

Realgrassroots

PE1319/JJ

Monday 11th June 2012

Ms. Anne Peat,
Clerk to the Public Petition Committee,
TG.01,
The Scottish Parliament,
Edinburgh.
EH99 1SP

Dear Ms. Peat,

PUBLIC PETITION PE1319

We acknowledge the latest correspondence dated 18th May 2012 from Mr. Stewart Regan at the Scottish Football Association.

We would begin by acknowledging and indeed praising the Scottish FA for their efforts in addressing the issues we have raised. It has been a long journey for both Willie Smith and I, however, we feel that there are a number of questions that remain to be addressed fully.

Much to the credit of the governing body, Mr. Smith and I have been delighted with the level of communication and engagement of both the SFA President and the Chief Executive. Indeed, Mr. Regan met with Mr. Smith and I only last month to discuss progress on a range of issues.

The Scottish FA appears comfortable that they are operating within the regulations of FIFA in respect of Compensation payments for youngsters moving between professional clubs, however, we are less convinced. This point was discussed at our recent meeting and it was suggested that the regulations were being interpreted differently. Realgrassroots have asked both Compass Chambers and Legal League – Sports Lawyers Association to look at the regulations and give their opinion as to how they are applied within our domestic game.

Regardless of the fore-going, it remains to be seen if the ability of a senior professional club to retain a 15 year old player for a further two years, following completion of his initial one year registration complies with Section 2(1)(b) Age of Legal Capacity (Scotland) Act 1991. It is the opinion of Scotland's Commissioner for Children and Young People as well as our own that this current regulation contravenes this piece of Scottish legislation.

We would remind the Committee of the submission received from the Child Law Centre of Scotland which wrote:

Article three of the United Nations Convention on the Rights of the Child states that in all actions concerning children, their best interests are a primary consideration. Scottish Law goes further, and provides that in matters concerning a child his or her best interests are the

paramount consideration. If children under 16 are offered contracts by football clubs it is essential that those contracts should be drawn up in a way that recognises that the interests of the child are paramount.

A child under the age of 16 cannot enter into a legally binding contract; it must be signed for them by an adult who has parental rights and responsibilities. Parents and those with parental responsibilities and rights have discretion in how they exercise those responsibilities and rights, and are required to take into account the needs and wishes of the child.

Contract terms must be fair and reasonable. *A contract which restricts a child's right to participate in school activities and other normal childhood play and activities in order to protect the interests of others, rather than those of the child may not be in the interests of the child.*

Article 31 of the United Nations Convention on the Rights of the Child states that: "States Parties must recognise the right of the child to engage in play and recreational activities appropriate to the age of the child."

No contract should restrict that right without good cause – taking into account the interests of the child - and no contract should be entered into without the child having a full understanding of what it means, and consenting to that contract. Consideration should be given to the child being provided with independent advice to avoid any pressure from parents or carers, even if that pressure is well meaning.

Children in Scotland are deemed by law, once they are 12 years of age, to be able to understand matters in the courts and in children's hearings and to be entitled to a view in such proceedings. Children under 12 are still entitled to express a view and can have the capacity to participate in legal matters including the instruction of independent legal advice. Thus it is our view that children who are offered contracts that can place restrictions on their normal activities should be provided with clear and age appropriate information about the nature of the contract, and the consequences of it being signed.

Article 32 of the UNCRC states that "the child must be protected from economic exploitation and to be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development". Any contract which does not recognise the child's needs, and which restricts a child from participating in school activities which are a normal and often valuable part of their education may not be in the interests of the child.

Consideration should be given to monitoring the transfer of children between clubs to ensure that such a transfer is acceptable to the child and in their best interests.

It is the view of the Scottish Child Law Centre that the interests of children entering into contracts that can give others an economic advantage, and that can restrict the activities of children can in some instances be against the best interests of the child. We would recommend consideration of measures such as Standards and Guidance, a Code of Conduct and an appeal process that where possible does not require court action. Court action concerning unfair contract terms is possible, but can be slow and expensive, and should be a last resort.

Mr. Smith and I believe the SFA are working well towards redressing the balance of fairness between club and young player, however, less can be said of the Scottish Premier league and their member clubs.

The petitioners suggest consideration be given to writing to all professional clubs in Scotland to ask several questions –

- a) What is their policy of youngsters participating in school football?
- b) What is their policy for dealing with young players who wish to leave their club?
- c) Do they commit to fulfilling one year to the young player that signs, or do they release players at any juncture in the season?
- d) Have they ever retained a player against his will?
- e) Do they agree with signing a 15 year old and retaining him for a further 2 years?
- f) Do they agree with the current compensation system?

It was previously stated at a session of the Public Petitions Committee, that the members would like to get closer to the ‘commodity’, therefore, the SFA consider writing to those young players who have participated in the youth initiative system and ask them to complete a questionnaire in respect of their experiences?

Realgrassroots objective is to ensure that the young players of Scotland are treated fairly and legally by the professional clubs with the young person’s interests and well-being placed at the forefront of all that they do.

We hope the Public Petitions Committee agree to continue our petition to ensure this objective is met for the benefit of all Scotland’s young players.

Kind regards,

Scott Robertson
(On behalf of Realgrassroots)

William Smith