

Disputes Resolution Authority

An Córas Eadrána

DRA 01 of 2017: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

Between:

CUMANN PEIL TOMAS DAIBHIS (THOMAS DAVIS)

Claimant

v.

COISTE CHOISTE CONTAE BAILE ATHA CLIATH CLG (DUBLIN GAA)

First Named Respondent

COISTE EISTEACHTA LAIGHEAN (LEINSTER HC)

Second Named Respondent

AND

DRA 02 of 2017: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010

CUMANN PEIL TOMAS DAIBHIS (THOMAS DAVIS)

Claimant

v.

COISTE CHOISTE CONTAE BAILE ATHA CLIATH CLG (DUBLIN GAA)

First Named Respondent

AN LAR CHOISTE ACHOMHAIRC (CAC)

Second Named Respondent

COISTE EISTEACHTA LAIGHEAN (LEINSTER HC)

Interested Party

Hearing: Louis Fitzgerald Hotel, Naas Road, Dublin at 7.30pm on 6 March 2018

Tribunal: Micheál O'Connell BL, Eamonn Denieffe and John Healy

Secretary to the DRA, Rory Hanniffy BL

VERDICT: The claim is dismissed.

KEYWORDS: *“Championship” - multiple championships within single grades - whether permissible - whether a County may conduct more than three club championships - Official Guide, Rules 3.1(c), 3.9, 6.21,*

Competition Regulations - variation - “annual basis” - whether Competition Regulations may be altered twice between Annual Conventions - Official Guide, Rule 3.19(d), 6.21

“Rescindment” of decisions - whether variation of competition Regulations is a rescindment of a decision - Official Guide, Rules 3.19(d), 4.3

Arbitration - time limits - running of time - where appeal by County from decision of Provincial Council pending

LIST OF ATTENDEES:

Cumann Peil Tomas Daibhis (Thomas Davis)

Dominic Finnegan
David Kennedy
Enda O’Toole

Coiste Choiste Contae Baile Atha Cliath CLG (Dublin GAA)

Sean Shanley
Mick Seavers
John McNicholas
Donie Kerin
John Costello
Gerry McGreevy

Coiste Eisteachta Laighean (Leinster HC)

John Byrne
John McMahon

An Lar Choiste Achomhairc (CAC)

Matt Shaw
Brian Rennick
Bernard Smith

FACTUAL BACKGROUND

1. The Claimant is a club in the County of Dublin which heretofore has fielded teams at senior, intermediate and junior levels within the football championships organised by the First-named Respondent, Dublin County Committee (hereinafter "*The County Committee*").
2. For some time prior to the decision being challenged here the issue of competitiveness in the senior football championship within Dublin has been a cause for concern and the first mention of it brought to our attention was an email circulated to all clubs on 17 February 2016 positing the notion of a two-tiered senior championship whereby the 32 teams theretofore contesting the Senior Championship would be split into two tiers of 16. At the time (as notified to the County Committee by email of 1 March 2016, the Claimant (perhaps unsurprisingly) voiced its lack of desire to be competing in a senior "B" division. Committee minutes, both of the Dublin Competitions Control Committee and Coiste Peil, an informal committee made up of delegates from all clubs, discussed the matter at various stages. We note that the matter rose to the level of the County Committee at a meeting at 3 July 2017, at which the idea of a potential structure for this new proposal was expressed as follows:

***"Club Championship Restructuring Proposals:** M. Seavers and J. McNicholas presented proposals for the restructuring of the county football championships at adult level. The revised format is as follows:-*

Senior Football 'A' Championship -16 Clubs

- 4 Groups x 4 Clubs
- Top two clubs from each group advance to quarter-finals (open draw)
- Eventual winner represents Dublin in Leinster Club Senior Championship
- Bottom club in each group play in a relegation play off (open draw)
- Eventual loser relegated to Senior Football 'B' Championship for following year

Senior Football 'B' Championship -16 Clubs

- 4 Groups x 4 Clubs
- Top two clubs from each group advance to quarter-finals (open draw)
- Eventual winner promoted to Senior Football 'A' Championship for following year Bottom club in each group play in a relegation play off (open draw)

- *Eventual loser relegated to Intermediate Football Championship for following Year*

3. The minutes show that 62 of the delegates at that meeting (including the Claimant's delegates) voted in favour of the idea at that time. The Claimant argued that there was little by way of detail at that stage, although it is rather difficult to agree with that in light of what is recorded in the minutes.
4. The matter received attention at a CCC meeting of 7 November 2017, the minutes of which record as follows:

“Senior Football Championship 2018. The Committee agreed the two groups of 16 teams which will compete in the SFC A or B in 2018. These groups were calculated on a points system based on performance in Senior Football Championships from 2013 to 2017 inclusive.”

