

IN THE MATTER OF AN APPEAL BOARD HEARING

BETWEEN

FLEETWOOD TOWN WRENS LADIES FOOTBALL CLUB

and

NORTH WEST WOMEN'S REGIONAL FOOTBALL LEAGUE

WRITTEN REASONS OF THE APPEAL BOARD HEARING HELD ON 10 JANUARY 2024

- 1) These are the written reasons for a decision made by an Appeal Board (the “Board”) which sat via videoconference on 10 January 2024.
- 2) The Appeal Board was appointed to determine an appeal brought by Fleetwood Town Wrens Ladies Football Club (the “Appellant”) against a decision imposed by the North West Women’s Regional Football League (the “Respondent”). The members of the Appeal Board were Ms Laura McCallum (acting as Chair and Independent Legal Panel Member), Mr Paul Tompkins (FA Council Member) and Mr Robert Purkiss (Independent Football Panel Member).
- 3) Mr Conrad Gibbons of the FA Judicial Services Department acted as Secretary to the Appeal Board.
- 4) The following is a summary of the principal issues and matters considered by the Appeal Board. It does not purport to contain reference to all the issues or matters considered, and the absence in these reasons of reference to any particular point or submission made by any party should not be read as implying that it was not taken into consideration. For the avoidance of doubt, all the evidence and materials provided to the Appeal Board by both parties was taken into consideration during our deliberations.

Background

- 5) The Respondent had scheduled several fixtures to take place on Sunday 20 August 2023 at 2pm. This date conflicted with the FIFA Women’s World Cup Final (the “Final”) which was scheduled to kick-off at 11am. The Final was a historic occasion for the women’s game in England. Naturally, participants wished to watch the game.
- 6) On 17 August 2023, and once it became apparent that the England Women’s National Team would be participating in the Final, the Respondent sent a circular to member clubs explaining that the League couldn’t afford to lose a playing Sunday and therefore offered two alternative options if Clubs did not want to play the fixture at 2pm. These were:
 - a) Play the fixture at a different time on 20 August 2023; or
 - b) Move the game to the following Sunday (27th) which was a bank holiday.

(the “Alternative Options”)
- 7) The Respondent was clear in its circular that failure to play the fixture in line with the above would result in a charge for non-fulfilment of a fixture which could incur a fine and points deduction.
- 8) The Appellant liaised with its opponent, Curzon Ashton Women (“Curzon”), and could not come up with a solution that satisfied both parties. Curzon was not able to move the fixture on 20 August 2023 due to conflicting pitch bookings and they already had a fixture on 27 August. Curzon could play at 2pm on 20 August 2023.
- 9) The Appellant asserted that there was no other alternative but to “*not play the game.*” Their players wanted to watch the Final and if the game was to go ahead on 20 August at 2pm, they would have missed the game as they would have to depart at 12pm to ensure they arrived at Curzon’s ground in plenty of time.

10) The Respondent was formally notified that the Appellant's game was not going ahead when Curzon lodged a "Postponement of Fixture" form. On that form, Curzon said the following:

"After confirming the fixture with Fleetwood midweek, I was asked to contact David to discuss the options regarding our game. Unfortunately the pitch is being used straight after us on Sunday. So a later kickoff wouldn't be possible. We have been given a fixture already against Tranmere on the 27th Aug. So unable to move it to this date. David explained as a club they would be issuing the league with an email informing that they wouldn't be travelling for this fixture. I've left it to the league and Fleetwood to discuss options but had nothing. I've contacted David at Fleetwood again today to see what is happening and he's told me they will 100% not be travelling for this fixture."

11) By letter dated 27 August 2023, the Appellant was charged under the provisions of the Respondent's Rule 20.E.i ("League Rule") for failing to fulfil a fixture that was scheduled against Curzon on 20 August 2023 at 2pm. Under the League Rule, the sanctions available to the League for such a charge include a fine and points deduction.

12) On 30 August 2023, the Appellant accepted the charge under the caveat that they had a case for mitigation. A summary of that mitigation was as follows:

- a) This was a historic occasion for women's football and their players wanted to watch the Final;
- b) The travelling time to the fixture meant their players would miss the second half of the Final;
- c) The Appellant contacted Curzon as soon as possible to enquire about moving the fixture to a later time or the following weekend. Curzon could not facilitate either request;
- d) The Appellant was left with no option but to not play the game as their players wanted to watch the Final; and
- e) The Appellant was willing to play the game later that day and this was evident by the fact that the Appellant did, in fact, play a game later that same day.

13) Having considered the Appellant's case, the Respondent imposed a fine of £50.00 and deducted 3 points from the Appellant.

The Appeal

14) The Appellant lodged an appeal against the Respondent's decision as outlined at paragraph 13 above. It did so on two grounds, namely (1) that the decision was one that no reasonable body could have come to; and (2) that the sanction was excessive.

