

THE FOOTBALL ASSOCIATION

APPEAL BOARD

PERSONAL HEARING

of

REDHILL FC (Appellant)

&

COMBINED COUNTIES LEAGUE (Respondent)

WRITTEN REASONS OF THE APPEAL BOARD

These are the written reasons of the decision of an appeal board (the “Appeal Board”), having considered the matter as a personal hearing held online via the video platform MS Teams on 21st May 2025.

Introduction

1. The Football Association (“The FA”) had received an appeal by Redhill FC (“Redhill”) against a decision of the Combined Counties League (“the League”).
2. The appeal was against a decision (“the Decision”) of the League to deduct the three points which Redhill had won in a match against Balham FC played on 21st December 2024 (“the match”).
3. The points had been deducted by the League as a consequence of Redhill fielding an ineligible player in the match thus breaching League Rule 6.9.
4. The Appellant was appealing against the Decision.

The Appeal Hearing

5. The Appeal Board convened on 21st May 2025 to consider the appeal. The Appeal Board comprised:

Paul Tompkins (Chair)

Daniel Mole (Panel Member)

Robert Purkiss MBE (Panel Member)

The Appeal Board was assisted by Marc Medas of Judicial Services, The FA, acting as secretary to the Appeal Board.

6. The Appellant having opted for a personal hearing was represented by Mr Jerry O’Leary, Club Chairman of the Appellant club, with Jordan Clark in attendance as an observer.

7. The Respondent was represented by Mr Chris Conlon, Chair and Assistant Secretary of the League, with Oliver Ellery and Robert Dalling in attendance as observers.

The Appeal Documentation:

8. The Appeal Board had before it the full appeal bundle comprising:

- Notice of Appeal
- Response to Notice of Appeal
- Redhill FC Charge Sheet
- Redhill FC Charge Letter
- Redhill FC - Plea of Mitigation
- Redhill Response to Charge
- Surrey FA Misconduct Charge Notification
- Email Complaint from Jersey Bulls to Surrey FA
- Sean Swift Bookings - Sent by Jersey Bulls
- Redhill Playing Record with Sean Swift Appearances & Cards
- Referee Reporting Form 2024-25 Chipstead v Redhill 08-10-2024
- Chipstead v Redhill 08-10-2024 Team Sheet
- Chipstead v Redhill 08-10-2024 on Full Time
- Redhill Cautions on Full Time
- Ineligible Player League Rule 6.9
- Disciplinary Regulations Section 11 Part D Category 5 Sub-Section 16 Paragraph 16.3
- fulltime-admin.thefa.com_league_stat_statHistoryForFixture_26592017

- Grassroots Discipline Guide 2024-25 v3
- Redhill FC email to state they would not appeal against Surrey FA Decision 2nd May 2025
- Email to Redhill FC with Charge under rule 6.9 on 2nd May 2025
- Redhill FC response to league charge under rule 6.9 on 6th May 2025
- Minutes of Board Meeting with Redhill FC 9th May 2025
- Redhill Decision Letter
- Combined Counties League Rules 2024-2025
- Fines Tariff 2024-2025
- Grassroots Disciplinary Guide Page 9
- Grassroots Disciplinary Guide Page 11
- Grassroots Disciplinary Guide Page 17

9. All members of the Appeal Board were fully conversant with the appeal bundle. Absence of specific reference to any part of the appeal bundle in these written reasons does not mean they were not considered; they were considered in full. These written reasons quote from the papers of first instance only if and when necessary. Absence of wholesale reference to the papers of first instance should not be taken as an inference that they were not considered by the Appeal Board.

Agreed facts

10. For the sake of clarity, the following facts were accepted by both parties:

- Sean Swift was a player for Redhill in the 2024-25 season
- Sean Swift had received a caution (yellow card) in the match between Chipstead and Redhill on 8th October 2024
- That caution had not been uploaded to of the FA's Whole Game System ("WGS") due to a failure on the part of the match referee
- On 7th December 2024 Sean Swift received his fifth caution of the season in a match between Sheerwater and Redhill
- Because of the failure to register the caution of 8th October 2024 on WGS, by that stage of the season Sean Swift was shown on WGS as having received four cautions only, although he had in fact received five
- For receiving five cautions prior to 31st December 2024 a player should serve an automatic one match suspension