5. These minutes were not circulated to delegates in advance of the next County Committee meeting scheduled for 12 December 2017. Furthermore, a report was prepared by the Secretary of the CCC in relation to the issue and the Claimant points out that this was not provided to club delegates on the County Committee until the evening of the meeting itself on 12 December 2017. This Secretary's report laid out in greater detail the proposal for this two-tier structure, including a methodology for how the teams would be split based on performance from 2013 to 2017, and a workout of the points that would be allocated to each club based on the proposed methodology (there was a suggestion that there may be errors in this but the correctness or otherwise of such calculations is not a matter for this arbitration).
6. However, although the delegates did not have the minutes of the CCC meeting at any time prior to the meeting of 12 December 2017 and only had the report of the Secretary of the CCC on the night in question, it is clear that draft Competition Regulations drawn up by the CCC for ratification by the County Committee had been circulated to the Secretaries of all clubs on 6 December 2017 i.e. six days prior to the County Committee meeting of 12 December 2017.

7. The minutes of the County Committee meeting of 12 December 2017 record (and it was not disputed by the Claimant) that the draft Competition Regulations were adopted on a unanimous vote (including the votes of the delegates present on behalf of the Claimant).
8. An appeal was lodged on 15 December 2017 against the decision of the County Committee on grounds which have largely being replicated in the within arbitration.
9. The annual convention for the County of Dublin was held on 18 December 2017 and in the course of discussions regarding the content of the report of the Secretary of the CCC (i.e. the document circulated at the County Committee meeting of 12 December 2017) assurances were sought and given that the calculation of points on foot of the new Competition Regulations were not final. In circumstances where the minutes of the Convention were considered to be unclear about that question, a further appeal was lodged by the Claimant on 21 December 2017 on what it referred to as a “protective” basis.
10. The appeals lodged on 15 December 2017 and 21 December 2017 were both scheduled to be heard together on 31 January 2018. In advance of the hearing, further assurances were given (which were confirmed on behalf of the County Committee at the hearing of this arbitration) that the methodology by which the performance of teams from 2013-2017 would be assessed to determine the intended subdivision of the Senior Championship, had not been decided, and the appeal lodged on 21 December 2017 was withdrawn.
11. The appeal lodged on 15 December 2017 proceeded and was upheld by Leinster Hearings Committee by decision dated 2 February 2018 on a single ground, namely misapplication of Rule 3.19(d), which empowers a County Committee to make Competition Regulations in the following terms:

“(d) To make Regulations governing:

- (i) *Competitions under its control but shall not place restrictions on the Competitions Control Committee in its scheduling of Games, and*
 - (ii) *Other matters incidental to its powers, functions and operations.*
- A Regulation once adopted shall remain in force unless altered or deleted by a simple majority of those present, entitled to vote and voting.*
- Alterations may be considered only on an annual basis."*

12. The decision of Leinster Hearings Committee was grounded on the proposition that Competition Regulations could only be made once in each year running from County Convention to County Convention, and that, since the 2017 Competition Regulations had been made in February 2017, the 2018 Competition Regulations could not validly be made until after the next-ensuing County Convention (which was held on 18 December 2017).
13. The County Committee, as it was entitled to do, appealed that decision to the Central Appeals Committee.
14. In the meantime, concerned that it had only 7 days to challenge any decision by way of arbitration, the Claimant commenced the arbitration proceedings now before us under Record No. DRA 01/2018, alleging that the decision of Leinster Hearings Committee rejecting its other grounds of appeal was unlawful. It is necessary to consider that course of action here. As matters stood, when DRA 01/2018 was commenced, the decision of the County Committee had been quashed. There was therefore no operative decision to challenge before the DRA and therefore no substantive relief that the DRA could grant.
15. In a case where there is no appeal by the unsuccessful County to the CAC, the substantive decision must be approached again and the party who put the matter back for a new decision does not need to and should not pursue a legal challenge based on its lack of success on other grounds. Any such challenge is premature, because there is no guarantee that the same decision would be made again by the County Committee and, if it is made again and on the grounds not upheld on appeal, those grounds can be argued for a second time around. It is only if

the appellate committee refuses the relief sought that a case may be taken to the DRA: on that occasion, the DRA can grant a substantive remedy that has been refused to the intending claimant.

