

## **IRISH FOOTBALL ASSOCIATION APPEALS COMMITTEE**

In the matter of an appeal filed on behalf of Greencastle Rovers Football Club (hereinafter referred to as the Appellant) against a decision of the Northern Amateur Football League (hereinafter referred to as the NAFL or the Respondent) to withdraw a previous invitation to the Appellant to join their league.

### Appeals Board

Mr Barry Finnegan (Vice-Chair)

Mr Martin Wolfe KC (Chair)

Mr David Lennox (Independent Member)

### **Decision:**

This is a decision of the IFA Appeals Committee following a Hearing which took place at IFA Headquarters on Tuesday 25<sup>th</sup> July 2023. It concerns an appeal brought on behalf of the Appellant against a decision reached by the Respondent to withdraw a previous invitation to join their league.

The Appellant contends that they were admitted to the Respondent league as evidenced by a letter from the Respondent dated 11<sup>th</sup> May 2023. Furthermore they seek to rely on an extract from a minute of the Respondent's Board Meeting held on 6<sup>th</sup> June 2023 in which it was stipulated that three clubs, including the present Appellant, were interviewed and, with the Respondent's sub-committee having recommended their admission, it was stated that "the board has now approved these three clubs."

Flowing from the above, the Appellant contends that they were admitted to the Respondent league, and, consequently, there was essentially no invitation to withdraw. Rather if the Respondent felt it necessary to remove the Appellant from the league, or any club for that matter, they were required to adhere to their Articles of Association and specifically Articles 13.3 and 13.4 respectively.

The "Article 13 obligations" would include the Respondent being required to call a vote from the board members for expulsion of the club, provide reasonable notice to the club of this intended vote and afford a reasonable opportunity for the club to attend and be heard.

The Appellant was of the view that the appropriate remedy in the circumstances would be to quash the Respondent's decision to withdraw their invitation to join the league and instead have the matter "remitted to the Respondent to deal with in a procedurally fair manner within the procedures set forth in the articles."

The Respondent for their part accepts that as the Appellant had initially appeared to fulfil the mandatory criteria for admission to the league an invitation was extended, following interview, to join. They refer to a letter from the Appellant's representative, Mr Bryson of JWB Consultancy, dated 26<sup>th</sup> June 2023 and addressed to the Respondent in connection with a related appeal pursued on behalf of Sandy Row FC, in which it was brought to the Respondent's attention that the Appellant "have not been playing for five consecutive seasons" and therefore failed to adhere to the Respondent's mandatory criteria in terms of admission to the league.

The Respondent conducted further investigations on foot of the aforementioned correspondence and determined that the Appellant had in fact only been playing for four previous seasons. It was established that the Appellant had disbanded and was "reformed" in the 2018/19 season but did not participate in any association league until the following season, 2019/20. This was despite the fact the Appellant had submitted in their written application pack dated 29<sup>th</sup> March 2023 that they had played

in the “Belfast and District League” in the 2018/19 season. The Appellant accepted that the information which they had supplied with their application was erroneous in this respect.

On foot of this newly furnished information the Respondent sent written communication to the Appellant dated 30<sup>th</sup> June 2023 stipulating that as they “have not participated for the past 5 seasons in adult affiliated football, it is with much regret and under instruction from the NAFL Board, our invitation to join the NAFL must be withdrawn.”

The Respondent do not accept that the Appellant had been formally admitted to the league as the Appellant had not paid their annual membership fee nor had they been registered as a Member with Companies House. As a consequence, the Respondent was of the view that their “Article 13 obligations” did not come into effect and no board resolution to remove the Appellant was necessary.

The second substantive issue raised on behalf of the Appellant was that of “legal personality.” It was averred that as the Appellant is an unincorporated association, with no legal personality in its own right, it could not be registered with Companies House as a member of the Respondent Company. This would call into question the legitimacy of the Respondent’s registration process and the validity of all clubs participating within their league framework. The Respondent did not accept this interpretation.

