

**DECISION OF THE OFC DISCIPLINARY AND ETHICS COMMITTEE
CONSTITUTED UNDER THE OFC DISCIPLINARY CODE OF JUNE 2019**

In the matter of: Solomon Islands Football Federation (SIFF)
Hearing Date: 11 December 2019
Committee members: Michael Goodwin (Chair), Mark Anthony, Mona Ioane
Association: Solomon Islands Football Federation (SIFF)
Competition: OFC U-16 Championship 2018 (Finals Tournament)
Matches: 9 September 2018 – PNG v SOL
12 September 2018 – SOL v NZL
15 September 2018 – SOL-VAN
19 September 2018 – SOL v FIJI
22 September 2018 – SOL v NZL

Charge

SIFF is charged with a breach of Article 34(2) of the OFC U-16 Championship 2018 Regulations (which may attract a sanction pursuant to Articles 2 and 85 of the Disciplinary Code), and Articles 10 and 59 of the OFC Disciplinary Code which state:

Article 34 (2) of the OFC U-16 Championship 2018 Regulations:

2. *In addition to the above provisions, each Participating Association shall ensure that all players were born on or after 1 January 2002.*

Article 10 of the Disciplinary Code - Involvement:

1. *Anyone who knowingly takes part in committing an infringement, either as instigator or accomplice, is also punishable.*
2. *The judicial bodies shall take into account the degree of guilt of the party involved by reducing, increasing or modifying the sanction as it sees fit. It shall not go below the general lower limit of the fine (cf. Art. 16, par.2).*

Article 59 of the Disciplinary Code - Forgery and Falsification:

1. *Anyone who, during any football related activity, creates a false document, forges a document, makes a false claim in a document with potentially legal repercussions or uses a forged document to deceive others will be sanctioned with a suspension for at least six (6) matches.*
2. *If the perpetrator is a player, a suspension of at least six (6) matches will be pronounced.*

3. *If the perpetrator is an official, the body will impose a ban on performing any football related activity for a period of at least twelve (12) months.*
4. *An association may be held liable for an infringement as defined in par.1 committed by one of its officials and/or players. In such a case, an expulsion from a competition may be pronounced in addition to a fine for the association.*
5. *The body may also pronounce a fine of at least NZD1,000.*

SIFF is also caught by Article 73(1) of the Disciplinary Code, as it relates to the charges against Maxwell Keana, because if a player is found to have taken part in an official match despite being ineligible, his team will be sanctioned as set out in Article 73(1). This is conceded by SIFF in paragraph 18 of its written Outline of Submissions dated 10 December 2019.

Evidence

The following evidentiary documents were reviewed by the Committee:

1. OFC Disciplinary Code.
2. OFC U-16 Championship 2018 Regulations.
3. Letter from Amos Loku Lupa (also signed by Maxwell Keana) dated 15 October 2019.
4. Statutory Declaration by Maxwell Keana (undated) – 2 versions.
5. Passport of Maxwell Keana issued 25 June 2018.
6. Statutory Declaration of Hilda Hickie Sotutu (Midwife) dated 16 October 2019.
7. Letter from Rev. Beckily Kahui (Bishop Ag) dated 15 October 2019.
8. Birth Notification from Western Provincial Health Service dated 16 October 2019.
9. Statutory Declaration of Ben Keana and Selina Keana (Parents) undated.
10. Solomon Islands Government Birth Certificate issued 4 October 2018.
11. Letter from Dr Alex Munamua, Department of Orthopaedic Surgery, Solomon Islands Government dated 21 October 2019.
12. Statutory declaration from Hansel Mamupio dated 28 November 2019.
13. Statement by Diane Justus dated 22 November 2019.
14. Statement by Gabriel Riotarau dated 27 November 2019.
15. Statement by Moses Toata dated 21 November 2019
16. Statement by Robert Seni dated 25 November 2019
17. Statement by Stanley Waita dated 25 November 2019
18. Statement by Leonard Paia, with annexures A to D, dated 28 November 2019.
19. Medical Imaging Report dated 31 August 2019.
20. Solomon Star Newspaper article dated 13 October 2019.

