

# THE FOOTBALL ASSOCIATION

## APPEAL BOARD

### PERSONAL HEARING

*of*

**CLUB THORNE COLLIERY CIC (Appellant)**

**&**

**NORTHERN COUNTIES EAST FOOTBALL LEAGUE (Respondent)**

---

### 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 12<sup>th</sup> November 2024.

#### **Introduction**

1. The Football Association (“The FA”) had received an appeal against a decision of the Northern Counties East Football League (“the League”) finding a charge proven against the Appellant.
2. The charge had concerned an alleged breach of League Rule 8.38, which states, “*In the event of a match being abandoned due to the conduct of one Club or its members or supporters the Board has the power to order that the match is not replayed and to award either one or three points to the Club not at fault. It cannot levy a financial penalty due to the conduct of a Club.*” The alleged rule breach was as a result of incidents in a match between Club Thorne Colliery First Team v Worsborough Bridge Athletic FC First on 10<sup>th</sup> August 2024 (“the Match”).

3. The charge had been dealt with by a sub-committee of the League management committee sitting initially on 18<sup>th</sup> September 2024 and reconvening on 20<sup>th</sup> September 2024 (“the Sub-committee”) where the charge against the Appellant had been found proven. The Subcommittee had sat further to the result of a Disciplinary Commission of the FA’s National Serious Cases Panel of the 9<sup>th</sup> of September where no fault was found against the opposition.
4. The charge against the Appellant had been as a result of an abandonment of the Match and the Sub-committee ordered that, under 8.38 of the applicable standardised rules, the three league points from the Match should be awarded to their opponents, Worsborough Bridge Athletic FC Firsts.
5. The Appellant was appealing against the decision.

### **The Appeal Hearing**

6. The Appeal Board convened on 12<sup>th</sup> November 2024 to consider the appeal. The Appeal Board comprised:

Paul Tompkins (Chair)

Bob Purkiss (Football Panel Member)

Daniel Mole (Football Panel Member)

The Appeal Board was assisted by Alastair Kay of Berks & Bucks FA as FA National Secretary acting as secretary to the Appeal Board.

7. The Appellant had opted for a personal hearing of the appeal and was represented by Richard Breckell (Director) with Richard Sennett (Chairman) and Rich Williams (Club Secretary) observing.
8. The League was represented by Matt Jones, the League’s general manager.

### **The Appeal Documentation:**

9. The Appeal Board had before it the full appeal bundle of 36 pages in total comprising:
  - The Appellant’s Notice of Appeal & Submissions
  - Response to Notice of Appeal
  - An email from West Riding FA
  - Disciplinary Commission Written Reasons
  - Full papers of First Instance

- Transcript of the Sub-Committee's discussions
- Decision Letter from the League

10. The Appeal Board had before it the full appeal bundle with which all members of the Appeal Board were fully conversant. 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.

### **Grounds of Appeal:**

11. The Appeal Board carefully considered the appeal notice and its covering correspondence as set out in the bundle. The Appellant was appealing against the Decision on the grounds that the Respondent:

- Came to a decision to which no reasonable such body could have come
- Imposed a penalty, award, order or sanction that was excessive.
- Misinterpreted or failed to comply with the Rules and/or Regulations of the Association relevant to its decision.

### **Background:**

12. In the Match there had been an incident where a player for the Appellant, Callum Verhees, had been charged with a breach of FA Rule E3.2, Improper Conduct aggravated by reference, whether express or implied, to any one or more of the following :- ethnic origin, colour, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.

13. That charge had been consolidated with a charge against Worsborough Bridge Athletic FC for causing the abandonment of the Match. Both charges were considered by a National Serious Cases disciplinary commission on 9<sup>th</sup> September 2024. The charge against Mr Verhees having been found proven the commission ordered that the charge against Worsborough Bridge Athletic FC be expunged.

14. The commission referred the question of dealing with the abandoned fixture back to the League to consider in accordance with League rules.

