**IRISH FOOTBALL ASSOCIATION**

**APPEALS COMMITTEE**

***In the matter of an appeal by Glentoran Youth FC against a decision of the NIBFA Competitions Organising Committee***

**Appeals Committee:**

Martin Wolfe KC (Chair)

David Lennox

Stephen Magill

**DECISION**

This is a decision of the IFA Appeals Committee (‘the Committee’) which was reached following a hearing which took place at IFA Headquarters on 4 April 2023. It concerns an appeal brought by Glentoran Youth FC (‘the Appellant’) against a decision reached by the NIBFA Organising Committee (‘the Respondent’) on the 21 March 2023**.** Having regard to the reasons set out below, the unanimous decision of the Committee is that the appeal shall be **dismissed** so that the decision of the Respondent is upheld and the sanction imposed by the Respondent remains valid and shall be implemented.

**Attendees**

1. The Appellant was represented at the hearing by Mr. David Hayes and Mr Simon Kelly.
2. The Respondent was represented at the hearing by Mr. Peter McKenna and Mr William Ewart. Mr. Ewart was substituting for the absence of Mr. Gerry McKee who had signed off on the decision which is the subject of appeal.
3. The Committee wishes to express its gratitude to the parties for their attendance at the hearing and for their helpful written and oral submissions.

**Facts**

1. The relevant facts were not the subject of any significant dispute. By agreement with the parties the Committee has determined that it would be inappropriate to name the player whose selection and eligibility are the subject of this decision. He is a Minor and we shall refer to him as ‘Player 1’. The Committee wishes to emphasise that Player 1 behaved appropriately at all times, and it should be obvious that no criticism of him or his parents is warranted.
2. On the 8 October 15 October, and 29 October 2022, and 18 February 2023, Player 1 played for the Glentoran Under 12 side in the Subway NIBFA Under 12 Cup competition. This competition has a 9-a-side format.
3. On the 11 February 2023 and 25 February 2023 Player 1 played for Glentoran’s Under 13 side in the Subway NIBFA Under 13 Cup competition. This competition was an 11-a-side format. The game on the 25 February was played against Dungannon United Youth Under 13, and was at the quarter final stage of the cup competition. Glentoran won the match by a score-line of 3-2 and but for the matter giving rise to this appeal would have progressed to the semi final stage of the competition. The Committee was advised that this is a prestigious competition at this level of youth football.
4. The Committee understands that following Glentoran’s fixture with Dungannon United Youth, information was received by the Respondent which raised an issue regarding Player 1’s eligibility to participate in that match.
5. In light of the information received, and exercising the power provided by Rule 8.5 of the NIBFA Cup and Plate Disciplinary Rules, the Respondent assessed the playing history of Player 1. This indicated that he had played for both the Under 12 and Under 13 teams and had played in the 9-a-side format (at under 12 level) and in the 11-a-side format at (under 13 level).
6. As appears from the decision of the Respondent, it concluded that Player 1’s participation in the quarter final match against Dungannon United Youth was a breach of Rule 4 of the NIBFA Competition Rules:

“Having assessed the playing history of [Player 1] in this competition, Glentoran 2010 National League squad participating in the NIBFA Quarter Final did name, and play [Player 1] in breach of Rule 4 and will therefore be eliminated from the competition.”

**Relevant Rules**

1. The Committee was referred to the following Rules which are relevant for the purposes of this appeal:
2. Both parties accepted the central importance of Rule 4 of the NIBFA Competition Rules which concerns the registration of players. Rule 4A provides that a player may only play for one team in their own age group for a club, but they may also play for one other team in an older age group for the same club within certain approved age bands. Rule 4A must be read together with Rule 4B.
3. Rule 4B provides as follows:

“Teams may include players from an age group below. (However, players playing in the 9-a-side competition may not play in the 11-a-side format and similarly players who have played at 11-a-side may not take part in the 9-a-side format.) Players are restricted to playing for those age groups either immediately 1 year or 2 years above the age group for which he or she qualifies. In all cases it is the responsibility of coaches and parents to assess the player is physically capable of meeting the demands of an older age group.”

