

**IN THE MATTER OF THE FOOTBALL ASSOCIATION OF WALES INDEPENDENT
ARBITRATION PANEL****Before;****Mr David Phillips KC FCI Arb (Sole Arbitrator)****BETWEEN:****THE FOOTBALL ASSOCIATION OF WALES****Complainant****and****PONTYPRIDD UNITED FOOTBALL CLUB****Respondent**

DECISION

INTRODUCTION

1. By its letter dated 31 October 2023 the Football Association of Wales (“FA Wales” or “FAW”) charged Pontypridd United with 18 offences. The offences largely arose out of fielding ineligible players in the 2022/2023 and 2023/2024 seasons. Pontypridd United denied the charges. I was appointed by Sport Resolutions to hear the matter sitting as an Independent Arbitrator. The hearing was held by Zoom on 29 November 2023. FAWales were represented by Nick Lewis, an in-house lawyer. Mr Lewis was accompanied and assisted by Ms Margaret Barnett, FAWales discipline manager. Pontypridd United did not have legal representation. It was represented by Paul Ragan (chairman), Max James

(President) and Darren Haines (chief executive officer), each of whom addressed me during the course of the hearing.

REGISTRATION

2. Registration of players is an important feature of football regulation. Each player must have a contract with the club for which he is to play. There are two forms of contract – amateur and professional. A player is an amateur if he is paid no more than the expenses that he incurs. A professional player is paid more than the expenses that he incurs. A player may play for a club only if his contract has been registered with FA Wales. If that has not been done, a player will be ineligible to play.
3. FA Wales regulates 810 clubs, managing over 100,000 player registrations. In order to do so it uses a computer registration system that is commonly used in the industry – the Competition Management Expert System (“Comet”). Although different procedures are adopted for amateur and professional contracts the registration system is broadly similar. A club accesses Comet online. It completes the necessary information, which is saved as part of the club’s application to register the player’s contract. Comet sends an email to the player, informing him of the application, together with a draft registration form. Once he has completed the form the player returns it to the club who uploads it onto Comet. If the form is not uploaded within 30 days the application is cancelled. If the form is uploaded, FA Wales considers the application and either registers the player or rejects the application. Until a player is registered with the club he remains ineligible to play for that club. Once registered the player’s registration will be continued automatically from year to year. A club must therefore notify FA Wales of any changes – for example, if a player’s contract comes to an end, or if his amateur/professional status changes.
4. Registration of a player to the specific club is therefore a prerequisite to that player being able to play for that club. The registration system is heavily dependent on the club taking the correct procedural steps to ensure that Comet is provided with the necessary up to date information to enable FA Wales to manage the registration applications on a properly informed basis. I have been referred to a number of decisions that emphasise that ensuring a player is properly registered is an obligation that lies on the club: it is not the

responsibility of FA Wales, which is dependent on the club making a proper application with the proper information.

5. In *FAW v Connah's Quay Nomads* (3 March 2022) the panel observed in its summary decision –

It is, I accept, the responsibility of the Club to ensure that its players are properly registered. It cannot expect the FAW to warn it if it has, through oversight or mistake...failed to comply with the regulations. If anyone was at fault, it was the Club which failed to realise the significance of the fact, for whatever reason, it had only completed the registration of Mr Mendes after the first transfer window had closed.

This was expanded further in the full written reasons (7 March 2022) –

It is correct to say that FAW Registrations Department raised no objection, nor did it give any warning about the fact that the Club had made a second registration of an additional List A player. But I also accept that it is for the clubs and not for the Association to ensure compliance with the rules and that it would place a very considerable burden upon the Registrations Department if they were required to check every registration in circumstances such as these. That obligation to ensure compliance must fall on the Club and not on the Association.

6. In *FAW v Splott Albion* (19 July 2022) the panel stated –

As to the suggested duty on the FAW to have warned the Club earlier by bringing it to their attention, the workings of the COMET system were explained to us. Whilst this is perhaps not an all singing, all dancing programme it is a great improvement on manual registrations. We were told, and accept, that there are over 900 teams in Wales and over 100,000 player registrations. We cannot imagine that there is any computer system that could have warned Splott Albion any quicker, but as we have previously decided, the duty is on the Clubs to get it right, not the FAW to check and warn. We noted the decision of the *Irish Football Association v Glentoran* where they also use the COMET system and where the Arbitrator said that the Club bears ultimate responsibility and cannot palm the decision off by reference to an entry on the COMET system.

