



THE INDEPENDENT
FOOTBALL OMBUDSMAN

IFO COMPLAINT REF: 10/02

THE FOOTBALL ASSOCIATION'S HANDLING OF A COMPLAINT

The Role of the Independent Football Ombudsman (IFO)

1. The office of the IFO has been established by the three English football authorities (The Football Association (FA), The Premier League and The Football League) with the agreement of Government. The IFO has been designated as the final stage for the adjudication of complaints which have not been resolved within football's complaints procedure. The IFO operates a system of non-binding arbitration. In exercising its jurisdiction, the IFO does not seek to question the merits of judgements made by properly constituted Regulatory Commissions and Appeal Boards, unless there were shortcomings in the administrative processes which led to those judgements. It is not the role of the IFO to retry cases, but it is its role to explore and review the procedures under which complaints have been decided and whether the outcomes were reasonable for all parties concerned. Under the procedure agreed by the Football Governing Bodies, the adjudication of the IFO is final and there is no right of appeal against IFO findings.

2. The IFO must make clear at the outset that he has received full cooperation from The FA, The Football League and Bristol Rovers Football Club (BRFC).

The complaint

3. Jamie Shore Soccer International (JSSI) is an independent commercial organisation offering specialist coaching to players aged under 5 to under 18 in return for a monthly fee. At under 12 level their teams enter the Midland Junior

Premier League. JSSI complained about the way in which the FA had handled their representations about the recruitment of their registered players by BRFC. The annex to this report contains relevant extracts from the FA and the County FA (GCFA) Rules relating to approaches to youth players.

The events in question

4. In May 2009 JSSI became aware of BRFC offering trials to six players from their under 13 squad. On 24 July JSSI wrote to BRFC complaining that over the previous four years BRFC's Centre of Excellence staff had, in breach of FA rules, approached and recruited some of their players. JSSI gave several examples. They said that the effect on their club was to unsettle the players and their training programme and to impact adversely on JSSI's budgets. JSSI wished to reserve their position in relation to sanctions in respect of the breaches. They proposed that BRFC communicated with JSSI's Director regarding players, that they observe the FA rules and that they should not approach more than two JSSI players per season. JSSI said that their letter was intended to activate communications between their respective organisations so that the correct procedures could operate.

5. According to JSSI, on 9 September the Manager of BRFC's Centre of Excellence telephoned saying that he would comply with the FA rules and communicate in writing regarding players registered with JSSI. Meanwhile, on 8 September a JSSI player had been offered a contract by BRFC. A further player was offered a contract on 6 October. On 12 October JSSI complained to Gloucestershire County FA (GCFA) about what they regarded as breaches of Rules 25 and 25A. On 20 October GCFA emailed JSSI saying that they had asked BRFC for comments, which would be considered by their disciplinary staff. On 6 November the Manager of BRFC's Centre of Excellence emailed GCFA with details of all the boys concerned. He said that BRFC teams play on Sundays, so are in effect a "Sunday Club" in relation to the Centre of Excellence match programme. The Manager acknowledged that JSSI had an under 13 team playing in the Midland League on Saturdays but said that BRFC "do not recognise their status in relation to this situation". He said BRFC had contacted the boys' Sunday clubs so had not breached any GCFA rules.

6. On 24 December GCFA referred the matter to the FA as BRFC is a "Full Member Club". On 26 January 2010 the FA received from the Manager of BRFC's Centre of Excellence a copy of the comments he had sent to GCFA. On 18 February the FA's Registrations Manager wrote to BRFC saying that the FA would not be pursuing the matter. He pointed out the BRFC must comply with FA Rule C.2 (a) and ensure that coaching and management staff are fully aware of their responsibilities. He also wrote to JSSI saying that the FA were satisfied that BRFC had adhered to the provisions of FA Rule C.2 (a). He said "Whilst you seem to have historical issues with the club, there is a clear difference between the notification requirements between teams playing on different days. There are

also anomalies affecting the registration processes deployed by the Midland Junior Premier League”.

7. On 23 February JSSI’s Director telephoned the FA’s Registrations Manager. According to JSSI the Manager said that he was “unable to clarify anything” and as far as he was concerned “the case was closed”. On 25 February the Director emailed the FA Manager complaining that his letter of 18 February had been “unhelpful, unclear and unsympathetic”, and that the Manager had been unable to answer his legitimate questions seeking clarification. That same day the Manager replied saying that he had asked for a paper trail, that he had said that he would welcome immediate contact from JSSI if there were further problems and that it had been the Director who put down the telephone on him.

