

APPEAL OF INSTITUTE FC v NORTHERN IRELAND FOOTBALL LEAGUE

BEFORE THE IRISH FOOTBALL ASSOCIATION APPEAL BOARD

An IFA Appeal Board was convened under Art 14 IFA Articles of Association to consider the above matter. In light of the restrictions imposed by the NI Executive due to Covid -19, and having canvassed the views of the parties, it was decided it was appropriate to deal with the matter by way of paper submissions.

The matter concerns a request by Institute FC ('the club') to appeal with regard to decisions taken by the Northern Ireland Football League ('NIFL') on 22ND June 2020 in relation to the curtailment of the 2019-2020 Northern Ireland football leagues.

Background

(1) As a result of the unprecedented Covid -19 global pandemic scenario that commenced in March 2020 the Irish Football Association ('IFA') suspended football. The initial suspension was until April with this being kept under review. Within a week of the suspension of football, NIFL established a Covid 19 – Steering Group. This was announced by NIFL on their website on 18th March 2020. The Steering Group was tasked with looking at the impact of Covid -19 and its effect on clubs, calendar issues and finding solutions for the return of football and the conclusion of the season. The Steering Group proceeded to make a recommendation to the NIFL Board who through League Management Committees on 9th June presented options to the Premiership, Championship and Premier Intermediate Management Committees. Due to a lack of consensus the Premiership was granted extra time to formulate their own response. By the 21st June no agreement could be reached except for curtailment of the season and as a result on 26th June 2020 the NIFL Board made a determination regarding their plans for curtailment of the playing season.

Meanwhile, at the end of May 2020, the IFA had granted an extension to the playing season until 31st July. Furthermore, the NI Executive permitted the resumption of football from 11th July 2020 within the guidelines imposed concerning health and safety issues. The resumption also required observation of the IFA's 'return to football protocols' that had been devised.

Appeal Submissions

(2) The Appellant lodged its appeal on 26th June 2020

The grounds of appeal were as follows:

- a. That the NIFL Board acted in contravention of the principle of sporting merit. This included the contention that 'the principle is severely compromised is it is not in keeping with the existing rules /regulations, or if any variation in those regulations is applied

in a manner which is inconsistent and perceived by either fellow competitors or the sporting public as resulting in an unreasonable, unfair and unjust outcome’.

- b. The NIFL Board acted in a prejudicial manner, contrary to the principle of proportionality. They referred to the proportionality principle that is borne in mind in the area of sanctions for misconduct by club or player, and extended this to submitting that NIFL Board in their actions has led to moderate impact on the majority of clubs, substantial benefit on other clubs and a severely detrimental impact on other clubs.
- c. That the NIFL Board acted in direct opposition to the wishes of/beliefs/interests of member clubs.
It was further highlighted, ‘that enforcing automatic relegation was unsporting, unfair and unjust in the current circumstances and in contravention of the principle of solidarity’. They also contended that NIFL had taken the decision to apply automatic relegation in the face of unanimous and recorded agreement of the Premiership Clubs.
- d. The NIFL Board acted in a way that denied representation by member clubs. They argued the consultation with there was a lack of communication between the majority of Premiership clubs and the Covid -19 Steering Group from March to May 2020. That as a result of this the NIFL Board agreed to extend time for Premiership Committee discussions.
- e. The NIFL Board acted contrary to the good governance principles of openness/transparency. Besides the issue of lack of communication and transparency they argued the appointment of the Steering Group was contrary to the principles of openness and transparency, leading to a perception of the exercise of undue influence by some in the evaluation and decision making process, and the limited options presented clubs in a ‘jump of be pushed’ manner.
- f. That the NIFL Board acted in contravention of current NIFL regulations. They contended some regulations were applied in an inconsistent and ignored to facilitate the preferred outcome of the Steering Group and or NIFL Board. That the regulation on relegation was the only one strictly applied. That the NIFL chose not to give due consideration to potential restructuring of the League despite unanimous wish of Premiership clubs and that the NIFL Board derelicted in their duty to pursue a ‘least harm ‘options solution and has resulted in a disproportionate impact for some clubs.
- g. That NIFL Board acted in a manner acted in a manner which is in contravention of IFA Competition Integrity rules. It was stated that as a result of the membership of the NIFL Board and Steering Group the regulations were applied in a manner that was advantageous to those clubs with representation on these bodies and detrimental to those not represented on them. Further, the decision making process and its outcomes were called into question by the majority of clubs in terms of it being open, reasonable and just . It stated a lack of structured communication, proper consultation, an unduly urgent attempt to obtain a premature outcome in face of the concerned reaction of majority of clubs in response to these failures are testament to these perceptions.

