

Disputes Resolution Authority

An Córas Eadrána

www.sportsdra.ie

**In the Matter of the Code of the Disputes Resolution Authority
And
In the Matter of the Arbitration Act 2010**

Cumann Grattan Óg

Claimant

**Coiste Cheannais na gComortasáí Longfoirt agus
Coiste Éisteachta Laighean CLG**

Respondents

Background

1. Arising out of a match played on 16th April 2010 in the Longford Minor League, Division 1 final, an objection was lodged by Cumann Cluain Geis with Coiste Cheannais na gComortasáí Longfoirt alleging that Tadhg Ó Meachair who played in the final with Flipeadoiri Longfoirt was not eligible to play with Flipeadoiri Longfoirt for the following reasons:-
 - “(a) Tadhg O’Meachair was a registered youth member with Grattan Óg club which is his home club for the purposes of Rule 6.3 T.O. 2009 with whom he won a special juvenile league competition in June 2007 and with whom he also played in 2008.*
 - “(b) By playing with Flipeadoiri Longfoirt in the game in question Tadhg O’Meachair was in breach of rule 6.8 T.O 2009 which required him to apply for and obtain a transfer from Cumman Grattan Óg to Flipeadoiri Longfoirt before he could do so. No such transfer was applied for or granted by Coiste Chontae Longfoirt.”*
2. In response to the objection lodged by Cumann Cluain Geis, Flipeadoiri Longfoirt replied to Coiste Cheannais na gComortasáí Longfoirt stating that Tadhg O’Meachair was born on 10 October 1992 having moved to Longford in the summer of 2003 and in their letter to Coiste Cheannais na gComortasáí Longfoirt they stated that he had competed for Flipeadoiri Longfoirt at under 12 level in 2003 and 2004 and they were the first club with whom he legally participated and therefore Flipeadoiri Longfoirt was his “home club” as defined in Rule 6.3 T.O 2009.
3. Further documents and photographs purporting to be evidence of the fact that Tadhg O’Meachair played with Flipeadoiri Longfoirt at U12 level in 2003 and 2004 was furnished with the letter from Flipeadoiri Longfoirt to Longford CCC.

“Implementing the Disputes Resolution Code of the GAA”

4. At a meeting of Coiste Cheannais na gComortaisi Longfoirt on 17 May, 2010, the matter of the objection by Cluain Geis was discussed and the minutes of that meeting recorded that it was agreed to seek further information from Flipeadoiri Longfoirt regarding some of the correspondence furnished so that the matter could be further dealt with. Coiste Cheannais na gComortaisi Longfoirt decided to adjourn the matter.
5. The matter next came before Coiste Cheannais na gComortaisi Longfoirt at a meeting on 28th May, 2010 when a decision was made upholding the objection of Cluain Geis to the award of the special minor league division 1 final to Flipeadoiri Longfoirt under Rule 7.10(n)(i).
6. A notice of disciplinary action was then sent to the player Tadhg O'Meachair dated 8 June 2010 notifying him that he had been reported to have committed an infraction "that is to say failure to obtain a transfer" and the notice of disciplinary action proposed a 12 week suspension to Tadhg O'Meachair.
7. The Tribunal was also informed that the Chairman and Secretary of Flipeadoiri Longfoirt also received a proposed suspension of 12 weeks.
8. By e-mail dated 8 June 2010 the Secretary of Coiste Cheannais na gComortaisi Longfoirt, Mr Peter O'Reilly notified the Secretary of Flipeadoiri Longfoirt and the secretary of Cumman Grattan Óg (the Claimant) as follows:-

"At a meeting of Coiste Cheannais na gComortaisi Longfoirt, at which an objection by Cumann Cluain Geis to the award of the special minor league division 1 final played on 16th April at Allan Park to Flipeadoiri Longfoirt was heard. Following deliberations, the objection was upheld and it was proposed, seconded and adopted that for the purposes of Rule 6.3(1) that Tadhg Ó'Meachair was a player with Flipeadoiri Longfoirt".

