RUGBY FOOTBALL UNION

COMPETITIONS APPEAL

At: Holiday Inn, Swindon

On: Tuesday 1 June 2010

JUDGMENT

Club: Chippenham RFC

Panel: Rick Charles (Chairman), Nigel Gillingham and Bruce Reece-Russel.

Secretary: Brenda Parkinson

Attending: Kevin Snape - Rugby Manager Chippenham RFC
Mark Parry - Chairman Chippenham RFC

Paul Kaminski - Midlands Organising Committee

Issue

1. The Panel was convened to consider an appeal by the Club against the decision of the South West Division Organising Committee to transfer the Club from the South West One East section of the Level 6 leagues to the South West One West section for the 2010/11 season.

Preliminary Matters

2. There was no objection to the membership or constitution of the Panel.

Evidence

3. The Panel has considered:

   a. The written and oral submissions of the Club.
   b. The RFU bundle of papers including the decision of the South West Division Organising Committee dated 9 May 2010.
   c. The Level Transfer Regulations set out in Section E of Appendix 2 to the Game Regulations (pages 239 – 241 of the RFU Handbook 2009-2010.
   d. The definition of “Lowest Total Mileage” set out on page 137 of the RFU Handbook 2009-2010.

Background

4. On 27 April 2010 the South West Division Organising Committee wrote to 4 Clubs, including Chippenham RFC, stating that there was an imbalance between the East and West sections of South West One Level 6

due to the results of the play-offs, the geographical position of the clubs being relegated from National South West League and the promotions from Level 7. The South West Division Organising Committee concluded that 2 clubs had to be transferred to South West One West. The South West Division Organising Committee had identified the four clubs as those who could reasonably be expected to make the required move, in addition to Walcot Old Boys RFC, and indicated that if insufficient clubs volunteered to move, the transfer would be decided on the basis of the lowest calculated total mileage between the identified clubs and the remaining clubs in the 2010-11 Level 6 South West One West league.

5. None of the 4 clubs volunteered for the transfer. The South West Division Organising Committee arranged for the mileage calculations to be carried out using Microsoft Autoroute on default settings. The calculations identified Chippenham RFC (relegated at the end of the 2009/10 season to Level 6) as facing the lowest total mileage of the 4 clubs, albeit by only 26 miles (Chippenham RFC 2711 miles and Wimborne RFC 2737 miles).

Submission

6. In its written submission the Club seeks to set aside the transfer direction on 2 grounds. First, the Club submits that it is not clear that the software in default setting calculates the lowest mileage distance by measuring shortest distance and that the setting may be giving the fasted route. Secondly, that the South West Division Organising Committee has not taken onto account the additional travelling time and cost involved in making long trips to Cornwall and Devon. The Club points out that the travel costs to the furthest away fixture (St Ives) would be in the region of £2200 whether with an overnight stop or using 2 drivers for the return journey time of more than 7 hours. The Club also suggests that player availability is a concern. Mr Snape for the Club explained that in the climate of recession the Club is struggling financially and has had to remortgage to survive.

7. At the hearing Mr Snape on behalf of the Club advanced an additional argument that it was more appropriate and in the interests of the Game that Swanage and Wareham RFC, another of the clubs identified by the South West Division Organising Committee, should be transferred to the West Section rather than Chippenham RFC. The Club submitted that this was an option that should have been considered by South West Division Organising Committee on the basis that Swanage and Wareham RFC already travel large distances to their away games and are already structured to meet the demands of such fixtures. The Club has calculated that the transfer of Swanage and Wareham RFC to South West One West. would involve a total additional mileage of 200 miles, contrasted with the additional 700 miles facing Chippenham RFC.

8. The essence of the Club's submission was that their position amounted to exceptional circumstances and that transfer would cause the Club a significant disadvantage in terms of cost and travel time. The Club argued that this could be removed by the transfer of another club who would not

face the same level of additional cost or travel time. Mr Snape conceded that unlike 2 of the other clubs identified by the South West Division Organising Committee, Chippenham RFC did not make any written representations when refusing to volunteer. Mr Snape explained that there was a change of officers at the Club and that there had been telephone conversations between Mr Ian Bannister and Mr Gee of the South West Division Organising Committee. He did not know what had been said.

9. Mr Kaminski assisted the Panel with a helpful explanation of the process adopted by the Midlands Organising Committee but understandably could not assist with the process followed in this case.

Decision

10. The Panel carefully considered in detail all the submissions which it had received, both in writing in advance and orally during the hearing. The Panel was not assisted by the failure of the South West Division Organising Committee to be represented at the hearing or participate in a telephone conference. Furthermore, the expansion of the grounds of appeal by the Club at the last moment prevented any participation by Swanage and Wareham RFC. However, the Panel fully understood that the reality of facing Level Transfer could be unwelcome and could also have consequences for any Club facing a transfer. Both the South West Division Organising Committee and the Panel were be bound by the Game Regulations, to which all clubs participating in the English Clubs Championships have to adhere.

11. The Panel concluded that when determining Lowest Total Mileage the South West Division Organising Committee was obliged to have regard to its definition: *"Lowest Total Mileage as between two clubs [is] the lowest mileage using ground postcodes (as shown by the edition of Microsoft Autoroute currently used by the RFU using default settings) between each of those Clubs and all other Clubs in a League to which one of those Clubs could be transferred to ensure that such League has the Correct Number of Clubs*" (RFU Handbook 2010 - 2011, page 144). The Panel considered that wording of the definition was clear and concluded that neither the South West Division Organising Committee nor the Panel has any discretion to employ a different method of calculating distances between clubs.

12. However, the Panel was unclear whether the South West Division Organising Committee had been aware of or considered the difficulties facing the Club or the solution proposed by the Club and considered that it is in the interests of the Game that decisions made by Organising Committees are transparent. The Panel noted that Regulation 6 of the Level Transfer Regulations provides that "in exceptional circumstances" an organising committee may "at its absolute discretion" decide to take other factors which create "a significant difficulty" for the Club. The Panel also noted that Swanage and Wareham RFC had not volunteered for transfer

and has not had the opportunity to comment further.

13. The Panel concluded that it was not in a position to decide whether the circumstances advanced by the Club were exceptional or caused a significant disadvantage to Chippenham RFC. However, the Panel concluded that the solution advanced by the Club should be considered by the South West Division Organising Committee and that if it is considered that it may have merit, Swanage and Wareham RFC must be allowed to comment before any decision is reached.

14. The Panel therefore direct that within 14 days of the date of this decision the South West Division Organising Committee should consider:

a. Whether the circumstances advanced by Chippenham RFC relating to the transfer of the Club are exceptional and, if so;

b. Whether a significant disadvantage to Chippenham RFC will be created by the transfer of the Club and, if so;

c. Having sought further representations by Swanage and Wareham RFC, whether that disadvantage would be removed or reduced for the benefit of the Game by the transfer of Swanage and Wareham RFC instead.

15. It is for the South West Division Organising Committee to consider the exercise of its absolute discretion, to come to a decision and to inform the clubs of it within the period of 14 days. It would be useful to seek input from the CB, Dorset & Wilts, which has both clubs (Swanage & Wareham RFC and Chippenham RFC) as members. Moreover, in the interests of transparency, it would be beneficial if the SW Organising Committee set out in writing to the 2 clubs the reasoning behind their final decision. The Club agreed that it would accept and be bound by that decision.

Costs

16. No Order for costs was made in the circumstances.

Rick Charles (Chairman) 3rd June 2010