

Football Association Appeal Board

In the Matter of an Appeal by Ashton Keynes FC against a Decision of the FA Womens's Pyramid Project Team

Reasons for the Appeal Board's Decisions 6 July 2022

Members of the Appeal Board

Roger Burden (Chair)

Glenn Moulton

Robert Purkiss

Conrad Gibbons, FA Judicial Services Officer, was Secretary to the Appeal Board

For the Appellant

Richard Knight (Chairman)

David Affleck (Secretary)

For the Respondent

Nick Frith (FA's Women's Leagues Operations Senior Manager)

1. Background

- The Appellant submitted an application to move its YFC Ladies' team from the Wiltshire League to the Gloucestershire League as the Appellant felt that the Gloucestershire League offered a lower standard of football which was better suited to the standard of the team's play.
- The FA Women's Pyramid of Football Project Team (Project Team) a sub-committee of the FA Women's Football Board, rejected the application.
- The Appellant appealed to the FA on the grounds that it had not been given a fair hearing.

2. Summary of Submissions

- I summarise below the written and verbal submissions. As it is a summary, I do not purport that it contains every detail but, for the

avoidance of doubt, the Appeal Board read, listened to, and considered all the submissions.

3. The Appellant's Written Submission

- The Wiltshire League had only 1 division and it had been very hard for the team, which was very new and which had suffered many double-figure losses, with its best result being a 4-0 loss.
- The Gloucestershire League is bigger, with a wider range of standards, meaning closer games.
- Many of the Appellant's team were mothers who had daughters playing in the Gloucestershire U-16s league.
- It would prove difficult to attract players to a team that was continually being beaten, with little chance to develop.
- The Appellant said that both the Wiltshire FA and the Gloucestershire FA agreed to the move.
- After the first papers were received by the Appeal Board, the Board received from Appellant, an email dated 30/05/22 and timed at 13.19 from Paul King, Secretary of the Wiltshire Women's league and sent to David Affleck with a copy to Nick Frith.
The email confirmed that the league was happy to back the Appellant's request.

4. The Respondent's Written Response.

- The Respondent stated that the applicable regulations on page 404 of the FA Handbook for 2021/22 are-

“7.1 Subject to Regulation 7.3, a Club can only enter the Women's Football Pyramid only at Tier 7 and only to the County League of their Parent County Association.

7.2 Any Club shall, with the permission of the Board, be permitted to compete in a League sanctioned by any County Association, regardless of whether the Club is in membership of it, where the Club can establish that: (a) the travelling required to compete in a League sanctioned by a County Association is significantly less onerous than the travelling that would be required to compete in the appropriate League sanctioned by the County Association with which it has membership (or its Parent Association, where applicable); (b) the format is not suitable for the Club; or (c) other extenuating circumstances exist. The Board shall decide, whether such permission shall be granted, after taking into consideration the impact on the affected Leagues and their member Clubs, the development of women's football in the area and after promotion and relegation in each affected League has been decided. The Board's decision shall be final and binding. If permission is granted, this may be subject to annual review."

- An FA "Women's Club Request to Play Out of County" form which was submitted by the Appellant.

In that form, the Appellant had stated that the Gloucestershire League offered more opportunity to play similar standard teams and is therefore more suited to its newly formed ladies' team, adding that the Wiltshire League is very limited and therefore not flexible which causes stress within the team.

Included in the form was a statement that the Club had full consent from its parent County FA to play out of County and added "see below as we played last season in Wilts"

Also included was an email from Emma Cottier-Small of the Wiltshire FA stating that if it is a new team it must start within the Wiltshire League, if not, the team was permitted to go outside the County and one from Helen Brain of the Gloucestershire league appearing to welcome an application from the team.

- Redacted minutes of a Project Team meeting held on 30/05/22, in which the Appellant's application was rejected. The reasons given were that there was no proof that the competition format in the Appellant's own County League was not suitable and no extenuating circumstances were presented.
- A letter to the Appellant from Nick Frith setting out the decision, which Mr Frith stated was made in accordance with Regulation 6.2.

5. The Appellant's Verbal Submission

- Mr Affleck told us that he, and everyone else, in the club were volunteers. He said that the whole process was overwhelming and bureaucratic just to deal with a simple request to move to a more suitable league.
- He said that the team were beginners, and many were parents of girls in other leagues.
- He said that the application form was not straightforward, and he had completed it as best he could, with a note from Emma of the Wilts FA giving approval for the move.
- When responding to our questions, he explained that the team had been getting "annihilated" and had become despondent, leading to the cancellation of games.
- He said that the league had asked the team to withdraw from the league, but he had declined. When told that the team's record had been expunged, he said that he was unaware of that.
- He said that the papers submitted included evidence that both the Wiltshire FA and the Gloucestershire league had no objection to the change.
- Mr Affleck told us that, as his team were based in the north of Wiltshire, travelling into Gloucestershire offered reduced travelling as many of the Wiltshire teams were in the south of Wiltshire.