9. The Tribunal were furnished with minutes of a meeting dated 2nd June 2010 of Coiste Cheannais na gComortaisi Longfoirt, which at paragraph 1 deals with the proposed suspension of Tadhg Ó'Meachair for 12 weeks and also states as follows:-

"It was further proposed, seconded and adopted that Tadhg Ó'Meachair's home club is Flipeadoiri Longfoirt and that he had not been granted a transfer from this club."

10. By letter dated 9 June 2010 Darach O'Nuallain, Secretary of the claimant club wrote to the Secretary of Coiste Éisteachta Laighean, appealing the decision of Coiste Cheannais na gComortaisi Longfoirt which had been notified to his club by e-mail on 8th June 2010. The Notice of Appeal from Darach O'Nuallain, to the Secretary of Coiste Éisteachta Laighean stated as follows:-

"In accordance with Rule 7.11 Official Guide 2009, Grattan Óg club wish to appeal against the decision of Coiste Smachta na gComortaisi Longfoirt CLG notified to the Club (see copy of e-mail sent tome on June 8, 2010 at 8.11pm). Coiste Smachta na gComortaisi Longfoirt breached rule 6.8 Official Guide 2009 by declaring that Tadhg Ó'Meachair's home club is Flipeadoiri Longfoirt, when it has been established that he has been a registered player with the Grattan Óg

club since 2005 and no transfer was sought or granted by the County Committee since then as required by Rule 6.8 Official Guide 2009. The decision is ultra virus, illegal and contrary to the rules and spirit of the Official Guide as the CCCC are not vested with the powers to make such a declaration and their decision is tantamount to discrediting the Association."

11. In reply to this letter on 18 June 2010, Aindrias Ó'Súilleabháin, the Secretary of Coiste Éisteachta Laighean wrote as follows:-

"I wish to advise that your Cumann's appeal will not be heard by Coiste Éisteachta Laighean as Grattan Óg were not directly involved in the objection as per Rule 7.11(a)"

12. This decision from Coiste Éisteachta Laighean was appealed by the Claimant's to An Lár Choiste Achomhairc, Páirc an Chrócaigh by letter of appeal dated 21 June 2010. The decision of An Lár Choiste Achomhairc was to uphold the grounds of appeal and a reply from Peadar Ó hArgáin, Runai An Lár Choiste Achomhairc dated 30 June 2010 stated as follows:-

"Following consideration of each of the points raised in your appeal An Lár Choiste Achomhairc finds as follows:-

That Coiste Éisteachta Laighean erred in deciding not to hear your appeal as submitted contrary to Rial 7.11 T.O 2009

An Lár Choiste Achomhairc upheld this ground of appeal finding that the notice issued by Coiste Cheannais na gComortaisí Longfoirt on 8th June, in addition to being a notice of a decision on the objection, to which your club is only a third party without right of appeal, also constituted a notice of a further decision regarding the playing eligibility of Tadgh Ó'Meachair. Consequently a right of appeal therefore exists in relation to the latter decision formally notified to your club."

The matter was therefore remitted by An Lár Choiste Achomhairc to Coiste Éisteachta Laighean with a recommendation that the appeal be dealt with under Rule 7.11 T.O on the basis that the claimant club had a "right of appeal" under Rule 7.11(a)(2) in relation to the second decision taken by Coiste Cheannais na gComortaisí Longfoirt and notified to the Claimant.

13. By letter dated 1 July 2010, Aindrias Ó Súilleabháin, Runai Coiste Éisteachta Laighean notified the Secretary of the Claimant Club that their appeal against the decision of Coiste Cheannais na gComortaisí Longfoirt would be heard at a meeting of Coiste Éisteachta Laighean on Thursday 8th July 2010. The letter to the Secretary of the Claimant dated 1st July 2010 also stated as follows:-

"I am to advise in advance that the meeting will deal only with the rules alleged to have been infringed or misapplied as contained in the appeal"

14. The Tribunal was furnished with a detailed document called "*Appeal Submission*" which the Claimant presented to Coiste Éisteachta Laighean in the course of presenting their appeal on 8th July 2010.