8. On 26 February JSSI asked the IFO to investigate their complaint. They were concerned that whatever BRFC had told the FA had not been verified, that the FA had raised the matter of “historical issues”, and that there were unexplained “anomalies affecting registration”. They complained that the Manager had been unable or unwilling to explain the content of his letter. They also said that following their complaint, in October 2009 BRFC had suddenly sent them “7 day notices” for two of their under 16 players. They enclosed copy correspondence from two other Football League clubs who had provided “7 day notices” for JSSI players (under 12s and 14s).

The Investigation

9. The IFO and his Deputy visited the FA and discussed the complaint with the Registrations Manager. He was satisfied that BRFC were regarded as a Sunday team at under 13 level and, therefore, not required when wishing to approach players, to notify any Saturday club involved. BRFC had not fallen foul of any Rules. The Manager said that it was obvious that there had been friction between the clubs for four years, hence his reference to “historical issues”, although JSSI had later denied that. The reference to “registration anomalies” had referred to the Midland League’s electronic registration system whereby players are registered before they physically “sign on”. The Manager hoped that BRFC would be “open and transparent” in any future dealings with JSSI.

10. The Deputy IFO spoke with the Football League who confirmed that their Academy programme for players up to age under 15 is on Sundays; under 16s play on Saturdays.

11. The Deputy IFO visited BRFC and discussed the complaints with the Manager of the Centre of Excellence and the Technical Development Manager. They supplied fixture lists of all their teams – all age groups between under 9s and under 15s play Sundays; under 16s play Saturdays. They said that in recruiting age groups under 9 to under 15 they notify the appropriate Sunday clubs. Although not strictly a requirement, they undertook, as a matter of

courtesy, to notify JSSI in future where they are aware that any player in whom they are interested is registered with JSSI.

12. The Deputy IFO visited JSSI and met with the Club Secretary. The Director was abroad with a team at a tournament. The Deputy IFO explained the requirements of the FA Rules and how BRFC had agreed to keep JSSI in the picture as a matter of courtesy where they want to recruit a JSSI player. He also explained that the "7 day notices" which JSSI had received from BRFC in October 2009 (see paragraph 8) had been in relation to under 16 players, where BRFC, like JSSI, is a Saturday club and, therefore, required to give notice of approach. JSSI were of the view that the FA rules should apply to all clubs with whom a player is registered, in order to avoid what can be insurmountable problems when a club is left short of players without notice.

13. The Deputy IFO wrote to the Secretary of BRFC thanking him for the club's co-operation and expressing the hope that their offer of courtesy notifications can prevent any future friction between the clubs.

The Findings

14. Although this complaint surrounds the FA's handling of JSSI's representations, at the heart of the matter are the FA Rules relating to the approaches for players. In that regard, the IFO accepts that in age groups up to under 15, BRFC sides are Sunday teams and, as such, when wishing to approach players, there is no strict requirement to notify JSSI, which is a Saturday club. However, although the FA Rule C2(a) is quite clear, the GCFA version of that rule is somewhat confusing. When read in isolation GCFA Rule 25(a) – (c) could be taken to require 7 day notices for all players and a maximum of two per club at any one time. It is only when the reader reaches Rule 25(e) that the distinction is made between Saturday and Sunday clubs. Quite apart from the need to make the Rules clearer, the IFO has great sympathy with JSSI's view that the Rules should apply to all clubs with whom players are registered. It seems totally wrong that where a club knows that boys are registered with another club – particularly a club such as JSSI where boys are professionally trained, and where their matches are covered regularly by club scouts – they are not required to give notice of approach to that club. The IFO recommends that the FA should amend their Rules accordingly and that GCFA should ensure that their version of the Rules is not open to misinterpretation. In the meantime, the IFO welcomes BRFC's offer to notify JSSI as a courtesy of any approaches to their players.

15. As far as the FA's action is concerned, they would have been in a position to consider the matter at a much earlier point had GCFA realised that BRFC were not within their jurisdiction. The IFO recommends that the FA satisfy themselves that CFAs are clear as to the boundaries between them and the FA to ensure that complaints are handled promptly.