16. In this case, there was an appeal taken to the CAC, and it is perhaps understandable that a challenge might be brought. Evidently, it was felt that if that appeal succeeded and no challenge had been brought to the DRA within 7 days of the Leinster Hearings Committee decision, it might be held that time had run on the Claimant.
17. In our view, the proper and sensible interpretation of the DRA Code weigh against any requirement of commencing “conditional” or “protective” arbitration proceedings pending a limited appeal by a County to the CAC. As we have said, there is nothing to challenge when the decision is quashed, and time in such a case only begins to run if and when that decision is reinstated as a result of the decision of CAC. In that context, the party unsuccessful before the CAC can bring its legal challenge based not only on the narrow grounds that might have been raised before the CAC but also on the grounds on which it was unsuccessful in the “conventional” appeal (in this case before Leinster Hearings Committee).
18. Returning to the appeal taken by the County Committee, this matter was dealt with by the CAC on 13 February 2018 and by decision dated 15 February 2018 the decision of Leinster Hearings Committee was reversed on the point decided against the County Committee. The CAC reasoned that Rule 3.19(d) has the effect or purpose of preventing a County from altering its current regulations in a given year in such a way as would interfere with competitions in progress, but that that was not what had happened in the instant case.
19. Following the decision of the CAC, the Claimant commenced the second set of arbitration proceedings bearing Record No. DRA 02/2018.

20. For the reasons discussed above, we consider that the decision in this case is properly made under the second arbitration (DRA 02/2018). Not a lot turns on this because we consider that all of the grounds raised in DRA 01/2018 are replicated therein. However for future reference, we consider it advisable to make clear that, where a provincial hearings committee quashes a decision of a county committee and that county committee exercises its right to appeal to the CAC, the 7-day time period for the party that succeeded before the provincial hearings committee to lodge a claim before the DRA in respect of any aspects of the decision of the provincial hearings committee that tended to uphold the original decision of the county committee, does not begin to run until the CAC has given its decision.

THE HEADS OF CLAIM AND DEFENCE

21. Although a number of rules of the Official Guide have been cited in argument, the claimant's case can readily be characterised as having four fundamental components:
- (a) The timing of the decision
 - (b) The rescindment of previous Competition Regulations
 - (c) The substantive entitlement to create a "B" or "2nd" division within a senior championship, and
 - (d) Breach of fair procedures.
22. By way of defence, apart from contesting the above grounds of challenge, the County Committee argues that the Claimant cannot challenge the decision having acquiesced and voted in favour of it.
23. We will address all of these in turn, save that we consider it appropriate to deal with the fair procedures argument and the acquiescence defence together as they turn on largely the same material.

DISCUSSION

Issue (a): Competition Regulations on an annual basis

24. The first procedural challenge turns on Rule 3.19(d), the ground upheld by Leinster Hearings Committee but ultimately reversed by a Central Appeals Committee. The relevant provisions are replicated in Rule 6.21(3) but we will refer to the earlier rule alone for ease of expression. In our view, the words “*on an annual basis*” as they appear in Rule 3.19(d) are designed with the purpose of ensuring that competitions for each given year begin and end with the same set of Competition Regulations. It was suggested on behalf of the Claimant (supported by Leinster Hearings Committee) that the purpose of the rule was to allow each County Committee to make its own Competition Regulations for the competitions ahead. However, there is nothing in the Official Guide that constitutes a County Committee to be a different unit or entity from year-to-year. The only significance of the County Convention in the make-up of the County Committee pertains to the election of officers of the County Committee. However officers constitute a small minority of the make-up of the County Committee: the majority of its members are club delegates, who are appointed by clubs on foot of their own Annual General Meetings, which do not occur on the same day as the County Convention. At a descriptive level, therefore, the idea that the County Committee is a different entity from year-to-year is not sustainable.
25. When one looks at the purpose of the rule, it is difficult to see what objective would be served by dictating that each year’s County Committee somehow has “*ownership*” over the making of Competition Regulations for the year ahead. Indeed the logic of the Claimant’s own case is not necessarily consistent with the logic on which it is based. The Claimant’s case here implies that the Competition Regulations made on 12 December 2017 would have been valid if the 2017 Regulations were made before the Dublin County Convention in December 2016 instead of in February 2017. But if that had happened, both County Committees

would be making Competition Regulations not for “their” year of existence, but instead for the year of their “successor” County Committees. To satisfy the logic of their reason, the Claimant would have to argue that the Rules required Competition Regulations to be made after the County Convention in each year: however there is nothing in Rule to support that argument, so it is not surprising that it was not made.

