

DECISION
IRISH FOOTBALL ASSOCIATION
APPEALS COMMITTEE

In the matter of an appeal by Mr Brendan Fleming against a decision of the Management Committee of the Coleraine and District Football League

Appeals Committee:

Mr M. Wolfe KC (Chair)
Ms Carla Dallas
Ms Carley Shields

Decision:

This is a decision of the IFA Appeals Committee following a hearing which took place at IFA Headquarters on Thursday 8 September 2022. It concerns an appeal brought by Mr Brendan Fleming ('the Appellant') against a decision reached by the Coleraine & District Football League ('C&DFL') Management Committee on the 28 July 2022.

Having regard to the reasons set out below, the unanimous decision of the Appeals Committee is that the appeal shall be upheld so that the decision of the C&DFL Management Committee is set aside and the penalty imposed upon the Appellant is quashed.

Attendees:

1. The Appellant attended the hearing of this appeal remotely owing to his personal circumstances. He was supported in his appeal by Mr Christopher Kennedy (Manager, Killowen Development FC) who also attended remotely. They each gave evidence to the Appeals Committee.
2. The following members of the C&DFL Management Committee attended the appeal hearing in person: Mr Dessie Bradley (Chair); Mr Kyle Cauley (Secretary); Mr Maurice Bradley (League PR); Mr Johnny Evans; Mr Leo Quinn, Mr Ricki Doherty; Mr Keith Scott. Various members of the Management Committee contributed to the evidence received by the Appeals Committee at the hearing, although their main spokesperson was Mr Cauley.
3. The Appeals Committee wishes to express their gratitude for the constructive way in which all of the attendees conducted themselves during the hearing.

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Facts:

3. The Appeals Committee found that the following facts were not in dispute:

- a. On the 8 July 2022 a Facebook message was sent from the Killowen Development FC ('Killowen') to a player who had joined or was about to join a rival club, RBL Ballymoney FC ('Ballymoney'). It is unnecessary to name the player. The message sent to the player was as follows:

"Can't wait to get u on football pitch lad crunch crunch Rat."

- b. On the 23 July an official from the Ballymoney club notified the C&DFL that this message had been posted and that their player was concerned that it represented a threat to his safety on the football field should he play against Killowen. A copy of the screenshot containing the message was sent to the C&DFL on the 24 July by an official from Ballymoney.
- c. On the 25 July C&DFL invited officials of Killowen to attend a meeting to discuss what was described as an allegation regarding *"threatening behaviour."*
- d. On the 28 July C&DFL Management Committee convened a meeting at the Railway Arms Bar Coleraine to discuss this issue. The meeting was attended by representatives of both the Killowen and Ballymoney football clubs. The Appeals Committee was provided with an unsigned and undated minute of the meeting.
- e. As appears from the minute of the meeting, Mr Christopher Kennedy spoke on behalf of Killowen and provided the Management Committee with certain information. The following was recorded in the minute:

"Chris informed the meeting that the 2 boys involved were 'fuck all to do with the club anymore.' At this point Johnny Evans informed the Committee that Brendan Fleming/Letters had contacted him the previous evening requesting to be removed from everything to do with Killowen Development FC ie. League What's App Group, Comet administrator, player registration etc which Johnny claimed he had

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removed as requested. During the discussion it was offered up by the Killowen Development FC Reps that a person unknown to the League Committee ie [NAME REDACTED] had also been involved in the messaging....”

- f. The Appeals Committee has concerns as to the adequacy and accuracy of the unsigned minute. In any event, the Appeals Committee noted that the minute of the meeting did not record any words to indicate that Mr Kennedy (or indeed the other Killowen official in attendance) provided evidence to the Management Committee stating that Mr Fleming had posted the offending message. The minute did contain the ambiguous phrase “*the 2 boys involved*” which tended to convey the impression that Mr Kennedy had some knowledge of who was involved, although no names are recorded. We further elaborate upon this aspect of the evidence later in this decision.
- g. After officials of both clubs had left the meeting the C&DFL Management Committee proceeded to discuss the information available to it, and it came to a decision. It is recorded in the minute that based on the available information and what is described in the minute as “*the admission of Killowen Development FC representatives*” it was proposed that the Appellant as well as another person whom it is not necessary to name, would not be registered as a player or official of any club for the entirety of the 2022/23 season. The proposal was adopted unanimously by the Management Committee. This is the decision which is the subject of Mr Fleming’s appeal, at least so far as it concerns himself. The other named person has not appealed against the decision reached by the Management Committee.
- h. Additionally, the C&DFL Management Committee adopted a proposal to impose a fine on Killowen Development FC in the sum of £300.00, that fine to be suspended until the end of season 2022/23. That decision is also not the subject of appeal, presumably because it had been accepted by Killowen that its Facebook account had been used to send the offending message.
- i. On the 30 July the outcome of the meeting was communicated to Killowen, although the Appellant was not directly notified. So far as is relevant to this appeal, the following information was communicated to Killowen:

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“After considering the information available on media/social media and the admission of Killowen Development FC representatives the committee decided that under General Rule 35 [which now reads Rule 37] of the Coleraine & District League:

The Coleraine and District League will not accept a registration as a player or official of any club for [NAME REDACTED] and Brendan Fleming (AKA Brendan Letters) for the entirety of season 2022/23.”