Having regard to the reasons set out below, the unanimous decision of the Appeals Board is that the appeal shall be **dismissed** so that the original decision of the Respondent is upheld. Accordingly, the decision taken by the Respondent to withdraw the Appellant’s invitation was a valid and merited course of action given the Appellant’s prior error concerning the “five-year affiliation” requirement. The Respondent was therefore under no obligation to instigate the “Article 13” process as the Appellant had not been formally admitted or registered to the NAFL as a member of the Respondent company, nor had the appropriate fees been paid to do so.

Furthermore, whilst a hypothetical scenario, as the Appellant is an unincorporated association made up of individual members the Appeals Committee finds no reason as to why a nominated member would not have been authorised, on behalf of the club itself, to register with the Respondent in accordance with their Articles of Association had the prior “five year affiliation” error not been identified.

#### **Attendees:**

The Appellant was represented at the Hearing of this appeal by Jamie Bryson with Paul McAdorey and Martin McCourt in attendance on behalf of the club itself. The Respondent was represented by Terry Pateman, Mervyn Martin and Donna Darlington, all of whom provided evidence to the Appeals Committee. The Appeals Committee would like to express their gratitude for the helpful and informative manner in which all of the attendees conducted themselves during Hearing.

#### **The Rules at Issue:**

This appeal does, in part, concern the applicability of Articles 10 and 11 of the Articles of Association of the NAFL which stipulate the following:

##### **MEMBERS**

*10 The subscribers to the Memorandum and Clubs as are admitted to membership by the Board in accordance with the Articles shall be the Members. No Club shall be admitted as a Member unless they are approved by the Board. Admission shall be dependent upon:-*

*10.1 the approval in its discretion of the Board;*

*10.2 payment of the annual membership fee at the rate set from time to time by the Company;*

*10.3 written adherence to the terms of Irish Football Association Limited Protection Policies as set out by the Irish Football Association Limited and amended from time to time;*

*10.4 satisfactory completion of the Company's vetting and disclosure processes for persons working with vulnerable groups;*

*10.5 payment of the cost of insurance of that Member retained by the Board under Article 89;*

*10.6 the Board may on such terms as it deems appropriate appoint individuals as Members.*

#### **ELIGIBILITY AND ADMISSION**

*11 Any Club which is eligible (as set out in Article 12) and desires to be admitted to membership of the Company must sign or have signed on their behalf and deliver to the Company an application for admission framed in such terms as the Board may require and shall so consent in writing to be a Member, undertake to comply with the provisions of these Articles as may apply from time to time, and with any conditions imposed on such Member as contained in such application, and/or such ancillary agreement as may be executed between the Company and the Members or a Member. All applications for membership must be accompanied by the relevant subscription fee, or such other sum as the Board may from time to time determine and which shall be applied to the general funds of the Company; and*

*11.1 the Board shall have full discretion as to the admission and non-admission of any Club to membership and the process for doing so and shall not be bound to assign any reason for the non-admission of any Club to such membership;*

*11.2 all Members (excluding Life Members), are required to re-apply for membership on an annual basis in accordance with such procedures as shall be prescribed from time to time by the Board. Membership (excluding Life Membership) expires at the conclusion of each Subscription Year;*

*11.3 the Board shall have full authority to discipline and impose sanctions as it deems fit on a Member, player or official who is in breach of these Articles or any Bye-Laws; and*

*11.4 without prejudice to Article 11.3, the Board shall have full power to expel from membership any Club which has in the opinion of the Board been guilty of conduct which is dishonourable, objectionable or detrimental to the interests of the Company or the game of Association Football.*

#### **Facts:**

In addition to an examination of the relevant rules and the oral argument and evidence submitted on behalf of the Appellant and Respondent, the Appeals Committee noted the written submissions filed on behalf of both parties.