RELATED PROCEEDINGS

7. Pontypridd United has been involved in three separate proceedings that are relevant to the matters that arise in these proceedings.
8. On 9 October 2023 a FAW Appeals panel determined that a written contract dated 1 June 2023 made between Pontypridd United and Corey Jenkins was a valid contract for the 2023/2024 season. The panel found that Pontypridd United had failed to make Mr Jenkins the payments due under the contract, and ordered that those payments should be made. Those findings of fact are binding on FA Wales and Pontypridd United.
9. On 9 October 2023 a FAW Appeals panel determined that a written contract dated 1 June 2023 made between Pontypridd United and Eliot Richards was a valid contract for the 2023/2024 season. The panel found that Pontypridd United had failed to make Mr Richards the payments due under the contract, and ordered that those payments should be made. Those findings of fact are binding on FA Wales and Pontypridd United.
10. On 30 October 2023 a National Cup Board determined that on 13 October 2023 Pontypridd United had fielded Jordon Knott, an ineligible player, in an FA Wales Welsh Cup fixture. The National Cup Board imposed the sanction of removing Pontypridd United from the Welsh Cup for season 2023/2024.

THE CHARGES

11. By its letter dated 31 October 2023 FA Wales brought 18 charges against Pontypridd United. Those charges concerned three players, Eliot Richards, Corey Jenkins, and Jordon Knott.
12. In relation to Eliot Richards Pontypridd United is charged with –
 - (1) Not submitting (charge 1) and not registering (charge 2) a professional player's 2022/2023 season contract for Eliot Richards.
 - (2) Playing Eliot Richards (an ineligible player) in 14 Cymru Premier League matches in the 2022/2023 season (charge 3).

- (3) Failing to pay Eliot Richards the sums due under his contract for the 2022/2023 season (charge 4).
- (4) Not submitting (charge 5) and not registering (charge 6) a professional player's 2023/2024 season contract for Eliot Richards.
- (5) Wrongfully terminating, and failing to inform FA Wales of the termination of its contract with Eliot Richards dated 1 June 2023 (charge 7).

13. In relation to Corey Jenkins Pontypridd United is charged with –

- (1) Failing to pay Corey Jenkins the sums due under his contract for the 2022/2023 season (charge 8).
- (2) Not submitting a professional player's 2023/2024 season contract for Corey Jenkins (charge 9).
- (3) Wrongfully terminating, and failing to inform FA Wales of the termination of its contract with Corey Jenkins dated 1 June 2023 (charge 10).
- (4) Not registering a professional player's 2023/2024 season contract for Corey Jenkins (charge 11).

14. In relation to Jordan Knott Pontypridd United is charge with –

- (1) Not submitting and not registering a professional player's 2022/2023 season contract for Jordan Knott (charge 12).
- (2) Not registering a professional player's 2022/2023 season contract for Jordan Knott (charge 13).
- (3) Playing Jordan Knott (an ineligible player) in 24 Cymru Premier League matches in the 2022/2023 season (charge 14).
- (4) Not submitting and not registering a professional player's 2023/2024 season contract for Jordan Knott (charge 15).
- (5) Not registering a professional player's 2023/2024 season contract for Jordan

Knott (charge 16).

(6) Playing Jordan Knott (an ineligible player) in 9 Cymru Premier League matches in the 2023/2024 season (charge 17).

(7) Playing Jordan Knott (an ineligible player) in Nathaniel MG Cup match on 4 August 2023 (charge 18).

15. The feature common to each charge of fielding an ineligible player is that the facts giving rise to the charge each stemmed from a failure to have registered properly and accurately on Comet the player, his amateur/professional status, and contract. So, the 14 instances of fielding an ineligible player in charge 3 all stemmed from the failure to have registered Eliot Richards properly: the 33 instances of fielding an ineligible player in charges 14 and 17 all stemmed from the failure to have registered Jordan Knott properly.

FA WALES' CASE

16. FA Wales has submitted detailed written submissions dated 22 November 2023, which set out its reasoning in relation to each charge. The detail of the submissions was helpful, and helped limit the need for extensive oral submissions. Mr Lewis' submissions advanced two principal arguments. First, the charges raised issues of strict liability, so that Pontypridd United's state of mind was not relevant. Second, many of the charges attracted a mandatory sanction of a 3 points deduction.

