

**IRISH FOOTBALL ASSOCIATION  
APPEALS COMMITTEE**

***In the matter of an appeal by the Northern Ireland Football League against a decision of the IFA Disciplinary Committee***

**Appeals Committee:**

Martin Wolfe KC (Chair)

Barry Finnegan

Stephen Magill

**DECISION**

This is a decision of the IFA Appeals Committee ('the/this Committee') which was reached following a hearing which took place at IFA Headquarters on 24 October 2023. It concerns an appeal brought by the Northern Ireland Football League ('the Appellant') challenging a decision reached by the IFA Disciplinary Committee ('the Respondent') at its meeting on 20 September 2023. Having regard to the reasons set out below, the unanimous decision of the Committee is that the appeal shall be upheld so that the decision of the Respondent is set aside. Further, the Committee has determined that in accordance with Article 14(6)(e), the complaint originally sent to the Respondent by the Appellant shall be referred back to the Respondent for fresh consideration, taking into account the directions set out below.

**Attendees**

1. The Appellant was represented at the hearing by Mr. Gerard Lawlor, Chief Executive of the NIFL. The Respondent was represented at the hearing by its Chair, Mr Adam Gadd, BL. He was accompanied at the hearing by the following members of the Disciplinary Committee: Danielle McMahon BL (Vice Chair), Neil Clarke and Simon Graham. The Secretary to the Disciplinary Committee, Maura Denny, also attended the hearing. The Committee is grateful for the submissions of both parties, both oral and written.

**The Issues**

2. The issues raised by this appeal can be succinctly explained. The Appellant referred a concern to the Respondent about the alleged misconduct by supporters of Linfield FC. It expected that the Respondent would consider that issue and issue a Notice of Complaint against Linfield FC. The Respondent found that there was insufficient evidence to trigger the Notice of Complaint process. The Appellant disagreed with this decision and has brought forward this appeal. This Committee must determine whether the Respondent was correct to refuse to raise a Notice of Complaint.

### **The Facts**

3. On the 15 September 2023 Larne played Linfield in a Sports Direct Premiership fixture. Following the game the NIFL Match Observer filed a report in which he made the following observation:

“In the 36th and 37th minute Linfield Fans in the McKay Stand sang a short rendition of the ‘Billy Boys’ with the traditional words of the song. It was sung by a small section of the large away contingent. I would estimate 20-30 fans.”

4. On the 18 September Mr Lawlor sent a copy of the Match Observer’s report to the Respondent’s Secretary. He asked the Respondent *“to look at the contents of the report regarding Spectator misconduct under article 39.4 (sic) of the disciplinary code of the association.”* He made it clear that the Appellant’s *“concerns”* were directed to the Match Observer’s comments relating to the singing of the ‘Billy Boys’.
5. The Respondent examined Mr Lawlor’s correspondence and the appended Match Observer’s report at its meeting on 20 September. More than a week after the meeting, on the 29 September, Miss Denny directed the following correspondence to Mr Lawlor:

“The Disciplinary Committee considered the complaint below and wish to advise that there was insufficient evidence to warrant a Notice of Complaint under the breach of Article 32.2 to Linfield on this occasion, as the offensive words in the lyrics of the ‘Billy Boys’ song were not detailed in the Match Observer’s report.

“With this in mind, the Disciplinary Committee would be grateful if you could gently remind all Match Observers of the level of detailed evidence required within their reports to allow the Disciplinary Committee to substantiate Notice of Complaints.

“Nevertheless, the Disciplinary Committee may reconsider Notice of Complaints and the appropriate sanction should similar natured (sic) offences occur at future fixtures of Linfield.”

6. Being dissatisfied with this outcome, Mr Lawlor wrote to Miss Denny on that same day, to express his ‘astonishment’ at the decision. He expressed the view that “*we all know the traditional words of the song*” and he insisted that if he was reporting the issue to UEFA he would simply report that the song was sung “*as its traditional lyrics*” and he would only see fit to provide a breakdown of the lyrics if the singing deviated from the traditional form. He provided Miss Denny with the following lyrics of the song in what he described as its “full traditional form” and insisted that the NIFL could not allow the singing of the song “*to go unpunished*”:

‘Hello, hello  
We are the Billy Boys  
Hello, Hello  
You’ll know us by our noise  
We’re up to our knees in Fenian Blood  
Surrender or you’ll die  
For we are  
The Brighton Derry Boys.’