- Sean Swift played in the match between Redhill and Balham on 21st December 2024
- The fact that Sean Swift should have been suspended for the match was identified by Jersey Bulls FC and reported to the Surrey County Football Association on 23rd April 2025
- On 24th April 2025 Surrey FA charged Redhill with a breach of FA Rule E12 on the grounds that Sean Swift participated in the match for Redhill on 21st December 2024 when he should have been under suspension
- Redhill attended a personal hearing to deny the charge but the E12 charge was found proven against them by Surrey FA
- Redhill did not appeal that decision
- The misconduct of fielding an ineligible player was reported to the League who charged Redhill under League Rule 6.9
- Redhill did not dispute the League charge but had requested a personal hearing at which they had presented their plea in mitigation to explain why the circumstances giving rise to the charge were exceptional
- That hearing had taken place on 9th May 2025
- The League Board considered the plea in mitigation. The League Board determined that the mitigation presented did not satisfy the requirements of exceptional circumstances. Therefore, the mandatory deduction of the three points which Redhill had gained in the match was implemented.
- In addition, Rule 6.9 provides for a fine to be levied and the League Board imposed the minimum fine possible of £120, suspended until the end of the current season.

11. League Rule 6.9 states:

“Rule 6.9 - Playing an Ineligible Player

Any Club found to have played an ineligible Player in a match or matches shall have any points gained from that match or matches deducted from its record, up to a maximum of 12 points (save for in relation to a knock-out match or matches – e.g. the Play-Offs – in which case the Club shall be disqualified from the relevant knock-out competition(s)), and have levied upon it a fine.

The Board may also order that such match or matches be replayed on such terms as are decided by the Board which may also levy penalty points against the Club in default. The

Board may vary its decision in respect of the points gained (or disqualification) in circumstances where;

(a) the ineligibility is due to the failure to obtain an International Transfer Certificate; or

(b) where the ineligibility is related to a change in the Player's status with the Club for whom he is registered; or

(c) where the Board determined that exceptional circumstances exist.”

Submissions by the Appellant:

12. The Appeal Board carefully considered the appeal notice and its covering correspondence as set out in the bundle and invited Mr O’Leary to address them.

13. The Appellant was appealing against the Decision on the grounds that the League had imposed a penalty, award, order or sanction that was excessive.

14. Redhill understood that once the FA Rule E12 charge had been proven by Surrey FA the League would need to consider the application of League Rule 6.9. Redhill also understood that the Rule stated that for playing an ineligible player, the club “*shall have any points gained from that match deducted from its record*”. But League Rule 6.9 also provided that “*the Board may vary its decision in respect of the points gained where the Board determined that exceptional circumstances exist*”. It was Redhill’s case that the circumstances were indeed exceptional.

15. The cause of any error in the WGS was the fault of a third party. Redhill as a club relies upon the referee meeting his regulatory requirements and in this case he did not because he did not register the caution he administered to Sean Swift on 8th October 2024.

16. Redhill had relied upon WGS which said Sean Swift was eligible to play in the match. How were they to know the yellow card had not been rescinded?

17. Redhill are aware of the Grassroots Discipline Guide referred to in the League’s response but those are provided to offer “helpful guidance” and are not regulations.

18. The discipline guide is a guidance document. Where does it state that it is up to a club to manage the regulatory performance of a referee? Other than guidelines, where does it say it is up to the club to manage the deficiencies and non-performance of a referee? The discipline guide is an advisory document which is relied upon inappropriate circumstances.

19. Mr O'Leary submitted that the referee in question is facing charges from his county association and therefore these are exceptional circumstances

20. So far as the player E10 charge and the club E12 charge from Surrey FA were concerned, it was made clear at the Hearing that the player had an obligation to the County and he had failed in that obligation. He was therefore found guilty and by implication the club was also guilty.

21. The club accepted that Sean Swift had been ineligible to play on 21st December 2024 and could not therefore deny the charge. That is the reason they didn't appeal but rather relied upon being able to present mitigation to the League

22. As a club, Redhill rely heavily on WGS. They are not saying they are unhappy with WGS as they feel they can rely upon it as they did in this case.

23. Mr O'Leary accepted that in this case there might have been a mental note but they had no file note of the number of cautions Sean Swift had received. They have relied on WGS in seeing if a player is eligible to play.

24. The player himself had not raised the issue with them. How is this then the club's responsibility? The referee had had a regulatory requirement in which he had failed. That is a heavy responsibility.

25. The club is not required to keep a record of referee's omissions or to put them right.

26. Mr O'Leary understood that mistakes had been made but the situation had been caused by a third party and the information required to be registered from 8th December still is not on WGS. More pertinently, at no time between 8th October and 31st December did the referee return to WGS to put things right.