15. The League appointed a Sub-committee of the Management Committee to consider the abandonment, and the Sub-committee found the Appellant to have been guilty of a breach of League rule 8.38 and the sanction imposed was to award the three points from the Match to their opponents, Worsborough Bridge Athletic FC Firsts.

### **Submissions by the Appellant:**

16. The Appellant did not contest the findings against their player, Callum Verhees.

17. The Appellant submitted:

- The Match referee had stated that the appropriate protocol in cases of alleged discriminatory language could not be followed because players had already left the field and were refusing to return.
- It was for the Subcommittee to satisfy themselves as to the causes of the abandonment
- The only person to have made a causal link between the racial slur and the abandonment was the discipline officer from West Riding FA.
- The incorrect rule had been applied. The correct rule should have been 8.37 which states: *“In the event that a match is abandoned for reasons over which neither Club has control the Club playing at home shall retain the gate receipts for such uncompleted match and the Board shall determine the terms upon which any replayed match shall be played.”*
- The submission of the Appellant was that neither club was responsible for the abandonment.
- The Appellant had never been charged and therefore had not been given a chance of presenting its case.
- The real reason for the abandonment is the flawed application of the protocol
- The Subcommittee had been misdirected by the discipline department at West Riding FA.
- The Appellant noted the adjournment of the Subcommittee hearing of 18<sup>th</sup> September to seek specialist advice, but that advice has not been provided to the Appellant.
- Precedents were cited of matches between Whitchurch Allport v Tividale and Haringey Borough v Yeovil where matches had been replayed when the protocol had not been able to be applied following allegations of discriminatory language.
- Further precedents were cited where results had been allowed to stand in such circumstances and finally reference was made to matches between Liverpool v Manchester United and QPR v Chelsea where the correct protocol had been applied and neither game needed to be abandoned.
- The Appellant’s case was that where the protocol is correctly followed there is no requirement to abandon a fixture.

- This aspect was not investigated, and the referee's conduct should have been scrutinised.
- Notwithstanding the referee's assertion that players had left the pitch, the Appellant asserted that players had not left the pitch.
- West Riding FA had provided the Subcommittee with an extract of SCOR 20E but only half of that rule, therefore the Subcommittee was misdirected as to the application of SCOR rule 20E.
- It was clear from the transcript that all members of the Subcommittee were uncomfortable.
- This decision created a bit of a monster for the FA.
- The Subcommittee had not reviewed the circumstances leading to the abandonment as they were required to do by SCOR rule 20E.

18. By way of a further argument, the Appellant submitted that interpretation of the League decision created what it called a "monster": if a team is the victim of misconduct, simply walk off the pitch and claim the 3 points.

- The Appellant submitted that the disciplinary commission had clearly stated that no club was at fault.
- Therefore, with correct guidance on 18<sup>th</sup> and 20<sup>th</sup> September the subcommittee should have concluded that no club was at fault and therefore rule 8.37 was the appropriate rule to apply.
- The Appellant club's behaviour had been exemplary. They had stayed on the pitch, they had waited for the protocol to be applied, they had refrained from commenting on the incident until after the result was known, thereafter they had acted swiftly to ensure the sanction was properly applied. The Appellant is a club which embraces multiculturalism and condemns racist behaviour as they had demonstrated from their subsequent actions.
- The Appellant was being sanctioned as a result of a flawed process which was not their fault.

19. The Appellant then fielded questions from the Appeal Board:

- The determination of the disciplinary commission may well have been that Worsborough Bridge FC were not at fault but the Appellant had never been charged and their culpability had never been tested.

- Rule 8.38 refers to misconduct by a member, in this case a player for the Appellant. However, the Appellant submitted that conduct does not always result in an abandonment and the correct protocols were not applied.
- In response to a question arising from the referee's statement that "*the protocol could not be followed as players had already left the field of play and would not return. The match was abandoned*", the Appellant referred to video footage (not submitted to the appeal panel) showing the players were still on the pitch and that in accordance with rule 20 E the Subcommittee should have reviewed that.
- The Appellant did not believe the League Subcommittee had seen all of the evidence. Had they done so they would and should have applied rule 8.37 as neither club was to blame for the abandonment. As stated previously, the Subcommittee had been misdirected.