- j. Rule 37 of the League’s General Rules, which was relied upon by the Management Committee to sanction the Appellant, provides as follows:

“The Management Committee has the discretion to accept/decline any player, coach, manager or committee member of a club competing in the Coleraine & District Amateur League.”

Further Evidence:

4. The Appellant gave evidence to the Appeals Committee hearing. He maintained that he was not in any way responsible for sending the offending social media post, and he believed that the representatives of Killowen had not made any admission in respect of him when they attended the meeting with the Management Committee on the 28 July. He stated he was not on notice of that meeting, and nor did he have any opportunity to make representations to the C&DFL Management Committee in respect of the decision set out above.
5. Mr Kennedy gave evidence to the Appeals Committee also. He stated that at the meeting on the 28 July, Killowen representatives did not make any admissions in respect of the Appellant. He recalled that he told the meeting that Killowen accepted that the offending social media post had been sent through the club’s official Facebook account. He also told the meeting that three persons (himself and Mr Fleming, and another person whom we need not name) had access to that Facebook account, but he was insistent that he did not know who had sent the offending post and had not told the Management Committee that Mr Fleming was the culprit.
6. The Appeals Committee heard from a number of officers of the C&DFL Management Committee. It was confirmed that the Management Committee had reached the view at

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their meeting that the Appellant and another man were each responsible for posting the offending message. It appeared to the Appeals Committee that the Management Committee had drawn this conclusion based on their interpretation of what Mr Kennedy had told them at the meeting, what the minute refers to as an “admission”. The basis for this conclusion and the suggestion that an admission had been made which implicated Mr Fleming, was therefore explored with the Committee members during the appeal hearing.

7. Mr Cauley was the minute taker and in his evidence to the Appeals Committee he accepted that the minutes did not refer to any specific words to record that Mr Kennedy had admitted that the Appellant had sent the offending post. Mr Doherty pointed to the phrase (referred to above), “*the 2 boys involved*” and suggested that those words carried the meaning that Mr Kennedy knew that the Appellant was responsible for sending the offending post. However, the clearest and most helpful evidence was provided to the Appeals Committee by Mr Evans. In answer to a question from Ms Shields, he was candid in accepting that at no stage during the meeting did the Killowen representatives make an admission that the Appellant was responsible for sending the offending post.

Findings:

8. The Appeals Committee accept the evidence of Mr Kennedy that during the meeting with the C&DFL Management Committee he did not make any admission implicating the Appellant in sending the offending post.
9. The Appeals Committee finds that the C&DFL Management Committee failed to properly assess the strength of the evidence before reaching a decision. The Management Committee concluded that the Appellant and another man were responsible for making the offending post, when the very limited information provided by Mr Kennedy did not come close to supporting that view. Mr Kennedy’s account did not claim that the Appellant sent the post, but taken at its reasonable height, his evidence merely confirmed that the Appellant had access to Killowen’s Facebook account, which may have given him (and others) opportunity to send the post. But as Mr Evans properly recognised in his evidence to the Appeals Committee, there was nothing in what Mr Kennedy said to the Management Committee which could be characterised as an “admission.”

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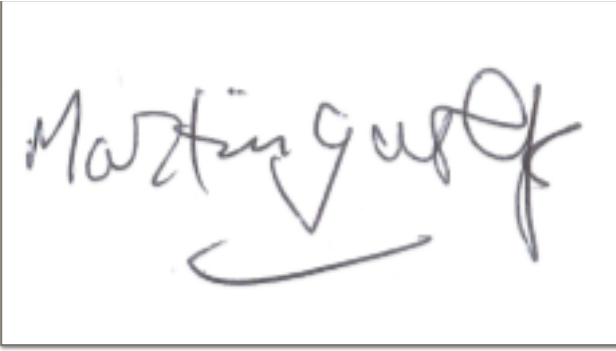
10. Accordingly, the Appeals Committee concludes that the finding reached by the Management Committee that the Appellant was involved in sending the post is unsustainable and is set aside. Simply put, there is no evidence to support that finding, and it is rather surprising that the C&DFL Management Committee could ever have come to that view. It follows that the penalty imposed on the Appellant is also quashed.
11. It is necessary to add that the Appellant was not given any opportunity to make representations to the Management Committee before it made the finding set out above. At the very least, the severity of the sanction imposed by the Management Committee ought to have given its members pause for thought. It is again surprising that an experienced Management Committee would conduct its affairs in this manner. The basic requirements of due process and fairness in any context demands that the person who is the subject of an investigation is given the opportunity to make representations in his own defence before findings are made, and a penalty imposed. There was no such opportunity granted here.
12. The Appeals Committee concludes that the failure of the C&DFL Management Committee to extend to the Appellant even the most basic procedural safeguards before penalising him provides a further reason for upholding this appeal. The Appeals Committee recommends that the C&DFL Management Committee should urgently review its arrangements so that fair procedures are introduced. As it stands, the procedures of the C&DFL in this respect are not fit for purpose. If necessary, the C&DFL should seek legal advice on this issue.

Summary:

Having regard to the reasons set out above, the unanimous decision of the Appeals Committee is that the appeal shall be upheld so that the decision of the C&DFL Management Committee is set aside and the penalty imposed upon the Appellant is quashed.

Dated: 14 September 2022

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A handwritten signature in dark ink, appearing to read "Martin Wolfe", enclosed within a thin black rectangular border. The signature is written in a cursive, flowing style with a large initial 'M' and a long, sweeping underline.

Martin Wolfe KC

On Behalf of the Appeals Committee