15) The Appeal Board reminded itself of the limitations on an appeal before it. It is not permitted to effectively rehear the matter and provide the Appellant with a '*second bite of the cherry*'. The Appeal takes the form of a review of the original decision, based on the documents that were originally before the Commission.

16) The Appeal Board carefully considered the written submissions lodged by both parties in determining the appeal and any level of sanction that should be imposed.

17) A summary of the Appellant's submissions in appeal of the decision was as follows:

- a) The Respondent should have supported the Club given the fixture was being held on the same day as the Final, a historic event for English football.
- b) It was Curzon that could not accommodate the request to fulfil the fixture in line with the Alternative Options. The Appellant tried to rearrange the fixture but with no success.
- c) The Respondent was left with no option but to not play the game and it did so with good reason to allow its players to watch the Final.
- d) Several clubs have reached out to the Appellant to express their concern regarding the sanction. They too say that the sanction was "excessive."
- e) Other women's leagues that were playing on 20 August allowed their member clubs to choose whether they wished to play the fixture or not. They allowed fixtures to be postponed without the threat of sanction.
- f) The Respondent was the only league to fine and deduct points from teams who did not fulfil their fixtures.

18) A summary of the Respondent's submissions in response to the Appellant's appeal is as follows:

- a) Having received guidance from the FA, and in recognition of the Final, the Respondent called an emergency meeting with its member clubs to discuss the Final coinciding with fixtures on 20 August 2023. At that meeting, member clubs were provided with the Options in a bid to accommodate those who may wish to watch the Final.
- b) The Respondent received correspondence from the Appellant on 18 and 19 August 2023. The Respondent was clear with the Appellant that the fixture must go ahead either at its original scheduled time or in line with the Alternative Options. The Respondent was clear that should the game not be played either at its original kick-off time or in compliance with the Alternative Options then sanctions would follow.
- c) On 19 August 2023, the Respondent received a Postponement of Fixture Sheet from Curzon. The Respondent was advised by Curzon that they had been told by the Appellant that the Appellant would be unable to play the game at 2pm on 20 August 2023 and thus would not be travelling.
- d) 30 teams played at a differing kick off time on 20 August 2023 with two games sticking to the original 2pm kick off.
- e) The Respondent states that whilst they have not done a detailed analysis of decisions adopted by other leagues, they are aware of some similar decisions.

19) The Appeal Board considered the Appellant's first ground of appeal that the Committee came to a decision that no reasonable body could have come to. The Appeal Board reminded itself of the test where this ground of appeal is concerned – the Wednesbury Test. The Wednesbury test is that a reasoning or decision is Wednesbury unreasonable (or irrational) if it is so unreasonable that no person acting reasonably could have made it. The test is a different (and stricter) test than merely showing that the decision was unreasonable. The fact that another Committee and/or League might have come to a different decision, or did come to a different decision in a case with similar circumstances, is not the test.

20) The Respondent's rules are clear in terms of sanction for failing to fulfil a fixture. The Respondent provided the Appellant with three options to fulfil the fixture. We accept that

the Respondent tried to meet the Alternative Options, but it appears from the bundle, and in particular the Postponement of Fixture Sheet that Curzon were willing to play the fixture at 2pm despite the timing of the Final. It does not appear from the bundle before us that the Appellant took any steps to explore whether the 2pm fixture could be fulfilled by perhaps travelling earlier in the morning to Curzon and then watching the Final in Ashton under Lyne. The Respondent was clear in correspondence that the fixture had to be played or the Appellant could face a fine and points deduction. The fact that other leagues may have been acting differently does not bind the Respondent from acting in the way it did and in line with its already established rules (despite events of interest such as the Women's World Cup Final).

Given the above, we cannot say that no other body acting reasonably would have not come to the same decision as the Respondent.

- 21) Turning to the Appellant's second ground of appeal that the sanction was excessive. The sanction imposed by the Respondent was not only in line with its already established rules but also common practice elsewhere within the game of football when fixtures are not fulfilled. With that in mind, as well as our comments at paragraph 20 regards the Appellant's failure to explore options that might have allowed them to fulfil the 2pm slot, we do not agree with the Appellant's assertion that the sanction was excessive.
- 22) To conclude, having considered the grounds of appeal, the Appeal Board unanimously finds the appeal dismissed for the reasons we have articulated. The sanction imposed on the Appellant stands.
- 23) The appeal fee shall be forfeited but no costs are awarded against the Appellant.
- 24) The Appeal Board's decision is final and binding on all parties.

Appeal Board

Ms Laura McCallum (Chair)

Mr Paul Tompkins

Mr Robert Purkiss

12 January 2024