

RUGBY FOOTBALL UNION

COMPETITION APPEAL

Harpenden RFC v London and SE DOC (on behalf of London 1 North League Secretary)

At: Holiday Inn, Bloomsbury

On: Monday 22 February 2010

Panel: Jeff Blackett (Chairman), Jeremy Summers and Philip Evans

Secretariat: Bruce Reece-Russel

Representing Harpenden RFC

Jonathan Edwards (Chairman)

Peter Danby (President)

Representing London and SE Leagues:

David Williams (Chairman London Organising Committee)

In attendance as interested parties:

Steve Mudd (Chairman Stevenage RFC)

Paul Kaminski (Chairman Midlands Organising Committee)

John Knighton, Chairman Hertfordshire Disciplinary Committee

Observing: Various members of Harpenden and Stevenage

1. This is an appeal by Harpenden RFC against a decision of the London 1 North League Secretary to deduct four championship points from Harpenden for failing to play two league matches scheduled against Stevenage RFC. The appeal has come direct to the RFU, without a review by London and SE DOC, because Harpenden initially indicated it would not appeal against the ruling, but has since been granted leave to appeal out of time as there is an important matter of general interest to be determined. London and SE DOC support and endorse the decision of the London N1 League Secretary.

Facts

2. On 31 October 2009 Harpenden RFC played a league match against Stevenage RFC. After 70 minutes of play (Stevenage leading 22-15) a mass brawl broke out, involving most of the players, some officials and spectators of both clubs. The referee abandoned the game

on the grounds of safety. Both clubs pleaded guilty before a Hertfordshire disciplinary panel on 24 November 2009 to misconduct under RFU Rule 5.12 and the sanction against both included a ban on either club playing each other at 1st XV level in any competitive game for the rest of the season. The panel further recommended that the game which was abandoned be rescheduled to a date later in the season but that rescheduled game be subject to the ban. Both Harpenden and Stevenage indicated that they would not appeal against this decision.

3. Subsequently, on 15th December 2009 the League Secretary from London North 1, Roger Willingale sent Harpenden (and Stevenage) a letter entitled “Penalty Notice for failure to play on the scheduled date contrary to Regulation 18.6.1.” In it he informed both clubs that they were to be deducted 4 championship points for failing to play the two league fixtures between them scheduled for 2 January (the rescheduled abandoned game) and 20 February 2010. Harpenden was informed of its right to seek a review of that decision by the London and SE DOC provided the appeal was received by 7 January 2010. Harpenden did not exercise its right to appeal but subsequently requested an appeal out of time direct to the RFU under Disciplinary Regulation 11.2.3.

Submissions on behalf of Harpenden RFC

4. The panel heard general background detail about Harpenden RFC and then submissions from Mr Edwards, supported by a skeleton argument. The essence of the appeal was that the imposition of 4 penalty points by the League Secretary offended the principle of ‘double jeopardy’ and was not fair and just. Mr Edwards submitted that for Harpenden to be dealt with by one constituent body of the RFU with the power to dispense any sanction it saw fit and then be the subject of a further penalty by another RFU constituent body for the same incident was unfair, as the disciplinary panel had chosen not to impose a points deduction.

Submissions on behalf of London and SE DOC

5. Mr Williams said that a League Secretary will always consider whether any further action is necessary following disciplinary action involving the playing by a club of subsequent matches, but as a matter of policy such action will always wait until the disciplinary proceedings have finished. Thus the decision to deduct championship points in this case was made after the period for appeal against the disciplinary decision had expired. In this case the result of the abandoned game did not stand because the scores were so close with 10 minutes to go and the game was ordered to be replayed on 2 January 2010. Since

both clubs were banned from playing each other for the rest of the season the League Secretary determined that both would fail to play on the two scheduled dates. RFU Game Regulation 18.6.1 specifies that a club must fulfil its matches in League Competitions and Regulation 18.6.2 specifies that if the Committee considers that a Club has unjustifiably failed to fulfil its obligations it may deduct Competition points from that Club and/or order the match to be replayed. Unjustifiable failure “shall be deemed to include a Club that has been suspended for disciplinary or any other reason”. Mr Williams said that as both Clubs could not play those fixtures because they had been ordered not to it was appropriate under the Regulations to deduct 2 points in relation to each fixture. He accepted that had the score in the abandoned match been comprehensive in favour of one side, that match would not have been rescheduled and both Clubs would only have failed to fulfil one fixture and therefore been deducted 2 points.