7. Following this correspondence, the Appellant lodged an appeal against the Respondent’s decision. The letter of appeal dated the 3 October 2023, responded to the decision in the following terms:

“We believe the Disciplinary Committee has failed in its duty and the information was contained in the report, the observer uses the term “Billy Boys with its traditional words of the song” there is only one traditional version of the song, and we feel the Observer via the league provided all the evidence to the committee to warrant a Notice of Complaint. The song is offensive and widely accepted as such. We also enclose a copy of former rulings by both UEFA and the Irish FA in relation to the song and its inappropriate nature.”

8. It will be helpful to briefly summarise the rulings which the Appellant has referred to, and which were unknown to the Respondent when it made the impugned decision on the 20 September 2023:
- a. **The UEFA Ruling:** this was a decision of the UEFA Appeals Body following a hearing on 24 May 2006 concerning spectator behaviour at UEFA Champions League fixtures between Glasgow Rangers -v- Villarreal in February and March of that year when the 'Billy Boys' song was chanted. It is unnecessary to explore the Ruling in fine detail. Its significance for the purposes of this appeal is that the Appeals Body received detailed evidence concerning the origins and meaning of the 'Billy Boys' song, which it described (at section 4(b)), along with other offensive songs which were chanted during those games, as "widely known by their lyrics and melody." It found (section 4(a)) that it was *"obvious that the 'Billy Boys' song, whatever the lyrics, is far from being just a well-intentioned supporters' song. On the contrary, people from Scotland, when hearing the song, would automatically connect the chant with a general anti-Catholic attitude and the Billy Boys gang of the 1920s that defended fascist values....The opening words "Hello, hello, we are the Billy Boys", as well as the melody, are sufficient to make an association with an attitude that is strongly sectarian and thus discriminatory."* Accordingly, the Appeals Body concluded (at section 4(b)) that *"it is essential that any songs linked in any way to discrimination and sectarianism are prohibited on any football ground, irrespective of their wording."*
- b. **IFA Appeals Committee Ruling:** this case concerned behaviour of Cliftonville and Linfield supporters at a Count Antrim Shield game which took place in October 2013. For present purposes we need simply draw attention to that part of the Committee's decision dated 25 February 2014 which focussed on the alleged singing of the 'Billy Boys' by Linfield fans during that fixture. After referring to that portion of the UEFA Ruling which we have cited above, the Appeals Committee ruled as follows:

[47] ...the Board advise Linfield, both club and supporters, that any further incidents of chanting relating to any part of the 'Billy Boys' song, be it word or melody, shall be construed as a breach of the IFA Disciplinary Code and shall be subject to relevant sanctions....

9. The Respondent took time to consider the contents of the Appellant's letter of appeal, including the rulings of UEFA and the IFA and other materials submitted by the Appellant. It formulated a response to the appeal in the form of a written submission which was sent to this Committee on the 19 October 2023. We refer to the following features of the submission, albeit without reciting the footnotes containing legal authority which were contained within the original text:

[14] The Committee submits that the framework for the index complaint to result in a Notice of Complaint being issued is:

- a. NIFL must submit a complaint in writing to the Committee within 14 days of the misconduct taking place (r38.4);
- b. That complaint must include copies of all evidence, documents and written submissions which the relevant party intends to rely on to substantiate their complaint within the specified timeframe (r38.6);
- c. The Committee may issue a notice of complaint (r17.1);
- d. That complaint would have to be proved by the IFA on the balance of probabilities (r.36.2 and r.36.3).

[24] It is submitted that the Committee was entitled to exercise its discretion not to issue a Notice of Complaint in circumstances that it considered that the IFA could not prove that complaint on the balance of probabilities given the lack of detail set out in the match observers report and the email complaint submitted by Mr Lawlor.  
emphasis added

[29] The Committee did not consider either judgment [whether of UEFA or of the IFA Appeals Committee] in determining not to issue a Notice of Complaint following NIFL's submission.