- h. The NIFL Board acted in contravention of IFA Conflict of Interests regulations. It was submitted the composition of the NIFL Board and Steering Group resulted in a conflict of interest scenario and there had been a breach of Regulation 8 and 16 of the IFA Code of Ethics. It was stated there was a perception it was inappropriate for some members to be in such an influential position, although it was more of an issue for top 6 clubs, of which Institute were not among.
- i. The NIFL Board acted in contravention of common law relating to the restraint of trade. In essence, 'the club' argued the NIFL Board decision was particularly damaging in relation to the effected clubs ability to trade at the same level as they had previously done and in conditions equal to their competitors.

REPLYING SUBMISSIONS BY NIFL

(3) NIFL within their submissions provided a background and chronology to address the issues raised by 'the club' ;

- a. That the decision taken in June 2020 by NIFL were in respect of three different leagues, the Premiership, the Championship and the Premier Intermediate League. This decision resulted in the curtailment of the 2019/2022 season without any further match taking place, with a 'Points per Game' model to determine final league standings.
- b. A background to the steps taken by NIFL in light of the Covid -19 pandemic and the resulting disruption to football in Northern Ireland. They stated how football in Northern Ireland was suspended on 13th March 2020. Following on from this, with government restrictions on social distancing, conference call meetings were held with Premiership, Championship and Premier Intermediate League Management Committees on 18th March to provide an update to clubs. On this date, following discussions, an internal Covid -19 Steering Group was set up . Its task was to examine relevant calendar issues and devise solutions in order to allow the resumption of football and the conclusion of the season. That the set up of such groups by a league board was not unusual, but further, was reflective of the approach taken by other governing bodies in sport and beyond to response to the Covid-19 situation. This was seen as most efficient way for the NIFL Board to respond to the challenges they faced, (No one could foresee how long the pandemic environment would last.), however at outset the resumption of football was always on cards.
- c. That in total six people appointed to Steering Group, comprising of the NIFL Board Chairman and Vice Chairman, Chairmen of the Premiership and Championship

Management Committee, and an independent Director of NIFL and in the final month of the process an additional independent member was appointed.

- d. That a statement was issued on NIFL website, on 18th March 202 on the appointment of the Steering Group, and its intention to 'work closely with the Irish Football Association as well as communicate with UEFA and local government to keep clubs updated throughout this period ' and that 'concerns of all clubs were communicated during the various meetings and the NI Football League remains committed to assisting member clubs with support and guidance with the health and wellbeing of fans, staff and players and the wider community remains the highest priority at this time.'
- e. The Steering Group conducted research and carried out due diligence to investigate the options available, with the purpose of a return to football in a 'safe and financially secure way and in a manner which protects the current and future integrity of the league'. Clubs were invited to engage in a consultation process through their league management committees and feedback was invited.
- f. On 6th April, a statement was released confirming NIFL's commitment to completing Season 2019/2020.
- g. On 28th April an update was issued on its website following meetings with its Steering Group and Board. Furthermore, UEFA guidance had been issued which indicated the Northern Ireland Football leagues should be in a position to communicate by 25th May their plans for a the return to football or how they would prematurely conclude the season. It confirmed the Steering Group would continue to liaise with relevant stakeholders and to allow NIFL and its clubs to take important decisions prior to 25th May and that arrangements would be made for all members clubs to discuss the next step at their respective Management Club meetings.
- h. Meetings took place during week commencing 11th May 2019 between member clubs and their Management Committees in order to discuss options for concluding the 2019/2020 season
- i. As a result of the meetings it was clear there was a desire among member clubs to conclude the season by playing all remaining fixtures. These were subject to three principles of protection of health and wellbeing of all individuals, ensuring financial sustainability of member clubs, preserving sporting integrity.
- j. On 15th May 2020, an update was issued by NIFL to member clubs in an email and a statement was released on the NIFL website. Amongst other matters it raised it outlined that the steering group would meet in the next week to consider feedback from meeting that had just taken place and consider the feedback from clubs and league committees Further, it would recommend to the NIFL Board that it seeks an extension of the season for all clubs, and that NIFL provide confirmation to the IFA and UEFA that concluding of season ahead of 20th July was not possible in order to nominate entries to the European

Club Competitions. As well as looking to establish a timeline for key decisions NIFL encouraged feedback from clubs in respect of Management Committee meetings.

