

DECISION OF AN APPEAL BOARD OF THE FOOTBALL ASSOCIATION

IN THE MATTER OF AN APPEAL BY DEEPING UTD (the appellant) AGAINST A DECISION BY LINCOLNSHIRE FA (the respondent)

11 AUGUST 2022

APPEAL BOARD

Roger Burden (Chair)
Alan Darfi
Glenn Moulton

Conrad Gibbons (Secretary to the Board)

FOR THE APPELLANT

Ian Walker
Andy McGowan
Rob Kelsey

FOR THE RESPONDENT

Cissy Radford – County FA Football Development Officer

1. Summary of the Appeal

The Respondent rejected the Appellant's applications for dispensation for 3 of its U-11 girls' teams (Green, Pink and Purple) to play out of County.

The Appellant appealed those decisions on the grounds that the Respondent failed to give it a fair hearing and came to decision to which no reasonable body would have come.

2. The Regulations

- Before commencing the Appeal, the Appeal Board acquainted itself with the Womens' Football Pyramid Regulations from the FA handbook.
- We agreed that the following were the appropriate Regulations (and this was not disputed by either party) -

12. GIRLS' TEAMS PLAYING IN LEAGUES

12.1 Any clubs wishing to enter a girls' team into a league competition shall only do so if the league competition is sanctioned by the County Association with which the club is in

membership. If the club is in membership of more than one County Association, the league competition must be sanctioned by the Club's Parent Association.

This Regulation 12.1 applies to all new and existing teams, irrespective of whether a club has another team already competing in a league sanctioned by The Association or any County Association.

12.2 The following exceptions to the above regulation shall apply, and a team shall be permitted, for one Playing Season only, to compete in a league sanctioned by The Association or any County Association, regardless of whether the club is in membership of it, provided that the club can establish:

(a) the travelling required to compete in a league sanctioned by The Association or another 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) there is no appropriate age group division in the league sanctioned by the County Association with which it has membership (or its Parent Association, where applicable) for the new team to compete in; or

(c) the league sanctioned by the County Association with which it has membership (or its Parent Association, where applicable) does not offer the format of football that the Club wishes the new team to compete in eg 11 v 11, 7 v 7.

The County Association with which the Club is in membership, or the Club's Parent Association where applicable, shall decide, whether any one of the above exceptions applies and if so whether the team may compete in a league sanctioned by The Association or another County Association. The County Association or Parent Association shall review this decision annually based on the exceptions set out in (a) to (c) above and having regard to the playing standard of the team, the development of girls football in the area, the league in which it has been given permission to participate and the league it would be required to participate in if it was required to play in a league sanctioned by the County Association with which it has membership or its Parent Association as appropriate.

3. Summaries

- I have summarised below the submissions and our deliberations. As it is a summary, I have not included every detail but the Appeal Board read, listened to, and carefully considered all the submissions.

4. Summary of Appellant's Written Submissions.

- For the Appellant, Andy McGowan submitted that the reason for the appeal was that the teams would be playing the exact same teams that they played five or six times last season, except for Lincoln Utd. He said that there would be eight teams in the South Section next season giving a total of 14 games all season which, he had calculated, if they were to play every week, would all be finished by Christmas. If they were to play every week, they will be playing each other four or even five times and playing the exact same teams as last season, when the girls had started to lose interest through playing the same teams.

- Andy also said that another reason for the appeal was that the girls were only playing bi-weekly fixtures, leaving the coaches to try to arrange friendlies between league games. This was not easy because most teams within the Peterborough area were playing weekly league fixtures.
- He said that they now have the problem with the cost of living with diesel costing £2 a litre in Deeping. He gave Lincoln as an example where it would cost each parent £20 to drive to and from Lincoln.
- Finally, Andy listed a number of teams in the S Tech League (Cambridgeshire) that are located in the Peterborough area which would enable the Appellants' teams to play weekly football within a short drive away.
- A submission from Ian Walker in which he said the appeal was because
 - There are not enough teams
 - There are not enough matches
 - The travel distance is too far
 - The decision is discriminatory.
- Ian then goes on to repeat much of Andy's submission but also sets out some travel times for the Lincolnshire League and the Cambridgeshire League. These showed a variation in Lincolnshire of between 38 and 154 minutes, with a total for the season of 418 minutes, and a variation in Cambridgeshire of between 38 and 134 minutes with a total for the season of 908 minutes. He said that many parents would not drive to Lincoln.
- He added that, if they joined the Peterborough League, the travel times were more reasonable and he listed the travel times for over 50 teams with timings between 6 minutes and 78 minutes, with two teams showing 84 miles in distance, rather than the timings.
- Finally, Ian quoted sections of the Equality Act 2010 and said that Lincolnshire FA are treating girls less favorably than boys as boys are allowed to play out of County.

5. Summary of Respondent's Written Submissions

- Cissy Radford submitted that it is now compulsory that all female teams play in their parent County League where there is provision available. Should any team wish to play outside of this provision they must first be granted dispensation, for each age group, by their parent County FA prior to confirming registration in any league.