17. Mr Lewis' first submission may be summarised as follows. The obligation to register properly a player is well established. It was discussed in the two cases that I have referred to above. The obligation lies on a club to do whatever is necessary to ensure proper registration. FA Wales is the regulator whose function, amongst others, is to enforce the regulations: although it offers assistance to clubs, the ultimate responsibility remains with the clubs. Whether or not a player has been properly registered is a straightforward question of fact – he either is or is not registered. If a club fields a player who has not been properly registered it is fielding an ineligible player. In that event the club will have committed a breach of the rules, irrespective of its state of mind.

18. Mr Lewis' second submission concerns the mandatory sanction for fielding an ineligible player in the Cymru Premier League. He cited the CAS decision in *Sudan Football Association v FIFA* (CAS 2012/A/3013) which emphasised that automatic points deduction for fielding an ineligible player is commonly seen in football regulations. It is not a draconian penalty but is part of the regulatory mechanism required to ensure proper compliance with what is an important rule. The relevant provision in this case is found in Cymru Premier Rule 14.1 which provides –

No Club may play an ineligible Player in any Match. Any Club which plays an ineligible player in a Match will have three (3) points deducted from its League record for that Playing Season (or in the case of a Play-Off Match, will forfeit the Match) and will also be liable to a fine.

Mr Lewis submits that the effect of this provision is that Pontypridd United is subject to a mandatory 3 points deduction for each match in which it fielded an ineligible player. It makes no difference that the ineligible player may have been the same individual in a series of matches, or the fact that the ineligibility may have been caused by the same failure to effect proper registration.

19. In response to a question from me, Mr Lewis confirmed that this construction of the Rules required a 3 points deduction for each of the Cymru Premier League games in respect of which an ineligible player had been fielded. Mr Lewis totalled the number of such games in respect of which charges had been brought as being 29, producing a total points deduction of 87 points. (My own mathematics produce a slightly different figure, but the principle is unaffected.) I suggested to Mr Lewis that I might be able to mitigate what on the face of it was a disproportionate penalty by exercising the discretion given to me by paragraph 48.2 FA Wales Rules. That rule provides –

48. Where a matter is referred to the Independent Arbitration Panel:

...

48.2 the Independent Arbitration Panel will have the power to impose such penalty or sanction or other order or ruling as the Independent Arbitration Panel deems reasonable, including the power to increase or decrease any penalty or sanction previously imposed or substitute

such other order or ruling as the Independent Arbitration Panel shall deem fit...

Mr Lewis' response was that that power was subject to any express provision in the Rules. The discretion conferred by paragraph 48.2 could not empower me to disregard a mandatory provision such as imposed by Cymru Premier Rule 14.1. He reminded me that the concept of mandatory points deduction had been endorsed in *Sudan Football Association* and argued that to go behind such a mandatory provision would set a dangerous precedent. Mr Lewis makes the further point that it would be unfair to other clubs if the mandatory sanctions were not to be enforced. Clubs in the league have committed themselves to comply with the common regulations: where those regulations provide for mandatory provisions they should be followed. To do otherwise creates both uncertainty and unfairness.

20. The charge of fielding an ineligible player in the Nathaniel MG Cup match on 4 August 2023 (charge 18) is not subject to the same mandatory provisions. Rule 15 of the Cymru Premier League Cup rules provides –

A Player shall be considered bona-fide if he is registered by his Club with the FAW, in accordance with the provisions of the Cymru Premier League Rules. ... Any Club being found in default of this Rule may be disqualified from the Competition and subject to other penalties as the FAW may deem necessary.

Fielding a player who is not properly registered puts a club in breach of the rule. But the penalty of disqualification from the league cup is not mandatory.

21. Pontypridd United faces 2 charges (charges 7 and 10) of wrongfully terminating players' contracts, and failing to inform FA Wales of the fact of the terminations. Mr Lewis argues that a mandatory sanction is required by reason of the provisions of article 17 in the FIFA Regulations on the Status and Transfer of Players. Article 17(4) provides that –

...in addition to the obligation to pay compensation, sporting sanctions shall be imposed on any club found to be in breach of contract.... The club shall be banned from registering any new players, either nationally or internationally, for two entire and consecutive registration periods....

22. FA Wales' case therefore is that Pontypridd United must (on Mr Lewis' figures) receive a deduction of 87 points, a 2-season transfer ban, together with whatever fine or other sanction is required to reflect the gravity of its breach of the Rules.