15. By letter dated 9th July 2010 from Aindrias Ó'Súilleabhán, Runai Coiste Éisteachta Laighean, the Claimants were notified as follows:-

*"Coiste Éisteachta Laighean ruled that the appeal was lost.
This decision was taken pursuant to rule 7.11(m) T.O 2009."*

16. The minutes of the meeting of Coiste Éisteachta Laighean on 8th July 2010 do not contain much detail in relation to the Claimant's appeal to them. The minutes simply record details of the members present and the decision as communicated to the Claimant. Neither the notification of the decision or the minutes of the meeting of Coiste Éisteachta Laighean contain any reasons for the decision except the statement in both documents that "*this decision was taken pursuant to Rule 7.11(m) T.O 2009*".

Claimant's Submissions

The Claimant was represented by Mr James Clarke who made submissions to the Tribunal as follows:-

1. Mr Clarke stated that this case was about a Mr Tadgh Ó Meachair who the Claimant says first played officially for Grattan Óg. Mr Clarke pointed out that Tadgh Ó'Meachair had played illegally on 16th April 2010 in the minor league final and that an objection lodged by the losing team, Cluain Geis had been upheld as a result of which the Chairman and Secretary of Flipeadoiri Longfoirt and the player in question had been suspended. It was submitted that at the same meeting during which the suspension was proposed on 2nd June 2010, Coiste Cheannais na gComortaisi Longfoirt made a decision that the player was a Flipeadoiri Longfoirt player and notified this decision to Grattan Óg on 10th June as a result of which the appeal referred to above took place.
2. Mr Clarke pointed out that the parish of Temple Michael and Ballymacormack in Longford is shared by three clubs, namely Flipeadoiri Sraid, Flipeadoiri Longfoirt and Grattan Óg and there is no designated club boundary dividing these clubs.
3. Mr Clarke pointed out that Rule 1.9 of T.O is a contract between all of the members and all of the units of the GAA and the GAA as a body. He referred the tribunal to DRA 02/2005 and paragraph 72 of same which refers to the obligation of the DRA Tribunal in that case to interpret the rules as they are not as they might wish them to be and he submitted that this was a case where the rules had to be strictly interpreted.
4. Mr Clarke stated that the Claimant's case was that because Tadgh Ó Meachair never got a transfer to Flipeadoiri Longfoirt he couldn't play for them. He pointed out that Coiste Éisteachta Laighean, in their reply to the Request for Arbitration at paragraph 4 accepted the facts as outlined and the reply of Coiste Cheannais na gComortaisi Longfoirt, at paragraph 4 also accepts the facts as outlined save and except paragraph 4 of the response from Coiste Cheannais na gComortaisi Longfoirt goes on to say that

"Implementing the Disputes Resolution Code of the GAA"

“Coiste Cheannais na gComortaisi Longfoirt made no decision on the said players home club but were just confirming the status of the player”. Mr Clarke submitted that there was no disputing the facts of the case and he is entitled to the relief that he is claiming. He sought a direction from the Tribunal in these terms.

5. In response, Mr Jackson BL on behalf of both respondents said their case was that Mr Tadgh Ó’Meachair had played for Flipeadoiri Longfoirt in 2003 and was playing legally for them. At no other time was he legally entitled to play for either Grattan Óg or Flipeadoiri Longfoirt. He said his case would be that Tadgh Ó’Meachair had played illegally for Grattan Óg in 2005, 2006 and subsequent years and was also playing illegally for Flipeadoiri Longfoirt in the minor final played in April 2010.
6. Mr Jackson said his clients were left in a situation where having proposed a suspension to Mr Tadgh Ó’Meachair for playing illegally he could be left without a club and a decision was made as to who he could legally play for. He said his clients had looked at the definition of home club in Rule 6.3 T.O 2009 and he quoted from the definition of home club in that clause. He said that a decision was then taken by Coiste Cheannais na gComortaisi Longfoirt based on all the information available to them that this player’s home club was in fact Flipeadoiri Longfoirt and the declaration they made was simply made to clarify his status.
7. Mr Jackson also submitted that the response form filed by both Respondents does not actually require a formal Defence to be filed. It simply seeks to clarify whether facts alleged by the Claimant are agreed or not.

