

DECISION OF AN APPEAL BOARD OF THE FOOTBALL ASSOCIATION

IN THE MATTER OF AN APPEAL BY

WYTHENSHAWE AMATEURS (the appellant)

AGAINST A DECISION BY

THE NORTH WEST COUNTIES FOOTBALL LEAGUE (the respondent)

24 JUNE 2022

APPEAL BOARD

Roger Burden (Chair)
Gordon Mellis
Tony Rock

Conrad Gibbons (Secretary to the Board)

FOR THE APPELLANT

Carl Barratt (Chair)
John Cotton (Secretary)

FOR THE RESPONDENT

Paul Lawler (Chair)
John Deal (Secretary)

1. Explanation

I have summarised below the submissions and our deliberations. As it is a summary, I do not purport to have included every detail but the Appeal Board read, listened to, and considered, all the submissions.

2. Summary of the Appeal

On 9 April 2022, Wythenshawe Amateurs travelled to the Isle of Man to play FC Isle of Man in a Step 6 Play-off semi-final.

Prior to the final league fixture on 2 April, Mr Cotton, for the appellant, was informed by Mr Deal, for the respondent, that there would be no cost to his club in the event of the two clubs playing each other in the play-off semi-final. On 3 April, the respondent issued an email with play-off guidance stating - For matches played on the Isle of Man the travel arrangements, are as per the agreement for League matches with the exception that the visiting club can claim their travelling expenses from their home ground to and from the departure airport (Manchester or Liverpool). That email also

stated that the financial aspect, unless you hear different, is as per the Cup Rules ie if the game is in profit then the profit is shared equally between the League and the two competing clubs.

Prior to the match, both clubs had approved a Match Arrangement Form in which travel expenses of only £9.90 were agreed but, on 16 April, the appellant received a statement of receipts and expenses for the match which showed an amount for travel and accommodation costs of £6042.22 included in the travelling expenses.

The appellant had not expected to share any of the flight and hotel costs, and complained to the respondent, but the respondent rejected the complaint at a meeting of its Emergency Committee, a decision that was upheld by the respondent's Management Committee held on 4 May.

The appellant appealed on 2 grounds

- That the respondent misrepresented the rules relevant to its decision.
- That the respondent came to a decision to which no other reasonable body could have come.

3. Additional Evidence

- After the initial documentation was received, the appellant requested permission to submit additional evidence regarding a proposed change to the respondent's cup rules which, the appellant submitted, demonstrated that the current rules did not allow for the expense of flights, etc to be claimed by FC Isle of Man
- Although we could not yet form a full view on the cup rules, the lack of clarity in the cup rules did not appear to be disputed and we were minded to accept this new evidence. The respondent raised no objection.

4. Summary of Appellant's Written Submissions

- the Match Arrangement Form completed by FC Isle of Man, showing travel expenses of £9.90 with which the appellant had agreed.
- The statement of receipts and expenses for the match, which included an amount of £6,042.22 for travel and accommodation costs.
- An email from John Deal, in response to the appellant's complaint, explaining the decision by the Emergency Committee, which confirmed that he had said that there would be no cost to the appellant and that they could claim travelling expenses from the ground to the airport, as per the agreement with the League for cup games.
- A submission by the appellant that it was not for the Emergency Committee to address the issue as, not only was it not an emergency, the rules for play-off matches state that terms and conditions shall be decided by the Football Association and that the matter should have been referred to the FA's Leagues Committee.

- A submission that in an email dated 3 April, Mr Deal had stated “the financial aspect, unless you hear different, is as per cup rules” and that rule 21 (a) states “travel expenses – this provides for travel by coach, private cars, minibus and rail”, adding that it does not cover flights nor accommodation.
- Finally, the appellant stated that once the respondent became aware of this issue it should have been referred to the FA Leagues Committee.