In addition to the Committee, the following persons were in attendance at the hearing by telephone conference, and evidence was received by relevant persons at the conference:

1. Leonard Paia (CEO – SIFF)
2. Moses Toata (Technical Director)
3. Stanley Waita (Head Coach – U17 National Team)
4. Robert Seni (Team Manager – U17 National Team)
5. Donald Marahare (Legal counsel for SIFF)
6. Maxwell Keana
7. Teona Ivano (interpreter from Michael Goodwin’s office)
8. Barbara Lloyd (secretary to the OFC Disciplinary and Ethics Committee)
9. Lisa Scott, OFC Legal and Compliance Officer.

Written submissions were also presented by the legal counsel for SIFF in addition to oral submissions (Outline of Submissions dated 10 December 2019). The Committee has considered these submissions in arriving at its decision.

Decision

Consideration of the Evidence:

- (a) There is overwhelming evidence that Maxwell Keana was born on 28 July 1998, well before the eligibility date of 1 January 2002 (see documents 3, 4, 6, 7, 8, 9, 10 and 19). This includes admissions from Maxwell Keana, his parents, his uncle, his delivering midwife, and his baptising reverend. This is supported by the Medical Imaging Report. Mr Keana confirmed this position orally at the hearing.
- (b) As a result, Maxwell Keana was ineligible to play for the Solomon Islands in the OFC U-16 Championship 2018 (Finals Tournament).
- (c) The evidence is clear that Maxwell Keana knowingly forged his application for a birth certificate and his application for a passport using a birth certificate he knew to be misleading by providing the incorrect date of birth. This was done fraudulently to secure eligibility to play for the Solomon Islands in the OFC U-16 Championship 2018 (Finals Tournament). He maintained his deceit until 31 August 2019 when he was medically examined and a Medical Imaging Report revealed his ineligibility and he was excluded from the team.
- (d) There is insufficient evidence to directly implicate any particular SIFF official in the fraud or forgery to attempt to gain eligibility. Mr Keana alleges that it was normal practice at SSIF to field ineligible players and that in his case the Head Coach announced to the team at training that the players needed to ensure that they had a birth certificate with a date that qualified them despite many being overaged. However, the allegations by Mr Keana of officials being involved and complicit are not corroborated, are only vague references without specifics such as dates and times, and they are contrary to the detailed written statements of SIFF officials, particularly the statement of Gabriel Riotarau who assisted the players in understanding and completing the passport process. While there is some concerning evidence from Mr Keana, it lacks weight and veracity, particularly as it is uncorroborated by any other player or person and appears to have been motivated by his disappointment at being excluded from the Solomon Islands team for the FIFA U-17 World Cup 2019.
- (e) However, it is apparent that SIFF attempted to cover up the true reason for Mr Keana's exclusion from the Solomon Islands team for the FIFA U-17 World Cup 2019. They publically stated that it was due to Mr Keana failing a medical test, rather than for ineligibility and failed to disclose this to OFC until 28 November 2019 as part of this disciplinary hearing process (See Solomon Star Newspaper article dated 13 October 2019). The cover up by SIFF of this issue is serious and warrants a serious sanction, both due to the action itself, and because of the need to deter such conduct and ensure that member associations conduct themselves with transparency, honesty and in the best interests of the sport and its associated bodies.
- (f) Also, it is apparent that SIFF did not take all available measures to ensure its players were eligible for the OFC U-16 Championship 2018. SIFF only arranged a Medical Imaging Report on 31 August 2019, well after the OFC U-16 Championship 2018 was concluded and just before

the U-17 World Cup. Had it taken this course earlier, and made enquiries of relatives of players, these problems could have been averted at an earlier time.

- (g) Had SIFF disclosed the real reason for Mr Keana's exclusion for the team, a disciplinary investigation and hearing could have been convened before the U-17 World Cup, and consideration given to excluding the Solomon Islands team from the World Cup due to the eligibility breaches. The Committee is mindful that the next placed team in the OFC U-16 Championship 2018 (Finals Tournament) has been denied the right to go to the FIFA U-17 World Cup 2019.

