

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

HEMSWORTH MINERS WELFARE CFC

Appellant

and

THE FA LEAGUES COMMITTEE

Respondent

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

1. The Appeal Board conducted a hearing on Wednesday, 21 June 2023, to determine an appeal by the Appellant against a decision of the Respondent, dated 1 June 2023.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Paul Tompkins (Chairperson), Mr Robert Purkiss MBE, and Mr Glenn Moulton. Mr Conrad Gibbons, the Judicial Services Officer, acted as Secretary to the Appeal Board.
4. The Appellant was represented by the attendance of Mr Billy Rowett, Mr James Fullarton and Mr Sam Crapper, Directors and Club members. The Respondent was represented by Mr Mark Ives, whilst Mr James Earl, National League System Manager, and Mr Mark Frost, FA Leagues Committee Chair, attended as observers.

The Hearing

5. The Respondent notified the Appellant, on 15 May 2023, that their ground failed to comply with the Grading requirements for Membership in the National League System. In the letter, the Respondent stated that should the Appellant not present a signed ground share agreement with a Club at a ground compliant with at least Grade 5 by 29 May 2023 then the Club would be relegated to the Regional NLS Feeder League Level.

6. On 1 June 2023, the Respondent informed the Appellant that due to not providing a ground share agreement by the deadline that they would be allocated to the Sheffield & Hallamshire County Senior League for the 2023/24 season.
7. The Appeal Board, having taken into account the submissions of the parties and having given the Appeal Bundle careful consideration, noted the following.
8. The Appeal Board considered all grounds of appeal open to the Appellant, namely:
 - a. The Appellant was not afforded a fair hearing.
 - b. The Respondent misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision.
 - c. Came to a decision to which no reasonable such body could have come.
 - d. Imposed a penalty, award, order or sanction that was excessive.
9. The Appellant was represented by Mr Billy Rowett and Mr James Fullarton both of whom made submissions to the Appeal Board.
10. The Respondent was represented by Mark Ives, briefly assisted by Mr James Earl.
11. In closing submissions, the Appellant had stated that currently the ground dimensions do not comply with the Regulations. The Appellant has issues with the ground grading inspections which have been carried out there by their league and which have not assisted their predicament. The Appellant claimed that it “had a plan from the start and has made significant progress”.
12. In reaching its decision:
 - 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. In its appeal the Appellant had raised two grounds of appeal, the first being that the Respondent had “*failed to give the club a fair hearing*”. There had not been any hearing as such and the Appellant accepted that its appeal was on the basis that the Respondent had not taken into

account all relevant circumstances and as a consequence had reached the wrong decision. Consideration of that decision is set out more fully in 9.d below but the Appeal Board was satisfied that the correct procedure had been followed and that the National League System management had engaged with the Appellant appropriately.

- c. On the second ground of appeal raised by the Appellant, that the Respondent had “*imposed a penalty, award, order or sanction that was excessive*”, no penalty, award, order or sanction had in fact been imposed. Nonetheless, the Appeal Board took notice of arguments from the Appellant that the effect of their exclusion from the National League System for the forthcoming season placed a significant burden upon the Appellant. This is a natural consequence of the decision itself (*see 9.d below*) and the Appeal Board considered that any consequences flowed from the objective exercise of the Regulations and therefore were directly a result of the decision to exclude.
- d. The Appeal Board carefully considered the other available grounds of appeal, most significantly the ground that the Respondent “*had come to a decision to which no reasonable such body could have come*”. It was accepted by all parties that the Appellant had for a number of years been playing at Step 5 on a pitch which was not compliant with minimum pitch dimensions as required by National League System Regulations (“The Regulations”). For several seasons they had misrepresented the size of their pitch when supplying their league with standard information prior to the commencement of each season. It was accepted that this form had been completed with “*untrue*” information. A FIFA Quality Standard inspection in 2021 had revealed the dimensions of the playing surface to be 95.5m x 61.8m and as such the pitch failed to meet the minimum criteria of 100m x 64m.

This had first come to the attention of the Respondent on 25th July 2021. The Respondent had engaged with the Appellant to establish their plans to play on a pitch compliant with the Regulations. The Appellant had been permitted to continue using their own pitch for season 2021-22 and had been allowed until 31st March 2023 to crystallise its plans for resolving the situation. The Respondent had

agreed to revisit the situation to review progress but there was no evidence that the Respondent had agreed to a rolling period of consultation, as was alleged by the Respondent.

The Respondent had identified the options they had pursued to resolve the situation, one of which was impossible and a second of which was costly and time consuming. The Appellant stated that from the start they had had a plan to redevelop the pitch but no evidence was produced to the Appeal Board of concrete steps which had been taken to put an action plan in place other than some initial exploratory correspondence. No evidence of funding was produced. The Respondent had therefore invited the Appellant to explore ground sharing options to allow them to continue playing at Step 5 but the Appellant had decided against pursuing this option, having only identified one possible ground share and the terms of that arrangement had not been considered by them to be cost effective.

On 15th May 2023 the Respondent had notified the Appellant that should it not have entered into a signed ground share agreement at a compliant ground within 14 days then it would be excluded from the National League System.

The Appellant had not complied and was therefore removed from the National League System to be placed in a regional National League System Feeder League.

The Appeal Board reminded itself that it is unable to impose its own preferred solution in such cases and is only empowered by the FA Appeal Regulations to review the original decision of the Respondent. When looking at the matter objectively, the Appellant finds itself in a position where it has a non-compliant ground and it is incumbent upon it as a member of the National League System to rectify the situation. For its part, the Respondent must exercise objective discernment and even-handedness when dealing with such matters. The treatment of the Appellant had not been unreasonable or harsh and was not perverse, irrational or wrong. Ample time had been allowed to the Appellant to find a solution and to do otherwise than the Respondent had done would have been contrary to the Regulations and would have risked

compromising the integrity of the National League System. Therefore the Appeal Board is unable to find that that the decision of the Respondent is a decision to which no reasonable such body could have come.

- e. The final ground for appeal is that the Respondent “*misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision*”. It was the Appeal Board’s decision that the Respondent had accurately interpreted the Regulations and had applied them objectively. Although this was not a ground upon which the Appellant had appealed, it would have failed in any event.

Decision

- 13. The Appeal Board therefore unanimously dismissed the appeal on all grounds.
- 14. The Appeal Board considered the matter of costs and decided that there would be no order as to costs.
- 15. The Appeal Board order that the appeal fee be forfeited.
- 16. The Appeal Board’s decision is final and binding.

Paul Tompkins
Glenn Moulton
Robert Purkiss MBE

22nd June 2022