[20. Note: At this point one of the appeal board members had IT difficulties but, having resolved them as best he could, the chair was satisfied that he was in full contact notwithstanding the lack of video contact. Neither party raised any objection to continuing.]

21. Questions from the Appeal Board to the Appellant continued.

- The Appellant submitted there was no causation between the discriminatory comments and the abandonment. The cause of the abandonment was that the protocol was not followed.
- It is not sufficient to say that because the abandonment was not the fault of Worsborough Bridge it had to be the responsibility of the Appellant.
- A match should only be abandoned if it is the last resort. In this case the Appellant contended that the referee waited merely three minutes before abandoning the Match.
- There was no disputing the discriminatory incident, but the Appellant insisted this did not cause the abandonment.
- SCOR rule 20E gives numerous options, not just the award of the point to the opposition, but those options are only available if the full rule is employed.
- In the opinion of the Appellant the correct rule to be applied is League rule 8.37 in order to uphold the integrity of the competition. In the circumstances the Match should have been replayed.
- The Appellant is asking that the management Subcommittee be permitted to review their decision in the light of the entirety of SCOR rule 20E.6; the management company committee had to be satisfied it was the conduct of one team only.

### **Response by the League:**

22. Before responding substantively, the League paid tribute to the Appellant club's impeccable behaviour and described Club Thorne Colliery as being a very welcome addition to the League.

23. The League contended that while much had been made of SCOR rule E20, its incomplete disclosure to the League Subcommittee and the failure of the League properly to apply rule E20. In this case SCOR is not applicable and should not be considered in this case.

24. The League contended that:

- The League had been advised by the West Riding FA disciplinary department that they were unable to do anything until the National Serious Cases Panel had concluded its hearing.
- As a League they had considered everything correctly.
- The Match referee had been unable to follow protocol as the Worsborough Bridge players were already off the pitch.
- The National Serious Cases Panel disciplinary commission had found the charge proven against Callum Verhees and he was suspended for six matches. The case against him was proven and as he was a “*member*” of Club Thorne Colliery, for the purposes of League rule 8.38: that rule was the correct rule to have applied.
- The FA's guidance was that Worsborough Bridge FC were not to be charged as one of their players had been the victim of the discriminatory language. A member of the Appellant had been the perpetrator of the discriminatory language and have therefore been the cause of the abandonment.
- For this reason, the Subcommittee considered it within their powers to deal with the matter under rule 8.38.
- Matt Jones, in his role as League Secretary, voiced his opinion “*I would have hoped both clubs should have been charged in respect to the abandonment*” and that way the matter would have been fully considered.
- The conclusion of the Subcommittee was that a “*member*” of the Appellant had caused the abandonment.
- The charge against Worsborough Bridge was expunged therefore rule 8.39 could not have been used. That was an option which was taken out of the Subcommittee's hands.

- The Appellant had on the one hand stated that Worsborough Bridge had removed their players within four seconds of the stoppage in play but on another occasion contended that all the players were still on the pitch and therefore the Match could have continued. Both these statements could not be correct.
- Although the League had in mind several possible ways to deal with the abandonment, following the decision of the commission to expunge the charge against Worsborough Bridge, this placed the matter within the ambit of rule 8.38.
- Although stating they had no referee's evidence to put before the Subcommittee, it was later accepted by the League that the documentation, particularly from the Appellant, contained hearsay evidence from the referee and this was indeed considered by the Subcommittee.
- The Subcommittee had decided the matter on the strength of the statements before it.
- So far as rule 8.38 was concerned, Worsborough Bridge was the club not at fault and therefore the abandonment had been caused by the actions of a member of Club Thorne Colliery.
- Addressing the question of whether the decision of the Subcommittee had been ratified by the board of the League, it was confirmed that the League management and subcommittee structure had been correctly set up in accordance with the Articles of Association and League rules. All decisions of both the committee and subcommittee minutes are monthly ratified both by the management company and the board in turn.
- The subcommittee was left with the situation where Callum Verhees had been guilty and Worsborough Bridge's actions had been exonerated. Mr Verhees was a member of the Appellant and it was he who was responsible for the abandonment which is why the sanction had been levied against the Appellant.
- But for Mr Verhees's actions, the Match would not have been abandoned.