16. Having consulted BRFC, the FA were satisfied that, being regarded as a Sunday club at under 13 level, they had not breached their Rules. Unfortunately, their letter of 18 February to JSSI did not spell out the reason why BRFC had not breached the Rules i.e. as a Sunday club they were not required to notify a Saturday club. The FA simply said that BRFC had adhered to the provisions of FA Rule C2(a). For their part, JSSI were judging the matter under GCFA Rule 25 which, as the IFO has found, was unclear. Indeed the "Saturday/Sunday club" explanation was only made clear to JSSI by the IFO during the investigation. In addition the FA's references to "historical issues" and "registration anomalies" were not relevant to the central complaint and served only to confuse and complicate what was really a very simple issue. The FA's communication should have been clearer and more informative and, in the circumstances, an apology to JSSI would be in order. The IFO recommends that the FA ensure that their communications are as helpful as possible. In light of the conflicting accounts, and the lack of opportunity to interview JSSI's Director, the IFO makes no finding on the matter of his telephone conversation with the FA Registrations Manager. However, the failure properly to allay JSSI's legitimate concerns was an unfortunate missed opportunity. Effective communication would have rendered the IFO's intervention unnecessary.

Conclusion

17. Although this investigation has shown that BRFC were not in breach of the FA Rules in relation to approaches to JSSI players, it has shown not only that GCFA's Rules are not clear, but more importantly that the basic FA Rule works adversely against clubs such as JSSI. The IFO hopes that BRFC's agreement to keep JSSI in the picture regarding any of their players will ease any potential difficulties while the FA considers the IFO's recommendations. As far as the FA's letter of 18 February is concerned (as discussed above Paragraph 16), **the IFO upholds JSSI's complaint about the way in which their representations were handled.**

Professor Derek Fraser, Ombudsman
Mr Alan Watson CBE, Deputy Ombudsman

8 June 2010

ANNEX

Extracts from FA Rule C2(a) Regulations concerning approaches

Players who are not under written contract to a club may be registered with a number of clubs at any time.....

(ii) During the current season any club wishing to approach a player known to be registered with or having played for any other club must give to the secretary of any such club, seven days' formal written notice of the intention to approach the player.

Formal written notice of approach need be given by:

- (A) a Saturday club only to all Saturday clubs;
- (B) a Sunday club to all Sunday clubs;
- (C) a midweek club to all midweek clubs.

(iii) The written notice must be sent by special delivery or recorded post, or a written acknowledgement otherwise obtained from the secretary or chairman of the club approached. Facsimile or e-mail transmission may be used provided a receipt of acknowledgement is also obtained.

(ix) During the current season a maximum of two players may be approached in the manner described above if invited to trial at a licensed academy or "Centre of Excellence of The Association, the FA Premier League or the Football League.

GCFA Rule 25

(a) Registered football academies/centres of excellence wishing to approach youth players up to the end of the season of their 16th birthday for trials shall be subject to (b) and (c) of this rule. Such trialist who shall not exceed 2 per club at any one time shall be retained for 4 matches after whom the player shall be signed or released back to the youth club.

(b) Subject to the provision of this Rule, Non Contract players are not restricted as to the club for which they may play, providing they comply with the Rules and Regulations of any competitions in which their club or clubs may be engaged.

Approach

(c) No club or any persons shall during the close season induce any Non Contract player of a Club in membership of this association, as heinafter provided to play for another club without at least 7 days notice in writing to the secretary of the club for which the player was last known to have been a playing member

and negotiations with the player must cease at the expiration of 21 days from the date of such notice given.

(d) The notice must be forwarded by registered post, recorded delivery or a written acknowledgement otherwise obtained. A second notice shall not be given by the same club in respect of the player during the current season.

(e) When a player is concurrently a playing member of a Saturday club, a Sunday club and/or a midweek club the following procedure shall apply.

(i) Formal notice of approach by a Saturday club need only be given to a Saturday club or clubs for whom the player is a playing member.

(ii) Formal notice of approach by a Sunday club need only be given to a Sunday club or clubs for whom the player is a playing member.

(iii) Formal notice of approach by a midweek club need only be given to a midweek club or clubs for whom the player is a playing member.

(f) The approaching person or persons shall not give notice of intention to approach more than one player of a club at the same time and shall not give notice of intention to approach another player of the same club within 28 days of prior notice