.3. Papers of First Instance; and,

3.4. Results Letters and Written Reasons.

4. The Appeal Board convened on 1 October 2024. The Appellant and the Respondents did not attend. The Appeal Board was told that the parties were content for the matter to be dealt with on the papers. This is the Appeal Boards written decision, reached after consideration of the documentation placed before us. It is a summary. The fact that specific reference is not made herein to any part or aspect thereof does not mean it was not considered and given the appropriate weight.

Background

5. On 16 May 2024, Carla Hobson ("CH") was charged with Misconduct under FA Rule E3 following a fixture between Rothwell Juniors U11s and Forza Football U11s. The particulars of the charge were as follows:

It is alleged that their conduct was improper in that they used violent conduct and threatening and/or abusive language/behaviour contrary to FA Rule E3.

This refers to an incident after the game whereby Carla Hobson intervened between a player altercation, it is alleged that Carla Hobson pushed a player of the opposition.

6. CH denied the charge and requested a personal hearing.

7. On 16 May 2024, Rothwell Juniors ("the Club") were charged with Misconduct under FA Rule E20 in respect of the same fixture. The particulars of the charge were as follows:

It is alleged that the club failed to ensure that Directors, players, officials, employees, servants, representatives, [do not] behave in a way which is improper, offensive, violent, threatening, abusive, indecent, insulting or provocative contrary to FA Rule E20.1.

This refers to the allegation that team officials made comments such as "she's only crying because she's losing" and "she can give it but she can't take it", or similar.

8. The Club denied the charge and requested a personal hearing.

9. Forza Football U11s were also charged with Misconduct under FA Rule E20. That charge was admitted, and a paper hearing was requested. This matter is not subject to appeal.

The Hearing

10. A hearing took place before the Commission on 18 July 2024.
11. The County FA had a total of 8 witnesses present to give evidence to the Commission. CH and the Club attended the hearing with a total of 7 witnesses to give evidence to the Commission.
12. The Commission's Written Reasons ("the Reasons") set out the events of the hearing at paragraphs 12 to 14 as follows:
 - 12 *"The case began at 18.07 on Thursday 18th July, as [the Referee] was to be called and with him being 17 I spoke to him first to explain the proceedings and that any questions would come through me as he was classed as a minor. Also at this time after being asked he stated that this was the first time he had experienced a Personal Hearing, as also did CH and NH, so the first role was to placate them, which between the 3 panel members I felt we did, as mentioned earlier, Forza had accepted the E20 charge, so in reality we were to only deal with two cases on a personal basis, CH E3 and Rothwell E20, before we started I mentioned to them both the amount of time this case was possibly going to take as we have 7 witness statement and also the player had submitted a statement expressing her sorrow for acting in the way she had at the end of the game, I stated to both CH and NH that we had read all the statement and that in fact they were basically ALL saying the same thing, and as NH was already on the case and her report covered all that was said by the parents would they accept that we just used NH along with CH which again stated the same as what all the others had , BOTH CH AND NH AGREED TO THIS, so the case continued.*
 - 13 *We then continued with the cases, first to be questioned was NH, who gave us and insight to what had occurred on the game, her comments were confirmed by CH the main aspect of the statement shows that in fact no team were excessive in an E20 charge, most statements were referring to incidents that had occurred on previous games between these two teams, especially the previous week when Forza beat Rothwell in a Cup Semi-Final, and how they wanted the league to take action against opposition coaches, these were not the reasons for these cases being heard, and they were informed of that.*
 - 14 *We then went to the case of CH, it was alleged by the Forza statements that CH had pushed an opposing player, [the player], in the chest area with enough force to nearly cause her to fall over, of the 15 witness statements they all categorically state that [the player] DID run and attempt to attack and opponent, the referee also stated in his statement that CH 'Pushes [the player] nearly causing her to nearly fall down', [the Wing Member] asked me to ask [the Referee] 4 questions, which I did, and his response to the first question which was, 'Did you actually see CH push [the player] or were you told this had*

happened?’, his reply was ‘CH actually had her back to me, so no I did not actually see her push her’ [the Wing Member] asked about force and if [the Referee] was in the coaches position what would he have done, but as he had not actually seen an offence then this by his comment basically dismisses the E3 charge against CH who stressed all along that she placed her body in between the two players to prevent harm to her player, which the Rothwell statements confirmed this was her action, as the Forza coach and [the player]’s mother then arrived and pulled [the player] away.”

