

DISCIPLINARY COMMISSION

**In the Matter of
Basketball England**

v

Michael Case

COMMISSION

The Commission members appointed by Basketball England were:

Chairman: Tom Cleeve
Member: Vicky Collins
Member: Gerald Daish

Colin Hills acted as Secretary to the Commission.

A hearing took place online via Microsoft Teams on 12 July 2023 commencing at 5:00pm. Mr Case was not present.

CHARGES

Basketball England) charged Mr Case on 7 June 2023 with a breach of Disciplinary Code 5.3: Not acting in the best interests of the game and/or bringing the game into disrepute.

It is alleged that the non-payment and/or late payment of an invoice for hiring basketball facilities brings the game into disrepute. The charge is raised in relation to the invoice currently outstanding for hiring basketball facilities from Greater Manchester Community Lettings, and/or for not complying with the subsequent court order for payment to be made by 2nd May 2023, and/or for not complying with the agreed payment plan, with the first instalment due on 31st May 2023.

RESPONSE

Mr Case did not formally respond to the charge to confirm whether he accepted or denied it. There was no evidence to suggest Mr Case accepted he had breached the Basketball England's Disciplinary Code and so the Commission unanimously agreed that the charge should be considered as denied and be dealt with on correspondence.

EVIDENCE

- i. Initial complaint submitted from Tom Marsden, Greater Manchester Community Lettings, dated 17th November 2022;
- ii. Email correspondence between Basketball England and Mr Case, dated between 22nd November 2022 and 1st December 2022;
- iii. Confirmation from Mr Marsden of payment still outstanding, dated 15th December 2022, and breakdown of monies due;
- iv. Further complaint submitted from Tom Marsden, dated 6th June 2023; and

- v. Email correspondence between Mr Marsden and Mr Case dated between 9th May and 5th June 2023.

GENERAL CONSIDERATIONS

The Commission reminded itself that the burden of proving a charge falls upon the Basketball England.

In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission to consider. We must assess the credibility of the witness (that is whether a witness is attempting to tell the truth) and the reliability of the witness (that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon).

Where there are discrepancies between witnesses, it is for us to decide which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for us to assess if the discrepancy is important. Having considered which evidence we accept and reject, we then must decide if, on the balance of probabilities, the alleged breach of the Disciplinary Code is established.

COMMISSION'S FINDINGS

The Commission considered the correspondence between Mr Case, Mr Marsden and Basketball England and were satisfied that Mr Case had failed to organise payment of the sum owed to Manchester Community Lettings. Further, the Commission noted that Mr Marsden had obtained a Court Order requiring Mr Case to pay the outstanding amount.

The Commission unanimously agreed that Mr Case had made no genuine attempt to pay Mr Marsden and had relied on various reasons for not paying. The Commission considered that the reasons advanced by Mr Case did not justify his non-payment to date. It considered there was no good reason for Mr Case not paying the outstanding monies to Greater Manchester Community Lettings.

As such, Mr Case was not acting in the best interests of the game and/or bringing the game into disrepute. This is evidenced by Mr Marsden confirming that once the outstanding sums are paid, the Manchester Kings will have book their sessions on the online booking system and pay by card in advance. This clearly shows a lack of trust by Mr Marsden that fees will be paid in future, which is understandable in the circumstances.

On the balance of probabilities, the Commission found the charges under Disciplinary Code 5.6 proven.

SANCTION

The Commission was guided by the Basketball England Sanction Guidelines and relevant regulations in force when deciding on the sanction.

The Commission was informed that Mr Case has previous cases. In particular, there were two previous incidents involving him borrowing money and/or failing

to pay the fees for a venue. Therefore, Mr Case is a repeat offender when it comes to non-payment and/or paying in a timely manner.

With respect to aggravating factors, the Commission considered Mr Case's continued refusal to pay the monies owed and the previous charges relating to late or non-payment of money to other individuals/organisations. It was also noted that Mr Case appears to show little or no remorse for his failure to pay and in fact called Mr Marsden an "arsehole" in one email; this was despite Mr Marsden appearing very reasonable when seeking to recover the money owed by Mr Case.

The Commission considered there were no mitigating factors to the offence.

Having considered all the circumstances in the case, the sanction guidelines and any potential aggravating or mitigating factors present, the Commission considered that this case fell within the High Category and imposed the following sanction:

- A one-year suspension from all basketball activity (backdated to the start of Mr Case's interim suspension on 7th June 2023). Provided Mr Case repays all monies that are owed by the end of the one-year suspension, he may return to the game but must undertake no role which will involve access and/or responsibility for any finances for a period of 5 years from the date of the suspension; and
- A £300 fine.

RIGHT OF APPEAL

There is a right of appeal against this decision under Basketball England regulations.

Chairman Tom Cleeve

Date 20/07/2023