[30] Had it done so, the Committee submits it would have taken the following approach:

- a. Considered that the two judgments were findings of fact that any singing of the 'Billy Boys' song, whatever the lyrics, is sectarian and discriminatory;
- b. Taken judicial notice of those findings (in that no evidence was necessary to prove them);

- c. Considered that taking judicial notice of a fact should be done cautiously and that a fact that has been proved in one case does not necessarily mean that judicial notice of it may be taken in another;
- d. Nevertheless determined that the proximity in time and fact of the judgment of the IFA Appeals Committee in Cliftonville FC and Linfield FC -v- IFA is such that judicial notice could and should have been taken of the fact that any singing of the 'Billy Boys' melody, whatever the words is a breach of the IFA Disciplinary Code;
- e. Issued a Notice of Complaint to Linfield FC for breaches of Article 32.2 (Spectator Conduct) and Article 27.1 and 27.5 (Discrimination)

[31] The Committee accepts that the appeal should be allowed on that basis.

## Findings

10. We have noted the grounds upon which the Respondent has conceded that this appeal should be allowed as set out in paragraphs 30 and 31 of the submission. However, in upholding this appeal this Committee considers that the concession is insufficient and incomplete since it rests upon the basis (as set out within paragraph 24 of the submission) that the Respondent considers that the formulation of the complaint when it was originally referred by the Appellant was inadequate and that it was therefore justified in refusing to exercise its discretion to raise a Notice of Complaint against Linfield FC. The Committee rejects that submission.
11. It is of course correct that the Respondent has conceded the appeal on the basis that it reached a decision without having regard to and which was contrary to the UEFA ruling which, as we have noted, held that the 'Billy Boys' song "*whatever the lyrics*" is unacceptable. However, it is the view of this Committee that the appeal should also be allowed on the straightforward basis that the correspondence from Mr Lawlor dated 18 September 2023 which included the Match Observer's report, contained sufficient evidence to warrant a Notice of Complaint against Linfield FC. As we explain below, if the Respondent was unsure about what was meant by "*a short rendition of the 'Billy Boys' with the traditional words of the song*", we find that the Respondent was obliged to seek clarification of the complaint before rejecting it.

12. In this specific respect it appears to this Committee that the Respondent failed to conduct itself in the manner that is to be expected of a disciplinary committee and thereby fell into error. We consider that in approaching matters such as this, it is important to recognise that the complaint concerning the behaviour of a small section of the Linfield support originated from an independent Match Observer whose role, the Respondent must have known, was to identify and to report matters of concern which might arise before, during and after the game to which he had been appointed. If he draws attention to an incident such as the singing of the 'Billy Boys' it should be self evident that he is highlighting behaviour which he considers to be improper. When in turn the Appellant reviews the Observer's report and considers that it should be placed before the Disciplinary Committee it must serve to reinforce the message that responsible officials from within the local game had formed the view that an incident of an unacceptable nature had occurred. This does not appear to have resonated with the Respondent. It certainly did not prompt an appropriate response.
13. This Committee is entirely confident in its view that very many people in Northern Ireland and elsewhere would have been left in no doubt that when the Match Observer referred to the singing of the 'Billy Boys' (using the traditional words), he was describing the singing of a song which was sectarian and offensive in nature. The mere title of the song, for anyone remotely familiar with the divisions in our society and politics, gives a clear indication that it is a partisan song associated with one side of our communal divide, even absent the words. The UEFA decision arrived at much the same position with regard to Scotland.
14. Accordingly, this Committee does not find fault with the way that the Appellant framed the complaint to the Respondent. Instead, this Committee considers it very surprising indeed that members of the Respondent when told by the Appellant that the 'Billy Boys' had been sung, did not appear to appreciate that it was clearly the case that an act of spectator misconduct was being alleged.
15. It is undoubtedly the case that sectarian singing and chanting at local football matches is less prevalent than it was in years gone by, but the issue remains a continuing blight and one which the Irish Football Association must continue to challenge. It is disappointing, therefore, that members of the IFA Disciplinary Committee have professed a lack of awareness, and as it seems to us, a low index of suspicion, when

considering a complaint which featured reference to the singing of the notorious 'Billy Boys.' This suggests to this Committee that the Association should urgently consider the training needs of those who participate in its structures, particularly those who may be obliged to grapple with and adjudicate upon issues of sectarianism, as well as those who are employed to support those structures.

