

IN THE MATTER OF THE APPEAL BOARD OF THE FOOTBALL
ASSOCIATION

BETWEEN

ALBRIGHTON FC U17 Girls (“the Club”) (Appellant)

-and

SHROPSHIRE FOOTBALL ASSOCIATION (“SFA”) (Respondent)

DECISION AND WRITTEN REASONS OF THE APPEAL BOARD

1. The Appeal Board conducted a hearing on Friday 15th September 2023, to determine an appeal by the Appellant against a decision of the Respondent, dated 10th August 2023 notified by email of 10th August 2023.
2. This hearing was conducted by Microsoft Teams (video-conferencing).
3. The Appeal Board consisted of Mr Paul Tompkins (Chairperson), Mr Robert Purkiss MBE, and Mr Alan Darfi.
4. Mr Conrad Gibbons Senior Judicial Services Officer of the Football Association acted as Secretary to the Appeal Board.
5. The Appellant was represented by the attendance of Mrs Jennifer Collins (“Mrs Collins”), club secretary of the Appellant club with Lee Maddox (Secretary & U10s Manager), Kevin Handley (Well-Being Officer & U12s Manager) and Mr Francis McMorro (Club Welfare Officer) observing.
6. The Respondent was represented by Mr David Simpson (“Mr Simpson”), Chair of the SFA with Ms Zoe Griffiths (Company Secretary of the SFA & Secretary of the Football Regulatory Board) in attendance.

The Original Decision

7. The Respondent on 8th August 2023, made a decision (“the original decision”) on the application of the Appellant for permission to play outside its parent county of Shropshire for the 2023/24 season and to play in the Staffordshire and Girls’ and Ladies League (“SGLL”). This request was granted and the decision was communicated to the Appellant by the Respondent by email of 8th August 2023 sent to Mrs Collins.
8. The Respondent on 10th August 2023 countermanded the original decision and denied the Appellant permission to play outside its parent county of Shropshire for the 2023/24 season. This decision (“the revised decision”) was communicated to the Appellant by the Respondent by email of 10th August 2023 addressed another club, AFC Telford, but copied in to Mrs Collins.

The Appeal Bundle

9. The Appeal Board had before it:
 - a Notice of intention to appeal
 - b Notice of appeal including exhibited correspondence, documentation and the Appellant’s timeline of events
 - c Respondent’s response to notice of appeal
 - d Minutes of the Regulatory sub-committee meeting of 4th August 2023
 - e Correspondence and directions
 - f Subsequent representations from the Appellant

Hearing

10. The Appeal Board, having taken into account the submissions of the parties and having given the Appeal Bundle careful consideration, noted the following.
11. The Appeal Board thanks both parties for the manner in which they made their submissions.
12. The Appeal Board noted that the Appellant was appealing on the following grounds:
 - *That the Respondent had come to a decision to which no reasonable such body could have come*
 - *That the Respondent had failed to give the Appellant a fair hearing*

- *That the Respondent had misinterpreted or failed to comply the Rules and/or regulations of the Association relevant to its decision*

13. The Appeal Board allowed the Appeal on the ground that the Respondent had failed to give the Appellant a fair hearing.
14. The following is a summary of the primary considerations of the Appeal Board, however the absence in these reasons of any particular point, or submission, should not imply that the Appeal Board did not take such point, or submission, into consideration when it considered the matter and reached its findings:
15. An appeal under the Regulations and in accordance with FA Regulations is by way of review unless new evidence is admitted. It is not a second opportunity for the Appellant to present its case to a different tribunal if they do not like the original outcome.

The Appellant's case:

16. Mrs Collins, on behalf of the Appellant, presented the Appellant's case. The Appellant stood by all written submissions and observations including the latest observations which had been submitted the day before the appeal.
17. The Appellant had engaged with SGLL with a view to applying to join that league for the forthcoming season and as part of that process had applied to the Respondent for permission to play outside the county of Shropshire. The main argument presented to the Respondent by the Appellant had been that there was no appropriate age group within Shropshire in which the Appellant could play. In particular there was no under 17s division, although there was an under 18s division in which the under 17s team could play.
18. The Appellant's initial application had been by email of 1st August, following consultation with the Respondent. Mrs Collins had mentioned that she and her club get on well with Mrs Griffiths and the SFA who had been helpful in guiding the Respondent at this point. Mrs Collins had herself established with the Respondent that there was no under 17s league in Shropshire for the girls to play in. While the application of 1st August had been brief, it contained the information which had been requested. Further information, such as has been included in the notice of appeal, had not been provided at this stage as Mrs Collins and the Appellant had not been aware that it was needed. This was why

the email of 1st August did not contain reference to Rule 12.2 and did not include full arguments in relation thereto.

