APPEAL BOARD OF THE FOOTBALL ASSOCIATION

BETWEEN:

AFC FYLDE (Appellant)

-and-

THE NATIONAL LEAGUE (Respondent)

WRITTEN REASONS OF THE APPEAL BOARD

Appeal Board:	Glenn Moulton (Chair) – Independent Football Panel Member
	Keith Allen – Independent Football Panel Member
	Alan Hardy – Independent Football Panel Member
Secretary:	Conrad Gibbons – Senior Judicial Services Officer
Date:	24 October 2025
Venue:	Held remotely via Microsoft Teams
Attending:	David Haythornthwaite, Chairman, representing the Appellant
	Stewart Maris, Director of Football, Appellant, Observer
	Jack Tomlinson, Head of Football Administration, Appellant, Observer
	Alastair Kay, Head of Football Administration, representing the Respondent
	Phil Alexander, Interim CEO, Respondent, Observer
	Melissa Whitmore, Football Administration Manager, Respondent, Observer

INTRODUCTION

1. No objection was raised concerning the composition of the Appeal Board.

2. The Appeal Board had before it a bundle, which consisted of 114 pages.

3. This document summarises the reasons for the Appeal Board's decision. The Appeal Board considered all the materials before it. If this document does not expressly refer to a particular document, point or submission, it should not be inferred that the Appeal Board overlooked or ignored it.

BRIEF BACKGROUND FACTS

4. The Appellant was scheduled to play a National League North fixture ("the fixture") against South Shields on Tuesday 4 November 2025. This match was to kick off at 19:45.

5. South Shields submitted a request by email to the Appellant at 14:57 on Friday 17 October 2025 to postpone the fixture. The Respondent was copied into this email.

6. South Shields submitted the request because their FA Cup 1st Round fixture against Shrewsbury Town had been fixed to kick off at 12:00 on Sunday 2 November 2025. This match had been chosen for live television broadcast.

7. The Appellant emailed South Shields and the Respondent at 16:13 on 17 October 2025 stating that they were not supportive of the postponement request. The Appellant stated that League Rule 8.5. "*clearly states that an application can be made to postpone a League match due to a scheduled FA Cup fixture within 48 hours of a League fixture however, this is not the case on this occasion*".

8. The Respondent emailed the Appellant and South Shields at 18:24 on 17 October 2025. This email stated that "*Whilst we understand the rule states within 48 hours, we are using the discretion granted in the rule to approve the application. I would also like to point out that we are able to change any Competition fixtures during the season to suit the overall interests of the Competition and in this instance we would support a Club in the FA Cup as best we can as our Clubs doing well in the FA Cup is positive news for the Competition."*

9. The Appellant emailed the Respondent at 06:51 on Saturday 18 October 2025 stating that they did not accept the Respondent's decision and that they wished to appeal it. The Appellant noted that a telephone call would take place between the Appellant and the Respondent on the morning of Monday 20 October 2025.

10. The Respondent emailed the Appellant at 13:06 on Monday 20 October 2025. This email stated that "*Further to discussions today with AFC Fylde and internally, I am writing to confirm that the National League's position remains unchanged from Michaela's email below, and South Shields' request to postpone the fixture originally scheduled for Tuesday 4 November has been accepted."*

11. The Appellant submitted their intention to appeal to the Football Association at 13:32 on Monday 20 October 2025. The Appellant applied to expedite the appeal at 15:28 on the same day. The Respondent supported this application and the Vice-Judicial Panel Chair (Graeme McPherson KC), subsequently ordered the appeal expedited. This included, but was not limited to, an order that the matter be heard on Friday 24 October 2025.

12. A 114-page bundle was circulated to the parties and the Appeal Board on the morning of 23 October 2025.

13. League rule 8.4. states that:

"….Saturday (and in the case of Step 1, Saturday and midweek) fixtures in the Competition shall take precedence over all other competitions in which a Club may engage with the exception of:
• The FA Challenge Cup/Welsh Cup
• The FA Challenge Trophy Competition…."

14. League rule 8.5. states that:

"In the event of any Club being required to play an FA Cup, FA Trophy or FA Vase match within 48 hours of a scheduled Competition fixture it shall have the right to apply in writing as soon as practically possible (but in any event no later than 48 hours after becoming aware of the relevant Cup fixture) to have its Competition fixture postponed with or without the consent of its opponent."

15. League rule 8.7.1. states that:

"The Board may change any Competition fixtures during the season to suit the overall interests of the Competition (including for broadcasting or live streaming purposes). The Competition Secretary shall notify both participating Clubs in writing about any change to a Competition fixture."

THE APPEAL REGULATIONS

16. Paragraph 2 of the Appeals – Non-Fast Track Regulations ("the Appeal Regulations") sets out the grounds upon which a participant may appeal a first instance decision. They are:

"... the body whose decision is appealed against:

2.1 failed to give that Participant a fair hearing; and/or

2.2 misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision; and/or

2.3 came to a decision to which no reasonable such body could have come; and/or

2.4 imposed a penalty, award, order or sanction that was excessive."