PONTYPRIDD UNITED'S CASE

23. Mr Ragan provided details of the history and make up of Pontypridd United. The club had played in the second tier for 30 years. It a volunteer-led club that had never had the resources of a professional club. It had few employees, relying on unpaid volunteers to enable it to provide football and football related activities to the community. Pontypridd United was promoted to the Cymru Premier League in season 2022/2023. Mr Ragan described the promotion to the first tier as a quantum leap both in formalities and infrastructure requirements.
24. Mr Ragan explained that after its promotion the club had expected support from FA Wales but instead felt that it was being bullied by the regulator in what was a new (for Pontypridd United) and complex regulatory environment. Mr Ragan maintained that Comet was unreliable and simply did not work properly. He was adamant that the club had properly registered all its players, and that any failure was a failure of the system, not of Pontypridd United. Mr Ragan made the point that there was no motive for Pontypridd United to have registered the majority of its players properly, but not to have registered the three in respect of whom charges had been brought. The probability, therefore, was that Pontypridd United had taken the necessary and proper steps, but had been let down by a failure of the system. Mr Ragan accepted, however, that the players' contracts did not appear on the Comet system.
25. Mr Ragan further explained that the players appeared on the Comet system but accepted that the full contract details were not shown. So, in the case of Mr Knott, he was registered as an amateur player: his transition to professional was not shown. Mr Ragan said that the Comet system showed him as being an eligible player, and had not identified or told Pontypridd United that the details were inaccurate. It was therefore possible for Pontypridd United to input details of the team sheet which were accepted by Comet. The club was not notified of any problem.

DISCUSSION

Breaches

26. Pontypridd United clearly feels unsupported by FA Wales: indeed, it feels that it has been singled out for disproportionate charges – it believes that it has been bullied. FA Wales strongly denies the allegation. It explains that it has a responsibility as the regulator to ensure compliance with the regulations; and maintains that it does offer appropriate support. Ms Barnett took me to correspondence that she said demonstrated the support that had been provided to Pontypridd United. The bad feeling that Pontypridd United has towards FA Wales is not a directly relevant issue in these proceedings. It is not one that I am required to resolve – or, indeed, am in a position to resolve. Pontypridd United clearly feels let down by FA Wales. FA Wales believes that it has acted proportionately and fairly.
27. I am satisfied that on the balance of probabilities FA Wales has proved the charges that it has brought. It is clear that the proper contracts for the players Eliot Richards, Corey Jenkins and Jordan Knott did not appear on the Comet system. Notwithstanding Pontypridd United's reservations about Comet, I am satisfied that on the balance of probabilities the reason that those contracts were not on the system is because they had not been properly uploaded. The consequence is that those players were not properly registered to play for Pontypridd United and were therefore ineligible players. The alleged breaches insofar as they relate to the registering of the contracts, and the fielding of ineligible players (charges 1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18) are therefore proved.
28. Charges 4, and 8 have already been the subject of FA Wales proceedings on 9 October 2023, as set out above.

Disposal

29. I was impressed by the sincerity of Messrs Ragan, James and Haines. There can be no doubt about their loyalty to Pontypridd United and their determination to ensure that the club thrives not only for the benefit of its immediate supporters but for the surrounding community as a whole. I consider that they have learned from these failings and are willing

to take the steps necessary to ensure proper regulatory compliance. As Mr Ragan said, promotion to the premier league has been a challenge – particularly for a club staffed mainly by volunteers. I believe it to be a challenge to which Pontypridd United is rising.

30. I accept Pontypridd United's evidence that there was no motive for the club not to have registered the players' contracts properly. I can see no sporting advantage that flowed from that failure. Pontypridd United registered properly the great majority of its players. I do not believe that this was a case of deliberately flouting the rules to secure some advantage for the club. I find that these were inadvertent breaches, caused by a failure to operate the Comet system properly.
31. There is therefore substantial mitigation available to Pontypridd United. Nevertheless, as Mr Lewis submitted, any breach of the rules that leads to the fielding of ineligible players is serious. Here there were many breaches, albeit flowing from a common failure. Those breaches were caused by Pontypridd United and were its responsibility. FA Wales is not responsible for what went wrong. I accept Mr Lewis' submissions that compliance with the rules is required to ensure fairness between all clubs. Fielding ineligible players is a breach that requires a real penalty.
32. Nevertheless, I remain of the view that a deduction of 87 points would be a disproportionate penalty for Pontypridd United's blameworthiness. I consider that the authors of the Rules cannot have intended such a sanction to be appropriate in the circumstances of this case. I am satisfied that the purpose of the power given to me by paragraph 48.2 of the FAW Rules is to enable me in an appropriate case to qualify the effect of Cymru Premier Rule 14.1. I recognise, however, the force of Mr Lewis' submission that I should not simply disregard the clear words of the rule. I agree that that would not be a proper exercise of the discretion conferred by paragraph 48.2.
33. I consider that Cymru Premier Rule 14.1 requires me to impose a 3 points deduction for each offence involving the fielding of an ineligible player. However, I construe paragraph 48.2 of the FAW Rules to permit me in an appropriate case to suspend that points deduction in respect of some of the charges. In this case Pontypridd United's failing is the same in each of the charges involving the fielding of an ineligible player – it is the failure to register properly the players contracts on Comet. I have already explained what I

