

**IN THE MATTER OF AN APPEAL**

**BEFORE THE APPEALS COMMITTEE OF THE DARTS REGULATION AUTHORITY**

**PURSUANT TO SECTION 14 OF THE DARTS REGULATION AUTHORITY RULE BOOK**

**B E T W E E N:**

**MR. GERWYN PRICE**

**Appellant**

**-and-**

**THE DARTS REGULATION AUTHORITY**

**Respondent**

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**DECISION ON COSTS**

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**A. INTRODUCTION**

1. This is the Decision on Costs in relation to the above matter.
2. By a Final Decision, as amended, dated 17 July 2019 the Appellant succeed in part in his appeal. By that decision the parties were informed that, in default of agreement, the issue of costs would be determined by the Chairman alone on the papers.
3. Earlier, by a Decision dated 24 June 2019 the Appellant's application for a *de novo* appeal hearing was dismissed. The costs of that issue were reserved.
4. In terms of the parties' submissions, on the one hand, by written Submission on Costs dated 29 July 2019 Mr. Andrew Taylor, Counsel on behalf of the Appellant, submits that each party should bear their own costs and, in any event, the Appellant should not have to pay the costs of the previous Chair, Mr. Ollerenshaw, or indeed any costs of the Respondent.
5. On the other hand, by written Submission on Costs dated 29 July 2019 Mr. Louis Weston, Counsel on behalf of the Respondent, submits in summary that the Appellant should bear the costs of the appeal and meet the Respondent's costs on all issues upon which he did not succeed and the Respondent should not be made subject to any costs order with reference to *Baxendale-Walker v. The Law Society* [2007] EWCA Civ 233 per Judge LJ at 27-41, alternatively that the costs orders should be set off against each other. The Respondent also correctly raises the issue of the deposit paid by the Appellant, and submits that it should be paid over to the Respondent in part payment of its costs. The Reply Submissions of the Respondent were also considered.

**B. APPLICABLE REGULATORY FRAMEWORK**

6. Section 14.5 of the Darts Regulation Authority Rule Book (the “**Rules**”) provides:

*“The Appeals Committee may order the affected party to pay all or part of the costs of the hearing.”*

7. A similar provision is found at s. 17.1 of the Rules, which provides:

*“The Disciplinary Committee and/or the Appeals Committee may order one or other party to bear all the or some of the costs of proceedings held before them, including the costs of convening and holding the proceedings and any other party’s costs.”*

8. As to the deposit of £800 paid by the Appellant, s.14.16 of the Rules provides:

*“In its decision, the Appeals Committee shall include a direction as to the treatment of the deposit made further to Section 14.3, above.”*

9. It is plain from the provisions above that the Appeals Committee has a wide discretion as to the order of costs it may make, and may make an order in relation to all or part of an appeal but, in all event, must include a direction as to the treatment of the deposit.

**C. ANALYSIS**

10. Taking matters in turn, first, the Appellant failed in his application for a *de novo* hearing. The threshold for the Appellant to overcome in that regard was “*exceptional circumstances*”. He did not come close to doing so for the reasons set out in the Decision dated 24 June 2019. It follows that the Respondent is entitled to its costs of that issue: £700 – which is reasonable and proportionate. That sum excludes VAT as I am informed that the Respondent is VAT registered, so can recoup that tax. For the same reason, the Appellant shall also pay the Chairman’s costs on that issue of £707.20 (including VAT).

11. Secondly, the Appellant succeeded in his appeal, but only in part and on the relatively narrow ground of the level of sanction. This is not, therefore, a simple case of him being entitled to his costs as the successful party and, realistically, he does not seek such an order, but rather that each party bears their own costs. It is necessary, therefore, for the Grounds of Appeal to be looked at more closely. As set out in the Final Decision dated 17 July 2019, the Appellant appealed in

summary on eleven bases. However, of those, he was successful in only one. Further, in relation to the remaining ten bases, many of them were pursued despite (as found in the Final Decision) being “*factually incorrect*”, “*misconceived*” or “*without merit*”. It is not accepted that those factual issues as to liability would have needed to be considered closely in any event in terms of sanction. The issue of sanction was a confined one, which could have been dealt with speedily. The Respondent’s estimate that 80% of the time taken on the substance of the appeal related to issues that the Appellant lost on is, in broad-terms, fair and reasonable. That said, balancing the matters mentioned above, no order as to costs does not reflect the reality of the outcome of the appeal. Instead, on a broad-brush basis and taking into account that he was ultimately successful albeit on a narrow but important ground whilst raising a whole series of grounds which should not have been properly pursued in the first place, the Appellant should pay 20% of the Respondent’s reasonable costs and the costs of the Appeals Committee and those of Sport Resolutions.

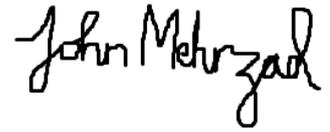
12. In terms of figures, 20% of the Respondent’s applicable costs is £550 (excluding VAT for the reasons set out above) – which is reasonable and proportionate; 20% of the Appeals Committee’s costs is £320.04 (incl. VAT) ; and 20% of Sport Resolution’s costs is £48 (incl. VAT).
13. I note that the costs of the Appeals Committee under its original Chair, Mr. Ollerernshaw, is £1,850 (incl. VAT). Those are costs thrown away, and there shall be no order in that regard.
14. Finally, in terms of the deposit, the Appellant was entitled to appeal and, ultimately, succeeded – so his deposit of £800 should ordinarily be returned to him but, in the circumstances of the adverse costs orders he faces, that sum shall instead be set-off against those costs.

**D. ORDER**

15. Further to the above, the Appellant shall pay the Respondent the sum of £1,525.24 within 21 days of the date of this Decision on Costs, comprising:
  - 15.1. The sum of £700 (excl. VAT) in relation to the Respondent’s costs of the *de novo* issue;
  - 15.2. The sum of £707.20 (incl. VAT) in relation to the Chairman’s costs of the *de novo* issue;
  - 15.3. The sum of £550 (excl. VAT) in relation to the Respondent’s costs of the appeal;
  - 15.4. The sum of £320.04 (incl. VAT) in relation to the Appeals Committee’s costs of the appeal;
  - 15.5. The sum of £48 (incl. VAT) in relation to Sport Resolutions’ costs of the appeal; and,

- 15.6. The deduction of the sum of £800 in relation to the deposit that would otherwise be returnable to the Appellant.

Dated this day 5 August 2019

A handwritten signature in black ink that reads "John Mehrzad". The signature is written in a cursive style with a large initial 'J' and 'M'.

John Mehrzad

**Chairman of the Appeals Committee**