- k. 22nd May NIFL informed member clubs by email and by statement on their website, confirming NIFL Board supported member clubs continued desire to conclude the season by playing all remaining fixture subject to principles of safety, financial sustainability and sporting integrity.
- l. That the steering group was to fully appraise the 'season end' options and make a recommendation by 30th June to NIFL Board. Clubs would be consulted with in advance of 30th June and they were encouraged to provide feedback.
- m. They further explained the reasoning behind waiting for the Steering Groups recommendations.
- n. During week commencing 25th May the IFA Football Committee confirmed the football season to be extended to 31st July along with player registration guidelines.
- o. On 2nd June the IFA provide their 'return to football protocols' draft to NIFL'. This was circulated to clubs and their feedback was requested.
- p. The NIFL presentation to clubs via League Management Committee meetings and all clubs invited to take part. In essence, the NIFL advised that that the steering group had appraised options to curtail or resume season in line with health, finance and sporting integrity principles alongside the impact on the football calendar and timeframe. That the optimum option to ensure sporting integrity was to conclude all matches. And that seeing UEFA deadline now 3rd August, seeing IFA seeking return to football by 20th July and the reluctance of clubs to hold match behind closed doors, it considered an alternative model should be explored. The steering group had been challenged by each option as key principles effected in some way.

The NIFL recommendations to the Premiership were to conclude the season with a condensed format with a 'pre-split' games format or curtail season immediately and adopt a mathematical model, implemented by an independent panel, to determine league placing. (Alternative option).

- q. RESPONSES TO THE PREMIERSHIP RECOMMENDATIONS WERE AS FOLLOWS;
 - A significant number of Premiership Clubs were not in favour of the recommendations and wished to consult collectively on a way forward.
 - A deferral of a response was sought on the 11th June deadline. This was agreed and deadline of 18th June set for alternative options to be presented by the Premiership Management Committee.

- The presentation of Premiership Committee alternative options to NIFL Board was extended to 22nd June.
- On 18th June the Premiership Management Committee considered alternative proposal put forward by Glentoran, and a 'compromise proposal' by Crusaders. Following lengthy discussions, a sub-group was established to consider the financial and structural aspects of the Crusaders proposal. Clubs were provided with an opportunity to submit their thoughts.
- On 19th June following more discussion it was agreed further financial discussions would take place between some clubs concerning redistribution of funds. On 21st June the Premiership Management Committee confirmed agreement could not be reached on redistribution of funds. A further discussion took place on an amended Glentoran proposal. At the meeting 21st June the Club stated they had a 'Danish Model which had not been submitted for proposal. The model was based on a fair distribution of funds but it was acknowledged that it potentially too late for this to be considered. However, it was emailed through to the NIFL Board for their consideration in advance of their Board meeting on 22nd June.
- On 21st June the Premiership Committee voted on whether the season should end with no further matches. Out of the twelve clubs, six voted for the motion, five abstained and one voted against the motion. A further meeting would take place the next morning to try and find a compromise on the way forward. On 22nd June different proposals were amended and attempts made to obtain a majority vote for any of the proposals. This was not successful. No agreement could be reached by the Premiership Management Committee including in relation to any agreement on relegation.

r. The NIFL Board decision on 22nd June was taken in consideration of UEFA guidelines, feedback from member clubs. It noted the majority of NIFL member clubs across all leagues supported curtailment of the season. It sought declarations from Board members on conflict of interest and members were not to take part in discussions on leagues they have connections with. At the Premiership Management Committee there was no agreed alternative proposal. However, it pointed out the majority votes had supported an end to the season. The NIFL Board considered written submissions from five clubs including appellant and there was a disparity in the views between the premiership clubs.

s. NIFL decided current 2019/20 season would be curtailed immediately, a mathematical model would be applied to determine the final standings in each division and the model used would be determined by an independent football data consultancy, the model would follow best practice in other leagues in Europe and be in accordance with UEFA principles. That titles will be awarded and automatic promotion/ relegation between divisions would take place, after confirmation by independent consultants.

t. On 26th June 202 NIFL Board released a statement to confirm final league standings for the 2019/202 season in line with the mathematical model used by the independent data consultants.