The Committee makes the following findings in relation to SIFF:

1. Under Article 34(2) of the OFC U-16 Championship 2018 Regulations, SIFF had a duty to ensure that all of its players were eligible to play in the OFC U-16 Championship 2018. A breach of that duty may attract a sanction pursuant to Articles 2 and 85 of the Disciplinary Code;
2. There is sufficient evidence to conclude that SIFF failed to ensure that all of its players were eligible and that it has breached Article 34(2).
3. There is more than sufficient evidence to conclude that SIFF is liable to be sanctioned pursuant to section 73(1), due to Maxwell Keana taking part in the OFC U-16 Championship 2018 (Finals Tournament) despite being ineligible. This is conceded by SIFF in paragraph 18 of its written Outline of Submissions dated 10 December 2019.
4. There is insufficient evidence to conclude that any official of SIFF has breached Articles 10 and 59 of the OFC Disciplinary Code in relation to assisting in the forgery and falsification of the birth certificate and passport, and the Committee finds that there is no breach of the Code by individual officials on these matters.
5. However, SIFF remains liable to sanction under Article 59(4) and (5) for being liable for the actions of its player, Maxwell Keana, but more particularly for covering up the ineligibility when SIFF received confirmation of this from the Medical Imaging Report dated 31 August 2019, which it received at the latest in early October 2019.

Sanction

Article 2 of the OFC Disciplinary Code gives the scope of the Code a very wide application. In addition to the specific provisions of the Code and the prescribed sanctions, the Code applies where the statutory objectives of the OFC are breached, especially with regard to forgery and corruption. It also applies to any breach of OFC regulations, such as Article 34 (2) of the OFC U-16 Championship 2018 Regulations (see also Article 85).

Sanctions apply whether they have been committed deliberately or negligently (Article 8(1)). This Committee may reduce, increase or modify the sanction as it sees fit (Article 10(2)). Section 2 then sets out the wide range of sanctions that this Committee can impose, which are comprehensive. This Committee decides the scope and duration of the sanction which may be limited to one or more certain categories of match and competition (Article 41(1) & (2)).

The sanctions applied in this proceeding are as follows:

1. There is no prescribed penalty for the breach of Article 34(2) of the OFC U-16 Championship 2018 Regulations. The prescribed penalty naturally falls within Articles 59 (4) and (5) and 73 of the OFC Disciplinary Code, which has already been applied against SIFF in the case against Maxwell Keana. In that case the Committee stated:

“The Committee makes the following findings:

6. *In respect of SIFF and Articles 73 (1), and Article 59 (4) and (5), the OFC U-16 Championship 2018 (Finals Tournament) has concluded and the Solomon Islands team has already moved on to play at the FIFA U-17 World Cup 2019. No forfeiture of a match can now be contemplated. This weighs more heavily in favour of the imposition of a large fine, and future sanctions, particularly given the determination by the Committee that that SIFF attempted to cover up that the reason for Mr Kean’s exclusion from the Solomon Islands team for the FIFA U-17 World Cup 2019. Had SIFF disclosed the real reason for Mr Keana’s exclusion for the team, a disciplinary investigation and hearing could have been convened before the FIFA U-17 World Cup 2019, and consideration given to excluding the Solomon Islands team from the World Cup due to the eligibility breaches. The Committee is mindful that the next placed team in the OFC U-16 Championship 2018 (Finals Tournament) has been denied the right to go to the FIFA U-17 World Cup 2019.*

Sanction

3. *The breach of Article 73(1) of the OFC Disciplinary Code prescribes that Mr Keana’s team will be sanctioned by forfeiting the match and paying a minimum fine of NZD500. As indicated above, the matches can no longer be forfeited, and the circumstances warrant a serious penalty. **The Committee imposes a fine of NZD10,000 on SIFF to be paid on or by 30 April 2020.***
 4. *This Committee has the jurisdiction and power to modify the sanction for forfeiture of matches (Article 10(2)) as prescribed in Article 73(1), to cover participation in future tournaments, given the matches can no longer be forfeited. In addition, Article 59 (4) and (5) allows for an association to be held liable for the infringement by one of its players, and a fine and expulsion from a competition is contemplated for such an infringement. Also, Article 13 of the Code allows the Committee to impose a sanction of “exclusion” using the power provided under Articles 29 and 33. The Committee determines that the fine in Sanction 3 is sufficient to cover the liability of SIFF for a fine under Article 59. However, given the gravity of the eligibility breach, and the attempt to cover up the breach to avoid sanction, under Articles 73(1) and Article 59(4), **the Committee expels SIFF from entering a boys team in the next qualifying tournament for the next FIFA U-17 World Cup for boys (currently set as the OFC U-16 Championship 2020).**”*
2. The Committee determines that the fine and expulsion sanction in the Maxwell Keana case against SIFF is sufficient to cover the liability of SIFF for a breach of Article 34(2) of the OFC U-16 Championship 2018 Regulations and no further sanction is determined.