The Tribunal retired to consider the application for direction made by Mr Clarke on behalf of the Claimants and the decision of this Tribunal was to refuse the application for a direction.

8. Mr Clarke in his submissions disputed the statement made by Flipeadoiri Longfoirt in response to the objection by Cluain Geis wherein Flipeadoiri Longfoirt stated that Tadgh Ó’Meachair had first played for them in 2003. Mr Clarke raised a question as to whether this player ever played for Flipeadoiri Longfoirt. He referred to the fact that a photograph was produced by Flipeadoiri Longfoirt to Coiste Cheannais na gComortaisi Longfoirt together with some club notes but that these documents were not evidence that the player had ever played for Flipeadoiri Longfoirt. He stated that the relevant date is the date on which a player first played for a club. He referred the Tribunal to DRA 02/2009 at paragraph 2 which dealt with similar issues. He said he does not dispute club notes submitted by Flipeadoiri Longfoirt to Coiste Cheannais na gComortaisi Longfoirt showing that Tadgh Ó’Meachair went on a bus trip to Croke Park but he said that there was no evidence by way of documents showing that Tadgh Ó’Meachair had ever played for Flipeadoiri Longfoirt.
9. Mr Clarke referred the tribunal to the fact that a decision was taken by Coiste Cheannais na gComortaisi Longfoirt to deal with the status of the player in question without ever carrying out any investigation and without ever giving Grattan Óg an opportunity to be heard in the matter. He referred to the letter dated 31st May 2010 from Runai Chontae Longfoirt to Flipeadoiri Longfoirt notifying them of the decision regarding the objection. He said this decision was very clear in its terms. He referred

to the notice of disciplinary action which clearly stated that the infraction committed was a failure to obtain a transfer. Mr Clarke submitted that the decision to deem the player a Flípeadoiri Longfoirt player was done without reference to Grattan Óg, no investigation was carried out by Coiste Cheannais na gComortaisi Longfoirt before the decision was made and he specifically pointed out that Rule 7.4(a) T.O allows the Coiste Cheannais na gComortaisi Longfoirt to investigate the status of any player.

10. Mr Clarke further posed the question that if Coiste Cheannais na gComortaisi Longfoirt believed, as they were now apparently suggesting, that Tadhg Ó'Meachair had played illegally for Grattan Óg between 2004 and 2010 then why had they not brought any disciplinary action against the Chairman and Secretary of Grattan Óg?
11. Mr Clarke submitted that during the appeal to Coiste Éisteachta Laighean, an issue was raised as to the correct version of T.O 2003 which he submitted was the T.O in force at the time Tadhg Ó'Meachair was alleged to have first played for Flípeadoiri Longfoirt. He submitted that the Irish version prevails over the English version in the event of a conflict and he pointed out that there was a discrepancy between the two versions but he said it would be incorrect to deem this as a conflict between the English and Irish version but he said it might be more correct to say that there was a mistake made in translation. The English version of T.O 2003 at Rule 33 deals with the definitions of home club and Mr Clarke submitted that based on the English version of 2003, home club is defined as the club at which a player first legally participated in official club competition (ie U16 or over). He submitted that this player was a free agent to play for whoever he wished until he first played at an official under 16 competition for the club and the club Tadhg Ó'Meachair first played under 16 for was Cumann Grattan Óg.
12. The definition of a home club in the Irish version of T.O 2003 in the section dealing with declarations for a home county clearly used the definition as being that of a player who first played in an official U16 competition or over. Reference to the U16 age bracket is omitted from the actual section dealing with definition of home club later in the same rule but Mr Clarke submitted that the rule must be read as a whole and the definition of home club in T.O 2003 refers to "official competition" and the definition of an official competition had already been clearly dealt with under the section dealing with home county. In any event, he said that where there was an ambiguity in the rules those rules must be interpreted against the respondents.
13. Mr Clarke made submissions to the tribunal based on minutes of the Special Congress which debated the proposed change to the rule book in 2004. He also referred the Tribunal to paragraph 70 of DRA 02/2009 where there is a reference to "lack of control in the GAA over juveniles at under 16 level". Mr Clarke submitted that this was evidence that at under 16 level, players were free agents until such time as they first played under 16 championship for a club which would then be their home club. This was the situation which pertained until the changes made at Special Congress in October 2004.
14. Mr Clarke submitted that it was very contradictory for Coiste Cheannais na gComortaisi Longfoirt to propose a suspension to a player for playing with Flípeadoiri Longfoirt in a particular match and in the same decision deem the player to be a Flípeadoiri Longfoirt player.