13. The Reasons do not refer to any other witnesses being called to give evidence on behalf of the County FA, aside from the Referee, despite there being 7 other witnesses in attendance to give evidence.

The Commission’s Decision

14. The Commission found the charges against CH and the Club not proven.

15. In relation to the charge against CH, the Commission concluded as follows:

17 “...as the only Independent witness to the alleged assault by ... CH, was the statement by the referee, who when questioned admitted that he had in fact NOT SEEN CH push the Forza player, he had been told this had occurred by some Forza parents. He stated that when looking at the incident, CH had her back to him so he could not witness a push had occurred. On this basis we dismissed the case against CH...”

16. In relation to the charge against the Club, the Commission concluded as follows:

18 The Charge 2, an E20 against the club Rothwell, we could not distinguish that any undue Improper Conduct had transpired, yes some comments from Forza in statements submitted by parents at the game intimated that most unrest between the touchlines of both clubs was before the game started, it was where parents were standing prior to the game commencing and arguments started as Forza’s parents were being allowed to stand inside the gated FOP area, but Rothwell’s were being told to stand outside of it, calm ensued once the referee told everyone to leave so that the game could commence.

The statements from both clubs, which in the case of Rothwell referring to the alleged assault by CH, consisted of CH’s statement, NH, Representative for Rothwell, and then 8 statements ALL stating that CH had not assaulted [the player] but had in fact stood in front of her forming a barrier between the two parties. Hence the reasoning in asking NH and CH that what benefit would we get by inviting them all in to the hearing after I had heard from the Referee that CH had now no case to answer, which they agreed to. Therefore the Commission has found Charge 2 as Not Proven.

The FA’s Appeal

17. The FA's appeal against the decision of the Commission is on, essentially, a single issue: namely, that the Commission fell into error by failing to hear the evidence of the County FA witnesses who had attended the hearing to give evidence.

18. The FA's appeal is put on two limbs, namely that the Commission:

18.1. misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision; and,

18.2. Came to a decision to which no reasonable such body could have come.

Misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision

19. The FA noted that Regulation 123 of The FA's Disciplinary Regulations (as set out at page 224 of The FA Handbook 2024/25) states as follows:

At a personal hearing a Disciplinary Commission may adopt such procedures as it considers appropriate and expedient for the just determination of the Charge.

20. The FA submitted that, in failing to hear the evidence of the County FA witnesses in attendance at the hearing, the Commission failed to comply with Regulation 123 which requires any procedure adopted by the Commission to be done so for the 'just determination of the Charge'. It was said that failing to hear the evidence of one party is not consistent with the *just determination* of a charge.

21. It was also said that the Commission had failed to comply with the procedures set out in *County and Other Affiliated Associations- Hearings before Disciplinary Commissions*. The FA submitted that the Commission had failed to comply with Regulation 20, which states that:

Evidence (including witness evidence) in support of the Charge shall be received by the Disciplinary Commission.

22. Further, The FA submitted that the Commission's decision not to hear evidence of the County FA's witnesses was inconsistent with the provisions of Regulation 5 of the Chapter 11 - Disciplinary Regulations, General Provisions. Regulation 5 states:

'All parties involved in proceedings subject to these General Provisions shall act in a spirit of cooperation to ensure such proceedings are conducted expeditiously, fairly and appropriately, having regard to their sporting context.'

23. The FA said that the proceedings could not be said to have been concluded "fairly" when witnesses to the allegation were not afforded the opportunity to give evidence to the Commission.

Came to a decision to which no reasonable such body could have come

24. In the alternative, The FA submitted that the Commission came to a decision to which no reasonable such body could have come. This element of the appeal was put in four ways:

24.1. The decision not to hear the evidence of the County FA's witnesses who attended the hearing (save for the Match Official) was a decision to which no reasonable such body could have come.

24.2. The decision to find the charge not proven in respect of CH in circumstances when the Commission only heard from one witness who did not, it transpired, see the alleged misconduct was a decision to which no reasonable such body could have come when there was further evidence available.

24.3. The decision to find the charge not proven in respect of the Club without hearing any evidence from the County FA witnesses available to give evidence was a decision to which no such reasonable body could have come.

24.4. The decision to disregard entirely the written evidence of the County FA's witnesses and/or not to hear their evidence on the basis that they were not 'independent' was one which no reasonable such body could have come.