1. Rule 8 of the NIBFA Competition Rules concerns ‘Match Days.’ The Appellant drew particular attention to Rule 8.3:

“Any protests about player eligibility or the match venue should be made in writing to the referee prior to kick off whereupon the referee will decide if the match will proceed on the day. Teams who fail to have all their player photographs visible via Comet on match day will forfeit the result of the relevant match with all resultant expenses charged. However, if the match is played no appeal or claim in respect of the result by any club will be considered.”

1. Rule 8.5 was referred to by the Respondent. It simply states that, “All match cards will be subject to scrutiny by NIBFA.” The Committee considered that it can be inferred from the other provisions within Rule 8 that scrutiny of match cards may be performed for a range of purposes including player eligibility, disciplinary issues and match result.
2. The Committee was also referred to the NIBFA Cup and Plate Disciplinary Rules. As appears from Section 1.2 of these Rules, they have applied since the 1 August 2022, “to all football under the jurisdiction of the Northern Ireland Boys’ Football Association.”
3. The Respondent referred the Committee to Rule 1.7 which provides, inter alia, that disciplinary hearings should be conducted in “a fair and just manner” and which emphasises that “procedural and technical considerations shall take second place to the overriding objective of being just and fair to the parties.”
4. Both parties referred to Rule 1.9 of the Disciplinary Rules. The Appellant made a submission in respect of Rule 1.9(1) which provides that the Committee shall have power “to sanction serious disciplinary infringements which have escaped a match official’s attention.” The Respondent relied on the provisions of Rule 1.9(3) which lists the range of sanctions which might be imposed by the Committee, including expulsion from a competition.
5. Finally, the Committee noted that Rule 1.13 (which was referred to in the Respondent’s decision) emphasises that while every effort will be made to “act consistently,” the Committee is not bound by any doctrine of binding precedent.

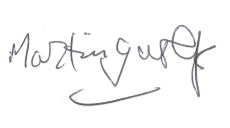
**The Issues**

1. In describing the issues between the parties it is convenient to first outline the Respondent’s position as described in its decision of the 21 March 2023, and as further explained in submissions made at the hearing before this Committee and in answer to the Committee’s questions.
2. The following key points can be identified from the Respondent’s arguments:
3. Upon receiving information which raised an issue regarding Player 1’s eligibility to participate in the quarter final match versus Dungannon, the Respondent was entitled to use the power provided by Rule 8.5(d) to scrutinise the match card and to assess the playing history of Player 1, even though the game had been played.
4. Having assessed the playing history of Player 1 it was found that he was an ineligible player (for the purposes of that match) having played in the 9-a-side format at under 12 level before playing in the 11-a-side format at under 13 level against Dungannon, and that this was clearly in breach of Rule 4B, even if it was considered that he was physically capable of meeting the demands of the older age group and format.
5. Having identified a breach of Rule 4B, the Respondent was empowered to apply the sanction of expulsion from the competition, and that this was a proportionate sanction in the circumstances.
6. In its submission setting out its grounds of appeal dated 23 March 2023, as elaborated upon at the appeal hearing, the Appellant disputed the approach of the Respondent. The following points were advanced:
7. First, it was argued that Player 1 was eligible to play in the quarter final match versus Dungannon. It was not disputed that Player 1 had played in the 9-a-side format before playing against Dungannon at the older age group in the 11-a-side format, but it was contended that this was permissible within the meaning of the Rule if the player was assessed as being physically capable of playing. The Appellant contended that Player 1 had been so assessed.
8. In the alternative, the Appellant argued that Rule 8.3 provides that any concern about the eligibility of Player 1 should not have been investigated and adjudicated upon by the Respondent after the match had been played, and where no protest against the eligibility of the player had been made to the referee in writing prior to kick off. In support of this argument the Respondent referred to the fact that when they raised a challenge with the Respondent concerning the eligibility of a Maiden City player following a league fixture earlier in the season, they were advised by Mr McKee (apparently interpreting a similarly worded rule) that the “stumbling block to] getting [the result] reversed” will be “that the panel will refer to thee rules if the game has been played.” Accordingly, the Appellant contended that the Respondent should be obliged to take a consistent approach and refuse to entertain complaints if they are made after the match had been completed.
9. The Appellant also contended that even if their primary arguments were rejected the sanction of excluding the club from the competition should be regarded by the Committee as a disproportionate action as the selection of Player 1 could not be categorised as a “serious disciplinary infringement."