In arriving at the sanction for a breach of Article 59(4), the Committee rejects the submission by SIFF that “expulsion” is confined to a “match suspension” in Article 19. The wording of Article 59(4) is expansive, and clearly applies to “an association” and contemplates the association being expelled from a competition. It follows that the Committee has jurisdiction and power to expel SIFF from entering a boys team in the next U-17 qualifying tournament. In any event, the Committee has power to modify a sanction under Article 10(2) and Article 29 provides the Committee with the power to impose an “exclusion” of member associations from taking part in future competitions. It is essential that in imposing a sanction the Committee arrives at a decision that gives efficacy to the penalty being imposed in the particular circumstances.

Appeal rights

Eligibility to appeal is governed by the OFC Disciplinary Code:

Article 127 Contestable decisions

An appeal may be lodged to the Appeals Committee against any decision passed by the Disciplinary and Ethics Committee, unless the sanction pronounced is:

- a) *a warning;*
- b) *a reprimand;*
- c) *a suspension for less than three (3) matches or of up to two (2) months;*
- d) *a fine of less than NZD1,000 imposed on a Member Association or a club and of less than NZD500 in other cases*

Article 128 Eligibility to appeal

1. *Anyone who is affected by a decision and has an interest justifying amendment or cancellation of the decision may submit it to the Appeals Committee.*
2. *Member Associations may appeal against decisions sanctioning their players, officials or members. They shall have written agreement of the person concerned.*

Article 129 Time Limit for Appeal

1. *The party intending to appeal shall announce his decision in writing within fifteen (15) days of the communication of the decision.*
2. *The announcement of the intention to appeal shall be sent directly to OFC. The petition of appeal shall, however, be forwarded to OFC via the member association.*
3. *The member association receiving the petition of appeal shall forward it immediately to OFC. The decisive moment for complying with the time limit for lodging this petition is the moment it reaches the OFC.*

Article 130 Grounds for complaint

The appellant may object to insufficient representation of the facts and wrong application of the law.

Article 131 Petition of appeal

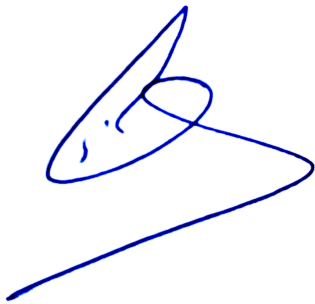
1. *The appellant shall submit his petition of appeal in writing.*
2. *The appellant’s petition of appeal shall include the necessary arguments, reasons and means of proof and be signed by the appellant or his representative, subject to Art. 128.*

Article 132 Deposit

1. *A party intending to lodge an appeal shall deposit the amount of NZD1500 to OFC's bank account within fifteen (15) days from the date of the appeal.*
2. *The appeal shall be deemed inadmissible without the aforesaid deposit.*
3. *This amount shall be reimbursed to the appellant should the appeal be upheld. Costs and expenses payable by an appellant who loses the case are deducted from this amount. Any remaining amount is reimbursed to him. If the deposit is insufficient, the appellant will be ordered to pay the difference.*
4. *If an appeal is dismissed, the deposit shall be forfeited.*

Date: 13/12/2019

Franck Castillo

A handwritten signature in blue ink, consisting of a stylized, cursive script that starts with a large loop and ends with a long, sweeping underline.

Oceania Football Confederation General Secretary
On behalf of the OFC Disciplinary and Ethics Committee