26. As noted above we take the view that the objective of the requirement that Competition Regulations be made on an annual basis is to ensure consistency within each year’s competition. There is a “window” within which to change Competition Regulations and that window closes (so far as each affected competition is concerned) once that competition begins.
27. Accordingly, we do not accept this ground of challenge and we uphold the decision of the CAC.

Issue (b): Rescindment of previous Competition Regulations

28. The second procedural complaint turned on Rule 4.3 of the Official Guide which provides:

“4.3 Voting

Except where otherwise provided in these Rules, all decisions at General Meetings and Committee Meetings shall be taken by a simple majority of those present entitled to vote and voting, and in the event of a tie, the presiding Chairperson shall have a casting vote in addition to his vote as a member, irrespective of whether or not he had originally voted on the issue. Any decision taken at a duly convened meeting of any Committee or Council of the Association, shall not be rescinded at a subsequent meeting, unless due notice of intention to propose rescindment has been previously conveyed to each member, and the consent of two thirds of those present entitled to vote and voting is obtained.”

29. We also conclude that this ground is not sustainable. It is readily arguable that a variation of Competition Regulations is not a rescindment as contemplated by Rule 4.3 at all. But even if it is, we do not think that there has been any breach of rule.

30. The making of Competition Regulations is specifically provided for in 3.19(d) which provides in specific terms that “*a regulation once adopted shall remain in force unless altered or deleted by a simple majority of those present, entitled to vote and voting*”. It is a matter of compelling logic, and enshrined in law as a canon of statutory interpretation (*generalia specialibus non derogant*) that where a rule of general application provides for one requirement, but a separate rule governing particular circumstances provides for some other, inconsistent requirement, the general rule must yield to the special rule in the particular circumstances catered for by the special rule. Accordingly, so far as the voting requirement is concerned, the entitlement to vary Competition Regulations is governed by 3.19(d) and not Rule 4.3 (of course, since the Competition Regulations were adopted by a unanimous vote in this case, little turns on this in practical terms).
31. As regards the notice requirements prescribed under Rule 4.3, even if Rule 3.19(d) by its silence left intact the provisions of Rule 4.3 so far as advance notice was concerned, it was implicit in the notice given of the meeting of 12 December 2017 (on 6 December 2017) that the draft 2018 Regulations were proposed in order to replace the 2017 Regulations. No recipient of those draft minutes could conceivably have concluded that the 2017 Regulations would not be “rescinded” (assuming that the variation was indeed a rescindment as contemplated by Rule 4.3).
32. In the circumstances, we do not consider that the decision of the County Committee on 12 December 2017 is infirm by reference to Rule 4.3.

Issue (c): The substantive entitlement to “split” the Senior Football Championship

33. The meat of this case is the question whether the County Committee had the power to make a rule which divided the senior championship into two competitions (which we will call “SFC1” and “SFC2” respectively for ease of expression). The Claimant made its case on carefully-constructed grounds that the complaint was not *merely* about the creation of the two-tier structure but rather the effects that this would have on a club that found itself in “SFC2”

competition. These consequences turned on the additional component of Regulation 27 the 2018 Competition Regulations, namely the rule that entry to any of the listed football championships (identified therein as Senior 1, Senior 2, Intermediate, Junior 1 and Junior 2) was:

“confined to the first team in Clubs and based on status in 2017 championship”

34. The Claimant focussed its challenge on the consequences for the 16 clubs whose senior football teams were placed within the SFC2 competition. The consequences, it argued, were dictated by Rules 3.1(c) and 3.9 of the Official Guide. Rule 3.1(c) provides as follows:

“3.1...