16. At the hearing of this appeal, the Committee was told that members of the Disciplinary Committee could not be satisfied that what was reported by the Appellant and how it was reported would be capable of proving a breach of the Code. We heard that because the Respondent had not been told the words of the song that was sung, its members were placed in the position of having to make an assumption, something that the Respondent could not do. One Committee member even told us, as if by way of explanation for the decision reached by the Committee, that he was unaware of the nature of the 'Billy Boys' song, although he did have an awareness that the melody was used innocuously in his old school song and in a local rugby club's song. Similarly, other members of the Disciplinary Committee told us, in terms, that they were aware "*of a variety of ways in which the melody from the 'Billy Boys' is sung in both football and non football contexts*" (as per paragraph 32 of the submissions) and that for them the difficulty was in not knowing precisely what was being alleged. The Secretary to the Committee told us that she was unaware of the decisions reached by UEFA and the IFA Appeals Committee in relation to the 'Billy Boys' song and was not therefore in a position to inform the Respondent about them.
  
17. The Committee accepts that during their lives the Respondent's members may have been sheltered from witnessing the singing of the 'Billy Boys' song, or that they have been otherwise disinterested in exploring its meaning and words, so that they either did not know the song or did not appreciate that it was an offensive sectarian anthem. The Committee also accepts that the Respondent's members have told us that in good faith they could not be satisfied on the information before them that the song itself was offensive and sectarian, regardless of the precise lyrics. But even though this Committee can accept that these positions help to explain why a reference to singing of the 'Billy Boys' in the traditional words did not prompt the Respondent to immediately issue a Notice of Complaint, they cannot explain let alone justify the decision to dismiss the complaint. The lack of knowledge on the part of the Respondent's members or their uncertainty about what was being alleged and whether an offence could be proved,



required the Respondent to ask questions rather than simply reject the complaint without further enquiry.

18. We go back to the origin of the complaint: it was presented by a concerned Match Observer and channeled to the Respondent by the Chief Executive of this country's foremost League. Since these officials in the exercise of their duties were raising concerns about the behaviour of spectators, and the Committee charged with enforcing discipline did not understand what they were complaining about or felt that the evidence was inadequate, it was incumbent upon that Committee to seek clarification and explanation.
19. It was not as if the Appellant's complaint correspondence was threadbare or lacked detail. Indeed, as we have explained above, this Committee considers that it was a well formulated complaint, and we accept the evidence of Mr Lawlor which was to the effect that he believed and continues to believe that the description of the complaint contained within the Match Observer's report would have been understood by the Respondent for what it was, an allegation of sectarian or discriminatory misconduct.
20. As we have remarked above, it is a matter of concern that the Respondent's members appear genuinely not to have understood the nature of the complaint, and were not assisted to do so by the production of information or training from the IFA. Of course members of a committee cannot be criticised for not knowing what they don't know, and haven't been educated about, but it is of greater concern that the Respondent's members did not seek clarification when faced by a complaint which left its members uncertain. At the very least the Respondent's members must have had a suspicion that something untoward had happened during the game to cause upset or offence. After all, in the letter sent to Mr Lawlor when dismissing the complaint, Miss Denny (acting in her role as Secretary to the Disciplinary Committee) pointed out that her Committee was dissatisfied because they required "*the offensive words*" to be detailed.
21. At the hearing of this appeal we sought to probe with Mr Gadd why his Committee did not seek clarification of the offensive words before dismissing the complaint. We were told that the Disciplinary Committee could not go back to the Appellant to ask questions because to do so would amount to an act of 'investigation' which they are not empowered to perform, and that such an approach would be to treat NIFL differently to

any other complainant. It was emphasised that the obligation rested with the Appellant to provide all relevant evidence/information in support of their complaint to enable the Respondent to assess whether it could be proved on the balance of probabilities, and that the Appellant could have elaborated on their concerns if they were dissatisfied with the Respondent's initial decision.