5. Summary of Respondent’s Written Submissions

- Mr Deal stated that, in reaching its final decision re the costs, the appellant’s Management Committee referred to FA Cup Rule 22, which he then quoted. He said that on 5 April the FA issued play-off criteria which included the way that net profit was to be split between the two clubs and the League
- He confirmed that he had written to the play-off clubs and informed them that the financial aspect, unless you hear different, is as per our cup rules. For matches played on the Isle of Man the travel arrangements are as per the agreement for league matches with the exception that the visiting clubs can claim travel expenses from their home ground to the airport.
- He added that on the 5th of April, the FA issued the play-off criteria which was circulated to the clubs the same day. This gave a different percentage split of the profit.
- Mr Deal stated that FC Isle of Man arranged the hotel and travel on behalf of Wythenshawe and it was therefore a genuine match expense. He said that under National League System rules, FC Isle of Man have to fund all travel expenses of their opponents from the departure port to the island. Ordinarily these are funded through match day receipts. There is no specific regulation in place for island teams participating in NLS play-off matches.
- He added that Wythenshawe did not raise any issue prior to the match and have mis-interpreted what net profit means. The request to remove travel and accommodation expenses would financially disadvantage the home club so the respondent believes that the decision taken by its Management Committee was both fair and reasonable.

6. Verbal Submission by the Appellant

- Mr Cotton told us that the Match Arrangement Form, which the two clubs had agreed, did not include the £6000+ for flights and accommodation and that Mr Deal had made it clear that the financial arrangement would be as per the cup rules, which made no reference to flights and accommodation.

- He told us that Mr Deal had also personally stated that there would be no cost to the appellant re travel to the Isle of Man. Mr Cotton said that his club's share of the profit had been significantly reduced by the League decision, which was, in effect a cost to his club.
- He said that Mr Deal knew there was a query on 5 April and should have referred it to the FA Leagues Committee, in accordance with the rules for play-off matches.

7. Verbal Submission by the Respondent

- Mr Lawler told us that travel and accommodation expenses for clubs travelling to the Isle of Man are a valid match expense and have not cost the appellant anything.
- He said that the League had contacted the FA Leagues Committee's staff and he had received a response that the League's decision was fair. However, Mr Lawler conceded that the FA had not been provided with all the facts that were in front of the Appeal Board.
- He said that illness and annual leave at the FA meant that the FA didn't respond until 6 April and the role of the league's Emergency Committee was to decide day to day issues promptly and then refer them to the next meeting of the Management Committee, which ratified the decision.
- He told us that the League's share of the profit would have increased if it had agreed with the complaint but it made a decision based solely on what was fair and reasonable.

8. Appeal Board Questions

- In responding to our questions, Mr Cotton told us that he had no issue with Mr Deal and respected all that he did but the fact was that he had said that there would be no cost to the club. But, in Mr Cotton's view, less profit equaled a cost.
- He said that he did expect FC Isle of Man to pick up the travel and hotel costs outside the match costs because there was no reference to these costs in the cup rules.
- When it was put to him that there was a separate agreement between the league and FC Isle of Man, which appeared to cover league and cup matches he said that clarification was needed and the rule stated that it should have been referred to the FA Leagues Committee.
- When reminded that it was referred to the Leagues Committee, Mr Cotton told us that the Emergency Committee had already made its decision, which it was not empowered to do.
- Mr Cotton also referred us to FA Cup rule 23, which states hotel accommodation must be agreed on the Match Arrangement Form.

- When challenged that the appellant's assumption could be considered fair, Mr Lawler said that it was not a fair assumption because payment of the travel and accommodation is an established cost of a match which FC Isle of Man always pays out of the match income.
- He said that the league was not responsible for the Match Arrangement Form as it was not a league document but one used by the FA for its competitions which the clubs had chosen to use.
- He said that the league season had finished earlier than other leagues which meant that they had made decisions prior to the FA's guidance being issued. However, if the FA had given definitive guidance re island clubs there was plenty of time to have adopted such guidance.
- When asked if, for league cup matches on the Isle of Man, the home club had first deducted travel and accommodation costs before profit distribution, Mr Lawler told us that FC Isle of Man had been drawn away in its cup games so there was no example of the distribution.