(4) THE NIFL SUBMISSION THEN PROCEEDED TO DIRECTLY ADDRESS THE SPECIFIC ISSUES RAISED BY 'THE CLUB' :

a. NIFL denied they contravened the principle of sporting integrity in its entirety. They stated sporting integrity was highlighted as a key principle at the outset. That NIFL Board acted fairly throughout the process and by treating all clubs equally, provided ample opportunity for input, suggest proposals and in the case of premiership additional time was allowed to come up with an agree formula.

b. NIFL denied they had acted in a prejudicial manner contrary to the principle of proportionality. All clubs were treated equally, and care was taken to investigate possible options and alternatives to ensure a balanced and proportionate decision was made. The contested that any particular act by the Board could specifically cause an impact on a certain club., and that completing the season may have resulted in the same outcome for the clubs as the curtailment has.

c. The NIFL Board denied they acted in direct opposition to the wishes /beliefs/interests of member clubs. They stated extra time had been given to reach a consensus, that this had been impossible, and this led to NIFL having to make what they considered the fairest and most reasonable decision in the circumstances. It was not aware of any majority vote or support of no relegation, and further, there was no particular unanimous or recorded agreement in relation to same.

d. NIFL Board disputed they acted in a way that denied representation by member clubs. A chronology of updates and opportunities that were sent to clubs at various stages of the process was outlined. It was highlighted that Championship and Intermediate Premiership clubs did not seek an extension of time for responding to the Steering Groups recommendations. As a result they were not included in the extended discussion process. It emphasised that there was little point in proposing options ruled out by the Steering Group as not being feasible. The Premiership clubs has opportunity to debate a number of proposals and like the steering group found them not feasible. This demonstrated the difficulties in reaching a way forward. NIFL was capable of predicting how things would develop. They were subject to the decisions of other bodies and government, matters outside their control. But once aware of deadlines they moved fast to set up meetings between the Steering Group and clubs.

NIFL highlighted the recent case of South Shields FC v FA Council. The decision had involved no promotion or relegation. The main thrust of the case was that there had not been relevant consultation carried out by the FA Council before they made the decision. Para 61 to 63 of the Arbitration decision was mentioned. In it, the Sedley criteria, referred to in the R (Mosley) v London Borough Haringay [2014] UKSC 56 in which Lord Wilson endorsed the Sedley Criteria; ;

'the basic requirements are essential if the consultation process is to have a sensible content. Firstly, that consultation must be at a time when proposals are at a formative stage, Second that the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response. Third, that adequate time must be given for consideration and response and, finally, fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.'

Furthermore, Para 62 of the Arbitration decision was highlighted, an extract from R (HUTCHISON 3GUKLTD)v Telefonica UK Ltd [2017] EWHC 3376 where Green J stated; ‘ in my judgment , the Sedley criteria are not hard and fast rules that can be mechanistically applied so as to lead to a right and certain result. There are lodestars guiding the overall assessment that must be made of the facts to see whether addressees of a consultation had, in a real and practical sense, been accorded a fair opportunity to express their views and opinions...The ultimate litmus test is simply fairness so how the application of the criteria play out in a particular case will depend upon all of the surrounding circumstances.’

e. NIFL submitted they carried out an appropriate consultation exercise in accordance with the Sedley criteria and further that the process was fair in all the circumstances. NIFL Board denied they acted contrary to the good governance principles of openness/transparency .They reiterated the points made in previous paragraphs in this issue and that they had had sought to involve clubs throughout the process to ensure openness and transparency . The establishment of the Steering Group and its objectives were made known publicly as soon as set up.

There was opportunity open to all clubs to provide feedback or query anything with NIFL throughout the whole process.

f. The NIFL Board denied it acted in contravention of the current NIFL Regulations.

