

**IRISH FOOTBALL ASSOCIATION
APPEALS COMMITTEE**

In the matter of an appeal by Greenwell Star Football Club against a decision of the Northern Amateur Football League

&

In the matter of an appeal by Clonduff Football Club against a decision of the Northern Amateur Football League

Appeals Committee:

Martin Wolfe KC (Chair)

Barry Finnegan

Stephen Magill

DECISION

Background

This is a Decision of the IFA Appeals Committee ('the Committee') which was reached at a meeting of the Committee on the 24 October 2023, following consideration of written submissions made by the representatives of the parties.

1. It will be helpful to set out a timeline of events which are relevant to this Decision:
 - a. On the 7 September 2023 a differently constituted panel of this Committee considered appeals brought by each of the Appellants. Each of those appeals complained in different ways that they had made applications to join the Northern Amateur Football League ('NAFL') and that those applications had not been properly considered. A number of points were raised in support of those appeals, but for present purposes it is unnecessary to say anything further about the substance of the cases which were made.

- b. The material findings of the Appeals Committee are set out in its Decision of the 7 September 2023. It suffices to note that the Committee decided that the applications for membership should be referred back to the NAFL for fresh consideration.
- c. On the 20 September 2023 the Secretary to the Appeals Committee was advised that the NAFL Board had reviewed its decision in light of the findings of the Appeals Committee and that as a result of that review invitations would be extended to the two clubs to join the NAFL for season 2023-24.
- d. On the 24 September 2023 the Appellants lodged further appeals. It is these appeals which are the subject of this Decision. The grounds of appeal were explained in a submission prepared by Mr Bryson on behalf of the Appellants, dated 25 September. The points raised were common to both Appellants.
- e. The substance of the appeals can be shortly stated. The Appellants complained that although the NAFL Board had properly approved their application for membership, they had gone on to improperly determine that the Board's decision must be the subject of an affirmative vote by a majority of the member clubs voting at an EGM which had been called for that purpose. The Appellants contended that this arrangement amounted to (i) procedural unfairness; and is (ii) *ultra vires* the Articles. In the submission, at paragraph 22, the Board's approach was described as a "*cunning plan*" and one which was characterised by "*appalling bad faith*" in an "*effort to frustrate the genuine rights and interests of applicants to the process.*"
- f. On the 26 September 2023 the Secretary to the Appeals Committee was copied into correspondence from King & Gowdy Solicitors, the legal representatives of the NAFL, to Mr Bryson. In this correspondence they repudiated the analysis contained within Mr Bryson's submissions. They drew support from Articles 10 and 11 of the NAFL Articles to advance the contention that the Board enjoyed full discretion as to the process to be followed when determining the admission or non-admission of any club to membership. The correspondence went on to reject the Appellants' suggestion that there was "*some underlying agenda*" and commented that the appeals were "misconceived" as well as a "*waste of valuable time and resources.*"

- g. On the 9 October 2023 the EGM took place and by a substantial majority, the Board's decision to accept the Appellant clubs into the membership of the NAFL was approved.
- h. On the 11 October 2023, Mr Bryson wrote to the Secretary of the Appeals Committee to indicate that while he accepted that the appeals could "properly be characterised as academic" it would nevertheless be prudent for the Committee to determine the issues raised by the Appeal in order to clarify the point, which he considered to be one of wider application.
- i. On the 18 October 2023, King & Gowdy wrote to dispute the need to convene a hearing of the appeals. They pointed out that Mr Bryson had acknowledged that the appeals were now academic, and they rejected his suggestion that there was a general interest in the procedural issue which had been raised. They repeated their earlier contention that a hearing would amount to a waste of time and resources, and they invited the Committee to strike the appeals out.

Determination and Reasons

2. The Committee met in order to decide the preliminary issue, namely, whether it would be necessary or appropriate to convene a full hearing of the Committee to consider and determine the issues raised by the appeals when both parties were in agreement and had acknowledged that the appeals were now academic in the sense that a determination of the issues would neither positively or adversely effect the interests of the parties.
3. The Committee considered the positions articulated on behalf of the parties in their written correspondence/submissions. The Committee recognised that by reason of the circumstances set out above, the issue raised by the Appellants on appeal has been left unresolved. That issue, the kernel of which is whether it was procedurally unfair and/or ultra vires the NAFL Articles of Association for the NAFL Board to refer its decision in respect of a membership application to the wider NAFL club membership for approval at an EGM, is said by the Appellants to be one of general significance or wider application. The NAFL disagree.
4. The Committee acknowledges that the issue raised was of significance in the context of the two cases before us. But as has been properly acknowledged, the issue raised

is now properly to be regarded as academic in the context of the cases as a result of the grant of membership to the clubs concerned. It is the view of the Committee that when an issue becomes academic, truly exceptional circumstances must exist before consideration can be given to hearing an appeal point when its adjudication will provide no meaningful benefit for the parties.

5. It is the Committee's view that such exceptional circumstances do not exist here. There is no good reason to put the parties to the trouble and expense of preparing for and attending a hearing when any decision emerging from the process would not have precedent value, and might only, taken at its very height, be informative or advisory should a similar issue arise in the future. That is not a sensible basis upon which to require the parties, or indeed the Committee, to divert valuable time and resources.
6. The Committee's conclusion might conceivably be different if this issue or a similar issue was likely to arise regularly, but even then a cautionary approach would be indicated. The Committee considers that these appeals have some novel factual features, including allegations of bad faith which are an important contextual feature, which are unlikely to ever arise in quite the same form. It may just be possible, as Mr Bryson suggests, to address what he refers to as the 'discrete' point without engaging in a consideration of the factual background, but that is not uncontroversial. The balance of convenience is in favour of avoiding any potential difficulty whilst recognising that if the more narrow issue relating to the Board's powers or discretion in relation to membership decisions was ever to arise again, and this cannot be ruled out, the better approach will be to address the issue on the particular facts of that case at that time.
7. For these reasons, the Committee declines to further consider the appeals, and they shall be struck out. In the circumstances it is appropriate that each Appellant shall be refunded their appeal deposit.

Martin Wolfe KC

On Behalf of the Appeals Committee

25 October 2023