22. The Committee considers this explanation to be wholly unsatisfactory in the circumstances. First, it is quite wrong to suggest that it would be akin to investigating the complaint for the Respondent to simply ask the Appellant to specify the "traditional words" which were allegedly used. The 'investigation' had already been performed and the evidence had been gathered. That was the function of the Appellant. But it was unquestionably the role of the Respondent to seek out and clarify the meaning of the evidence when in its view (although not the view of this Committee) the meaning was so unclear or uncertain.
23. Second, there are many good grounds for disposing of complaints, but we know of no disciplinary committee in any sphere which would reject a complainant or victim's complaint on the basis that it could not be sure what precisely was being alleged. If the Respondent is unsure it must ask. This is the approach which is adopted in many walks of life, and it is our collective experience that it is certainly the approach deployed by many disciplinary and regulatory forums. Indeed, it is very often the case that participants in disciplinary and conduct processes must engage in protracted correspondence or conversation to ensure that precision and clarity is achieved. It is a common feature of human interaction that language is used which may not be wholly understood by the intended recipient. The transaction should not fail because of this, and certainly those with responsibility to oversee a legal or quasi-legal process must be prepared to work with the complainant, if necessary, to ensure that their concern is properly understood. We consider that this will often be a natural and inevitable part of the process of enabling the Respondent to be satisfied that a Notice of Complaint, if issued, would be capable of being proved on the balance of probabilities. We are satisfied that going forward this is a process which must apply to the Respondent, as much as it does to the IFA Appeals Committee, albeit in a different context.
24. Third, this practice of seeking clarification when it is necessary to do so should apply to the Respondent regardless of who the complainant is. It is unclear why the Respondent

should have been concerned, as was suggested to us, that they might be seen to be treating the Appellant differently, or more favourably, if it sought further information. The Respondent's submission in this respect presumably betrays the fact that it has always been its approach to allow 'one bite at the cherry' and not to seek further information, and that not exceptions should be made. For the reasons set out above, we consider that this is an unacceptable approach and one which is likely to lead to poor decision-making which will be to the detriment of the administration of football in this jurisdiction.

25. Plainly, there might come a time in particular cases when despite the Respondent's best efforts to obtain clarification, a complaint will remain vague or incoherent, and it will be necessary to conclude that a Notice should not be issued. That was not the case here, of course. The Respondent made no effort whatsoever to take steps to understand the basis for the Appellant's concern. Even after the Appellant reverted to the Respondent on the 29 September and particularised the traditional words of the song, the Respondent's decision remained unchanged, although we were told by the Respondent in oral submission that it would have been open to the Appellant to come back to the Respondent to elaborate on their concerns. It is clear that they did, but to no avail.

26. We remind ourselves that the alleged spectator misconduct took place on the 15 September 2023. Article 17.3 of the Code provides that a Notice of Complaint should be issued within 21 days from the time the incident is reported to the Secretary of the Committee. It is unclear why the further information supplied by Mr Lawlor did not then prompt the Respondent to issue a Notice of Complaint, as the time limit for doing so had not elapsed. We can only presume that the Respondent felt that it could not act because by that stage Linfield FC had been told, prematurely in our view, that they had no case to answer.

## **Conclusions**

27. The Committee finds that the Appellant's framing of the complaint by reference to "a short rendition of the 'Billy Boys' with the traditional words of the song" would ordinarily be sufficient to clarify and ground a complaint.