## **Submissions**

25. In closing the Appellant submitted to the Appeal Board that:

- The Subcommittee had used SCOR when coming to its decision.
- The email from West Riding FA referring to SCOR was in the bundle and therefore it had been before the Subcommittee, and it had used this when determining the charge.
- The Appellant had not had the opportunity of submitting its case. An email had been sent by them on 11<sup>th</sup> August 2024 but that was concerning Lee Morris's social media



activity did not concern the case as the Appellant was refraining from referring to the incident until it had been determined by the County Association.

- The Appellant submitted that their own email was not submitted to the Subcommittee and in any event, it was not a statement of their case.
- Why was Club Thorn Colliery not charged with the abandonment of the fixture by the County Association as Worsborough Bridge had been?
- There is insufficient causal link between the actions of Callum Verhees and the abandonment which was caused by a mixture of Worsborough Bridge players leaving the field of play and the referee either failing or being unable to apply the correct protocol.
- Worsborough Bridge FC were not exonerated, the charge was expunged therefore League rule 8.39 could have been used to determine the charge.
- Under rule 8.38, the rule applied by the league, the League “*has the power to order that the match is not replayed*”. So, this infers a replay of the Match could still have been considered.
- The League had been placed in an awkward position by the decisions of the original disciplinary commission but there was a different narrative that they could have followed.
- An injustice has been caused to Club Thorne Colliery, especially as the disciplinary commission had the power to do otherwise than it did.

## **Deliberation**

### **Legal test for all grounds of appeal**

26. As is clear from Regulation 12 of the Non- Fast Track Regulations<sup>1</sup> 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 by the League.

27. 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*

---

<sup>1</sup> The FA Handbook 2024/25 at P.191

*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'."*

28. 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 at the first instance. It is not a rehearing of the evidence at first instance.
- It is not open to the Appeal Board to substitute its own decision for that of the League simply because the Appeal Board might themselves have reached a different decision at first instance.
- If the League has reached findings of fact which it was reasonably open to the League to reach, the fact that the Appeal Board might have reached a different factual finding is irrelevant; and
- In assessing whether to interfere with a sanction that has been imposed by the League, an Appeal Board should only intervene where the sanction is unreasonable or clearly wrong in principle.

## **The Applicable Regulations**

29. The Standard Code of Rules (SCOR) referred to at various stages of this appeal state they are applicable “*at Regional NLS Feeder League level and below*”<sup>2</sup>. The Match was in the Northern Counties East Football League Division One, which is at Step 6 and therefore above Feeder league level and are not applicable in this instance.

30. The League rules variously referred to are 8.37, 8.38 & 8.39, which state:

*“8.37 In the event that a match is abandoned for reasons over which neither Club has control the Club playing at home shall retain the gate receipts for such uncompleted match and the Board shall determine the terms upon which any replayed match shall be played.*

*8.38 In the event of a match being abandoned due to the conduct of one Club or its members or supporters the Board has the power to order that the match is not replayed and to award either one or three points to the Club not at fault. It cannot levy a financial penalty due to the conduct of a Club.*

*8.39 In the event of the match being abandoned due to the conduct of both Clubs or their members or supporters no financial penalty can be applied by the Board to either Club and the Board shall determine whether the original match stands as a completed match or is replayed and, if replayed, the terms upon which the match is to be replayed.”*

## **Deliberations on the grounds submitted**

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

32. The Appellant had appealed on the following grounds that the League had:

- misinterpreted or failed to comply with the Rules and/or regulations of The Association relevant to its decision
- come to a decision to which no reasonable such body could have come and/or
- imposed a penalty, award, order or sanction that was excessive

---

<sup>2</sup> The FA Handbook 2024/25 at P.610

33. The Appeal Board gratefully noted that there was no disputing the finding of the charges against Callum Verhees proven. The Appeal Board was grateful to the Appellant for making this clear so as to narrow the issues and avoid wasting time.

