

**IN THE MATTER OF AN APPEAL  
UNDER THE RULES OF THE NORTHERN PREMIER FOOTBALL LEAGUE  
AND THE REGULATIONS OF THE FOOTBALL ASSOCIATION APPEALS**

**FA APPEAL BOARD:**

**Mr Nicholas Robinson (Chairman)**

**Mr David Jamieson**

**Mr John Topping**

**BETWEEN:**

**NORTHWICH VICTORIA FOOTBALL CLUB**

**Appellant**

**- And -**

**THE NORTHERN PREMIER LEAGUE LIMITED  
Trading as THE EVO-STIK LEAGUE**

**Respondent**

**REASONS FOR APPEAL BOARD DECISION 2 MARCH 2016**

**Introduction**

1. This is an appeal by Northwich Victoria Football Club ("the Club") against the decision of the Board of the Northern Premier League Limited ("the League") on 9 December 2015. The Club plays in the League. The effect of the decision under appeal is the Club will be deducted 9 points from its total, 3 matches which it won when including an ineligible player will not be replayed and the Club have a fine of £100 suspended until the end of the season.
2. Under Rule 17.4 of the League's Rules and appeal against the Board's decision lies to a Football Association Appeal Board in accordance with the FA's Regulations for Football Association Appeals.
3. The Appeal Board whose members are Mr Nicholas Robinson, Mr David Jamieson and Mr John Topping held an oral hearing of the Club's appeal at the Double Tree Hilton Hotel, Auburn Street, Manchester on Wednesday 2 March 2016. Mr Mark Ives, the FA Head of Judicial Services, acted as Secretary to the Appeal Board. The Appellant was represented by Mr

Graham Bean of Football Factors accompanied by Mr Jim Rushe. The case for the League as Respondent was presented by its Vice Chairman, Mr Keith Brown, accompanied by the League Secretary, Angie Firth.

4. The Appellant made a written application for the Board to admit additional documentation which was not available at the first hearing. The reason for this is that the items were statements from two websites regarding a decision of the League in another case held on the same day as the Club's appeal. We agreed to accept that additional information.
5. Our decision to admit the information was that it related to a case which required the League to use discretionary powers. We could not tell whether or not this was relevant until we heard the appeal and could see whether or not the matters presented were relevant. The Appeal Board is unanimous on both the decision and the reason for the decision.
6. The following bullet points section 7 to 23 inclusive are a summary of the principle submissions and reasons. It does not purport to contain reference to all points made, however the absence in these reasons of any particular point, or submission, should not imply that the Panel did not take such point or submission in consideration when determining the matter. For the avoidance of doubt, the Panel has carefully considered all the evidence, materials and submissions provided with regard to this case.

### **Background to the Appeal**

7. It is not disputed that the Club signed a player, Mason Springthorpe on a short term loan from AFC Telford United on 4 September 2015.
8. The Club accepts that whilst all the relevant documentation relating to the players registration was fully completed in compliance with the Rules and Regulations of both the FA and the League (and served and received by the League) the loan registration of the player was not registered on the FA database.
9. The Club became aware of the issue on Friday 2 October 2015 when the Club Secretary, William David Thomas, made enquiries of the FA regarding the eligibility of the said player to participate in an FA Trophy game. It was at this point the Club were notified by the FA that it had no record of the player having been registered for the Club.
10. The player had played in the FA Challenge Cup competition and the Club were charged with breaching FA Cup Rule 15(H). The case was admitted by the Club and action taken by the FA Cup Committee in relation to that matter.

11. The League subsequently charged the Club by letter dated 2 November 2015 for a breach of League Rule 6.4.1 and 6.9 and this led to the hearing on 9 December 2015 when the decision was made by the League in respect of which this appeal has been initiated.

### **Grounds of appeal against the League Decision**

12. The notice of appeal is that the League imposed a penalty and sanction that was excessive. The Appeal Board take this to be reference to the ground of appeal available to a Participant under Regulation 1.6 of the Regulations for Football Association Appeals at paragraph (4) ("Imposed a penalty, award, order or sanction that was excessive").

