

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL ASSOCIATION

ON 5th May 2022

David Reade QC, Paul Richardson and Gordon Mellis

BETWEEN:

LONDON BEES WFC

Appellant

And

FA WOMEN'S NATIONAL LEAGUE

Respondent

WRITTEN REASONS OF THE APPEAL BOARD

Introduction

1. The Appeal Board ("the Board") was appointed under The Football Association's ("The FA") Disciplinary Regulations- Appeals 2021/22 ("the Appeal Regulations") to determine an appeal brought by London Bees WFC ("the Appellant") by Notice of Appeal dated 5th April 2022.
2. By the Notice the Appellant appealed the decision of the FA Women's National League, notified to the Appellant on 25th March 2022, that the Appellant would be fined the sum of £100.
3. The appeal was heard on 5th May 2022 by way of MS Teams. The Appeal was determined on basis of the submitted papers, the Appellant not having asked for an oral hearing.

4. The Board had before it:
 - a. The Notice Of Appeal;
 - b. The Respondent's Response to the Notice of Appeal;
 - c. Evidence before the first instance hearing;
 - d. The League Rules.

Background

5. The Appellant was fined for not attending the Respondent's SGM on Saturday 19th March 2022.
6. The Board noted that the Appellant, on its Notice of Appeal, accepted that it had not attended the SGM.
7. The grounds of appeal were stated to be that the Respondent
 - a. Came to a decision to which no reasonable such body could have come.
 - b. Imposed a penalty, award, order or sanction that was excessive.

The Appellant's Case

8. The Board noted that, it having been accepted that the Appellant had not attended the SGM, the grounds were both directed at the sanction imposed, as there could be no appeal against the decision that the Appellant had failed to attend the SGM.
9. The Points of Appeal then set out factors which were advanced in mitigation of the penalty imposed.
10. The Board noted the various facts relied upon, including the fact that remote attendance had not been permitted at the SGM and the difficulties encountered by the Appellant in arranging for physical attendance at the SGM.

The Respondent's Case

11. The Respondent's case was that under the League Rules, Rule 9E, any Club failing to be represented at the SGM "shall be fined" in accordance with the Fines Tariff. The

Respondent then pointed to the Applicable Fines Tariff which provides “Fail to be represented at SGM- Fine up to £100”

12. The Respondent appears to suggest that the Appellant was not able to present mitigating factors and that a standard fine fell to be applied.
13. The body of the Respondent’s submission do however address the points of mitigation advanced by the Appellant, although noting that these had been articulated after the fine had been imposed.

Discussion

14. The Board noted that League Rules provided for a fine in the event of non attendance at the SGM of up to a maximum of £100. As there is reference to a maximum fine it must follow that there was a discretion as to the amount of the fine and that discretion must have fallen to be considered on the circumstances around the failure to attend the SGM, including any mitigating factors if the same had been advanced.
15. Rule 9E does however provided that a Club failing to attend the SGM “shall be fined”.
16. The Respondent was therefore obliged to fine the Appellant but it was not obliged to fine the Respondent £100.
17. The Board can only then allow the appeal if the fine imposed was excessive. The Board does not, however, undertake its own determination of the quantum of the fine. It may or may not have imposed the same fine but it cannot interfere with the amount of the fine unless it has concluded that the fine imposed was excessive. The Respondent therefore had a broad discretion as to the quantum of the fine to be imposed.
18. The fine imposed did not exceed the maximum fine under the Tariff. Considering the reasoning of the Respondent and the factors advanced by the Appellant the Board does not consider that the fine was excessive and it that it fell within the range of the discretion afforded the Respondent on the facts.

Conclusion

19. The Board therefore dismisses the appeal.
20. The Board considers that no order for costs is appropriate, but the appeal fee is to be forfeited.
21. The Board's decision is final and binding on all parties.

David Reade QC
Paul Richardson
Gordon Mellis
11th May 2022