27. It is harsh to penalise Redhill for the deduction of the full three points. Is it fair that the points are lost by the failure of the referee and therefore the failure of WGS?

28. In response to questions, Mr O'Leary confirmed that he did not know if Redhill has an internal way of keeping a check on players' records. They rely on WGS and this time no suspension was raised on WGS. They receive referees' match reports but do not cross check them in every case. This used to be prepared on match day but is now uploaded by the referees to WGS.

29. They had cooperated in expediting the League procedure as they were aware of the impending playoff scenario. Although submitting that the expedited hearing procedure had placed Redhill at a disadvantage, Mr O’Leary also added “*we are not complaining about that.*”

30. He also accepted that Redhill had uploaded match information on Full Time confirming Sean Swift had been booked on 8th October. He agreed that Redhill had taken no action with regard to the apparent failure to report the caution. They had not noticed that the caution from the Chipstead match had not been recorded on WGS, however, he asked “*where is it imposed upon the club to take up any discrepancy with the county association?*”

31. The first team manager would be aware of who was eligible and who was not from his own memory of games and by inquiry of the club’s officers. They had had the same manager throughout the season but Mr O’Leary did not know specifically how he had kept track of Sean Swift.

32. As for Jersey Bulls being able to discover details of the cautions, Mr O’Leary did not know how they had garnered that information.

33. When it was suggested that to allow the appeal would send a message that clubs are not responsible for tracking their own players’ records, Mr O’Leary said Redhill understood that but the omissions of referees have consequences, consequences for which Redhill were now paying and these amount to exceptional circumstances.

Submissions by the Respondent

34. In response, the League stated that it stood by its written response in which it had dealt with the matters raised by Redhill in their oral submissions.

35. It was the case that Redhill had failed to observe the FA’s Grassroots Disciplinary Guide and they had failed to identify the discrepancy in Sean Swift’s disciplinary record.

36. Mr Conlon likened the relationship between FA Regulations and the Grassroots Disciplinary Guide as being similar to the relationship between the Road Traffic Act and the Highway Code. In other words, the Regulations provide the law but all parties are expected to follow the Disciplinary Guide and Redhill in this case have not. The importance of the Grassroots Disciplinary Guide is borne out by Surrey FA’s own website where the Guide precedes the Handbook on its home page.

37. He submitted that this sort of situation happens every season. It is usually a late entry of a caution or other detail by a referee rather than non-entry but clubs are recommended to keep

their own records. If a club is uncertain whether a caution has been administered or to whom it has been administered the usual step is to speak to the referee after the match. That wasn't needed in this case as Redhill themselves had made a note of Sean Swift's first caution of the season on 8th October 2024 on Full Time so there is no doubting the caution was administered and Redhill was aware of it. It also appears that they had failed to keep track of his disciplinary record.

38. Mr Conlon also drew the Appeal Board's attention to page 9 of the Disciplinary Guide where it states, *"In the event of non-receipt of paperwork following disciplinary sanctions being administered by the Match Official, the Club are required to contact the County Association and make them aware immediately."*

If you have not received paperwork usually within four working days of the game, The FA advises that you must bring this to the attention of your County FA.

Non receipt of paperwork is not an excuse!"

39. Also, the following was noted on page 11 of the Guide, *"Even if you have not received notification of suspension from your County FA you must contact them and inform them that there is information outstanding that has not been received."* And again, on page 17 *"Non-receipt of paperwork is not a valid defence, and a charge is issued for playing whilst under suspension for both the Club and the Player."*

40. The submission of the League is that it is the responsibility of clubs to see that a caution has not appeared on the system and to go back to the County Association and find out what has happened. The memory of the team manager or club officials later in the season doesn't come into it, it should have been noticed within the week and followed up as specified in the Guide.

Summing Up

41. In closing Mr O'Leary stated that the situation is indeed exceptional, sufficient to trigger the exception provided in rule 6.9 (c). The referee had a regulatory obligation which he had failed to fulfil, something he had repeated later in the season. For this situation to have developed once the season is over is not usual. If clubs have to maintain their own records because WGS is not reliable that needs to be made clear to the clubs.

Deliberation

42. The Appeal Board then retired to deliberate. Before doing so, it thanked the parties for their attendance and their presentations and invited them to disconnect. The Appeal Board's decision would be communicated to them by email.