15. Mr Clarke submitted to the Tribunal that the photographs furnished to Coiste Cheannais na gComortaisi Longfoirt and to Coiste Éisteachta Laighean by Flipeadoiri Longfoirt did not in fact give any indication that Tadhg Ó'Meachair was in the photographs. He also submitted that the club notes which he furnished to the tribunal and which were submitted to local press by Flipeadoiri Longfoirt giving names of squad members and names of teams did not at any stage mention Tadhg Ó'Meachair.
16. He furnished to the Tribunal a photograph of Stone Park National School team and pointed out that Tadhg Ó'Meachair is in this photograph. He submitted that players from this national school play for Grattan Óg and the school is next to the Grattan Óg club grounds. He pointed out that Grattan Óg had affiliated Tadhg Ó'Meachair as a member in 2006 and produced a photograph of the Grattan Óg team in 2006 from 15 September showing Tadhg Ó'Meachair in the paper and he also furnished evidence to the Tribunal that the player had played for Grattan Og in October 2007 and again in May 2008.
17. He referred the tribunal to the list of players affiliated by the secretary of Grattan Óg in 2009 showing that Tadhg Ó'Meachair was registered as a Grattan Óg player. He referred the tribunal to paragraph 6.2(b) of T.O 2009 which states that a player cannot be a member of a club for which he is ineligible to play. He pointed out that Flipeadoiri Longfoirt had also registered Tadhg Ó'Meachair in 2010 but that this did not mean he could legally play for Flipeadoiri Longfoirt.
18. Mr Clarke pointed out that the decision of An Lár Choiste Achomhairc was that the decision by Coiste Cheannais na gComortaisi Longfoirt notified on 8th June 2010 also constituted a notice of a further decision on the playing eligibility of the player and that therefore they were entitled to an appeal to Coiste Éisteachta Laighean. He said this showed Coiste Cheannais na gComortaisi Longfoirt had made a decision on the player's eligibility but had carried out no investigation whatsoever. He pointed out that in the Claimant's submissions to Coiste Éisteachta Laighean in the course of presenting their appeal the fact that a decision was made without them having had a chance to make their case was clearly made to Coiste Éisteachta Laighean.
19. Mr Clarke questioned how Coiste Éisteachta Laighean could have rejected the appeal taking into account paragraph 7.11(m)(ii) of T.O 2009 which in setting out the limited circumstances in which Leinster Council or a provincial council can uphold an appeal points out that an appeal can be upheld where the provincial Council finds that there had been a breach of fair procedures in the manner in which the original hearing had been conducted. Mr Clarke pointed out that the minutes of the meeting where the Claimant's case was heard by Coiste Éisteachta Laighean give no explanation for their decision.
20. Mr Clarke further submitted that an estoppel applied here and the Respondents were not entitled to deny that the player was a Grattan Óg player for 5 years in the circumstances where they got the registration forms each year showing that the player had been registered by Grattan Óg as one of their players.