19. Specifically the email of 1st August had requested that Albrighton FC under 17s girls' team *“want to move to Staffordshire given that the U18 premier league currently has 8 teams registered and Div 1 (where the U17 teams play has 11 teams)..... the benefit of being in a league where there is an opportunity to play with teams of a similar ability level with a team made up of players at u16/u17 age will be far better for us than playing in an U18 league in Shropshire”*.
20. On 8th August the Respondent had emailed succinctly, *“Due to The Shropshire Girls & Women’s league not offering an U17 division this season, your request to play out of County has been granted.”*
21. Playing in the SGLL would have allowed the Appellant fresh challenges and the opportunity to play different teams. The Appellant did not consider it had been treated fairly as the regulations applicable to boys are different from those applicable to girls. When the Appellant was notified of the revised decision on 10th August, the notification had been unusual in that the email had been addressed to AFC Telford, had mentioned the Appellant in the body of the email and had simply been copied to the Appellant rather than being addressed to it.
22. Receiving the email of 10th August had been deflating and had been a disappointment for the girls. Plans were already afoot for the new season and to be told out of the blue that the decision had been reversed was difficult to understand. The Respondent had told the Appellant that they were able to resubmit an application to play out of the county but the Appellant considered they had already made that application which is why they decided to appeal the decision rather than submit a fresh application.
23. On the question of whether the Appellant considered it had received a fair hearing, reference was made to a conversation which had taken place between Mrs Collins and Ms Griffiths before the Respondent’s meeting of 4th August. The gist of the conversation was that the Shropshire Girls League had mentioned to the Respondent that teams were looking to play out of the county at under 17 level but the Appellant itself had not been mentioned in internal conversations therefore an application would need to be made. Ms Griffiths had guided Mrs Collins on what needed to be done.

24. The Appellant stated to the Appeal Board that SGLL would play an under 18s league next season with a premier division for under 18 teams and a league 1 for under 17 teams. The Appellant does not run an under 16s team as the under 15s team folded at the end of last season so all girls aged 15, 16 and 17 would play in the under 17s team. Albrighton FC does not have an under 18 girls' team.
25. The Appellant's attention was directed to the FA's Women's Football Pyramid Regulation 12.2(b) which applies in these circumstances:
"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.... 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".
- The Appellant was asked to explain how this applied if Shropshire Girls' League offered an under 18s league. By way of explanation, the Appellant explained that although the league into which they had entered was an under 18 league only under 17s teams would play in Division One of that league and the teams with which Mrs Collins had managed to communicate were purely under 17s teams. She knew of nine teams in the division all of whom were under 17s.
26. It was the Appellant's submission that administration at the Respondent would have been aware of the ages of their players and how they were looking for under 17s football.
27. The travelling distances on page seven of the appeal bundle all related to under 17s team members and had been calculated from the homes of the girls who are likely to play in that team.
28. In the Shropshire Girls' League there are apparently only seven teams all of whom have been played in the past, they have tended to be strong and the Appellant team has not had a particularly good time in that league
29. There had been no discussion between the Respondent and the Appellant between the emails of the 8th August and 10th August and no consultation had taken place before the permission to play outside the county had been revoked. On 10th August the correspondence received by the Appellant from the Respondent was a copy of an email to a different club advising that the

Respondent had decided against allowing them to play out of the county for the forthcoming season. An additional difficulty for the Appellant was that all their girls had by then been registered with the SGLL but they were now apparently unable to play there.

30. It was accepted that the SGLL is currently running only one division but if the Appellant were permitted to join then the divisions would be split. No evidence was provided to support this statement
31. The Appellant emphasised that at no time had they represented to the Respondent that they wished to play in an under 17 division in the SGLL. The application to play outside the county had mentioned that they would be playing in an under 18 league in which there was a division for under 17 teams.
32. The Appellant had not seen minutes of the meeting of the subcommittee of the SFA Football Regulatory Board of 4th August by 10th August.
33. On the question of whether the decision of the 10th of August was one to which no reasonable such body could have come, the Appellant believed that their fate had been decided not on an individual basis but to match the decision which had been taken in the case of AFC Telford and they believed that they should have been subject to individual treatment rather than being grouped with another team whose circumstances were likely to have been different.
34. Having been given permission to play outside the county the Appellant could still not understand why that decision had not been allowed to stand.