It set out its powers under rule 48 Premiership Rules & Regulations Season 2019/2020. That it had entered the required ‘full consultation’ exercise before making any changes to their league format and structure . That the Premiership had rejected NIFLs recommendations and proposals and from 9th June to 22nd June could not reach agreement which left NIFL to exercise its powers to make the necessary changes in the absence of agreement. That NIFL had complied with proposals requiring alterations to the wording of the Premiership Rules and Regulation season 2019/2020 by using Rule 48. That in terms of comments made by the club with regards to rules, 7(e) , 7(F), 7(g) , 8(b) , 8(c),& 17, it submitted the changes NIFL were forced to make superseded these requirements as an alternative structure for ending the season had to be put in place as a result of Covid -19.

That automatic promotions and relegations will take place. But it was not possible for the Board to agree to or allow play off matches .The Steering Group recommendations 9th June proposed that only automatic promotion and relegation would apply as at that time there was no opportunity to play matches outside of the 12 Premiership fixtures and 3 Irish Cup fixtures. Club responses received by NIFL Board indicated that a clear majority of Premiership, Championship and Premier Intermediate Clubs, either did not want to play any further matches or were in favour of a recommendation that did not allow for any further matches to be played.

NIFL Board had given due consideration to the impact of automatic promotion and relegation will have on certain clubs. It took account from representations from clubs to Steering Group recommendations, the NIFL Board noted the impact of increasing the number of clubs in the Premiership and Championship would have in the overall structure of the three divisions. They highlighted the knock on effect of proposing 13/14 team leagues. It would have resulted in 14 Premiership, 12 in Championship, Premier Intermediate league and no eligible club for promotion to Premier Intermediate league due to curtailment of feeder leagues. They stated this was not a feasible option.

It was also noted that the introduction of a 14 team league would require three teams to be relegated next season. This had caused concern among Premiership clubs. The retention of 12 club league, meant only 1 team facing relegation.

g. NIFL denied they had acted in a manner which contravenes IFA Competition Integrity rules.

It stated NIFL was conscious of ensuring impartiality in the Steering Group, this was ensured by the appointment of an independent director and subsequently another independent member. Conflicts of interest had to be declared by NIFL Board members on 22nd June prior to decision making.

Further, the appointment of the independent third party to apply the mathematical model was carried out by independent NIFL Board members. NIFL deny their actions have damaged the integrity of matches or competition and that no unlawful or undue influence has been exerted. They refute these as entirely unfounded and refer to the clubs to its own submission that these allegations are to some extent based on scepticism.

h. NIFL Board deny they acted in contravention of IFA conflict of Interests regulations.

NIFL believes that all Board, Committee and Steering Group members acted appropriately at all times.

i. NIFL Board deny they acted in contravention of the common law doctrine relating to restraint of trade. It stated this doctrine does not apply here as no contractual restriction has been imposed on any club. That they have not been prevented from competing in games in the future. It stated it had acted in accordance with its Articles of Association, and the Premiership Rules & Regulations Season 2019/2020. It had acted fairly and not singled any club out.

(5) 'The Clubs' replies to NIFL submissions.

The Club took the opportunity to reply the submissions forwarded by NIFL.

The representations were considered in full by the Appeal Board, however, we considered there was a level of repetitiveness with some aspects of the submissions with previous and in others they were seeking to introduce new aspects. The following were considered relevant within in our considerations;

1. They highlighted the primary focus of their appeal is the NIFL Board decision to enforce automatic relegation without transparent and adequate consideration of a range of alternatives presented by their club as indicative of the principle of 'least harm' They set out their position as 12th in the league, when play was suspended in Northern Ireland and set out the theoretical possibilities if the season had been played to its natural conclusion .They repeated their contention that automatic relegation was inappropriate, unjust and disproportionate especially as promotion /relegation play offs had been waived. '
2. That the Steering Group at their stage of the process were derelict in their duty to not provide the Premiership view on relegation to the Board.
3. It was pointed out that all 12 Premiership clubs agreed enforced relegation was contrary to the principle and spirit of sporting integrity.