Submissions by the Respondents

~Implementing the Disputes Resolution Code of the GAA~

Counsel for the Respondent, Mr Jackson pointed out that Flipeadoiri Longfoirt in dealing with the objection had defended the objection on the basis that the player was theirs in 2003 and 2004 and had subsequently gone to play illegally with Grattan Óg. He pointed out that both Flipeadoiri Longfoirt and Grattan Óg were alleging the player was illegally playing with the other team and in considering the submissions made to Coiste Cheannais na gComortaisi Longfoirt, his client had to decide on the entire case before them. He said his client, Coiste Cheannais na gComortaisi Longfoirt had in effect decided that this player was, at the time of the objection to the match in April 2008 “doubly illegal”. He said the player could not have been declared a Grattan Óg player by Coiste Cheannais na gComortaisi Longfoirt as he was never transferred to them.

In relation to the definition of a home club, Mr Jackson referred to T.O 2001 where there is no reference to under 16 as being the age bracket to define when a player first plays legally with a club. He said that the Irish version of T.O in 2003 is identical to the Irish version in 2001 and he said that the correct rules to be applied are the 2003 version and in applying these rules, this player was a Flipeadoiri Longfoirt player.

Mr Jackson also pointed out that transfers were taking place at under 16 level and below during the period when this player was playing illegally with Grattan Óg and Grattan Óg were party to some of these transfers so it is therefore not correct to say that these players were completely free agents entitled to play for whom they wished up to the age of 16.

Mr Jackson said there should have been a transfer from Flipeadoiri Longfoirt to Grattan Óg in order to enable the player to play with Grattan Óg in 2005.

Mr Jackson submitted that the decision of Coiste Cheannais na gComortaisi Longfoirt left the player at risk of having no club. He had played illegally for two clubs and Coiste Cheannais na gComortaisi Longfoirt took it upon themselves to designate the player a Flipeadoiri Longfoirt player on the basis that the only decision they could come to was to deem Flipeadoiri Longfoirt as his home club since he had, in their view, first legally participated under the terms of T.O with the Flipeadoiri Longfoirt club.

In relation to the issue of whether or not an investigation had been carried out into the player’s status, Mr Jackson submitted that Coiste Cheannais na gComortaisi Longfoirt had received a lot of documentation during the course of the objection and the documentation supplied to the Committee by Cluain Geis had in fact been supplied to Cluain Geis by Grattan Óg to assist them in the preparation of the case. He said that Grattan Óg knew all about the objection and the issues involved.

In relation to submissions made by Mr Clarke, Mr Jackson pointed out that the player was not before the Tribunal and they had a letter from him confirming that did not want to play for the Claimant and he wanted to play for Flipeadoiri Longfoirt. It also states that he had played for Flipeadoiri Longfoirt in 2003/2004. Mr Jackson submitted that there was no minor football available with the Claimant in 2009 and the Tribunal could hear from the player if they wished but that would have to take place on an adjourned date. He said that the player was over 18 in October and there would be no games left for him with the Claimant in 2010 as the club were out of the championship. Mr Jackson said he wanted to reserve the position

on evidence from the player and submitted that the Irish version of the T.O 2003 must prevail. He referred to Rule 9 of T.O 2009 in this regard.

Mr Jackson called Mr Hughes, a member of the Flípeadoiri Longfoirt club who gave evidence that he was from Longford Town and had been involved with the club as both a player and an official. He said that since 2002 he had been involved with the juveniles and in 2002 he was a selector with the U12 team. In 2003 he was manager of the U12 team. He said Tadhg Ó'Meachair came to Longford during 2003. He generally played at corner-forward and as far as he could recall he played in 3 matches but did not play in the U12 final in 2003. Under cross examination from Mr Clarke Mr Hughes said he did not know the exact date in question but it definitely was in 2003. He was asked to explain why Tadhg Ó'Meachair was not mentioned in club notes which had been furnished and Mr Hughes said he had a photograph of Tadhg Ó'Meachair at the U12 presentation but hadn't brought it with him. He said he could recall the games he played in and who referred the games. He gave evidence to the tribunal of a game that had been played and named the referee.