Legal test for all grounds of appeal

43. The Appeal Board reminded itself of the Appeal Regulations of the Football Association. As laid down in Regulation 12 of the Non- Fast Track Appeal Regulations¹, 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.

44. 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

¹ The FA Handbook 2024/2025 at P.191

decision of the Commission unless we are satisfied that the Commission has gone 'plainly wrong'.”

45. While referring to a commission, this guidance applies equally to a first instance decision by a league management committee or a league board, as in this case.

46. 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;
- The test for the Appeal Board in determining whether the Respondent acted irrationally and/or perversely and/or “Wednesbury” unreasonably, or came to a decision to which no reasonable such body could have come, is essentially the Wednesbury unreasonableness test applied in administrative law to cases of judicial review;

47. In accordance with the principles set out immediately above, the Appeal Board considered the parties’ submissions.

48. In its notice of appeal and in oral submissions, the Appellant had submitted that the circumstances leading to the County FA E12 charge and then the League charge for a breach of Rule 6.9 were exceptional, sufficiently exceptional to allow rule 6.9 (c) to apply. This was because the consequences had been entirely predicated by the failure of the match referee on 8th October 2024 to fulfil his regulatory obligations. Redhill had relied upon WGS for their information and had sought to argue that it was not a club’s responsibility either to keep a note of players’ disciplinary records nor to address any apparent shortcomings in the system. This was to fly in the face of the Grassroots Disciplinary Guide which is circulated to all clubs and forms the yardstick by which this case has been measured.

49. The Appellant had also not provided an explanation as to whether the omission on WGS of Sean Swift’s caution on 8th October 2024 was something they were aware of either in the immediate aftermath of the match or later.

50. The Appeal Board was also concerned that when pressed for clarification of whether Redhill keeps an internal record of players disciplinary records, Mr O’Leary was unable to give

a clear answer. It may well have been that he did not know the answer but the lack of clarity on this point did not assist. Having said that, Mr O’Leary was clear in asserting that clubs should be entitled to rely on WGS, which had failed in this instance.

51. In response, the Respondent had relied upon the Grassroots Disciplinary Guide and the strong guidance and warnings contained therein, warnings which appeared to have gone unheeded with the now obvious consequences. Failure to address the absence of disciplinary paperwork from Surrey County FA following the match of 8th October had led to this situation unfolding. Mr O’Leary had admitted that there were probably two cautions in that match, one for Sean Swift but the other being unclear. Rather than clarifying matters with the referee or with the county association Redhill appeared to have kept quiet instead of following the guidance

52. The Appeal Board concluded that Redhill had not done enough to satisfy them that they had done everything within their power to mitigate the situation at the time and manage it as advised by the Guide. Redhill had sought to argue that the cause of the situation was exclusively the referee’s responsibility without acknowledging their own shortcomings.

53. The Respondent had carried out its regulatory function correctly. It needed to be borne in mind that the Respondent also had a duty to the League as a whole to act with even-handedness in order to maintain the integrity of the competition. The Appeal Board could not find that the Respondent had either erred so as to be “plainly wrong” or had reached a decision on whether the circumstances were exceptional which was outside the scope of reasonable decisions it could have taken.

54. As to the Decision of the Respondent, having decided that circumstances were not exceptional, the Appeal Board found that the Respondent had acted entirely in accordance with the League rules which provide that any points won in the match shall be deducted (emphasis added). The actual sanction applied was the minimum allowed.

55. The decision of the Appeal Board is that the penalty, award, order or sanction of the Respondent was not excessive and therefore the appeal fails.

56. The Appeal Board took note of the compliments paid to Redhill by the League and took the view that Mr O’Leary had been helpful and sincere in all his submissions. Reaching its decision not to allow the appeal the Appeal Board was also mindful of not sending the wrong message to clubs. In the future, unscrupulous clubs could have treated an alternative outcome

of the appeal as a licence ignore the FA's Grassroots Disciplinary Guide, to exploit the system and to rely upon any errors in WGS to their advantage.

Conclusion

57. In summary, the Appeal Board unanimously dismissed the appeal.

58. The Appeal Board therefore ordered:

- The appeal was dismissed on the ground that the Respondent imposed a penalty, award, order or sanction that was not excessive.
- There was no order as to costs and
- The appeal fee is to be forfeited

59. This decision of the Appeal Board is final and binding on all parties and there shall be no right of further challenge.

Paul Tompkins

Robert Purkiss MBE

Daniel Mole

27th May 2025