RUGBY FOOTBALL UNION.

COMPETITIONS APPEAL.

Club: Chard RFC.

Venue: Bristol Filton Holiday Inn, Bristol.

Date: 2nd February 2010.

Robert Horner (Chairman), Michael Curling and Aurwen Morgan

(WRU).

In Attendance: Bruce Reece-Russel.

To consider: An appeal by the Club against the decision made by the SW Competitions Disputes Committee (SW) to overturn the SW League Secretary's original decision to reschedule the match between the Club and Old Sulians (OS) and to award the match to OS as a nil-nil win and to deduct two league points from the Club's total for failing to play the match on 21st November 2009.

Representation: The following were represented:

The Club: Brian Twigg (BT) (Hon Secretary).

OS: Terry Haines. (TH)

Somerset Referees Society (SRS)): Brian Malpass (Chairman), Mike

Fullegar (MF) (Reappointments Secretary).

SW: Brian Flanders. (BF)

RFU Competitions Committee: Paul Kaminski. (PK)

Evidence:

The Panel has considered:

- The Notice of Appeal of the Club dated 4th January 2010.
- The Notice of Appeal of OS dated 7th December 2009.
- The Determination of SW dated 22nd December 2009.
- The oral submissions of BT on behalf of the Club.
- The oral submissions of TH on behalf of OS.
- The oral submissions of the SRS representatives.
- The oral submission of BF.
- The oral submission of PK.

THE FACTS.

The agreed facts were that the league fixture between the Club v OS scheduled for Saturday, 14th November 2009 could not be played because all of the Club's pitches were waterlogged. The League Appointing Authority (First Eleven) required that the match be played on 21st November 2009, the next available Saturday. In the event the match was not played then because of the absence of a referee. On ascertaining the facts, the League Secretary determined that the match should be further rescheduled. Against that determination, OS appealed to SW who made the decision the subject of this appeal.

The Case for the Club.

The Club is strictly amateur, run by amateur officials. Their fixture secretary was relatively new to the job, and although he was conscientious, he might not be conversant with all the details of the regulations. The Club had, in fact, been very disappointed that the match on 14th November had to be cancelled; it had available its strongest team for some time that day. Having on 16th November ascertained from First Eleven that the rescheduled match was to be played on 21st November, the Fixture Secretary telephoned the SRS Appointments Secretary to ask for the appointment of a referee, and confirmed the request in an email at approx 7:51 p.m. that evening. The Club considered that in so doing it had complied with the requirements imposed upon it by Game Regulation (GR) 8 and SW Rule 3.

By the Friday evening a referee had not been appointed. A suggestion had been made that the referee for the 2nd XV match should be moved to the 1st XV, but it was not for the Club to interfere with Society appointments. To have agreed to such a switch would have left another side which had a league fixture without a referee, and the Club could have become liable for that fixture being cancelled. When SS had not appointed to the 1st XV by Friday evening, the Club explored all avenues for obtaining a referee, but the Club does not have knowledge of non-Society referees, and, having regard to Health & Safety requirements, the Fixture Secretary cancelled when a referee had not been appointed that Friday evening. A new Fixture Secretary should not be penalised if, through ignorance, he had made a technical error. It should also be realised that the Club had not received formal notice of the OS appeal. It had received a copy of the OS appeal letter of the 7th December on 11th December, and then the SW Determination of 22nd December. had not had an opportunity to answer the OS appeal or put a case to SW. In reply to a question from a member of the Panel, it was confirmed that the email request for a referee had been sent to David Smith of SS at 19:51 on 16th November. As no response had been received by the Thursday, a further phone call was made.

The position of SS.

The request for a referee which was made to David Smith on 16th November should have gone to MF as Reappointments Secretary. Although the request was for an official for a new match on 21st November, the Reappointments Secretary dealt with all appointments during the seven days before a weekend. MF received notification of the requirement on Thursday, 19th November. To him, the solution was The referee appointed to the Club's 2nd XV match was of a sufficient calibre to take the 1st XV match and could be switched to it. Consequentially, MF, who was due to take the Club's 3rd XV game at Wells could switch to the Club's 2nd XV match. That might leave the Club's 3rd XV match at Wells without a Society referee, but it would be the responsibility of Wells as the home team to make an alternative arrangement. This suggestion was put to the Club, but neither the 2nd or 3rd XV captains were prepared to allow their appointed referees to be moved: the 3rd XV captain was particularly insistent on this. The Society had acted, but had been unable to agree an arrangement acceptable to all concerned. When asked why SS had not exercised their right to appoint rather than attempt to agree a change of officials already appointed, MK replied that by then he did not know whether the 1st XV match was on or had been cancelled again.