The Committee has made the following findings following a detailed analysis of the facts available:-

1. The Appellant had erroneously stated that they had participated in the Belfast & District League in the 2018/19 season when submitting their application for admission to the NAFL on 29th March 2023 and hence the Respondent believed they had satisfied the "five year" requirement pursuant to their mandatory admission criteria.

2. The Appeals Committee is satisfied that the “five year” requirement is consistent with the Bye-Laws as made under the provisions of the Respondent’s Articles of Association passed on 8<sup>th</sup> June 2021 and specifically Bye-Law A, provision 3.2.
3. At that time, the Respondent had no reason to doubt the veracity of the Appellant’s application and, in conjunction with their application assessment, wrote to the Appellant on 11<sup>th</sup> May 2023 to advise that their application to join the NAFL “had been approved.”
4. However, having been made aware of doubts surrounding the Appellant’s eligibility on 26<sup>th</sup> June 2023 by way of letter from Mr Bryson, the Respondent had undertaken suitable levels of investigation, to include written requests to the Appellant themselves, seeking confirmation as to the Appellant’s league affiliation over the past six seasons, as part of the review process to determine compliance with the mandatory admission criteria.
5. The extracts from the Respondent’s Board Meeting of 28<sup>th</sup> June 2023 confirm that the Board agreed “to write to Greencastle Rovers” on the above terms and that “if the response is in the negative, they should be precluded from any further process.”
6. The Appellant did rectify their original error in responding to the Respondent’s request via an email dated 29<sup>th</sup> June 2023 in which its league affiliations were detailed. This included reference to the Appellant being “reformed” in the 2018/19 season but not having participated or been affiliated with any league association and hence the Appellant failed to satisfy the “five-year requirement” prescribed in the Respondent’s bye-laws.
7. As a consequence, the Respondent wrote to the Appellant on 30<sup>th</sup> June 2023 to confirm that the initial invitation to join the league had been withdrawn. In the Committee’s view, this should not have been a surprising outcome as the Appellant had failed to comply with a criterion which was mandatory in nature, and with which every other club seeking to join the league was expected to comply.
8. In their oral submissions, Mr Pateman and Mr Martin for the Respondent explained that they consider a club to be admitted to the NAFL once the appropriate Companies House form had been completed by the club indicating their intention to become a member of the Respondent company as per their Articles of Association and specifically Article 11. Mr Bryson did not accept this interpretation.
9. Mr Pateman also referred to the fact that the applicant club must also discharge “the annual membership fee” as per Article 10.2 and “the relevant subscription fee” as per Article 11 in order to gain admission to the league. These fees relate to the league membership and Companies House membership respectively.

10. Despite the assertion in the Appellant's written submissions that "it had paid its fee" the Appeals Committee received clarification from Mr McCourt and Mr McAdorey that a fee had only been submitted to the "County Antrim FA."
11. No evidence was adduced to demonstrate that any fee had been paid by the Appellant to the Respondent or Companies House in accordance with Articles 10.2 or Article 11 of the Respondent's Articles of Association.
12. On the issue of interpretation of Articles 10 and 11 of the Respondent's Articles of Association the Appeals Committee finds that the only correct and proper interpretation of the same was that contended for by the Respondent.
13. Article 11 makes express reference to how "*any club which is eligible and desires to be admitted to membership of the company*" must sign or have signed on their behalf an application for admission "*framed in such terms as the Board may require.*" Furthermore "*all applications for membership must be accompanied by the relevant subscription fee, or other such sum as the Board may from time to time determine.*"
14. If one wishes to become a member of a company the appropriate Companies House Form must be completed, and the relevant subscription fee paid. These requirements were not fulfilled by the Appellant
15. In light of the above the Appeals Committee is satisfied that as the Appellant had not been admitted as a member of the Respondent company and hence, by effect, was not admitted to the league, the Respondent was under no obligation to bring their "Article 13" obligations to bear.
16. The Appeals Committee is also satisfied that the Appellant had not "been competing in an IFA Affiliated league for at least the previous five years" prior to their application for admission to the NAFL based on the evidence submitted and that this was in contravention of the Respondent's mandatory admission criteria.
17. The Respondent's decision to withdraw the previous invitation extended to the Appellant was therefore entirely warranted in the circumstances and, as the "Article 13" obligations did not extend to the Appellant, no procedural breach has arisen.
18. During the appeal hearing Mr Bryson on behalf of the Appellant indicated that he wished to argue that even if the Appeals Committee held that the Appellant had not been admitted as