In response to a question from the Chairperson of the Tribunal, Mr Hughes said that Tadhg Ó'Meachair had played U12 football in the championship in August 2003 for Flípeadoiri Longfoirt but hadn't been played in the final game.

Further Submissions by the Claimant

In response to submissions made by the Respondents, Mr Clarke handed in the English version of the T.O 2003 and pointed out that the U16 clause is contained in the definition of home club. He said it was open to CCC Longfoirt to suspend Grattan Óg officials if they felt that this player played illegally with them. He re-affirmed his earlier submission that up until U16 level, before 2004, players were unattached and in relation to the Respondent's submission that this player would be a free agent when he reached the age of 18, this was not so and submitted that the player can only apply for a transfer when he reaches the age of 18, after that it is up to the County Committee to grant or refuse his request for a transfer.

The Tribunal retired to consider the position and the parties were recalled to deal with two further queries from the Tribunal which were as follows:-

- The Tribunal asked for submissions on the date in which the T.O 2003 came into effect, given that it was published in December 2003 and
- The Tribunal asked for submissions on the issue of the narrow basis on which a person can bring an appeal to Coiste Éisteachta Laighean. The Tribunal pointed out that Coiste Éisteachta Laighean are confined, under Rule 7.11(m) to dealing with the issues raised in the notice of appeal and the parties were asked for submission on whether or not Coiste Éisteachta Laighean could have considered the fair procedures argument in dealing with the appeal.

The Claimant, through Mr Clarke submitted that the Rule Book changes take effect one month after a motion is passed at Congress and he referred the Tribunal to Page 40 of T.O 2009, paragraph (g). Mr Jackson agreed but pointed out that the 2001 and 2003 rule books in Irish are identical and that the appropriate rule book to look at is 2001 if the Tribunal felt there was any ambiguity over the 2003 version.

Mr Clarke pointed out in relation to the issue of the narrow appeal to Coiste Éisteachta Laighean that page 131 T.O 2009, Section (e), paragraph (1) sets out what an appeal shall contain and he said that an Appellant is obliged to set out the grounds of appeal detailing the specific rules claimed to have been infringed. He said that in substantiating the appeal when put before Coiste Éisteachta Laighean the fair procedures point was fully pleaded and he referred the Tribunal to the written submissions presented to Coiste Éisteachta Laighean which do in fact contain submissions regarding the fair procedures issue. He referred the Tribunal to Rule 17 of T.O 2009 being the arbitration clause and pointed out that this Tribunal was sitting as an arbitration body and the role of the Tribunal is extended to considering the decision of Coiste Éisteachta Laighean particular given their restricted powers of appeal. He said that Coiste Éisteachta Laighean were at all times on full notice that the fair procedures point was being made and the decision of Coiste Éisteachta Laighean was made in full knowledge that this point had been argued before them.

The respondent through Mr Jackson pointed out that the notice of appeal did not raise the fair procedures point and in any case before the DRA it would be extremely unfair on any Respondent if the DRA decided a case on grounds which were not open to the Respondent to consider when the matter was before them.

DECISION OF THE TRIBUNAL

The Code of the Disputes Resolution Authority requires confirmation from Claimants who appear before the Tribunal, that all available avenues under T.O. have been exhausted.¹ The Tribunal is thus confined to dealing with the appeal brought by the Claimants Grattan Óg to Coiste Éisteachta Laighean.

T.O. 2009, Rule 7.11(m) dictates that the appeal is limited to matters raised in the Appellants appeal as originally lodged.