9. Subsequent Verbal Submissions

- Prior to final submissions, Mr Lawler told us that he had been mistaken when he said that FC Isle of Man had not played any cup matches at home as, in fact, they played in the final which was played on the island. He said that the costs of flights and hotels had been deducted from the profit before distribution.
- Mr Cotton told us that he had spoken to the other finalist and had been informed that the club had accepted the arrangement because it was very happy with the profit that it was to receive from the match and had not even considered whether or not the arrangement had complied with the rules.

10. Final Submission from the Respondent

- Mr Lawler again said that his committee's decision was fair and reasonable. To have upheld the complaint would have resulted in FC Isle of Man making a loss, which would have been unfair.
- He said that the appellant has not lost anything and its share of the profit is far greater than for any other game.

11. Final Submission from the Appellant

- Mr Cotton told us that the test is not a "fair and reasonable" one, but the test is "do any rules provide for flights and hotels to be paid by FC Isle of man before profit is calculated?"

12. The Appeal Board's Deliberations and Decision

- We agreed with the appellant's submission that we had to decide if the respondent had, or had not, followed the appropriate rules and regulations.
- But we did not agree with the appellant's submission that the test was not a "fair and reasonable" one. In fact, "reasonable" is included as one of the grounds for the appellant's appeal and it falls to the Appeal Board to consider the reasonableness of the application of the rules and to consider whether the decision was one that no other reasonable body would have reached.
- We agreed that the FA's cup competition rules were not relevant.
- There was no doubt that Mr Deal's information to the play-off clubs lacked clarity. Telling Mr Cotton that there would be no cost to his club was also confusing and we could understand why the appellant could have believed that travel and hotel expenses would not be set against net profit. This lack of clarity was underlined by the new evidence regarding the pending change of cup rules. Nevertheless, it is the 21/22 rules which we had to examine, not any information from Mr Deal.
- A considerable part of the confusion was caused by the Match Arrangement Form, but that form was something of which the respondent was not aware, was not contained in any of its rules, and for which it had no responsibility.
- It was clear that the arrangements for visitors to FC Isle of Man were based on paying travel and accommodation costs out of the match revenue, otherwise the arrangement would not be affordable.
- For league matches, the subsequent profit goes entirely to the home club. For cup matches, the subsequent profit is split between the league and the two competing clubs. The League Cup Final was an example of this arrangement, despite the appellant's submission that the visiting club in that final had not given any thought to the rules because it was satisfied with the arrangement and the profit that it generated.
- The appellant claimed that the respondent had not followed the rule regarding reference to the FA Leagues Committee, but it was clear that this was not the case. The respondent did contact the appropriate FA staff and had done so in time for financial arrangements to be changed. In fact, the profits for the game are still being held by the respondent until such arrangements are confirmed.
- All members of the Appeal Board agreed that the respondent had complied with its rules on this matter.

- All members of the Appeal Board also agreed that the inclusion of all flight and hotel expenses within match costs, prior to the calculation of profit for distribution, was compliant with the respondent's agreement with FC Isle of Man and applied to the respondent's league and cup competitions. It followed that it should be applied to the league's play-off matches and was not a breach of any of the respondent's competition rules and was entirely reasonable.
- It was the Appeal Board's unanimous view that the respondent had complied with its, and the FA's, appropriate rules and that the respondent's decision re the allocation of costs was not one to which no reasonable body could have come.
- The Appeal Board unanimously dismissed the appeal on both grounds.
- The appeal fee is to be retained.
- The appellant's confusion was understandable and there was no order made to costs.
- The decision is final and binding on all parties.

Roger Burden
Chair
27 June 2022