4. There was no mention with the vote on 9th June that automatic relegation was a feature.
5. That Premiership clubs reacted negatively to being presented with the two options to vote on by 11th June. That the clubs represented on the Steering Group and NIFL Board had most to gain.
6. The 'Danish model' proposal was illustrated.
7. That there were signs of self interest by clubs when voting at Premiership Management Committee as one club voting against curtailment of the season.
8. The appellant agrees no agreement could be reached at Premiership Management Committee meeting on 22nd June 2020 but this did not extend to the issue of relegation and that challenged the statement from NIFL that other's were against such votes .
9. Restates their contention that a vote on issue of relegation was not necessary on 21st June as it was indicated the views of the Committee would be communicated to the NIFL Board by the Vice Chair. Two supporting letters were attached.
10. That NIFL was misrepresentative in stating a majority of league favoured curtailment and that the Premiership Committee vote was in majority in favour of the curtailment of the season.
11. That the appellant can give some latitude in interpreting some of the decisions made by NIFL Board on 22nd June 2020 as reasonable, proportionate and fair and equitable, the same cannot be said for enforcing relegation decision.
12. Details of the disproportionate impact 'the Club 'will suffer from of the automatic relegation decision were provided. In addition, they outlined how the automatic relegation decision was unfair and inequitable.
13. That the first time' the club' is officially aware of NIFL's intention to impose automatic relegation is 26th June 2020.
14. 'The club' disputes NIFL acted fairly and provided ample opportunity for clubs to provide input and suggest proposals. They highlight this is reflected in the discontent felt by premiership clubs and the fact NIFL board ignored the view of the premiership club on the issue of relegation.
15. They highlight decisions made in other countries and leagues regarding relegation.
16. They refute the contention NIFL Board entered full consultation with member clubs. That during period March to June consultation was either, non existent, obstructed or ignored.
17. That prior to 26th June NIFL board had not confirmed that automatic relegation would take place in the premiership. And that NIFL had considered to not impose play off games but actively imposed a harmful outcome for Institute.

Conclusion.

The Appeal Board considered in full the detailed written submissions provided by the parties to this appeal.

NIFL has responsibility for the management of five leagues, and once the suspension of football was announced and looked like it was set to continue, it had the unenviable task of having to find a way forward. Due to Covid-19 , they had to be mindful of government restrictions on social movement and had to consider the welfare of all concerned with the game. They had to operate within the timescales set by the IFA, have an eye on future European fixtures and associated guidance along

with their own domestic timelines. The duration of Covid -19 was not something they could predict and we consider they were empowered to activate a process to find a solution on moving forward from March 2020.

We are satisfied from the evidence provided that NIFL did not implement an unfair consultation process for finding a way forward. They openly and publicly set out the nature of the process they were adopting, both by contacting clubs and publishing details on their website. According to evidence presented to the Appeal Board, at the outset key principles were adopted to include health, finance and sporting integrity. When set in the context of the unprecedented circumstances that NIFL faced with the suspension of football, social distancing rules and other decisions being taken outside their remit, we consider the process was a timely and open consultation.

It is evident from the NIFL recommendation paper issued to Management Leagues on 9th June how the process had been instigated and developed. Within this paper preferred and alternative options were presented to be considered. The option of promotion / relegation was clearly outlined for the Premiership league to consider.

We are not convinced by 'the club' submissions that undue influence was exerted by any members of the Steering Group or NIFL Board members.

The Appellant strongly contended that an unanimous decision on the issue of relegation in the premiership league had not been either communicated or had been ignored. We find it difficult to find in their favour as the evidence was to the contrary. The minutes from a Premiership Committee meeting on 22nd June (unchallenged by the appellant) does not contain any reference whatsoever, to a unanimous view on relegation , and what is striking is that a club very much at risk of relegation did not feel the need to press for a vote on the issue but rather, according to their own account allowed an informal approach to be adopted with verbal representations to the NIFL Board . We are not satisfied a vote on the issue was prevented. The argument presented was contradictory as the club conceded there could have been two clubs not in support of their position therefore undermining their unanimous contention.

