

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

HARLOW TOWN FC

Appellant

and

THE FA LEAGUES COMMITTEE

Respondent

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

Introduction

1. The Appeal Board conducted a hearing on Thursday, 1 June 2023, to determine an appeal by the Appellant against a decision of the Respondent, dated 15 May 2023.
2. This hearing was conducted by videoconference.
3. The Appeal Board consisted of Mr Paul Tompkins (Chairperson), Mr Robert Purkiss MBE, and Mr Glenn Moulton. Mr Paddy McCormack, the Judicial Services Manager, acted as Secretary to the Appeal Board.
4. The Appellant was represented by the attendance of Ms Donna Harvey, Club Secretary, Mr Tom Cunningham, Club Owner, and Mr Tim Sewell, Club Chair. The Respondent was represented by Mr Mark Ives and attending as observers, Mr Mark Frost, Mr James Earl, and Mr Matt Edkins.

The Hearing

5. The Respondent, on 15 May 2023, notified the Appellant of their decision that the Appellant was to be allocated to Step 6, Eastern Counties League Division One South, following their application to be allocated to Step 5, Essex Senior League.
6. The Appeal Board carefully considered the submissions of the parties and the appeal bundle. The Appeal Board thank both parties for the manner in which they provided both their written and oral submissions.
7. The Appeal Board noted that the Appellant was appealing on the following ground(s) in that the Respondent:
 - a. Failed to give the Appellant a fair hearing; and/or

- b. Misinterpreted or failed to comply with the Rules and/or Regulations of The Association relevant to its decision; and/or
- c. Came to a decision to which no reasonable such body could have come.

Decision

- 8. The Appeal Board dismissed the appeal on all grounds.
- 9. The Appeal Board reached this decision considering the following:
 - a. The following is a summary of the primary considerations of the Appeal Board, however the absence in these reasons of any particular point, or submission, should not imply that the Appeal Board did not take such point, or submission, into consideration when it considered the matter and reached its findings.
 - b. On the first ground of appeal, that the Respondent failed to give the Appellant a fair hearing, the Appeal Board took notice of the fact there had not been a first instance hearing and interpreted the ground of appeal as one against the process which had been adopted. The Appeal Board was satisfied that the process which had been applied was a part of the allocation of clubs across the whole of the National League System. The matter had been considered objectively and it was not apparent that the process had placed the Appellant at any disadvantage.
 - c. Considering the second ground of the appeal, that the Respondent misinterpreted or failed to comply with the Rules and/or Regulations of The Football Association relevant to its decision, the Appellant relied upon National League regulation 5.5.3. This regulation provided for a team which withdraws from a league to be treated as a relegated club but the respondent argued that this regulation deals with treatment of the league which has been left by the club not the club itself. In other words, regulation 5.5.3 deals with filling the vacancy created by the club which has withdrawn. Instead, the regulation applicable in such circumstances is 6.4. This regulation allows the Respondent to place a club which has previously withdrawn from a competition anywhere within the National League System “at its absolute discretion”.
 - d. The final ground of appeal was that the Respondent had come to a decision to which no reasonable such body could have come. In the light of paragraph 9.c above the appeal was on the basis that the Respondent, having exercised its discretion in placing the Appellant at Step 6 rather than Step 5, had done so in a way which no reasonable such body could have done. The reason for the Appellant’s withdrawal from their Step 4 league in season 2022-23 had been because they did not have a ground at which to play home fixtures following the failure of their home playing surface. The Appellant had felt compelled to withdraw from their league and to re-apply for a new placement within the National League System the following season, but this was a step they had undertaken voluntarily. Having applied to re-join the NLS at Step 5 this was no guarantee of

where they would be placed and the Respondent had exercised its absolute discretion under regulation 6.4 when placing the appellant at step 6 for the 2023-24 season. While another solution might have been available, the Appeal Board was unable to find this was a decision to which no reasonable such body could have come.

10. The Appeal Board considered the matter of costs and decided that there would be no order as to costs.
11. The Appeal Board order that the appeal fee be retained.
12. This decision of the Appeal Board is final and binding.

Paul Tompkins (Chair)

Glenn Moulton

Robert Purkiss MBE

8 June 2023