17. Paragraph 12 of the Appeal Regulations states:

"An appeal shall be by way of a review on documents only. The parties shall however be entitled to make oral submissions to the Appeal Board. Oral evidence will not be permitted, except where the Appeal Board gives leave to present new evidence under paragraph 10 above."

18. Regulation 21 of the Appeal Regulations sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal, the power to remit the case for re-hearing and the power to exercise any power which the body against whose decision the appeal was made could have exercised.

THE APPELLANT'S WRITTEN CASE

19. The Appellant cited two grounds for appeal. These were that the Respondent:

2.1 misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision; and/or

2.2 came to a decision to which no reasonable such body could have come; and/or

20. The Appellant noted that the time between the South Shields v Shrewsbury Town FA Cup match and the fixture was 55 hours, 45 minutes. The Appellant stated that League Rule 8.5 gave South Shields no grounds to apply for a postponement of the fixture and the Respondent had erred by considering the application.

21. The Appellant referred to League Rule 8.4 as they believed "*the League Rules ONLY prioritise FA Cup fixtures over National League fixtures that are scheduled to be played on a Saturday and NOT midweek."*

22. The Appellant noted that the Respondent scheduled fixtures during the playing season which were 48 hours apart. For example, on the August Bank Holiday weekend.

23. The Appellant stated that South Shields "*had the option to resist the FA Cup fixture being moved".*

24. The Appellant referred to League Rule 8.7.1 as a "*get out of jail clause*". The Appellant cited numerous examples from previous seasons and stated that they "*struggle to understand how postponing our fixture on 4th November will 'suit the overall interests of the competition'"*.

25. The Appellant noted that South Shields did not have a fixture in the week leading up to the Shrewsbury Town FA Cup match.

26. The Appellant cited "*significant costs incurred in the loss of sponsors and corporate revenue, much of which is not easily recoverable at a later date".*

THE RESPONDENT'S WRITTEN RESPONSE

27. The Respondent acknowledged that the application by South Shields fell outside the time limit stated in League Rule 8.5.

28. The Respondent stated that the decision to postpone the fixture was taken in accordance with League Rule 8.7.1. which "*grants the League the ability to reschedule fixtures outside the time constraints listed in Rule 8.5."*

29. The Respondent noted that League Rule 8.7.1. highlighted "*Specific examples are provided when this may be applicable, including "for broadcasting or live streaming purposes.""*

30. The Respondent rejected the Appellant's interpretation of League Rule 8.4. The Respondent stated that FA Cup fixtures took precedence over all National League fixtures.

31. The Respondent reiterated its position that the decision to postpone the fixture was in the "*overall interest of the Competition*".

THE APPEAL HEARING

32. The Appellant stated that they had not seen the postponement request by South Shields or the reasons for the Respondent's decision.

33. The Chair referred the Appellant to pages 11-20 of the bundle.

34. The Appellant raised concerns about whether the Appeal Board had the authority to overturn the Respondent's decision.

35. The Chair confirmed that, if the appeal was upheld, the Appeal Board did have that authority.

36. The Appellant stated that South Shields could have rejected the televised game or could have requested it to be played on a Friday or Monday. The Appellant stated that South Shields had clearly made no attempt to do so. The Appellant said that this was a '*have your cake and eat it*' situation.

37. The Appellant strongly disputed the Respondent's suggestion that the decision to postpone the fixture had been in the overall interests of the competition. The Appellant said that the Respondent had not provided a proper explanation for the decision.

38. The Appellant noted that fixtures scheduled 48 hours apart was a standard approach by the Respondent.

39. The Appellant said that had they been in the same position as South Shields, they would have checked the League Handbook and would have noted League Rule 8.5. The Appellant suggested that they would not have submitted a postponement request. This was because the fixture was more than 48 hours later than the FA Cup match, and therefore no provision for postponement existed.

40. The Respondent referenced the email correspondence in the bundle and noted that telephone discussions took place with the Appellant on Monday 20 October 2025. The Respondent outlined reasons for the decision during those discussions.

41. The Respondent reiterated that they conceded that the fixture was more than 48 hours after the South Shields v Shrewsbury Town FA Cup match. However, they stated that the National League had historically interpreted League Rule 8.5. to mean "*two clear days*".

42. The Respondent accepted that they scheduled league fixtures 48 hours apart. However, these were between sides who had both played fixtures 48 hours apart. The Respondent stated that the situation with the Appellant and South Shields was different.

43. The Respondent stated that it was their position that member clubs should be able to compete in televised games to the best of their ability. The Respondent referenced player welfare. The Respondent stated that this was in the best interests of the competition.

44. The Respondent stated that if the appeal was dismissed, the fixture would be rescheduled to take place on Wednesday 5 November 2025, i.e., 24 hours after the original scheduled time.

45. The Respondent confirmed that the decision to postpone the fixture had been ratified by the League Chairperson.

46. The Respondent accepted that it was the preference of South Shields for the match to be postponed, and that they would be able to fulfil the fixture if it was played on the original date, 4 November 2025.