- (c) A Club shall be a Unit eligible to participate in a Senior, Intermediate or Junior Championship Competition.*

Exception

The Management Committee of the Central Council may consider an application for deviation from this Rule submitted in writing by a County Committee and if approved shall determine its Terms”

35. The Claimant contends that the 16 clubs whose first team were in the “SFC2” competition, and whose second teams were ineligible to compete in the Intermediate or Junior (presumably “Junior 1”) competitions, would cease to be clubs as recognised by the Official Guide.
36. Although not a whole lot turns on it in the present context, we do not consider that Rule 3.1(c) can ever be read as a definition of what a club is. It is patently incapable in its terms of describing what a club is, and the Official Guide describes elsewhere what a club is. Rule 3.1(c) should be read with a pause after the word “Unit” (as if it was followed either by a comma or by the word “and”) in which case its meaning is far clearer. Read in this way, the rule:
- (a) Confirms that a club is a Unit of the Association (unnecessarily because that is already provided for in Rule 1.9 but duplication is a common feature in the Official Guide due to piecemeal amendments); and

(b) Confirms that a club is eligible (save in cases where a deviation is approved) to participate in *“a Senior, Intermediate or Junior Championship Competition.”*

37. As such, the Claimant’s argument that a club “ceases to exist” if it is ineligible is not sustainable, but the alternative (and equally helpful) proposition is available to it, namely that a club – by virtue of its being a club – is eligible to participate in *“a Senior, Intermediate or Junior Championship Competition.”* The Claimant’s argument (adjusted to meet that understanding of Rule 3.1(c)) contends that the County Committee is not entitled to deprive any club of that right – central to its essence as a club – to compete for a Championship.

38. Rule 3.9 provides as follows:

“3.9 Loss of Rights of Club

A Club which does not take part in a Junior, Intermediate or Senior Championship, either as an individual Unit, or as part of a Group Senior or Intermediate team allowed under Rule 3.19(m), shall lose representation on County and other Committees, and shall not be entitled to make nominations, table motions, or participate at the Annual Convention, subject to any deviation allowed under Rule 3.1.”

39. Either way the dispute is the same: is SFC2 *“a Senior, Intermediate or Junior Championship Competition?”*

40. The Claimant maintains that there can only be three championships. They draw attention to the fact that only three championships are mentioned in Rule 3.1, and argue that a club that is not eligible to become county champions in any one of these core championships is not eligible to compete in them. It would be different, they argue, if SFC2 was a preliminary round to eligibility to compete in the SFC1 (say the top one or two teams qualified to compete in SFC1 in that same championship year; however the proposed system closes off any route to becoming champions. They refer to Rule 6.25 which provides that *“Provincial and All-Ireland Club Championship shall be organised in Senior, Intermediate and Junior Grades”* without recognition of other grades, and point out that a club

whose teams are all excluded from being county champions in these three grades are deprived of an opportunity to compete in the provincial and All-Ireland club championships. They make the point that to call a competition a championship does not make it a championship within the meaning of the Official Guide: unless one can become Senior, Intermediate or Junior champion (and there can only be one of each), one is participating in a tournament, not a championship.

41. On this issue, the County Committee focus on the absence of any particular rule stating that there shall be only three championships within a county; to use the language of Rule 3.1(c), a club does not have to be actually participating in a competition in order to be "*eligible*" to compete in it. The County Committee draws attention to the fact that many counties had similar systems, in particular at junior level where there were often a number of championships within that grade. They accept that the winner of the SFC2 championship would indeed be deprived of an opportunity to contest the provincial club championship but stress that there is no automatic right to compete in that competition. In this regard, they make the point that it is not only county champions that may go on to participate in provincial club championships (for example, where a divisional or group team wins the county championship or where the championship-winning team is suspended). As regards Rules 3.1(c) and 3.9, the County Committee rejected the proposition that clubs in the SFC2 championship would be deprived of their status as a club or lose their representation in the County Committee and at Annual Conventions.
42. Leinster Hearings Committee and CAC each dealt only with the issue of when Competition Regulations could be made as that was the issue on which their decisions ultimately turned. We have addressed that above.
43. Due to the potentially wide application of our decision on this question, we sought brief submissions from Central Council pursuant to the provisions of Clause 9.3 of the Code (within a very short time frame due to the urgency of the matter). Submissions were duly delivered and a number of points were

advanced. It was emphasised that the Official Guide gave a significant degree of autonomy to the counties as to how they would organise their championships. In addition, the point was made that while three grades were specified by Rule, there was nothing to limit the number of championships within any particular grade to one. Central Council drew attention to the fact that multiple competitions at the same grade was common in the Association, and that multiple grades at junior level was universal. To meet the point that the combined effect of the creation of SFC2 and the prohibition on second teams in junior and intermediate championships was to exclude 16 clubs from participation in any competition., the point was made that there are instances where a club's first team is not strong enough to make it into Junior A championships, yet such clubs are as much a club as any other. Central Council concluded that a club would remain a club with all its rights of participation notwithstanding that it might only be eligible to win a second-tier championship within any of the grades.