a member of the Respondent company and did not enjoy the procedural rights set out in Article 13, the appeal should be allowed on the basis that the Appellant was nevertheless entitled to be heard before the invitation to join the league was withdrawn.

19. It was pointed out to Mr Bryson that the Appellant had only succeeded in inducing the Respondent to extend an invitation to join the league by providing information which it now accepted was materially inaccurate. Mr Bryson could not provide any authority to support the proposition that in such circumstances the Appellant enjoyed a right to be heard, and he wisely abandoned this argument.
20. As noted above, at the hearing of this appeal Mr. Bryson also introduced a new argument, one which had not been addressed in his written submissions in advance of the hearing. It concerned the issue of "legal personality." We will address the issue for the sake of completeness, although it appears to the Appeals Committee that the argument was of no assistance to the Appellant, and was in practical terms somewhat academic. Indeed Mr Bryson's submissions included an acceptance that the issue he had raised may well be self-defeating from the Appellant's perspective because if a determination was reached that the Appellant could not have become a member of the Respondent company given the club was not a legal entity, then by effect (in Mr Bryson's words) they could not have been admitted to the NAFL and hence the "Article 13" obligations would not have come into effect.
21. The Respondent did not accept the Appellant's interpretation of the "legal personality" point and indicated that they would defer to their nominated solicitors/legal advisers as to the club registration process. They also pointed out that this issue had not been outlined by the Appellant as part of their written submissions prior to the Appeal Hearing and hence the Respondent had not had the opportunity to consider the same in advance.
22. Whilst the Respondent may well deem it prudent to seek further legal advice on this issue, the Appeals Committee is not satisfied by the representations made by the Appellant that the lack of legal personality of the Appellant, or any other sports club for that matter, would prevent a club's application, registration or admission to any applicable league framework.
23. As an unincorporated association comprised of members who intend to participate in sporting competition, the Appellant's individual members are personally responsible for any debts and/or contractual obligations that may arise. Such obligations may include the most rudimentary and fundamental of activities associated with sporting competition to include the provision of team wear, transport to and from matches, maintenance or rental costs associated with the pitch/clubhouse facilities etc.
24. As an unincorporated association, such as the Appellant, has no separate legal identity their members would be required to sign loans and enter contracts to fulfil the type of activities noted above, as individuals. These activities are performed on behalf of the unincorporated organisation and its constituent members.

25. Therefore, whilst this issue was not argued in full before the Appeals Committee, in the hypothetical circumstances where the invitation to the Appellant to join the league had proceeded in the normal way, we could identify no reason why the Appellant could not then have nominated one of its members to engage in the Respondent's league registration process to include admission as a member of the Respondent company pursuant to the Respondent's Articles of Association.
  
26. Having regard to all of the evidence therefore, the Appeals Committee finds that no grounds exist to uphold the Appellant's appeal and the same is dismissed accordingly.
  
27. Accordingly, the decision taken by the Respondent to withdraw the Appellant's invitation will stand. The Appellant is at liberty to reapply for admission to the NAFL once they have satisfied the Respondent's mandatory admission criteria concerning participation/affiliation with an association league for five years.

Dated: 30<sup>th</sup> July 2023. Barry Finnegan, Vice-Chair. On Behalf of the Appeals Board