25. The FA submitted that the Commission's decision to find charges not proven having not heard the evidence of the County FA witnesses speaks for itself. The FA stated that it is simply inconceivable that any finding on liability could be a reasonable one having not heard the relevant available evidence.

26. The FA also stated that for the Commission's decision to have disregarded the County FA's witnesses on the basis that they were not 'independent' was one to which no reasonable such body could have come to. It was said that it was inevitable in cases such as this that some witnesses will not be 'independent'. However, this does not mean, however, that a Commission need not hear or consider that evidence. The FA said that a fair approach would be to hear all of the evidence sought to be relied upon, test that evidence and then determine whether that evidence is reliable notwithstanding the lack of independence of that witness.

Response to The FA's Appeal

27. The parties were canvassed as to whether they wished to provide a response to The FA's appeal. The parties engaged in helpful correspondence with The FA as to the appeal; all submissions and correspondence were read and considered in full. The parties were content for the matter to be decided by the Appeal Board on the papers.

Decision

28. The *Appeals – Non-Fast Track Regulations* ("the Appeal Regulations") set out the provisions relating to appeals in cases such as this. Regulation 1 of the Appeal Regulations contain the grounds upon which The FA may appeal against a first instance decision. This includes the two grounds relied upon by The FA in this appeal, namely, that the Commission:

28.1. misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision; and,

28.2. Came to a decision to which no reasonable such body could have come.

29. Regulation 21 of the Appeal Regulations sets out the powers of the Appeal Board. Here, The FA submitted that in all the circumstances of the case, we ought to remit the matter for a re-hearing before a fresh Disciplinary Commission.

30. The Appeal Board considered with care the documents with which it had been provided. We took into consideration the fact that members of Disciplinary Commissions such as this routinely give up significant amounts of their free time for the betterment of the Game. Without such individuals being willing to do so, the Game would simply not function properly; there would be no enforcement of the disciplinary rules and regulations which govern football.

31. Nonetheless, the Appeal Board unanimously allowed the appeal on both grounds. This was a straightforward decision.

32. One of the crucial functions of a Disciplinary Commission, when faced with a charge of Misconduct such as was before the Commission in this case, is to hear evidence in a fair and proportionate manner so as to be able to make a just determination of the charge. In this case, the County FA relied upon the evidence of a number of witnesses. The County FA had provided a bundle of documents to the Commission that included witness statements from 12 witnesses. The County FA had then attended the hearing with 8 of those witnesses to give oral evidence to the Commission. The Commission did not hear the evidence of 7 of those

witnesses. The Commission appear to have taken the decision that the charge could not be proven because the only independent witness, the Referee, had not seen the index incident. Therefore, they did not go on to hear evidence from those additional witnesses.

33. Simply put, this was not the correct approach in the circumstances of this case.
34. Regulation 123 of The FA's Disciplinary Regulations does provide some important flexibility to Disciplinary Commissions to adopt procedures at a hearing that are appropriate and expedient. There may well be occasions when a disciplinary panel concludes that it does not need to hear from a particular witness. For example, it may be obvious that a witness cannot provide any evidence on a live issue before the panel. Or, it may be that the evidence of a witness is not challenged. However, in this case, the charges were denied and there were crucial disputes as to fact. The witnesses relied upon by the County FA would (likely) have been able to give evidence to the Commission on the incident that underpinned the charges against CH and the Club. They were not given the opportunity to give evidence, despite, we are told, being present at the hearing and being willing to do so.
35. By not hearing from the County FA's 7 other witnesses, the Commission cannot therefore be said to have adopted a procedure that led to a just determination of the case. By failing to hear from those additional witnesses, the Appeal Board accepted that the Commission had failed to comply with the Rules and/or regulations of The Association relevant to its decision for the reasons set out in The FA's notice of appeal. The Appeal Board also concluded that the decision not to hear from those same witnesses was a decision that no reasonable such body could have come.
36. The Appeal Board therefore allowed the appeal. The Appeal Board made no order as to costs.
37. The Appeal Board concluded that the case ought to be remitted to be reheard by a fresh Disciplinary Commission. In reaching this decision, we do not express any view whatsoever as to the merits of the case.
38. The decision of the Appeal Board is final and binding on all parties.

Gareth Graham
Roger Burden
Christine Harrop-Griffiths

4 October 2024