It is apparent at both Premier Management Committee meetings held on June 18th and 21st June , the main discussions focused on financial issues. It is noted that having requested additional time, which was granted, the minutes from the meeting on 21st June clearly show that the Premiership League could not reach agreement on the way forward except to curtail the season. This resulted in the NIFL Board taking the decision themselves on 22th June 2020. There is no evidence of member club being deprived the opportunity to make representations. Furthermore, the decision to opt for relegation/ promotion (confirmation to be provided by the independent data consultants) was issued on 23rd June to member clubs and published on the NIFL website. This is contrary to the Appellants further submission where it is alleged 'the club' first heard official confirmation on 26th June.

The claim in this appeal that due regard was not given to alternative proposals is challenged by the discussions at Premiership Committee meeting. Moreover, 'the club ' had the opportunity to present their proposal at an earlier stage, as others had clearly done, and in fact they are noted as saying they were happy to accept if it was too late for their proposal to be accepted. The Appeal Board do note that NIFL did examine the potential for increasing numbers in divisions to avoid

relegation. However, it had to look at the picture in the context of all three leagues and it is accepted they did not see it as a feasible option due to the inability for feeder clubs to make up the numbers in the lower leagues. Plus, it was clear from the minutes of Premiership Management Committee meetings that there was opposition expressed by some clubs as to the prospect of an increase in the number of clubs that would face relegation next year.

NIFL provided an acceptable explanation provided as to why play offs were not feasible and this was based on the Steering Groups recommendations that there was no opportunity at that time to play any other matches outside the 12 Premiership fixtures and the 3 Irish Cup fixtures. And that Clubs either did not wish to play any further matches or were in favour of a recommendation which did not allow for any further matches to be played.

The Appeal Board empathises with 'the club' and the position it faces from the outcome of the process the NIFL Board undertook. They are undoubtedly a well managed and resilient club. However, in light of their comments that there might be some latitude in interpreting some of the decisions made by the NIFL Board as 'reasonable, proportionate, fair and equitable', this serves to undermine their contention that the process instigated by NIFL and their decision which resulted in the relegation and promotion of teams was skewed in the way they articulate.

It was argued that an 'enforced automatic relegation' has led to 'the club' suffering a disproportionate impact and is therefore unfair. Automatic relegation is a part and parcel of the football cycle. It is unfortunate that this team is left in the position of facing relegation, but in the ordinary football calendar the team in the lowest position in the division does not have the choice but to face relegation.

The Appeal Board do note that NIFL did examine the potential for increasing numbers in its divisions to avoid relegation. However, it had to look at the picture in the context of all three leagues and it is accepted they did not see it as a feasible option due to the inability for feeder clubs to make up the lower leagues if relegation was not opted for. Plus, we were able to see the opposition presented at the Premiership committee meeting expressed by some clubs as to the prospect of an increase in clubs for relegation next year.

Further, it is not considered that there was unanimous and recorded agreement of the Premiership clubs to oppose this move.

The Appeal Board note that the club did not provide this appeal with submissions they made during the NIFL process, this would have assisted us in our determination as to whether they had been deprived of an opportunity to make representations or have them considered. Further, we have not been presented with any evidence to say they had raised any challenge to the validity of the appointments to either the Steering Group or NIFL Board bodies at any stage prior to the announcement of NIFL Board's decision to proceed with the relegation and promotion option.

We do accept the contention that NIFL was forced to make changes in accordance with Rule 48, and these superseded the requirements contained within other NIFL regulations in order to put in place an alternative structure as a result of Covid-19.

We do not accept that the NIFL Board acted in a way which was in contravention of IFA Competition Integrity Regulations. According to the evidence before us, we consider there was majority support

from members to for curtail the season. Furthermore, we were not presented with any cogent evidence to substantiate the claim of the exertion of undue influence by individuals within appointed bodies. We consider a process was set up and members were invited to engage with the process at various stages. NIFL explained the process included the appointment of independent members and highlighted that registering of conflict of interest was noted and complied with at decision making meetings.

In regard to the argument concerning NIFL breached the common law relating to restraint of trade we accept as there was no contractual restriction imposed on the club. The club is free to play. Furthermore, based on the logic presented on behalf of 'the club', it would follow any relegation can amount to a restraint of trade. The Appeals Board did not find in favour of this argument on behalf of 'the club'.

The Appeal Board have unanimously found against upholding this appeal in favour of 'the club'. The appeal is therefore dismissed.

IFA Appeal Board

18.8.20