



Charged Party

Name	James Boland	Club	Hillarys FC	Reg No	77291219
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Fixture Details

Date	26 February 2023	Time	4.40pm
Clubs	Balga v Hillarys		
Competition	Friendly match	Grade/Age	Masters

Offence Details

Offence Description	2d - Assault of Another Person Causing Serious Injury
Football West Penalty	AMS plus 20 matches.

Hearing Outcome

Finding	Not guilty for Offence 2d. Guilty for Offence 2c.
Penalty	AMS plus 7 matches.

Summary and Tribunal Findings

Background

1. James Boland (JB) of Hillarys SC (HSC) seeks to challenge Disciplinary Infringement Notice dated 10 March 2023.
2. JB was charged with 1x 2d Offence – being Assault of Another Person Causing Serious Injury. The offence was alleged to have been committed on 26 February 2023 in a Men’s Masters Friendly match against Balga SC

Summary of Events

3. The Tribunal adopts paragraphs 1 to 13 of the summary of events from the Football West Outline of Submissions.
4. The Tribunal noted the Referee’s Report submitted 26 February 2023.

Hearing on 12 April 2023

5. A hearing was conducted in person with JB, Jonathan Purcell and Scott Ferguson (both on behalf of HSC). Jamie English was appointed as the representative from Football West. The referee was not available to attend via telephone.
6. The Tribunal had the following documents before it:
 - 6.1. Request for General Purposes Tribunal Hearing



6.2. Statement of Grounds for Contesting Infringement – JB

6.3. Prescribed Form 1 – Claim for Mistaken Identity

6.4. Football West reply to Prescribed Form 1

6.5. Disciplinary Infringement Notice

6.6. Referee Incident Report

6.7. Football West Outline of Submissions

6.8. Annexure 1 – Medical Documents

6.9. HSC Outline of Submissions with Appendices

7. JB, Mr Purcell and Mr Ferguson were given an opportunity to speak to the documents and put forward further submissions in support of their contention that the Tribunal should find JB guilty of Offence 2b rather than Offence 2d.
8. The Tribunal gave JB, Mr Purcell and Mr Ferguson an opportunity to respond to whether JB was guilty of Offence 2c during the hearing and generally on the differences between offences 2a to 2d.
9. JB, Mr Purcell and Mr Ferguson did not dispute the summary of facts nor the referee's report to any great extent that requires determination. JB, Mr Purcell and Mr Ferguson did put forward factual issues of provocation and self-defence as factors that went in favour of their position.

Findings

10. The Tribunal is not satisfied on a balance of probabilities that JB is guilty of Offence 2d. The Tribunal is satisfied that JB is guilty of the Offence 2c – Assault of Another Person.
11. The Tribunal notes that the description for Offence 2d is not helpful to assist in determining whether the offence is made out given the lack of definition of 'specialist treatment'. The Tribunal notes that the focus on what treatment is required rather than the effects of the injury for the distinction between an Offence 2c and Offence 2d can create unjust outcomes given specialist treatment for a minor injury will be treated the same for a major injury.
12. The Tribunal adopted the definition of 'specialist treatment' to be treatment that included medical intervention (surgical or otherwise) from a specialist Doctor rather than review and consultation.
13. In those circumstances, the Tribunal was not satisfied that the Offence 2d could be made out.
14. In finding that the Offence 2c was made out, the Tribunal concluded:
 - 14.1. The strike to the head of another player was serious.
 - 14.2. The strike was from JB's head and was of some force to cause a laceration.
 - 14.3. The injury was towards the lower end of seriousness, but was a matter of good fortune rather than good management on behalf of JB.
 - 14.4. The Tribunal differentiated Offence 2c with Offence 2b given the strike to the head was not with the hands/arm but with JB's head.
 - 14.5. The suggestion of provocation or self defence does not in any way provide JB with



a defence to the matter.

15. The Tribunal has discretion in imposing such a penalty as it sees fit (Paragraph 10 of Article 18 of the Disciplinary & Grievance Regulations 2023).
16. The Tribunal would have imposed the penalty of AMS plus 9 matches as per Schedule 1 of the Disciplinary & Grievance Regulations 2023 but for taking into account the following:
 - 16.1. JB's conduct post incident of immediately leaving the field of play and not antagonising the incident or other players further. The Tribunal feels that this conduct should be noted given the potential for further incidents to occur post incident which aggravate matters and potentially bring the game into disrepute.
 - 16.2. JB's actions of attempting to seek out Jimmy Taneski to apologise for his conduct and show of remorse.
17. In taking into account the above, the Tribunal have settled on a penalty of AMS plus 7 matches.
18. The Tribunal notes that JB and HSC are entitled to a refund of half the tribunal fee paid as a result of this finding as per the Disciplinary & Grievance Regulations 2023. The Tribunal does not consider it appropriate to deviate from this and endorses the half refund of the tribunal fee.

Further Matters

19. The Tribunal, as per paragraph 11, notes the confusion between determining offences between Offence 2b to Offence 2d.
20. The Tribunal, as a matter of suggestion, request that Football West consider amending the table of offences to consolidate the offences into 3 broad categories, being:
 - 20.1. Violent Conduct
 - 20.2. Serious Violent Conduct
 - 20.3. Serious Violent Conduct causing serious injury
21. Serious Injury could potentially then be defined as 'means any injury where the affected party requires hospital inpatient treatment or has any fractures/broken bones, internal injuries, severe concussion, lacerations that require stitches or any other injury which may lead to impairment or disfigurement.'
22. This would allow for all ranges of conduct to be taken into account and be dealt with upon severity of injury caused.

Date of Notice	13 April 2023
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Right to Appeal

The decision of the Disciplinary Tribunal may be appealed in accordance with Article 21 of the Disciplinary & Grievance Regulations 2023.