

ON 31 MARCH 2022

BETWEEN:

CLUB FUTSAL UK LIMITED Appellant

And

THE FA POKEMON YOUTH FUTSAL CUP Respondent

WRITTEN REASONS

1. The Appeal Board conducted a hearing on Thursday 31 March 2022 to determine an appeal by Club Futsal UK Limited (“the Appellant”) against the decision of the The FA Pokemon Youth Futsal Cup (“the Respondent”) made on 19 February 2022.
2. The appeal hearing was a personal hearing held by MS Teams, the Appeal Board comprising Jonathan Rennie (Chair), Peter Powell and Dennis Strudwick. Mr Shane Comb of the Wiltshire FA acted as secretary to the Appeal Board.
3. The Appellant was represented by Paul Holmes, a director of the football club. The Respondent was represented by Paul Whateley, Secretary and also in attendance was Shaun Waite, the Football Development Lead at Leicestershire & Rutland FA
4. The ground of appeal specified by Mr Holmes in his Notice of Appeal was that the League came to a decision that no reasonable body could have come to. At the start of the proceedings Mr Holmes supplemented his grounds of appeal to include the ground that the Respondent had imposed a penalty, award, order or sanction that was excessive. That additional ground of appeal was accepted by the Appeal Board.
5. In short summary, the Respondent originally determined that the Appellant had fielded ineligible players in a cup competition and accordingly had disqualified them from the competition. Despite the fact that the Respondent identified the ineligible players before the games commenced the games were allowed to continue and it was only after the completion of fixtures that the consequences of fielding the ineligible players was fully scrutinised.
6. The FA Pokemon Youth Futsal Cup Competition Rules 2021/22 were fundamental to proceedings and the relevant sections set out below.

FA Pokemon Youth Futsal Cup Competition Rules 2021/22

7. The focus of the proceedings was largely on Article 3 of the Rules on local qualifying competitions and particularly section 10 of that Article, as set out below:

Players registered during the 2021/22 season with a PL or EFL Club as an ‘Academy player’ may not play for another club in this competition as defined by the Professional Game Youth Development Rules (www.thefa.com). Note: An ‘Academy Player’ is a defined term within The FA Rules.

- i. *A player who is signed with a PL or EFL Academy as a ‘Scholar’ as defined by the Youth Development Rules may play in this competition provided that the club holding their Scholarship registration has provided written agreement to another*

participating club and an original of which must be lodged by the participating club with the LOC as appropriate, at the time of registration. Note: A 'Scholar' registered with an Academy is a defined term within The FA Rules.

- ii. Where such a situation as in b. above occurs, that player may not play for their Academy team in this competition if entered.*
 - iii. Clubs not abiding by the requirement of FA Rules and/or Regulations will be deemed to be in breach and may be subject to disciplinary action.*
8. It became apparent in the proceedings that the Respondent was not very familiar with these particular Rule sections and their implications. That is not intended as a criticism and it was apparent to the Appeal Board that this section could provide for confusion in interpretation.

Appellant and Respondent Submissions

9. Mr Holmes explained that Futsal is a different sport from football and he set out his efforts to more widely promote Futsal and the benefits of ball mastery skills to the wider game. It was clear that Mr Holmes is a passionate supporter and developer of Futsal in England. Mr Holmes accepted that he was bound by the Rules of the Competition and helpfully all parties had access to those rules in the bundle of productions. To a large extent the purpose of the Appeal was to determine whether the Rules had been properly applied and how the Respondent had considered the rules applied to the facts presented.
10. Mr Holmes detailed that he had entered an under 12 team in the competition on 5th February. Other teams had raised concerns that the Club Futsal players were members of the West Bromwich Albion Academy. Mr Holmes confirmed to relevant parties on the day that that this was correct but his understanding was that they were allowed to play in the competition under the name of Club Futsal. Mr Holmes said that he has a letter from Kevin Dove of West Bromwich Albion confirming their consent to this arrangement and seemingly there was a partnership between the 2 clubs.
11. Mr Holmes indicated that his permission letter from West Bromwich Albion had been one that he had relied upon in other youth competitions across the country. In any event he indicated that he considered the Article 3.10 i to be "false" as this was an under 12 age competition and not one where the definition of "scholar" applied. He elaborated that under 12 players could not meet the definition of scholar as in his understanding a scholar had to be aged over 16. By providing the permission letter from Mr Dove then Mr Holmes believed he was transparent on the position of players and that he had the necessary consents in place to play.
12. Mr Holmes' basic position was that Club Futsal ought not to have been disqualified and that this had a detrimental effect on young players.
13. Mr Whateley replied for the Respondent. He was candid in explaining that he was not au fait with the Rules of the Competition. He explained that before a ball was kicked in the competition that representations were made by other competitors that Club Futsal may be fielding ineligible players. Notwithstanding these representations, permission was given to the Club Futsal to play the players under consideration, thereby approving their participation.
14. Mr Whateley set out the decision making by the League Association which seemed to be by Whatsapp and which was not entirely clear as to whether he perceived Article