Decision

6. The Hertfordshire Disciplinary Panel which dealt with the misconduct charge against both Clubs were entitled to award “an appropriate punishment” under RFU Rule 5.12. RFU Disciplinary Regulation 8.2.2 states:

“For the avoidance of doubt “appropriate punishment” referred to in Rule 5.12 shall include, but not be limited to for a person, a reprimand, a financial penalty or suspension from playing, administration or both and for a Club, in addition to these penalties, financial or other compensation, deduction of league points, relegation or exclusion or disqualification from any competition....”

7. Despite having the power to deduct points, the disciplinary panel decided not to impose any sanction beyond the prevention from playing the two games and a fine. The playing penalty of this sanction was, therefore, that neither club were able to win up to 4 Championship points in respect of these two games, but points were not specifically deducted. The League Secretary cannot be criticised for subsequently deducting Championship points as a result of the disciplinary sanction because that appears to be normal practice which is specifically allowed by Game Regulation 18.6.2. This deduction is not mandatory because the terms of Game Regulation 18.6.2 provide a discretion (it provides that the Committee *may* deduct points).

8. Regulation 18.6.2, in relation to the ability to deduct points where a club fails to fulfil a fixture because it has been suspended from playing, is flawed in two respects:

- Uncertainty of sanction: First by providing the Committee with a discretion to deduct points following a club's suspension by a disciplinary panel, the effect of the original sanction becomes uncertain. When the disciplinary panel decides the appropriate penalty it does not know whether there will be any further or additional sanction, and if so the extent of that sanction, imposed by a League Secretary
- Double Jeopardy: Second, although it may be argued that the deduction of points by the Committee is for failure to play a fixture rather than for the original offence of misconduct, the real effect is that a club is punished twice for the same offence.

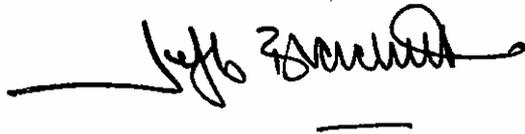
9. It seems to us that being suspended from playing a match by a disciplinary committee is a "justifiable reason" for failing to fulfil the match which a Club has been ordered not to play and it is unfair to then penalise the Club. Where a club is to be sanctioned for a breach of Rule 5.12 the disciplinary panel must decide the appropriate penalty knowing the ramifications of its decision.

10. In those circumstances, therefore, we adjudge that the League Secretary should have exercised his discretion not to deduct any Championship points and we reverse his decision so that the deduction of 4 points is quashed. Although Stevenage is not a party to this appeal we also direct that, as a matter of equity, the deduction of 4 championship points in their case be quashed as well for the same reasons.

Comment

11. In our view the misconduct which led to this case was serious and merited significant sanction. Had we been hearing the misconduct case we would have deducted at least 4 Championship points from both clubs together with a fine. We would not have banned them from playing against each other – part of the sanction would have been to insist they played under threat that any further acts of violence between the teams would have attracted a more severe penalty. However, since there is no appeal from either Club against the disciplinary sanction we are unable to interfere with the sanction which was applied. Nevertheless both clubs should be under no misapprehension that they are very fortunate to have escaped more severe sanction.

12. We have already highlighted our concern about the words in Game Regulation 18.6.2 “*which shall be deemed to include a Club that has been suspended for disciplinary or any other reason.*” This, together with what we have been told is common practice, may have encouraged League Secretaries across the country to believe they are under a compulsion to deduct Championship points in the way that the League Secretary did in this case. In our view these words should be deleted from the Regulation to make it absolutely clear that League Secretaries may not apply further sanction after disciplinary committees have fully considered misconduct by a club and decided to suspend it from playing. Disciplinary Panels should take account of any submissions by Competitions Committees about the effect of deduction of Championship points on the integrity of the relevant league before deciding whether the appropriate sanction for misconduct includes deduction of league points.

A handwritten signature in black ink, appearing to read 'Jeff Blackett', with a horizontal line underneath it.

HHJ Jeff Blackett

24 February 2010