44. In a detailed response to Central Council's submission, the Claimant makes the fair point that existing practice does not change the meaning of the Official Guide, as it might well be that those existing practices simply have never been challenged. It is argued that the provisions for deviations under Rule 3.1(c) should be exercised sparingly, but as no deviation has been requested or allowed here that is irrelevant (quite apart from the fact that the issue was not raised by Central Council and was therefore outside the scope of what the Claimant was entitled to address in its replying submission).
45. The matters raised in relation to Rules 3.19(d) and 4.3 above were relatively straightforward in that the Rules ultimately provided a clear answer. This third issue in the case has been considerably more difficult and the various parties concerned are to be commended for the persuasive manner in which they have presented their cases. This issue comes back to the question posed above, namely whether SFC2 is "*a Senior, Intermediate or Junior Championship Competition?*"

46. Central Council draw attention to the use of the indefinite article in the words quoted above: the rule might have referred to “the Senior, Intermediate or Junior Championship Competition.” In this regard we note that by contrast with Rules 3.1(c) and 3.9 (which deal with clubs), Rule 3.23 (which deals with inter-county championships) refers to “the Senior, Intermediate or Junior Inter-County Championships.” However, in the ultimate analysis we do not think that that is definitive (it probably would be if Rule 3.1(c) read “a Senior, an Intermediate or a Junior Championship Competition” but that is not the case).
47. On the other hand, while there is some validity in the argument of the Claimant that – as a matter of interpretation *simpliciter* – the experience on the ground does not determine what the rules of the Official Guide mean in the absence of a challenge, the proposition is not as clearly stateable as, say, the rule of contractual interpretation that one does not interpret the meaning of a contract by reference to the subsequent conduct of the parties (*Re Wogans Drogheda Limited* [1993] 1 IR 157). This is a different situation because, although counties do not change the meaning of rules by their attempted implementation of them, we are dealing here with a sports organisation that has had instances of multiple-tier championships (especially at junior level) for many years at all levels. The rules of that sports organisation are reviewed every year at Annual Congress, and changes of one kind or another are made every year. The existence of multiple-tier championships has been a reality throughout decades of Annual Congresses, and no change has been made to the rules to address the issue (either by changing the rules to accommodate such reality or by clarifying the rules to exclude the practice). In the special case of a sports organisation, therefore, we consider that where long-standing practices survive multiple reviews of its rules, that reality can be a factor (albeit not a determinant) indicating that practice and rule are aligned.
48. In the ultimate analysis, an answer to the question arising does not follow inexorably from an analysis of the words in the Official Guide. There are indicators in both directions and these are fully explored by the parties in their

submissions, but no coherent formula that delivers an answer. Instead, it is necessary to look at the various Rules in the round and come to a conclusion based on the weight of factors.

49. As a general statement, we respectfully subscribe to the opinion expressed by His Honour Judge McMahon (as he then was) in *Barry v Ginnity* (Unreported, Circuit Court) Judge McMahon, 13 April 2005) when, speaking of the Association, he said that “*one must be careful that the heavy hand of the law does not weaken the operation of such voluntary bodies or undermine the considerable benefits they bring to society.*” In any claim, the onus of proof rests on a claimant, to show – on the balance of probabilities – that what is challenged is unlawful as being in breach of contract. The courts and by extension arbitral tribunals (“*the heavy hand of the law*”) should not interfere in the running of sports organisations in the absence of a clear breach of rule.
50. In our view, while the Claimant has acquitted itself very well in these proceedings, it has not discharged that onus of proof. In fact, we consider that the balance of factors weighs in favour of the allowance of multiple-tier club championships within single grades, notwithstanding that it may mean that some clubs may become ineligible to contest any of the “top” championships within each of the primary grades.
51. The most important factor in our decision is the absence of a clear Rule in the Official Guide prohibiting this practice. If we were to conclude otherwise, we would be doing so by reference to side-effects of rules such as Rule 3.1(c) and 3.9. We do not consider that the Association can have intended to make and maintain such a prohibition in oblique terms.
52. We are also acutely conscious of the widespread practice of having multiple tiered championships within grades is enshrined in practice (including in Dublin at junior level) for decades and we have no evidence to suggest that any steps were taken by the Association (of which the Claimant is a unit and fully entitled

to bring motions before the Annual Convention) to address any perceived inconsistency between the practice and the Official Guide.

