

**OJM BLACK COUNTRY FC (Appellant)**

**-and-**

**MIDLAND FOOTBALL LEAGUE (Respondent)**

**DECISION OF THE APPEAL BOARD 1 DECEMBER 2023**

1. The Appeal Board comprised:

Roger Burden (Chair) - Former FA Council Member  
Glenn Moulton – FA Football Panel Member  
Greg Fee – FA Football Panel Member

Conrad Gibbons (FA Senior Judicial Panel Officer) was Secretary.

2. The Appeal was held on-line and was determined on the basis of the papers provided to it. The fact that some matters are not referred to in this summary should not be assumed to mean that they were not considered. The Appeal Board carefully read and considered all the papers.

**Background**

3. The Appellant was unable to play its home fixture on 3 October 2023, as its floodlights were not working and could not be repaired in time.
4. The Appellant was charged on 4 October 2023 under League Rule 8.43 and found guilty by a sub-committee of the Respondent and was fined £250 and had 3 points deducted from its playing record.

**New Evidence**

5. The Appellant submitted an engineer's report, dated 28 October 2023, showing that an engineer had visited the Appellant's ground on 3 October 2023. It confirmed an electrical fault causing the lights to fail on one side of the pitch. Due to the nature of the fault it could not be finally fixed until 6 October 2023.
6. The report was not available when the charge was being considered. We agreed that it was relevant and accepted it as new evidence.
7. The Appellant submitted additional new evidence of an email from the Referee timed at 15.18 on the day of the match, indicating that the Referee had been informed of the postponement by the Respondent. The Respondent did not object to the new evidence but told us that its sub-committee's opinion was that the time of notification was irrelevant. We felt that the timing, first referred to in the Respondent's initial response, was relevant, and we accepted it as new evidence.

## **The Appeal**

8. The Appellant appealed on the grounds that the Respondent imposed a penalty, award, order or sanction that was excessive.
9. The Appellant stated that, on 2 October 2023, it had informed its opponents for the match taking place the following day and the Respondent that the floodlights were not working and that an engineer would be visiting on the morning of the 3<sup>rd</sup>, the day of the match.
10. The engineer did attend that morning, reported a fault and said that work would not be carried out in time for the game. This was confirmed by the Engineer's report submitted as new evidence. The Appellant said that it informed the Respondent as soon as the visit was complete.
11. The Appellant stated that it had no control of the fault and had communicated to the Respondent to ensure enough notice was given to the Respondent.
12. The Appellant stated that this was not repeated behaviour but a one-off.

## **The Respondent's Written Response to the Appeal**

13. The Respondent's Secretary reported that he was emailed, along with 2 of his colleagues, at 11.26am on the morning of the match. This was to request a postponement due to floodlight failure.
14. The Respondent said that the Appellant made no attempt to make contact by telephone and the email was not picked up until 6.30pm, just over an hour before the scheduled kick-off time.
15. The Secretary contacted the Club the next morning to check that the Appellant had contacted the opponents and Match Officials but did not receive a response to that email.
16. The Appellant was then charged under Rule 8.43 and offered a personal hearing but did not respond within the specified timeframe. On 19 October 2023, the Respondent's Discipline Sub-Committee met to consider the charge. After taking all evidence into account, including Rule 8.11, it was agreed that the Appellant had failed to fulfil the fixture and that the Appellant should be fined within the appropriate tariff - the sum of £250 and a 3-point deduction. The match was ordered to be replayed.
17. Also in the papers was a recent lux certificate for the Appellant's floodlights.

## **The Appeal Board's Deliberations**

18. We concluded that the Referee's email was in response to the Appellant informing the Referee of the postponement and that the Referee was already aware of it, having been informed by the Respondent.

19. We also concluded that the Respondent could only have learnt of the postponement from the Appellant and prior to 15.18 on the day of the match.
20. We noted that this contradicted the Respondent's assertion that it had not been informed of the postponement until 6.30pm.
21. From the Respondent's explanation of its sub-committee's decision-making process, it appears that its decision was based upon FA Rule 8.11.
22. Rule 8.11 "*Each Club must take every precaution to keep its ground in good playing condition and amenities (including floodlights) in good working order and complying with the Criteria Document throughout the playing season.*"
23. We were a little confused by the Respondent's use of Rule 8.43, particularly as its sub-committee appeared to rely on Rule 8.11. in order to prove the charge. We therefore decided that we should consider the sanction primarily with regard to Rule 8.11.
24. We noted that in Appendix 1 in the evidence provided to the sub-committee it was mentioned that the email was only picked up at 6.30 pm, making no mention of the contact that was obviously made earlier in the day. We felt, due to the emphasis that had been placed on the timing, that this was likely to have given the sub-committee a misleading view of the steps taken by the Appellant to inform the Respondent, despite the Respondent's subsequent assertion that this was not the case.
25. We agreed that the Appellant had taken reasonable steps to ensure that its floodlights were in working order – it held a valid Lux certificate dated 12 September 2023 and took the precaution of checking the lights the day before the match.
26. Against all this background, we could see no valid reason for applying the sporting sanction of a 3-point deduction.
27. However, despite the reasonable efforts of the Appellant, the floodlights were not in good working order, in contravention of Rule 8.11, leading to the postponement and to inconvenience to its opponents, the Match Officials and the Respondent.
28. In addition, it appeared that the Appellant had not responded to the Respondent on important matters as per 14. and 15. above.
29. We agreed that the financial sanction was appropriate.

### **The Appeal Board's Decision**

30. We unanimously agreed that the appeal should be allowed on the grounds that the sanction was excessive.
31. The 3-point deduction is quashed.

32. The remainder of the sanction remains as originally imposed.

33. There is no order as to costs and the appeal fee is to be returned,

The Appeal Board's decision is final and binding on all parties.

Roger Burden (Chair)

Glenn Moulton

Greg Fee

4 December 2023