The Response:

35. In its response the Respondent made reference to Rules 12.1 and 12.2 of the FA Women's Pyramid Regulations ("the Rules").
36. Specifically, the Respondent referred to rule 12.2 (b) requiring a team playing outside the county needing to be sanctioned by the parent County Association. At the meeting of the regulatory subcommittee on 4th August Regulation 12.2 (b) had been applied as this was the basis for the Appellant's application. The decision was described as "*simple*" because at that time the Respondent did not have an under 17s offering for girls and on that basis the Appellant would have played outside the county with the Respondent's blessing.

37. The Respondent subsequently learned that the SGLL was to bring together two divisions to form an under 18s league and as this was the same offering which the Shropshire Girls League had, the original decision was revoked.
38. AFC Telford's position was slightly different in that they wanted to play in the Central Warwickshire League, which is at a higher level.
39. At the meeting of 4th August, the regulatory subcommittee believed that SGLL was offering under 17s football but they subsequently learned that two divisions were being combined into an under 18s league and therefore the offering was no different from what the Shropshire Girls League offered, in their opinion.
40. By an email dated 8th August the Respondent learnt from the SGLL that "*for us to create a competitive League we have put all the teams who previously requested U17's into U18's division 1*". The Respondent interpreted this as saying that the SGLL was only running one division at under 18 level and therefore were offering nothing different from the Shropshire Girls' League. Ms Griffiths stated that she couldn't remember if she had looked at Full Time but Andy Bryant from SGLL had told the Respondent on 10th August that they would only have one division at under 18s.
41. The Respondent said that it was not just a question of age when considering appropriateness of the league in which a team should play as there is sometimes a question of quality of football but in terms of this decision it was simply a question of age. As there was no under 17 offering in Shropshire the application to move was originally granted but when it became clear that the proposal was to play in an under 18 league there was no difference.
42. Ms Griffiths was candid enough to admit that she could have handled the revised decision differently and should have contacted the Appellant directly rather than through a copied email.
43. The Respondent considered both leagues have numbers difficulties.
44. In its response, the Respondent had stated that on 10th August it came to their attention that the SGLL was only running one division. This had come to their attention in an email from Andy Bryant, chairman of the SGLL which included in its thread an email of 8th August referring to SGLL only running one division at under 18 level. On receiving that news the regulatory subcommittee had called an emergency Teams meeting and reversed their original decision.

45. When asked whether, with hindsight, there should have been any discussion with the Appellant before making the revised decision the reply was “*maybe yes*”.
46. In the minutes of the regulatory subcommittee of 4th August the Respondent stated “*Albrighton Girls U17s wish to play out of county in an U17s division*”. Asked whether this was an accurate representation of the emailed request of 1st August the respondent replied, “*Probably not*”. However, in the application they had effectively stated that the Shropshire Girls League under 18s division would be too strong for them so how would playing in a different under 18s league be any better for them?

Closing submissions

47. In closing, the Appellant sought to introduce evidence on the date on which the SGLL had moved from two divisions to one division but this was not permitted as it amounted to fresh evidence of which no party had had prior notice.
48. In the Appellant’s submission it is clear that there has been lots of information showing that the Respondent has not given the Appellant a fair hearing in terms of issues which have been brought up and led to the revised decision.
49. There had been no evidence of communication indicating that the SGLL was only running one division at the time the Respondent had made the revised decision.
50. The reason for the appeal is to obtain the best outcome for the girls and the Appellant did not consider it has had a fair hearing for them. Had they been told at the outset that they would need to lodge a full body of evidence it could have been provided. As for timing, the Appellant had not been made aware that it should have submitted everything from the word go.
51. It is all about the girls and the Appellant believes the Staffordshire Girls and Ladies League can offer a better provision for their girls in the current season. Next year is likely to be different but that is not any good for the season 2023-24.
52. The Appellant also considers the Respondent has not acted in accordance with the relevant rules and regulations. Also, communication could have been handled better and more efficiently.

The Decision:

53. The Appeal Board firstly considered whether the Respondent had applied the Regulations correctly. Regulation 12.2 states, in full:

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.