3.10 or Article 3.10 i to have been breached. Further it was not entirely clear how such decision making could be labelled as unanimous when only 4 of 6 members responded. Evidently Mr Whateley was in a difficult situation in having to interpret these rules for the first time and consider the relevant definitions to this age related competition. In an email dated 22 March 2022, the Respondent submitted what it purported to be Minutes of the meeting regarding its decision on the Club, i.e. screenshots of the Committee's WhatsApp group chat held on 7 February 2022. As this was 4 days before a charge was issued, and 5 days prior to the Club's response to the charge, no reasonable body could rely on these Minutes as being a true and accurate record of the Competition's decision in relation to this matter.

15. Mr Whateley said that disqualification "was quite an obvious conclusion" and yet the Appeal Board spent some time looking at the FA Rule definitions on Academy Players and Scholars and age related competitions and it did not appear immediately obvious. There was certainly room for ambiguity around the competition which appeared to have different age groups playing versus the particular fixture in question which involved under 12's.

16. Mr Waite offered some clarifications to assist Mr Whateley and in the course of those regard was had to another of the Competition Rules being Article 15. The extract below (with emphasis added) was relevant:

Article 15 ELIGIBILITY OF PLAYERS

*iv. Any team found guilty of fielding an ineligible player shall forfeit the match(es) in which the player(s) has/have participated and the team **may** be excluded from the competition. Where the opposing team has won, the result shall stand. Where the team found guilty of fielding ineligible player(s) was the match winner the result shall be over turned and a 3-0 victory and associated points awarded to the opponent. Where ineligible player(s) have played in all games of a competition, all results of the guilty team shall be cancelled.*

17. It seems that a literal interpretation of that Rule is that disqualification is not an automatic decision where there are ineligible players. There may have been a range of other available sanctions that could have been considered short of disqualification. In age range football with young players impacted it might have been expected that there would have been wider considerations.

18. Mr Whateley indicated that there were no wider considerations and that disqualification was the only option considered and the focus of the charging and disciplinary proceedings, as reflected in the papers provided.

19. Both sides were given the opportunity to summarise their case and no new evidence was presented.

Appeal Board Determination

20. The Appeal Board did understand that this was a novel situation and that the Rules could lend themselves to creating confusion in age related football competitions. That is regrettable when the aim is to encourage participation.

21. The Appeal Board did find there to be difficulties with Respondent decision making as follows (not an exhaustive list):

- a. The Respondent evidence was that ineligibility of players automatically led to disqualification. That was not apparent from the Rules of the Competition and Article 15 noted above;
 - b. The Respondent was not aware and did not seem to have read Article 15 and consequently cannot be said to have reached a reasonable decision when being unaware of the Rule. There was a discretion to be exercised here and the decision makers were not aware of that and cannot then have exercised reasonable decision making;
 - c. The Respondent's decision making documentation was significantly lacking with short Whatsapp messages being presented as minutes of meetings. This gave the impression that there had been rapid decision making without due consideration of all available options and sanctions;
 - d. The Respondent's Committee had only met by WhatsApp group messages to agree to charge the Appellant, however there did not appear to be a hearing to find the charge proven;
 - e. The Respondent evidence did not give the Appeal Board comfort that the Protest against the ineligible players had been properly managed in accordance with the Rules of the Competition; and
 - f. The Respondent evidence was confused as to whether they believed Article 3.10 or Article 3.10 i to have been breached. They had sought clarity from Mr Waite but this appeared to the Appeal Board to have been sought after a view had been formed on disqualification of the club.
22. The Appeal Board allow the Appellant's appeal and uphold it. The original disqualification decision is therefore expunged.
23. The Appeal Panel gave consideration to what the appropriate next steps might be for remedy. Whilst the Appeal Board has a wide ranging set of powers we are aware that the disqualification of the Appellant team may be difficult to rectify without impacting on other clubs and the integrity of the particular competition. We understand that the parties will continue to discuss how this may be resolved and we encourage dialogue to reach an agreed position.

Appeal Board

Peter Powell
Dennis Strudwick
Jonathan Rennie, Chair

4 April 2022