**Decision and Reasons**

1. After considering the submissions of both parties, the Committee was satisfied that the Appellant fielded an ineligible player in breach of Rule 4B. It was clear to the Committee that this Rule expressly provides that a player who has played in the 9 player format cannot then play in the 11 player format, and vice versa. Player 1 had played several matches in the 9 player format at under 12 level before playing at under 13 level against Warrenpoint and then against Dungannon in 11 player matches. This is explicitly prohibited by the rule, and Player 1 was ineligible to play in the quarter final match on the 25 February 2023 and should not have been selected.
2. The Committee considered the Appellant’s submission that it was permissible to play in both 9-a-side and 11-a-side games if a coach and/or parent considers the player to be physically capable of doing so. The Committee found that this submission was not supported by the language of the Rule. The reference in Rule 4B to the need to assess the player’s physical capacity is clearly directed to ensuring his/her safety or welfare when playing at an older age group. The Rule does not provide a club with the freedom to select a player to play for an 11-a-side team in an older age group if he has already played for a younger team in the 9-a-side format, regardless of his physical capacity to do so.
3. The Committee was satisfied that the Respondent was entitled to apply Rule 8.5 to scrutinise the match card and thereafter investigate the eligibility of Player 1 notwithstanding that the fixture with Dungannon had been completed. In rejecting the Appellant’s submission the Committee found that it would be highly unusual if such a post-match investigation could not be taken forward. It acknowledged that on many occasions it will simply not be possible to be satisfied of a particular player’s eligibility before a game is played. The Committee found that the position contended for by the Appellant by reference to its interpretation of Rule 8.3 would, if applied, have the effect of placing the integrity of sporting competition at risk by preventing abuses of eligibility rules from being sanctioned if they are only discovered after a match has been played.
4. Accordingly, the Committee found that the Rules do not prevent the Respondent from investigating player eligibility if information comes to its attention after a game has been played. In this case the Committee considers that the integrity of the competition demanded such an investigation, and that following the investigation the concern about the eligibility of Player 1 was vindicated. The Committee found Rule 8.3 to be confusing in its drafting, but it was nevertheless satisfied that whatever its precise meaning it does not prevent the NIBFA from investigating player eligibility issues, and if appropriate, to apply a sanction after a match has been played.
5. The material presented to the Committee by the Appellant strongly suggested that when they raised a query regarding the eligibility of a Maiden City player earlier in the season, they were met with the advice that nothing could be done about it since the match had concluded. It would appear that based on that advice, the Respondent did not then advance a formal complaint. Plainly, it was not possible for the Committee to investigate the full circumstances of that matter, and the treatment of the Respondent in that case does not assist our analysis here. However, it would be a regrettable state of affairs if the same or similar rules are the subject of inconsistent interpretations. Administrators should strive to apply competition rules in a consistent fashion, even if they are not bound by a strict doctrine of precedent. To do otherwise would be to encourage allegations of bias and unfairness and would risk undermining the principles contained within the overriding objective.
6. It was clear to the Committee that since Player 1 had been selected and had played in a winning team against Dungannon in breach of the eligibility requirements set by Rule 4B, the Respondent was empowered by Rule 1.9 of the Disciplinary Rules to apply a sanction.
7. The Committee carefully considered the Appellant’s submission that expulsion from the competition was an excessive and disproportionate step. However, the Committee was satisfied that if a club selects and fields a player who is not eligible to participate in the game, even if in doing so it is not intentionally breaching the rules, the effect is the same. All such breaches must regarded as serious matters and in the circumstances the Committee considered that the sanction applied by the Respondent was a reasonable one, indeed the conventional one in such cases, even if other disciplinary steps are available.
8. Finally, the Committee would recommend that the Respondent should give consideration to how Rule 8.3 has been drafted. As appears from this decision, the Rules do not and should not prevent post-match investigations by the Association into player eligibility concerns, particularly where the issue giving arise to the concern is not known before the match. The Committee is of the view that Rule 8.3 as it is currently drafting creates a confusion because it suggests an alternative meaning. The Committee is of the view that the position should be fully clarified by appropriate amendment to the Rules so that inconsistent interpretations can be avoided.

**Dated: 6 April 2023**



**Martin Wolfe KC**

**On Behalf of the Appeals Committee**