

Dear Mr Lindsey,

I am writing to inform you of the outcome of your appeal.

The Appeal panel has deliberated long and hard into the matters which have been raised in this Appeal

Whilst I appreciate that it has taken longer than BAFA would have liked to determine this Appeal it has been necessary to devote as much time as was required to deal fully and fairly with the issues raised in this matter

You appealed on four counts:

BAFA's process for disciplinary proceedings was not followed correctly

Your assertion that a case like this should be dealt with by hearing is your opinion, but it is not a requirement of the BAFA Disciplinary Code. It is true that you were not consulted about whether the matter would be dealt with by correspondence or a hearing. We apologise for that omission.

The omission was because BAFA made the reasonable assumption that you would not wish to bear the potentially high cost of a hearing (BDC 4-8). Since you chose to plead guilty, it would be impossible for the Committee *not* to find against you and, if you had asked for a hearing, you would have likely been held responsible for all or part of the costs.

BAFA therefore finds that this is "a technical breach of these principles that in the balance of probabilities did not affect a decision or the outcome of a process shall be disregarded" (BDC 1-19).

Your appeal on this count is therefore denied.

BAFA have not followed the recommendations of the initial case (2011/0101)

You are correct that you did not receive a letter of warning until the verdict of the second case was notified to you on 24<sup>th</sup> March. However in your letter of 17<sup>th</sup> February you showed that you were fully aware of the implications of the term of abuse that you used and that your second use of it cannot therefore be excused by ignorance of that fact.

Your appeal on this count is therefore denied.

An unreasonably severe penalty is imposed.(2011/0101)

The Appeal Committee does not share your belief that "It has to be proven that the accused is homophobic (history) or that the victim is or may be homosexual "is the victim leaving/entering a known homosexual venue" and that the accused is aware of the victims sexual orientation." Firstly, it is reasonable for a person who is subject to abusive remarks to interpret them as they see fit. If the victim believes they have been the target of homophobic abuse, how can we objectively determine otherwise? Secondly, the victims of the abuse may chose to believe that they were defamed by the comment made if it was not true. They are entitled to protection from this.

The Appeal Committee believes that the Disciplinary Committees in both cases took great care to ensure that the penalty for each offence was appropriate. Detailed discussions took place and several options were considered before finalising the decision. The Appeal Committee believes that the penalties laid down were proportionate and even handed.

Your appeal on this count is therefore denied.

The outcome of case two (2011/0201) has been prejudiced.

You admitted in your response to the second charge using the word. The case could therefore not be prejudiced against you.

Of course, the decision of the second Disciplinary Committee was made in full knowledge of the outcome of the first case. The Appeal Committee does not believe that because you committed the second offense before you were found guilty of the first offences, the case was prejudiced.

Your appeal on this count is therefore denied.

In response to your complaint about Jim Briggs's email to Dom Williams, we find that it is perfectly reasonable for a BAFA officer to advise a BAFA member club about the consequences of their actions or inactions and the statement is not defamation by the simple defence that it is true.

In denying your all appeal on all counts, the Appeal Committee has considered what sanction is now appropriate in your case. The sanction of a total suspension laid down by the second Disciplinary Committee was calculated to suspend you for 8 games. As well as discussing whether the sanction was too severe (as you argued), the Appeal Committee also considered whether this was too lenient, however it decided that it was not.

That suspension will therefore now take effect (from 31<sup>st</sup> October 2011) meaning that you are suspended for the entire BUAFL season. We remind you that this means that during the period of your suspension you may have no involvement in the sport of American football in Great Britain, including attending games, training sessions or meetings. Note that your status as a coach is suspended for this period and BAFA's insurers may decline to cover you as such during this time.

The decision of the BAFA Appeal Committee is final and no further appeal to it is possible.

Yours sincerely

Charles V Fraser-Macnamara  
BAFA Appeals Officer & BAFA Vice Chairman