consider to be the substantial mitigation available to Pontypridd United. I am satisfied that this is an appropriate case for me to suspend the points deduction in respect of some of the charges. I consider that the proportionate sanction is to impose an immediate deduction of 3 points in respect of one charge involving the fielding of an ineligible player, namely charges 3(i) and 17(i). In each of the remaining charges involving the fielding of an ineligible player there must be a further deduction of 3 points, but those deductions shall be suspended until the end of the 2024/2025 season on condition that Pontypridd United is not convicted of any further offence involving fielding an ineligible player.

34. I do not consider it appropriate to impose any separate penalty in respect of the charges involving a failure to register players properly. I consider that the consequence of such a failure is encompassed in the fielding of ineligible players for which penalties have already been imposed. There is no evidence that the fielding of Jordan Knott in the Nathaniel MG Cup match on 4 August 2023 created any sporting advantage. Accordingly, I do not consider it to be appropriate to disqualify Pontypridd United from the Nathaniel MG Cup. I consider that the charges relating to breaches of the players' contracts have already been sufficiently dealt with. However, charges 7 and 10 carry mandatory penalties in the form of two registration period transfer bans. I consider that Pontypridd United's blameworthiness is sufficiently penalised by the various point deductions that I have imposed. I therefore consider it appropriate to exercise my power under paragraph 48.2 to suspend the transfer bans. I impose no additional penalty.

CONCLUSION

35. I find each of the charges proved. I impose the following penalties.
- (1) Charge 1 I impose no separate penalty.
 - (2) Charge 2 I impose no separate penalty.
 - (3) Charge 3(i) I impose a 3 points deduction.
 - (4) Charge 3(ii)-(xiv) I impose 3 points deductions in respect of each match. Those points deductions shall not take place immediately but shall be suspended

from the date of the decision until the end of the 2024/2025 season. In the event that Pontypridd United commits any offence involving the fielding of an ineligible player during that period the points deductions will be activated with effect from the date of the final determination of the proceedings before the tribunal dealing with the new breach in addition to any penalty for the new breach imposed by that tribunal.

- (5) Charge 4 I impose no separate penalty.
- (6) Charge 5 I impose no separate penalty.
- (7) Charge 6 I impose no separate penalty.
- (8) Charge 7 I impose a ban on registering any new players for the two registration periods following the date of this decision. That suspension shall not take place immediately but shall be suspended from today for the two registration periods following the date of this decision. In the event that Pontypridd United commits any breach of FA Wales Rule 71.1 during that period the ban will be activated with effect from the date of the final determination of the proceedings before the tribunal dealing with the new breach in addition to any penalty for the new breach imposed by that tribunal.
- (9) Charge 8 I impose no separate penalty.
- (10) Charge 9 I impose no separate penalty.
- (11) Charge 10 I impose a ban on registering any new players for the two registration periods following the date of this decision. That suspension shall not take place immediately but shall be suspended from today for the two registration periods following the date of this decision. In the event that Pontypridd United commits any breach of FA Wales Rule 71.1 during that period the ban will be activated with effect from the date of the final determination of the proceedings before the tribunal dealing with the new breach in addition to any penalty for the new breach imposed by that tribunal.
- (12) Charge 11 I impose no separate penalty.