6. The Respondent's Verbal Response

- Mr Frith told us that he had little to add beyond his written submissions
- He said that the FA's form helps the Project Team make its decisions, particularly regarding the important rationale of travelling distance and league format.
- In answering our questions, he confirmed that he had checked with the league and was aware that the league was happy with the move.
- Regulation 7.2 states that, in addition to distance and format, "extenuating circumstances" are also included in the criteria for the Project Team to take into account. We asked Mr Frith why the continued heavy defeats did not count as extenuating circumstances. He said that the team's playing record was not mentioned in the team's application form and therefore the Project Team could only consider distance and league format.
- We pointed out that in para 11. of Mr Frith's submission, he had said that the request did not have the support of the Appellant's Parent County, but it did, and that the team had clearly answered "yes" to that question on the form. Mr Frith accepted that point.
- We asked for clarification that, in his written submission to us, he had said that the applicable regulations were 7.1 and 7.2 but in his letter to the Respondent, he had said that the Project Team's decision was in accordance with regulation 6.2. Mr Frith was unclear regarding the reasons for quoting different regulations but explained that 6.2 dealt specifically with new clubs and had similar criteria to 7.2
- When asked why the Appellant had been treated as a new club, he said that it had described itself as "newly formed" on its application form and was not listed in the Wiltshire league.

- He added that, if it was an existing club, regulation 6.3 might apply, which requires notice to be given to both leagues by March 31st.
- Mr Frith agreed that the FA Women's Board wanted to develop the women's game and that a team getting beaten by 10 or 12 goals every week was hardly likely to encourage it to continue, but he again stressed that the Project Team was not aware of the team's playing record as there was no mention of it on the form, which had simply said it was a newly formed team.
- We pointed out that minute 31 of the Project Team's meeting, recording the application and the Project Team's decision, made no reference to any accompanying documentation and made no reference to the regulations. The minute consisted of only 2 lines and gave the impression that the matter received only cursory consideration. When asked if this impression was correct, Mr Frith told us that it was not correct. He had produced the minutes and, although he had not included all the details, the matter had been properly discussed.

7. Final Submission from the Respondent

- Mr Frith said that he did not need to summarise his submissions but he emphasised that the Appellant's application was given a fair hearing.

8. Final Submission from the Appellant

- Mr Affleck emphasised that his Club was run by volunteers.
- He said that, when completing the form, if he had known then what he had learnt from today's appeal, he could have produced a full pack of information alongside the form to support the application. He felt that guidance was needed to help completion of the form.
- He said that he was not aware that the Wiltshire league had scrubbed the team, which still exists and still wants to play but cannot cope in the Wiltshire league.

9. The Appeal Board's Deliberations

- We agreed that the Project Team's meeting, in which it discussed the Appellant's application was the only "hearing" that took place and it was the fairness of that which we had to consider.
- The Applicant had described itself as a "newly-formed" team and we could understand why the Project Team had assumed that the team was new for the coming season.
- The Project Team's assumption was not correct. Whether or not the team had been removed from the Wiltshire league before it had completed its fixtures, the team clearly continued to exist as demonstrated by its application to change leagues and its reference to the fact that it had played last season in Wilts.
- The Respondent's submission that the Applicant's request did not have the support of its County FA was also not correct.
- We felt that the FA's Request Form should have been clearer. It explained the reasoning required to support onerous travel but gave no guidance regarding competition format or extenuating circumstances.
- In any case, we felt that the Applicant submitted enough information on the Request Form, together with the accompanying information, for the Project Team to have sought more detail before making a decision.
- We agreed that the Appellant's dreadful playing record and the fact that many of its team just could not continue in its current league, easily satisfied the "extenuating circumstances" test contained within the regulations.

- Having agreed that the Project Team's meeting to discuss the application was the only "hearing" for the matter and that the evidence showed that the Project Team did not have all the appropriate information during that hearing, we were unanimous that the hearing was unfair.
- We agreed that the Appellant's application was clearly aligned to the interests of supporting the development of women's football.
- We were completely satisfied that, had the Project Team had all the available information in front of it, it would have allowed the Applicant's request.

10. The Appeal Board's Decision

- The Appeal is allowed
- In accordance with Regulation 21 of the Non-Fast Track Appeal Regulations, the Appeal Board orders that the Appellant's application to play Out of County is allowed. Any procedural or practical next steps are remitted to the Respondent to implement as necessary.
- There is no order as to costs and the appeal fee is returned.
- This decision is final and binding on all parties.

Roger Burden
Appeal Board Chair
12 July 2022