An Appeal shall be limited to the matters raised in the Appellant's Appeal as originally lodged and shall be upheld only where (i) there has been a clear infringement or misapplication of Rule by the Decision Maker or (ii) the Appellant's right to a fair hearing has otherwise been compromised to such extent that a clear injustice has occurred. No determination of fact by the Decision-Maker shall be set aside unless shown to be manifestly incorrect.

The Claimants have raised Rule 7.11(e) as citing what can be contained in the submission of an appeal. The Tribunal finds that Rule 7.11 (e) is not restrictive in its terms of what can be included in the Notice of Appeal.

However, Rule 7.11.m restricts the substance of the appeal to what is contained in the appeal as originally lodged.

The Claimants in their notice of appeal to Leinster did not raise the issue of breach of fair procedures and only raised an issue with regard to Rule 6.8 T.O. 2009. As such, Coiste Éisteachta Laighean was confined to dealing with only Rule 6.8 T.O. 2009.

An Lár Choiste Achomhairc held that Comhairle Eisteachta Laighean had erred in deciding not to hear Grattan Óg's appeal as submitted and the matter was remitted to Comhairle Eisteachta Laighean under Rule 7.11.n(ii). By letter dated 1st Iúil 2010, Comhairle Eisteachta

¹ Par 2.1.e DRA Code

Laighean notified Grattan Óg of the hearing of the appeal and advised that the meeting would deal only with rules alleged to have been infringed or misapplied as contained in the appeal. It was open to the Claimants to raise or appeal this restriction with An Lár Choiste Achomhairc but this has not occurred. Therefore, this Tribunal is confined to dealing with the Claimants appeal under Rule 6.8 as contained in their Notice of Appeal dated 9ú Meitheamh 2010 and cannot deal with any fair procedures argument advanced by the Claimants at this hearing.

Evidence was submitted on behalf of the Respondents by Mr. Kevin Hughes that Tadhg Ó Meachair had first participated in an officially recognised club competition for Flipeadoiri Longfoirt at the latest date in August 2003. On the balance of probabilities, this Tribunal accepts this evidence. The Tribunal does not feel it necessary or appropriate that the player involved, given his age, be required to attend to give this evidence.

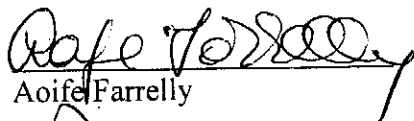
The next issue which arises for the Tribunal to determine is which rules applied on or about August 2003 regarding the question of Home Club. T.O. 2003 was not published until December 2003. The Claimants raised the issue that any motion to change the Rules took effect 1 month after the adoption of the motion. This was accepted by the Respondents.² The Claimants did not provide the Tribunal with details of any any motion that amended the relevant Rules between 2001 and December 2003 or earlier with respect to Home Club.

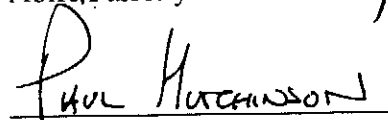
In any event, the Irish version of this rule has not changed between T.O. 2001 and T.O. 2003. Rule 9 of T.O. 2003 (Rule 1.6 of T.O. 2009) is clear that the Irish version of the rules shall prevail in the event of a conflict. The Tribunal accepts that there is a clear conflict within the meaning of the Rules on the definition of Home Club between the Irish and the English version of T.O. 2003. On this basis the Tribunal finds that the Home Club of Tadhg Ó Meachair is determined with reference to T.O. 2001 Rule 31 as the club with which he legally participated for the first time in officially recognised club competition, which in the circumstances is Cumann Flipeadoiri Longfoirt. The first named Respondents were therefore entitled to deem Tadhg O'Meachair a Flipeadoiri Longfoirt player.

The Tribunal dismisses the claimant's appeal.

The costs of the Tribunal are to be borne by the claimant.

As no special circumstances exist, party costs are awarded to the Respondents.


Aoife Farrelly


Paul Hutchinson


Brendan Ward

Dated: 26th August, 2010

² Rule 3.43 (g)