

APPEAL BOARD OF THE FOOTBALL ASSOCIATION

BETWEEN:

SKELMERSDALE UNITED FC (Appellant)

-and-

NORTH WEST COUNTIES FOOTBALL LEAGUE (Respondent)

WRITTEN REASONS OF THE APPEAL BOARD

Appeal Board: Sally Davenport (Chair) – Independent Legal Panel Member

Laura McCallum – Independent Legal Panel Member

Daniel Mole – Independent Football Member

Secretary: Conrad Gibbons – Senior Judicial Services Officer

Date: 7 March 2025

Venue: Held remotely via Microsoft Teams

Attending: Daniel Roberts – Club Secretary – representing the Appellant
Paul Lawler – League Chair - representing the Respondent
John Deal – League Secretary – Observer

INTRODUCTION

1. The Appeal Board was appointed to determine an appeal in accordance with The Football Association's Disciplinary Regulations – Appeals ("the Appeal Regulations"). No objection was raised regarding its composition.
2. The Appeal Board conducted a hearing on 7 March 2025 to determine an appeal submitted by Skelmersdale United FC ("Skelmersdale" or "the Appellant") against a decision of The North West Counties Football League ("the League" or "the Respondent") not to order the replay of a match in which the opposition had played an illegible player.
3. The Appellant submitted a Notice of Appeal ("the Notice"), together with emails exchanged between its Secretary and the Respondent's Secretary. The Respondent submitted a Response to the Notice ("the Response") and provided various documents.
4. The Appeal Board had before it a bundle ("the Appeal Bundle") containing the following:
 - Notice of Appeal
 - Response to Notice of Appeal
 - Original Protest
 - Results Letter
 - Extension Application and Outcome
5. The Appeal Board is grateful to both parties for their comprehensive written and oral submissions. This document constitutes the written reasons for the Appeal Board's decision. The Appeal Board considered the entirety of the materials and submissions that the parties put before it. If this document does not explicitly refer to a particular point, document or submission, it should not be inferred that the Appeal Board overlooked or ignored it.

BRIEF BACKGROUND FACTS

6. The Appellant plays in the League. On 19 October 2024 the Appellant played a match (“the Match”) against AFC Blackpool (“Blackpool”). Blackpool won 4-1. Blackpool was subsequently found to have played an illegible player. The Appellant learned of the ineligible player from minutes of a committee meeting of the League held on 6 November 2024. On 13 November 2024 the Appellant submitted a protest (“the Protest”) in accordance with The FA’s standardised rules applicable to Steps 1 to 6 inclusive of the National League System (“the Standardised Rules”). It asked the Respondent to order that the Match be replayed, citing an occasion in the previous season when Skelmersdale had played an ineligible player and that had happened.
7. Blackpool was charged by the Respondent with a breach of Standardised Rule 6.9. The charge was found proven and Blackpool was deducted the three points that it had gained from the Match and fined.
8. The Protest was considered by the Respondent’s Management Committee (“the Committee”) at a meeting on 8 January 2025 (“the Meeting”). The Appellant was notified that the Meeting would be held on that date and was invited to submit any further observations. It did not do so.

THE APPEAL REGULATIONS

9. 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.”

10. 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.”

11. Paragraph 21 of the Appeal Regulations sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal.

THE RELEVANT RULE

12. Rule 6.9 of the Standardised Rules states as follows:

“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.”

THE APPELLANT’S SUBMISSIONS

13. In the Notice, the Appellant indicated that it was appealing on the basis of the inconsistent application of Rule 6.9 and on the ground that it had not had a fair hearing. The Appeal Board treated this as an appeal on grounds 2.1 and 2.2 of Paragraph 2 of the Appeal Regulations, as quoted in paragraph 9 above.
14. The Notice detailed the circumstances in which the Appellant had played an ineligible player in a match against Burscough FC in December 2023 and how a replay had been ordered as a result. It also referred to the fact that it had appealed the Respondent’s decision in that case because the Respondent had deducted three points in accordance with Rule 6.9 and then a further three points when the original result was annulled. The Notice stated that the appeal board in that case (“the Previous Skelmersdale Appeal”) had found the points deduction to be excessive and three of the six points had subsequently been reinstated. Neither party produced a copy of the decision in the Previous Skelmersdale Appeal to the Appeal Board. The Notice submitted that the Respondent should have taken the same approach as it had done when Skelmersdale had been the offending club and order a replay.
15. The Notice said that the Appellant had not received a fair hearing because the Respondent’s Secretary had indicated before the Appellant submitted the Protest that the Respondent could not replay the game. It provided email evidence to support its argument.

THE RESPONDENT’S WRITTEN SUBMISSIONS

16. In the Response, the Respondent set out a comprehensive timeline of events. The Respondent referred to a previous appeal board decision that had gone against it (which the Appeal Board understood to be the Previous Skelmersdale Appeal) and its efforts to seek clarity from the FA following that decision. It stated that no clarity had been provided. It submitted that it had correctly followed the procedure set out in relation to protests in the Standardised Rules and had correctly applied Rule 6.9 because it had the authority not to order a replay as a result of the use of the word “may”. It submitted that if it had ordered a replay of the Match,

Blackpool would have suffered an excessive punishment. It stated that the League Secretary had given his opinion, but that he had not had a vote. The Committee had unanimously decided not to order a replay.