28. The Committee accepts the plainly correct submission on the part of the Respondent that had it been made aware of the views expressed by the UEFA Appeals Body and Appeals Committee of the IFA concerning the chanting or singing of the 'Billy Boys' song (whatever the lyrics) it would have taken judicial notice of those decisions and arrived at a decision to issue a Notice of Complaint.
29. The Committee considers it appropriate to adopt the words of the Appellant's Mr. Lawlor, that it seems 'astonishing' that the Respondent's members did not appear to understand the nature of the complaint that had been referred to them. Accordingly, the Committee recommends that the Irish Football Association should urgently review the training needs of those who participate in its structures, particularly those who may be tasked with grappling with and adjudicating upon the sensitive issue of sectarianism in football, as well as those who are employed to support those structures.
30. The Committee finds that notwithstanding the fact that the Respondent was unaware of the views expressed by the UEFA Appeals Body and Appeals Committee of the IFA concerning the chanting or singing of the 'Billy Boys', in the circumstances of this case it fell into error by failing to seek clarification from the Appellant in relation to the words which were used by the spectators when singing the 'Billy Boys' song so that its members could understand the nature of the complaint being raised.
31. Since the Respondent's members were clear that they did not know or were at best uncertain about the sectarian, discriminatory and offensive nature of the song, although that would have been obvious to very many people by reference to its title, the Respondent was obliged to seek clarification before determining whether a Notice of Complaint should be issued.
32. Accordingly, it is the unanimous decision of this Committee that this appeal shall be upheld.

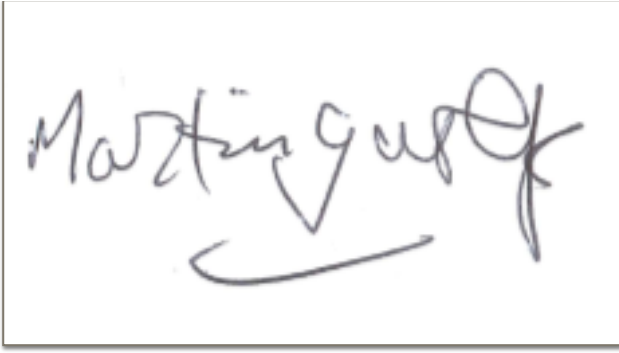
### **Next Steps**

33. The Respondent has sought clarification from the Appeals Committee on a number of issues. With regard to the issue raised at paragraph 32 of its submission, we are of the view that we should go no further than to highlight the overarching principle set out in the UEFA Appeals Body decision where it is stated that "*it is essential that any song*

*linked in any way to discrimination and sectarianism are prohibited on any football ground.*” This should guide the Respondent in its future approach to cases of this nature. It is plainly the case that when considering an alleged disciplinary infringement, the Respondent shall have regard to all of the features of the incident which combine to make up the context, and will take those features into account when determining whether the principle identified by UEFA has been violated.

34. We have determined that the necessary next step, applying Article 14(6)(e) of the Appeals Committee rules, is to refer this matter back to the Respondent for it to make a fresh decision whether to issue a Notice of Complaint to Linfield FC for breach of Article 32.2, 27.1 and 27.5.
35. It is important to emphasise that a decision concerning whether to issue a Notice falls within the jurisdiction of the Respondent, and although the views of this Committee on the subject matter are tolerably clear, it is not a decision to be taken by this Committee. When making a fresh decision, the Respondent is directed to take into account the guidance provided in the decisions referred to above, the clarification provided by the Appellant concerning the traditional words which were allegedly sung, and the guidance contained within this decision.
36. In its submission at paragraphs [34], [35] and [37], the Respondent has referred us to the time limits applicable to the issuing of a Notice of Complaint, and the availability of a discretion to extend time. This Committee is of the view that in circumstances where the Respondent fell into error when considering this case originally, the time limits contained within Article 17.3 cannot act as a bar to a fresh consideration of the issue raised by the Appellant’s referral. It is important that the original decision was made on the 20 September 2023, well within the prescribed time limits. In the alternative, there is a discretion held by the Respondent which would allow it to extend time, but in the circumstances we consider that in principle it is unnecessary to apply that discretion.
37. This matter should be considered by the Respondent and a fresh decision reached within 10 working days of the date hereof.

**Dated: 2 November 2023**

A rectangular box containing a handwritten signature in black ink. The signature is written in a cursive style and appears to read "Martin Wolfe". Below the signature is a long, horizontal, slightly curved line.

**Martin Wolfe KC**

**On Behalf of the Appeals Committee**