

HOW AMATEUR CLUBS CAN BENEFIT FINANCIALLY FROM THE TRANSFER OF FORMER PLAYERS WHO ARE NOW EMPLOYED AS PROFESSIONAL ATHLETES

At a time when grassroots sport faces more government cutbacks, it is important that amateur clubs have a sound understanding of other streams of revenue open to them that can potentially be used to develop and sustain their organisations.

In 2001, following the famous *Bosman* ruling, FIFA introduced the training compensation system which would apply to clubs who were involved in the training and education of young players. The ideology behind the system was to encourage increased and better-quality training of young players by awarding compensation to those clubs who had been involved and invested in their training and education. At the same time, FIFA also introduced the solidarity mechanism system which provides for compensation to former clubs who have provided training and education to a player, each time that player is transferred between clubs of two different national associations in exchange for a transfer fee.

Training Compensation

Article 20 of the FIFA Regulations on the Status and Transfer of Players ("FIFA RSTP") govern the system of training compensation and states that:

"Training compensation shall be paid to a player's training club(s): (1) when a player signs his first contract as a professional, and (2) each time a professional is transferred until the end of the season of his 23rd birthday. The obligation to pay training compensation arises whether the transfer takes place during or at the end of the player's contract."

Further information as to when the system is triggered and how compensation is calculated can be found under Annex 4 of FIFA RSTP. The training compensation system applies to the training and education of players between the ages of 12 and 21, and will only be paid up to the age of 23 for training incurred up to the age of 21. In certain circumstances, clubs who are liable to pay such compensation may be able to establish that a player's training had already concluded prior to the age of 21 (but this should only be in exceptional cases). The obligation to pay training compensation is over and above that of the transfer fee, although if two clubs agree on a transfer fee this is regarded as being inclusive of training compensation unless stipulated otherwise. Further, it should also be noted that FIFA has advised, in previous disputes, that only the entitled clubs can expressly waive their right to training compensation. Therefore, it cannot be agreed by the two clubs involved in the immediate transfer, that training compensation will be waived by all former clubs involved in the training and education of the player. Only you, as the entitled club, can waive that right.

There are two scenarios where training compensation will apply: -

1. On registering as a professional player for the first time.
2. Any subsequent transfer of a player, between two clubs of different associations, up until the end of the season of the player's 23rd birthday.

Upon the registration of a professional player for the first time, training compensation will be due to all former clubs of which the player has previously been registered and who has contributed to his

training since the start of his 12th birthday. In relation to any subsequent transfer of that player, FIFA RSTP allow for only the immediate former club to receive training compensation.

The calculation of training compensation is carried out on a pro-rata basis and associations are instructed to divide their clubs into a maximum of four categories which correspond with the clubs' financial investment in training players. There is a set figure attached to each category and the sum equates to the average training cost incurred for one player over the course of one year, multiplied by a "player factor".

The current categorisation for UEFA clubs is as follows:

- Category 1 - €90,000
- Category 2 - €60,000
- Category 3 - €30,000
- Category 4 - €10,000

It should be noted that in the UK, England has clubs spanning all four categories whilst Scotland has clubs ranging from categories 2-4 with Northern Ireland and Wales having clubs identified in categories 3-4.

Under FIFA RSTP, training compensation only applies to the international transfer of players (a transfer between clubs of two different national associations, ie. England and Scotland) however clubs/academies should pay particular attention to their national association/league rules and regulations as similar training compensation schemes may be due upon a domestic transfer under certain jurisdictions (for example, in Northern Ireland and Scotland).

The rules regarding training compensation apply to both the permanent and temporary (loan) transfers of professional players.

Under FIFA's rules, the payment of training compensation is the responsibility of the club which is registering the player, and payments should be made within 30 days of the registration with the new association/or the date on which the first professional contract was signed. However, in reality, this often does not happen and buying clubs may hold back on the payment until the entitled club makes a request in writing, or raises a claim with the Dispute Resolution Chamber (an independent dispute resolution service provided by FIFA).

Clubs claiming an entitlement to training compensation only have two years from the date of the relevant player's registration with the new club to lodge a claim with FIFA, and this should be taken into account by any club considering any claim.

Solidarity Mechanism

Unlike training compensation, solidarity payments do not cease to apply upon the conclusion of the season of the player's 23rd birthday. Instead, the solidarity system continues to apply upon every international transfer until the player retires. In order to claim a solidarity mechanism payment, the claimant club requires to have trained and educated the player between the ages of 12 and 23, and the international transfer has to have taken place whilst under contract.

Under FIFA RSTP, 5% of the transfer compensation agreed with the selling club must be held back by the buying club and distributed to the former clubs involved in training over the time period discussed above. For seasons of which the player was aged between 12 and 15, former clubs shall receive 0.25% of the total compensation whilst clubs who trained the player during the seasons of his 16th and 23rd birthdays shall receive 0.5% of the total compensation. If a player was not with a former club for an entire season, the compensation will be calculated pro-rata.

To put this into perspective when Neymar moved to PSG for a record-breaking transfer fee of €250m, his former club Santos was reported to have received the equivalent of €9m as part of their share of the solidarity contribution. Neymar had been previously registered with Santos for in excess of five seasons, during which time he had been part of the youth squad as well as the first team. Further, youth amateur clubs have also made the headlines for their receipt of solidarity contribution. In 2015, Wallsend Boys Club received a cash boost when they claimed their share of the 5% solidarity contribution from Fraser Forster's transfer from Celtic to Southampton. In addition, the club also received a healthy cash injection when Jermain Defoe transferred from Toronto to Southampton. More recently Dyce Boys Club, in Scotland, received a six-figure sum following Stuart Armstrong's move from Celtic to Southampton.

Under FIFA's rules, the payment of solidarity contribution is the responsibility of the buying club and payments should be made within 30 days of the transfer of the player. However, as per training compensation, buying clubs may sit on the sums until the claimant club requests it in writing or files a with the Dispute Resolution Chamber (an independent dispute resolution service provided by FIFA).

As in the case of training compensation, it should be noted that claimants only have two years from the date of the relevant player's registration with the new club to lodge a claim with FIFA, and this should be taken into account by any club considering a claim because after which time their claim will become time-barred.

The rules regarding solidarity mechanism also apply to both permanent and temporary (loan) transfers of players.

Conclusion

Whilst transfer fees continue to grow, amateur clubs must take the opportunity to benefit from this significant revenue stream that is readily open to them. Solidarity contribution, in particular, has the ability to provide continuous significant funding to amateur clubs as it continues to trigger upon every transfer, and does not cease at the end of the season of the player's 23rd birthday. The solidarity mechanism is therefore a vital source of revenue that can assist in ensuring the sustainability of amateur clubs, many of which find it increasingly difficult to raise the funds required to operate year in, year out.

It is important therefore that amateur clubs (1) ensure that they are familiar with the FIFA rules governing training compensation and solidarity mechanism, (2) understand what payments they are entitled to and when they become due and (3) keep track of the movements of their former players.

If your club would like further information or to discuss a matter relating to Training Compensation or Solidarity Contribution, please get in touch on 0131 473 1592 and we would be happy to assist you.