53. The Claimant made a focussed argument in tying the effect of the creation of SFC2 to the prohibition on second and lower teams entering the new Intermediate and Junior championships. However that argument succeeds only if not having a team in one of the “top” tier championships within each grade had the effects contended for under Rules 3.1(c) and 3.9. However that proposition in turn rests on the argument that SFC2 and lower tier, or “all county,” championships are not championships within the meaning of the Official Guide. However, since we have concluded – on balance – that those competitions are indeed championships, the feared consequences do not arise.

Issue (d): Fair procedures and acquiescence

54. The Claimant makes the argument that having competed in the Senior Football Championship of 2017 on the basis that not finishing in last place would confirm its position in the Senior Championship for 2018, the decision under challenge “relegated” it to SFC2 without its being given a chance to contend for a place in SFC1. There was a retrospective element to the decision in that sense. While we have much sympathy for the Claimant on this ground, and feel that it is somewhat harsh not to give a year’s notice before a change of this magnitude, we must recognise the fact that any change to Competition Regulations necessarily has an immediate effect to one extent or another, and will probably affect different clubs in different ways (and some perhaps not at all). As an arbitral tribunal it would amount to an improper interference in matters of policy which are within the purview of County Committees if we were to substitute our view for that which has been expressed in a democratic decision (indeed a unanimous one) of the body that is entrusted with such matters of policy.
55. Separately, it was contended that it was unfair not to be given the minutes of the meeting of the CCC of 7 November 2017 before or at the meeting of 12 December 2017, or to be given an advance copy of the report of the Secretary of the CCC

until the night of that meeting. In our view the fact that the draft Competition Regulations were circulated 6 days before the meeting was sufficient to alert the Claimant to what was proposed: after all, it was the Competition Regulations that formed the substance of the decision made and if anything was unclear about them, there was ample opportunity to raise a question in advance of the meeting or orally on the night of the meeting. Instead of doing this, the Claimant's delegates were dispatched without any specific instructions about the proposed Competition Regulations and ultimately voted in favour of them. We are also conscious that, while the detail of the proposed Competition Regulations was not drafted and circulated until six days before the meeting, the general idea had been proposed almost two years earlier and the meeting of the County Committee on 3 July 2017 set out in relatively clear terms the structure (if not the principles for separating the clubs into SFC1 and SFC2).

56. As noted earlier the methodology or "points system" for dividing the senior football clubs into SFC 1 and SFC2 is not enshrined in the decision of 12 December 2017 (although the principle of basing it on performance from 2013-2017 is, and no challenge to that particular principle has been raised). That may be a dispute for a further day, but clearly the Claimant has not at this point been deprived of an opportunity to address that.
57. Although we have ultimately found against the Claimant on the substantive issue above based on a review of the Rules, if we were in greater doubt about our interpretation of the Rules, we regret that we would have had to give serious consideration to excluding the Claimant's challenge in any event, having regard to its acquiescence in the decision, voting it in favour, raising no objections or contrary proposals. That is not to say that we would necessarily have come to that conclusion (after all it is a very important issue for the Association generally). However as it happens, we do not have to come to a final view on the question of acquiescence.

CONCLUSION AND DETERMINATION

58. The Claimant is a strong club performing valuable work in its catchment area and a proud and moderately successful club at senior level in a very competitive county. No doubt, participation in the top tier of Dublin Competition and meeting what are some of the strongest club teams in the country makes for some big days in the club's year and it is saddening to see an ambitious club deprived of the opportunity to line out against the best teams on these big days. However, as an arbitral tribunal making a purely legal decision, we must put such considerations aside and cast a cold eye on what, on our best analysis, the Rules of the Association as set out in the Official Guide mean. Regrettably for the Claimant, we are compelled to the conclusion that it cannot succeed in its claim.

59. The Claim is dismissed.

This is the unanimous decision of the Tribunal

Date of Oral Hearing: 6 March 2018

Date of Agreed Award: 16 March 2018

By email agreement on agreed date above.

Micheál O'Connell BL

Eamonn Denieffe

John Healy