THE APPELLANT'S ORAL SUBMISSIONS

17. In his oral submissions, Mr Roberts accepted that the Respondent had a discretion under Rule 6.9 as to whether or not to order a match to be replayed, but said that the Respondent had changed how it applied Rule 6.9 after the ruling in the Previous Skelmersdale Appeal. He submitted that the Committee had been influenced by the views of the Respondent's Secretary, even if the Secretary was not the actual decision-maker. He did not understand the suggestion from the Respondent that ordering a replay would constitute an excessive punishment for Blackpool and felt that the Respondent had wrongly interpreted the decision in the Previous Skelmersdale Appeal. He said that the Appellant felt "sinned against" as it had not had the opportunity to replay the Match. He stressed that the Appellant was not saying that it was entitled to expect a replay, but it did feel that Rule 6.9 had been applied differently in the two cases in which it had been involved and that was not fair. All the Appellant was seeking was the opportunity to get something out of the Match.

THE RESPONDENT'S ORAL SUBMISSIONS

18. In his oral submissions, Mr Lawler said that as far as the Respondent was concerned it had dealt with the Protest fairly. The Appellant could have made further submissions ahead of the Meeting, but it did not. He stressed again that the Secretary was not the decision-maker. He explained that last season the Respondent had ordered a number of matches to be replayed, but given the decision in the Previous Skelmersdale Appeal it had decided to adopt a different approach this season. He explained the Respondent's understanding of the impact of that appeal decision. He said that the Respondent had agreed that its starting point from the beginning of the current season would be that replays would not normally be ordered, although each case would be considered on its merits. Mr Lawler indicated that exceptional circumstances would generally be required in order for a replay to be ordered, giving the

example of a result that was likely to have an impact on promotion and relegation. He stated that the Respondent had considered the Appellant's Protest at the Meeting and decided not to uphold it.

LEGAL TEST

19. Paragraph 12 of the Appeal Regulations, cited in paragraph 14 above, makes it clear that the task of the Appeal Board is to conduct a review of the first instance decision rather than a *de novo* hearing. The Appeal Board noted that this was an appeal against a decision of a league and that the decision-maker was a committee of that league rather than a disciplinary commission. As such, there had been no hearing.

THE APPEAL BOARD'S DECISION

20. The Appeal Board rejected the submission that the Appellant had not had a fair hearing. It noted that the Respondent had offered it the opportunity to submit further observations. It had not done so. The Appellant had not pointed to anything in the Standardised Rules to suggest that it should have been offered a hearing before the Committee. Further, the Appellant failed to persuade the Appeal Board that the Committee had effectively come to a decision, by way of the comments of the Secretary, prior to the Appellant lodging the Protest.

21. The Appeal Board debated at length the question of whether the Respondent had misinterpreted the rules or regulations applicable to its decision. It did not have the decision in the Previous Skelmersdale Appeal before it, but from the parties' explanations of that decision, it seemed to the Appeal Board that the Respondent had wrongly concluded that the decision precluded it from ordering matches to be replayed as a general rule.

22. The Appeal Board's understanding of Rule 6.9 is that any points gained from a match in which an ineligible player has played must be deducted (up to a maximum of twelve points if an ineligible player has played in multiple matches). The ordering of a replay will have no further implications on the offending team's points total, although the replay will give the

offending team the opportunity to “win back” any points that have been deducted. Equally, the team asking for a game that it has lost to be replayed will have another opportunity to gain points from the replay.

23. The Appeal Board noted that the Standardised Rules do not contain a provision whereby the three points from the game in question are automatically awarded to the team against which the ineligible player was fielded (which appears to be the most standard rule applied globally where an ineligible player has been fielded in a competition). Arguably that might be a fairer outcome and an easier rule to apply. However, the Appeal Board accepted that it was not its role to rewrite the rules. That must be for The FA, if it chose to do so.
24. The Appeal Board had to deal with the case on the basis of the Standardised Rules as written. Rule 6.9 clearly gives a league discretion as to whether or not to order a match to be replayed. It also provides that a league is free to determine the terms on which the match will be replayed. In the Appeal Board’s view a league is entitled to determine its default position when it comes to the exercise of its discretion. It is also free to change that default position from one season to the next. The Appeal Board did not find anything inherently wrong in the fact that the Respondent had taken a different approach in this case to the approach taken in a previous season. The Respondent was not bound by precedent. The Appeal Board did have some concerns about the way in which the Respondent was now approaching the question of replays, in particular the suggestion that its hands were tied because of the decision in the Previous Skelmersdale Appeal. It noted for example that the “exceptional circumstances” point about league position is only likely to become applicable towards the end of a season, when issues around promotion and relegation become clearer. Nonetheless, it ultimately concluded that the decision to order the replay of the Match was within the discretion of the Respondent and it had decided on this occasion not to exercise its discretion in favour of the Appellant. In coming to that decision it could not be said that the Respondent had failed to apply the Standardised Rules correctly. This ground of appeal therefore also failed.

CONCLUSION

25. The Appeal Board dismissed the Appellant's appeal.

26. The Appeal Board made no order as to costs. The appeal fee is retained.

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

Sally Davenport

Laura McCallum

Daniel Mole

13 March 2025