47. The Respondent accepted that fixture congestion was an inevitable consequence of successful cup runs.

48. The Respondent stated that they had considered the logistical impact of the postponement on the Appellant, but that fixture rearrangements were commonplace and that this was not especially late notice.

49. The Respondent accepted that they had not taken any proactive steps to postpone the fixture and that their decision had been prompted by the application made by South Shields.

50. In their closing remarks, the Appellant stated that cup runs inevitably led to additional matches and the issues associated with these. The Appellant rejected the Respondent's suggestion that player welfare was a relevant factor. They reiterated that the Respondent regularly scheduled fixtures to take place 48 hours after another fixture, and that the National League now allowed five substitutions per team during a match.

51. The Appellant strongly disagreed with the Respondent's suggestion that League Rule 8.5. should be interpreted to mean two clear days. The Appellant stated that that approach was unclear, whilst the strict interpretation of "*48 hours*" was "*clearly defined*".

THE APPEAL BOARD'S DECISION

52. As is clear from Regulation 12 of the Non- Fast Track Regulations, the task of the Appeal Board is to conduct a review of the first instance decision, and not a new hearing. In other words, the Appeal Board is not considering the matter afresh but, instead, reviewing the first instance decision.

53. Guidance on how this review should be carried out is to be found in:

(a) The FA v Bradley Wood, 20 June 2018, which states, at paragraph 23:

"When considering evidential assessments, factual findings and the exercise of a judicial discretion in the context of an appeal by way of review, a Commission must be accorded a significant margin of appreciation. Accordingly, such evidential assessments and factual findings should only be disturbed if they are clearly wrong or wrong principles have been applied. That threshold is high and deliberately so. When assessing whether a sanction is unreasonable the same margin of appreciation applies. It is not for the Appeal Board to substitute its own opinion or sanction unless it finds that the Commission's decision was unreasonable."

And

(b) The FA v José Mourinho, 18 November 18, which states, at paragraph 54:

"It is not open to us to substitute our decision for that of the Commission simply because we might ourselves have reached a different decision. If the Commission has reached a decision which it was open to the Commission to reach, the fact that we (or a different Regulatory Commission) might have reached a different decision is irrelevant. To put it another way, it is not for us to 'second guess' the Commission; …

… We are permitted to 'intervene' only when there has been an error of principle by the Commission. To put it another way, we are not permitted to interfere with the decision of the Commission unless we are satisfied that the Commission has gone 'plainly wrong'."

54. Accordingly, the Appeal Board applied the following principles in its approach to the grounds of appeal:

- An appeal such as this proceeds by way of review of the decision of the Respondent. It is not a rehearing of the evidence and arguments at first instance;
- It is not open to the Appeal Board to substitute its own decision for that of the Respondent simply because the Appeal Board might themselves have reached a different decision at first instance;
- If the Respondent has made a decision which it was reasonably open to the Respondent to make, the fact that the Appeal Board might have made a different decision is irrelevant;

- Any Appellant who pursues an appeal on the ground that a Respondent has come to a decision to which no reasonable such body could have come has a high hurdle to clear or a high threshold to overcome.

55. In accordance with the principles set out immediately above, the Appeal Board considered all the parties' submissions.

56. The Appeal Board agreed that League Rule 8.4. clearly gave precedence to FA Cup fixtures.

57. The Appeal Board agreed that League Rule 8.5. did not permit South Shields to apply for a postponement of the fixture. The fixture was, in fact, more than 48 hours after the South Shields v Shrewsbury Town FA Cup match.

58. However, the Appeal Board agreed that League Rule 8.7.1. allowed the Respondent to exercise discretion in this case and similar cases. Member clubs were entitled to request the exercise of this discretion.

59. The Appeal Board were unpersuaded by several of the factors outlined by the Respondent in relation to their submissions that postponement of the fixture was in the "*overall interests of the competition*". For example, the reference to player welfare.

60. The Appeal Board were sympathetic to several of the points made by the Appellant. For example, the lack of clarity around the application of League Rules 8.5. and 8.7.1.

61. However, the Appeal Board concluded that the Respondent's decision was not so unreasonable that it was irrational and should be overturned.

62. The Appeal Board could not discern any evidence of any misinterpretation of League Rule 8.7.1. or any failure to properly comply with it.

63. The Appeal Board agreed that the appeal should be dismissed on both grounds.

64. The Appeal Board were critical of the Respondent's suggestion that League Rule 8.5. could be interpreted as meaning "*two clear days*". The Appeal Board's view was that "*48 hours*" meant "*48 hours*". The Appeal Board considered that the Respondent may wish to reflect on providing greater clarity to member clubs in relation to the operation of League Rules 8.5 and 8.7.1. The Appeal Board agreed that this was a matter for the Respondent, and it had no material bearing on the outcome of the appeal.

65. The Appeal Board agreed that the appeal fee should be forfeited and that there would be no order as to costs.

66. The decision of the Appeal Board is final and binding and there is no further right of challenge.

Glenn Moulton

Keith Allen
Alan Hardy

27 October 2025