34. The Appeal Board considered the grounds for appeal in turn.

35. When considering the ground that the league had **misinterpreted or failed to comply with the rules and or regulations of the association relevant to its decision** the Appeal Board was split and came to a majority decision that the appeal on this ground fails. The majority took note of the FA disciplinary commission's determination that Worsborough Bridge were not at fault for the abandonment. Considering rules 8.37, 8.38 and 8.39, these in turn deal with situations where a match is abandoned due to the fault of neither club, one club only or both clubs. 8.39 was not applicable as it had been determined that Worsborough Bridge were not responsible for the abandonment. The reference to Rule 20 E.6 is not applicable as this refers to the Standard Code of Rules whilst the club, at step 6 of the national league system, are governed by the FA Standardised Rules.

36. The majority also determined that this was not a situation where the abandonment could be considered to be for reasons over which neither club had control, so rule 8.37 was not the rule to be applied. Had it not been for the actions of Mr Verhees the Match would not have been abandoned. Mr Verhees was a "*member*" of the Appellant Club for the purposes of rule 8.38 and therefore the majority was content that the Match had been "*abandoned due to the conduct of one club or its members or supporters*".

37. That being the case, the League board, through its properly delegated powers, has the power to order that "*the Match is not replayed and to award either one or three points to the club not at fault*", in this case Worsborough Bridge.

38. The minority view was that while Mr Verhees's actions were undoubtedly the catalyst for everything that came after, there could have been other intervening factors which caused the abandonment, facts not directly related to Mr Verhees. From the evidence presented, this had not been explored by the first instance panel. The minority view was also that while the FA rule E20 charge against Worsborough Bridge had been expunged this should not be considered the same as the charge being found not proven.

39. Turning next to the ground that the League had **come to a decision to which no reasonable such body could have come**, the Appeal Board was unanimous in finding this ground of appeal fails. For the reason set out in paragraphs 26, 27 and 28 above this ground can only succeed

where the Appeal Board considers the original decision is flawed and that the League had come to a decision which was outside the scope of decisions it was reasonably possible for them to make. In this case the Appeal Board took note of the extensive deliberations set out in the thorough minutes of the meetings of 18<sup>th</sup> and 20<sup>th</sup> September and the Appeal Board was satisfied that the Subcommittee fully appreciated the matters it was deliberating, the factors it needed to consider and the nuances applicable to this particular case. The Subcommittee had even adjourned to take specialist advice which had confirmed that rule 8.38 was the applicable rule and that the Subcommittee should simply apply the rule.

40. Without passing comment on whether they themselves would have reached the same decision, the Appeal Board considered this limb of the appeal fell well short of the threshold for stating that this was a decision to which no reasonable such body could have come.

41. Finally on the question of whether the League had **imposed a penalty, award, order or sanction that was excessive**, the Appeal Board was again unanimous in dismissing this ground of appeal.

42. The Appeal Board accepted that Rule 8.38 allows the League to order a match to be replayed but this was not mandatory. Having decided that the Match had been abandoned due to the conduct of a member of Club Thorne Colliery the League was also entitled “*to award either one or three points to the Club not at fault*”, which is what they had done.

## **Conclusion**

43. In summary, the Appeal Board unanimously dismiss the Appeal on the grounds cited.

44. In order to give effect to this decision, the Appeal Board, in accordance with Regulation 21 of the Non-Fast Track Appeal Regulations<sup>3</sup>, orders that:

- i. The appeal fails.
- ii. The appeal fee is retained.
- iii. There is no order for costs.

45. This decision of the Appeal Board is final and binding and there shall be no right of further challenge.

Paul Tompkins

---

<sup>3</sup> The FA Handbook, 2024/25, at P.192

Daniel Mole  
Robert Purkiss

18<sup>th</sup> November 2024