- (13) Charge 12 I impose no separate penalty.
- (14) Charge 13 I impose no separate penalty.
- (15) Charge 14 I impose 3 points deductions in respect of each match played. Those points deductions shall not take place immediately but shall be suspended from the date of the decision until the end of the 2024/2025 season. In the event that Pontypridd United commits any offence involving the fielding of an ineligible player during that period the points deductions will be activated with effect from the date of the final determination of the proceedings before the tribunal dealing with the new breach in addition to any penalty for the new breach imposed by that tribunal.
- (16) Charge 15 I impose no separate penalty.
- (17) Charge 16 I impose no separate penalty.
- (18) Charge 17(i) I impose a 3 points deduction.
- (19) Charge 17(ii)-(ix) I impose 3 points deductions in respect of each match played. Those points deductions shall not take place immediately but shall be suspended from the date of the decision until the end of the 2024/2025 season. In the event that Pontypridd United commits any offence involving the fielding of an ineligible player during that period the points deductions will be activated with effect from the date of the final determination of the proceedings before the tribunal dealing with the new breach in addition to any penalty for the new breach imposed by that tribunal.
- (20) Charge 18 I impose no separate penalty.

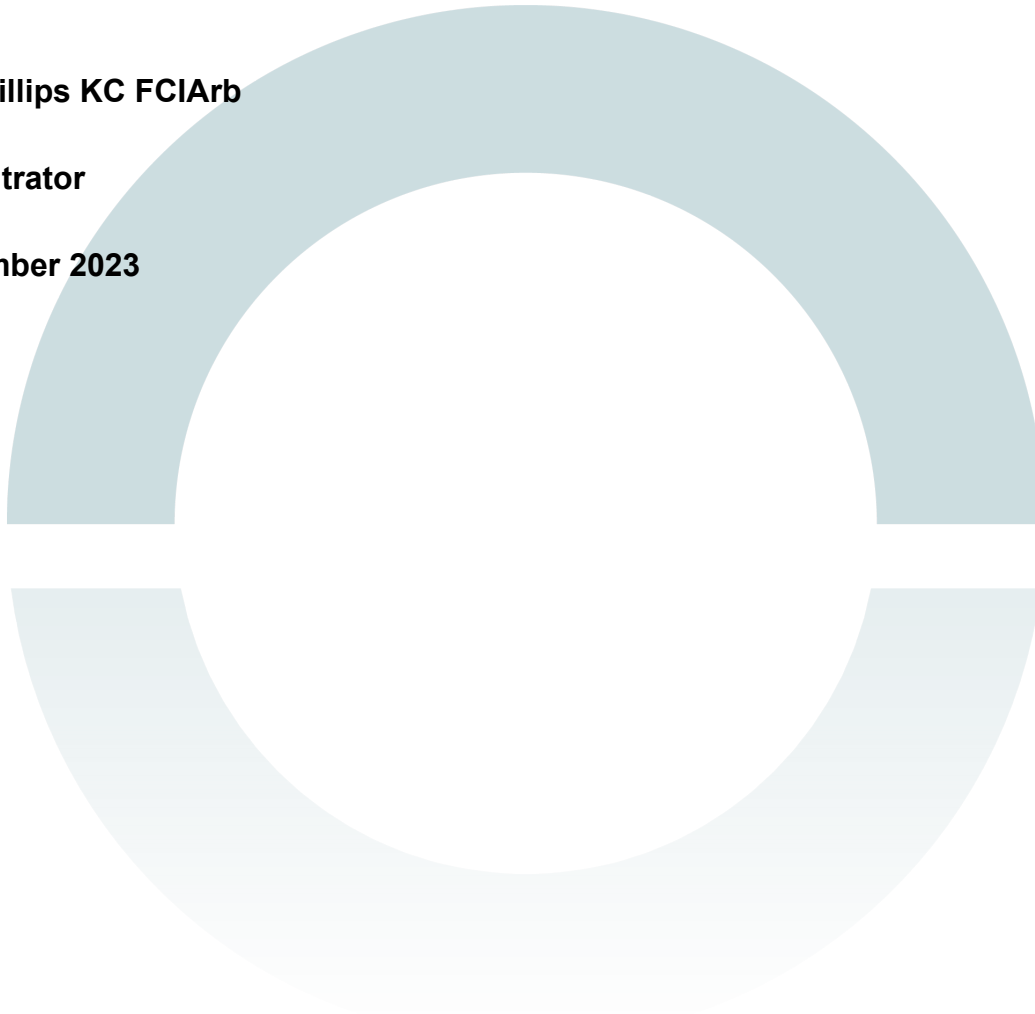
36. The effect of my decision is that Pontypridd United is subject to an immediate deduction of 6 points. The other penalties (points deduction and transfer ban) are suspended on the terms set out. I make no order as to the costs of these proceedings.



David Phillips KC FCI Arb

Sole Arbitrator

07 December 2023



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