13. The notice of appeal and Mr Bean's submissions were that this was a matter on which the Players status was relevant because of the wording of part of Rule 6.9

*"The Company may vary this decision in respect of the points gained only in circumstances where the ineligibility is due to the failure to obtain an International Transfer Certificate or where the ineligibility is related to the Player's status."*

14. Mr Bean referred to paragraph 7 of the submission from the League contained in a letter dated 11 January 2016

*"The question of players status as raised by Mr Bean was considered but the Panel were satisfied that this related as to whether the player was contract or non-contract and did not relate to the acknowledgement of the loan registration from the FA".*

15. Rule 6.4.1 contained the requirement

*"Any loan registration must also be approved by the Football Association before that Player can be considered eligible to play".*

16. Mr Bean contended that the unusual circumstances of this case are so unique that it would be unfair not to alter the original decision and he put forward that there were no previous precedents for such circumstances, a fact which the Company Secretary of the League had advised the League at the hearing on 9 December and this had been referred to in paragraph 8 of the submission of the League dated 11 January 2016.

17. The Board of Appeal took notice of the provisions of League Rule 6.3 which is headed "Player Status" and provides at Rule 6.3.1 for 8 alternate status under which a player could be registered. This included Contract and Non-Contract but was not exclusive as suggested by the League in its letter of 11 January 2016 and the Appeal Board found accordingly that the League misdirected itself in this regard as both Short Term and Long Term loans were included under the definition of Player Status in 6.3.1.

18. By a majority decision the Board decided that the relevant part of Rule 6.9 did apply and that this appeal should have been decided by the League on the basis of the ineligibility relating to the Player's status and the League should therefore have considered whether or not to exercise its discretion and by not doing so the Appeal Board upheld the Appeal.
19. The Appeal Board therefore decided that pursuant to paragraph 3.3(2) of the Regulations for Football Association appeals it would "*Exercise any power which the body against whose decision the appeal was made could have exercised, whether the effect is to increase or decrease any penalty, award, order or sanction originally imposed*".
20. The Board therefore had to consider whether or not to exercise a discretion; we took this to be a significant matter and that the Club was at fault because it had not received the approval of the Football Association before allowing the Player to participate in 4 matches played under the jurisdiction of the League. The Board took into account the matters raised by Mr Thomas in his statement and concluded that it is the Club which is liable and the Club had a responsibility towards Mr Thomas to assist Mr Thomas if he was under pressure because of matters of which the Officers of the Club must have been aware. The Board also took into account the fact the Club had admitted that it had other loan players and that at the hearing on 9 December 2015 Mr Thomas had said that he thought that he did have approvals from the Football Association in relation to other loans.
21. The Board therefore took the view that it was entirely right to deduct the points and that there was no reason to exercise discretion.
22. The Board had to consider whether it should allow the relevant matches to be replayed. The Club had won 3 matches and lost 1. The Board felt that it would be inequitable to order any of the matches to be replayed because otherwise there was no deterrent value and the Board understood the statement from the League that it was their policy not to replay matches but the League is advised that it should in all cases consider whether a match or matches should be replayed and reasons should be given for any decision and that decision should rest on the merits of the case in hand.
23. The Club had been fined £100 but this had been suspended until the end of the season. The Board queried what this had been intended to mean and the response from the League was that it did not mean that the Club had until the end of the season to pay the fine but that if the Club did not commit a similar offence before the end of the season then the fine would not be applied. The Board made a finding that Rule 6.9 required a fine to be levied by its exact wording and that there was no provision for such a fine to be suspended. The provisions of Rule 6.9 specifically direct that discretion is only in relation to the deduction of points.

## **Our decision and order**

24. We have allowed the appeal on the point of player status and therefore the League's decision has been set aside in its entirety and we have reviewed the matter and decided not to apply discretion in this case.
25. The order of this Appeal Board is:
  1. The appeal is allowed because the League misdirected itself in relation to Rule 6.3 and thereby the decision as to whether or not to exercise a discretion which available under Rule 6.9. The decision of the Board to take the place of the decision of the League is as follows:
    - (a) The Club Northwich Victoria FC shall have 9 points deducted from its playing total for the current season being the points won in 3 matches played on 5, 22 and 29 September 2015; and
    - (b) That the 3 matches stated above shall not be replayed; and
    - (c) The Club shall be fined the sum of £200 to be paid in accordance with League Rule 4.5 and no part thereof shall be suspended.
  2. As the Club has succeeded in its appeal the appeal fee shall be returned and there will be no further order as to costs.

Nicholas Robinson

Chairman

David Jamieson

John Topping

04 March 2016