- Cissy then said that 16 teams had applied to play in the U-11 girls' division and, as a result, the County were introducing a north and south geographical split leading to a reduction in travelling time.
- Cissy said that Deeping's three teams have applied to join the S-Tech U11 league in Cambridgeshire, in which there would also be lengthy travel.
- Cissy then went on to list a number of claimed benefits of remaining in the Lincolnshire League.

6. Verbal Submission by the Appellant

- For the Appellant, Ian Walker, reiterated some of his written submission and, in particular, he:
- questioned whether the decision was lawful as there appeared to be discrimination against the girls.
- said that Lincolnshire was not giving access to regular, weekly football as there were not enough teams.
- the County's value-added services do not add much for Deeping Utd.
- the Lincolnshire League does not meet the FA's transformation strategy and does not develop girls' participation.
- Ian then read out from a number of letters from parents, criticising Lincolnshire and its decision.
- Finally, Ian added that if they had to stay in the Lincolnshire League, at least one of the teams would fold.

7. Verbal Submission by the Respondent

- Cissy said she understood the problem of travel in a large County but that the County FA had to make decisions for every girl in every club, including Lincoln, which was the furthest team in the new division.
- She said that equality comparisons were inappropriate as boys' and girls' football were in different places and girls' football needs protection and is receiving special attention.
- Cissy said that there was no rule in the FA about the number of fixtures, it is all about distance.

8. Appeal Board Questions

In responding to our questions

- Ian said that they had ticked the “your County does not offer a suitable age band” box on the application form because there are not enough teams.
- He said the Peterborough league is a mixed league with girls’ teams and that they might take that option.
- He said that they had applied to the S-Tech in Cambridgeshire and had been told that they would be accepted.
- He said that last season they had played one team about twenty times between Deeping’s three teams, in the League, tournaments and friendlies.
- Ian said that he understood the case for Lincoln but felt that the County FA had not done enough in the past and it should be pro-active in the big towns.
- Cissy told us that she thought that a minimum number for a viable league was six and that there would be eight teams in Deeping’s new division.
- She said that they were working to increase numbers and that the work is paying off with more girls’ teams forming.

9. Final Submission from the Respondent

- Cissy said that the County FA had acted by the book, having followed the regulations and that the County FA has to make decisions for the entire County and has to think about all the girls.

10. Final Submission from the Appellant

- Ian said that he appreciated the County’s issue but his club had to think of its girls now and they had been patient for two years.
- They had now run out of patience as there is nothing specific happening and the County’s plans are based purely on optimism.
- Finally, Ian said that if they are not allowed to move, there will not be three Deeping teams next year as some girls will walk away.

11. The Appeal Board’s Deliberations

- Ian clearly wanted more frequent football, against a variety of teams, which Lincolnshire had struggled to provide. These were perfectly reasonable desires and ones with which we sympathised.
- We recognised the County FA’s ambitions to increase the number and quality of its girls’ teams and, whilst there had been an increase in numbers, we felt some of Cissy’s assumptions about the future were being rather over-optimistic.

- However, whilst we did have some sympathy with the Appellant's situation, the Regulations make no mention of numbers of fixtures. All participants, and the Appeal Board, are, of course, governed by the Regulations.
- The Appellant also suggested that travel distance within the Lincolnshire League was too far.
- Regulation 12.2 (a) states that to compete in a league sanctioned by another County Association, the travelling involved must be **significantly** less onerous (my emphasis).
- Although Lincoln involved a journey time 20 minutes longer than the longest journey in the Cambridgeshire League, several other journeys in that league would involve similar, or longer, times than those in the Lincolnshire League and, over a season, travel within the Cambridgeshire League was clearly not going to be significantly less onerous than that within the Lincolnshire League.
- It was the Cambridgeshire League to which the Appellant had applied so its comparisons with the Peterborough League were not relevant.
- Although the Appellant challenged the number and quality of some of the teams with which they would have to compete in Lincolnshire, suggesting that they did not give his teams frequent and varied games, Regulations 12.2 (b) and (c) simply say that, to compete in another County, there needs to be no appropriate age group division, or that the particular format of football is not offered, within the team's own County. The Regulations make no mention of a minimum requirement to form a division. The fact is that the Respondent does offer an U-11 girls' division.

12. The Appeal Board's Decisions

- The first ground of "Failed to give the appellant a fair hearing" - the "hearing" in this case was the consideration given to the appellant's request for dispensation. It was clear to us that the Respondent had given full and fair consideration to the matter and, with the geographical split, had taken steps to overcome the Appellant's reasons for requesting dispensation. We dismissed this part of the appeal
- The second ground of "Came to a decision to which no reasonable body could have come": the hurdle for this is extremely high as the Appellant has to show that the decisions were so unreasonable that no other reasonable body, acting reasonably, could have made them.

This was clearly not the case here as the Respondent had properly applied the Regulations in reaching its decisions. We also dismissed this part of the appeal.

- The Appeal Board made no decision as to costs

The decision is final and binding on all parties.

Roger Burden

Chair
16 August 2022