54. The Respondent had taken a decision upon whether there was an appropriate offering for the girls within Shropshire. This was governed by regulation 12.2 (b). The ultimate decision lies with the parent association as the Regulations are not prescriptive in this regard and the prerogative for deciding such matters rests with the parent association.
55. The Appellant had raised various arguments which did not find favour with the Appeal Board. Preference for the league in which a girls' team wishes to play is currently not a criterion for deciding in which league girls should play, although changes will be made in the future. Wishing to play different teams and to explore different opposition is not a criterion for playing out of county in the Regulations.
56. While mileage can be a relevant consideration, measuring distance from the individual players' homes is not the correct procedure and it did not appear that this was an argument which had been put with the initial request in any event. Even on examination, this argument did not find favour with the Appeal Board.
57. However, the Appeal Board did find that the Appellant had been transparent in its dealings with the Respondent particularly in its email of 1st August. In that email the Appellant had stated that their under 17s team "*want to move to Staffordshire given that the U18 premier league currently has 8 teams registered and Div 1 (where the U17 teams play has 11 teams)*". Although slightly clumsily worded this email did refer to the fact that the league in which the under 17 team would play was an under 18s league. This was represented (not by the Appellant) to the Regulatory Sub-Committee on the 4th August as a request "*to play out of county in an U17s division*". It was therefore incorrect to state that the Respondent had only discovered on 10th August that the league in which the Appellant wished to play was in under 18s league as this had been stated with the original application on 1st August.
58. The Appeal Board did not agree the email of 8th August from Andy Bryant to AFC Telford had indicated that the SGLL was only running one division. The words were "*for us to create a competitive League we have put all the teams who previously requested U17's into U18's division 1*". It did not appear that the Respondent had investigated the matter any further to establish how many

divisions there were in the SGLL and the Respondent had been unable to produce any evidence of when they first understood the SGLL would only be running one division at under 18s for the forthcoming season. This was important as this was presented as a major factor in the Respondent reviewing its decision. It was not clear to the Appeal Board whether the original decision was reviewed because the Respondent had discovered the SGLL only ran an under 18s league (and no league specifically for under 17s) or because the Respondent believed the SGLL had subsequently decided only to run one division at under 18 level.

59. On realising that the SGLL was not running a league specifically for under 17s the Respondent reacted by holding an emergency meeting at which they reached the revised decision but gave the Appellant no opportunity to make representations. The revised decision clearly has an impact upon the Appellant, but they were not given the opportunity to comment, clarify or correct the information upon which the revised decision was based. Tellingly, the information which had been provided on 1st of August and on which the original decision had been based was entirely accurate and the Appeal Board had seen no evidence that that information had changed before the revised decision was made.
60. Of interest to the Appeal Board was the absence from the appeal bundle of any minutes from the emergency meeting of the regulatory sub-committee on 10th August. Without these minutes the Appeal Board was unable to see what information had been placed before the sub-committee and on what they had made the revised decision, something over which there was some inconsistency. Had the revised decision been made on; (i) the fact the Appellant was to play in an under 18 league, which was information which was known to the Respondent at the time of the original decision or; (ii) the fact that the SGLL was only running a single division at under 18 level, as was represented to the Appeal Board as the reason for making the revised decision but which was not corroborated.
61. Furthermore, in the email of 10th August from the Respondent to AFC Telford, the email which revoked the original decision, the Respondent stated *“Permission was granted to play out of county as you stated that you wished to compete in an U17s division. Being placed in an U18s division in The*

Staffordshire Girls & Ladies League is not an option Shropshire can approve when there is a provision within our County". This implies that incorrect information had been provided but there was no evidence before the Appeal Board to show that Appellant had provided inaccurate information at any time.

62. The Appeal Board did not understand the Respondent's suggestion that the Appellant should have made a further application once the revised decision had been made, rather than appealing the revised decision. To do so would technically have required the Appellant to accept the revised decision and to start the process again. Procedurally there was nothing wrong with the course of action that the Appellant had pursued.
63. There is a principle of natural justice that each party to a case or a decision has a right to be heard. While there is no provision for oral representation at a meeting of the Regulatory Sub-Committee, the Appellant was not even aware that the original decision was being reviewed let alone given the opportunity to comment. The Appeal Board therefore found that the Respondent had failed to give the Appellant a fair hearing before making its decision on 10th August. For this reason the appeal succeeds.
64. The Appeal Board decided that there would be no order for costs in this matter.
65. The Appeal Board order that the appeal fee be returned to the Appellant.
66. The Appeal Board's decision is final and binding.

Paul Tompkins

Alan Darfi

Robert Purkiss MBE

21st September 2023