The Position of OS.

TH found the position surprising; he would expect a club to cancel games from the bottom up, rather than in the reverse order. In response to a question, he thought that OS would have been able to host the match on 14th November as their ground was rarely waterlogged. He confirmed that an offer to switch venues had not been made when the Club was obliged to cancel the 14th November match because of waterlogged pitches at Chard.

The Position of SW.

BF indicated that it was considered by SW that the Club had been high-handed in refusing to agree a swap of referees as proposed by SS, although they were surprised that SS had not formally appointed. He explained that in the case of an appeal, SW received all the relevant paperwork from a League Secretary and made a determination upon what it revealed. It had not in this case requested any further information from the Club or any other source, and it had not advised the Club that it could make a submission or request a personal hearing. In addition, SW had taken into account its knowledge that the Club had cancelled a fixture earlier in the season without consulting the League Secretary as required by SW Rule 4.1 and this was reflected in the decision. Further, account was taken of the fact that on the 14th November 2009, no apparent attempt had been made to ascertain whether the fixture could be reversed and played at the OS ground as required by Game Regulation 18.1.2(c).

The Advice of PK.

PK referred initially to the reference in the SW determination to iRB Law 6 which states: ".....no referee has been appointed the two teams may agree upon a referee. If they cannot agree, the home team appoints a referee." He advised that this provision had been superseded by the specific provisions regarding appointment of Match Officials to be found in Game Indeed, it would be undesirable for the home team to Regulation 8. appoint referees for league matches. He would always expect a referee to be appointed by a Referees' Society for a League match involving 1st XVs, and found it difficult to understand why one was not appointed in this He also considered that whenever Divisional Organising Committees were considering appeals, they should always formally notify the parties and give them an opportunity to make representations, especially when the allowing of an appeal could have an adverse impact upon the other club involved.

DECISION.

The Panel concluded:

- 1. With the exception of OS, none of those concerned emerged with credit from this incident, there being faults all round.
- 2. In the case of the Club, if games had to be cancelled because of an insufficient number of referees available to cover all games, or, indeed for any other reason, then the cancellations should be from the bottom up, with the 1st XV match being played if it all possible. It was clearly inappropriate that the 3rd and 2nd XV captains should have blocked a proposal which would have solved the problem. The Club must also accept that ignorance of the Regulations is not, and cannot be, a defence for non-compliance. New officials must always check the requirements imposed upon them and, if in doubt, seek advice from the League Secretary.
- 3. The position of SS was incomprehensible. As a member of the RFU through the Referees Union, it was required under Competition Regulations to make appointments. To attempt to negotiate a solution with Club officials was entirely inappropriate. It had been given formal notification of the rearranged fixture and was in a position to make an appropriate appointment, particularly as only a minimal number of League matches in the English Clubs Rugby Union Championship were played in Somerset on 21st November 2009. The fixture was not played as a direct result of its failure to make the appointment open to it. The excuse of uncertainty over whether the match had been cancelled totally lacked credibility.
- 4. The procedures of SW in dealing with this appeal were also defective. It became apparent that papers were considered which were not revealed to the Club (nor, in the event, to the Panel), and that the Club was neither formally advised of the appeal which had been made by OS nor given an opportunity to respond to it. Where the allowing of the appeal opened up the opportunity to deduct league points from the Club this was clearly a

denial of Natural Justice which can only be deprecated. Equally improper was the taking into consideration, without prior warning to the Club, the fact of a previous cancellation.

- 5. Whenever possible, league positions should be settled by players on the field. In this case, whatever defects there were in the Club's administration, the match would not have been cancelled had SS made the appointment which was open to it to make. Had that appointment been made, the current proceedings would never have been initiated. It follows that it is inequitable for the Club to be punished for the shortcomings elsewhere, and this view is strengthened when the flawed process adopted by SW is also taken into account.
- 6. The appeal is allowed, and the determination in the third paragraph of the SW Determination letter of 22 December 2009 is annulled. The match is to be played on a date to be determined by First Eleven in accordance with the provisions of Game Regulation 18.5 and SW Rule 3.

COSTS.

No order is made as to costs. The sum paid by the Club in lodging its appeal should be returned.

Robert Horner.

Chairman, Appeal Panel. 4th February 2010.