

# Disputes Resolution Authority

An Córas Eadrána

**DRA 08 of 2020: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010**

*Between:*

**TOM FENNELLY**

*Claimant*

*v.*

**CCC CONTAE LAOISE - (LAOIS CCC)**

*First Named Respondent*

*And*

**COISTE ÉISTEACHTA LAIGHEAN - (LEINSTER HC)**

*Second Named Respondent*

**Hearing:** 29<sup>th</sup> July 2020, Green Isle Hotel, St John's Dr, Newlands Cross, Dublin 22

**Tribunal:** Mr. Rory Mulcahy SC, Mr. Michael Moroney, Mr Jarlath Burns

Secretary to the DRA, Rory Hanniffy BL

**VERDICT:** The claim succeeds.

**KEYWORDS:** *Application for Permission to Play – Independent Team – Whether the Claimant is restricted to playing hurling with an Independent Team where his Club is an exclusively football club – Whether the Official Guide and/or County Bye-laws provide for such a restriction – R3.19 and R6.8 TO 2019 – Laois 2019 Byelaws 6 and 7.*

**LIST OF ATTENDEES:**

*Claimant – Tom Fennelly*

Tom Fennelly  
Tom Fennelly  
Will Fennelly BL

*First Respondent - Laois CCC*

Tom Clear  
Adrianne McCarthy

*Second Respondent - Leinster Hearings Committee*

Margaret Doyle  
Eamon Cusack

## FACTUAL BACKGROUND

1. The Claimant is 17 years old and a member of the Laois Minor Hurling Panel. He is a member of the Emo GAA Club, which is an exclusively football club.
2. On 23 January 2020, he made an application for permission to play hurling with Rosenallis GAA Club. He did not wish to transfer to Rosenallis and intended (and intends) to continue as a member of Emo. Emo supported his application for permission to play hurling with Rosenallis.
3. On 30 January 2020, the Secretary of Laois CLG circulated a set of Guidelines to all clubs in the County which had been prepared by Central Council relating to Independent Teams.
4. Independent Teams are teams provided for as an exception to Rule 6.8.
5. Rule 6.8 (B) of the T.O. provides that a player may not play for two clubs in the same code in the same county save as provided for in the exceptions to the Rule. One such exception is that under-age players (Under 21/20 and below) may play for an independent team which does not play for an adult club within the County or with another under-age club, save that a team having five or more players from one club, the team must be known by the combined name of the clubs participating in the team, or by an independent name.
6. Thus, the Rule provides that under-age players can play for another club at under-age level. They can also play on an independent team. Where five or more players from a particular club avail of this exception, the team name must include the name of the players club or it must have a name independent of any Adult club within the County.

7. It is noted that Rule 6.8(C) expressly provides that a player may play hurling for one club and play football for another club subject to any restrictions contained in the County Bye-laws.

8. The email from the Laois County Secretary circulating the Guidelines stated the following:

*“It is important that all Adult Clubs realise that all isolated players must now play with the one Club or Independent Team. Applications seeking different, unless compliant with Laois GAA Byelaws, will not be sanctioned.”*

9. At a meeting of Laois CCC on 10 February 2020, the Claimant’s application was considered and rejected. The minutes of the meeting give the following reason:

*“[The Claimant’s application] to play U17 Grade with Portlaoise was refused as Emo had agreed their players would participate as an Independent Team with Raheen Parish Gaels from U15 to 20 Age Grade and their players must play within this Independent Team.”<sup>1</sup>*

10. The Claimant was notified of the decision on 18 February 2020 and appealed the decision to the second Respondent on 20 February 2020. The second Respondent rejected his appeal on 3 July 2020 on the basis that it did “not find any misapplication of rule by Laois CCC.”

11. The Claimant thus submitted a request for arbitration to the DRA on 7 July 2020.

## **DISCUSSION**

12. The Claimant advanced a number of arguments in the course of his claim, but his principle argument was that neither Rules 3.19 or 6.8 of the T.O, nor the Laois

---

<sup>1</sup> It is noted that the decision referred to Portlaoise in error. There was not any real dispute that this was an error in the record which didn’t go to the substance of the decision.

County Bye-laws required that a player in the position of the Claimant had to play for an independent team.

13. It was not disputed by Laois CCC that the basis of its decision was that it did require players in the position of the Claimant to play for an independent team and that was the basis upon which his application for permission was refused. Laois CCC's representative at the hearing explained the position of Laois CCC and the perceived necessity to avoid players switching from club to club and the clear adverse consequences that could have for the integrity of the club structure, particularly for so-called 'weaker' or smaller clubs and also for the management of the various County championships
14. In asserting an entitlement to refuse the application on this ground, Laois CCC called in aid, variously, the Guidelines referred to above, Rules 3.19 and 6.8 of the T.O and the Laois County Bye-laws. We are of the view that none of these entitle Laois CCC to impose a requirement that all players in the Claimant's position must play for independent teams or to refuse an application for permission to play on those grounds.
15. Turning to the Guidelines. The first thing to note is that they are Guidelines. They do not, nor could they purport to change the Rules in relation to Independent Teams.
16. In any event, there is nothing in the Guidelines which suggests a *requirement* for independent teams in any circumstance other than as provided for in Rule 6.8. The opening line of the Guidelines provides that Independent Teams are "allowed for in the GAA Official Guide and regulated by Rules 3.19(n); 6.3 and 6.8." Thus the Guidelines do not and could not, in fact, provide any support for a contention that there was a requirement to play for an independent team in the Claimant's circumstances unless that was already provided for in the Rules.

17. We are satisfied that it is not possible to read Rule 6.8 as requiring that all players from one club who wish to play for another club may only do so as part of an independent team. If five or more players from one club do play for another team, they are required to either use a name combining the names of each club involved or an independent name. But even in such circumstance, there is nothing in the Rule which suggests that where there are 5 or more players from one club playing on an Independent Team, all members of the club wishing to play in another code must play on that independent team. Rule 6.8 expressly provides that a player can play for different clubs in different codes, subject to County Bye-laws and expressly provides that underage players can play for another underage team within the County.
18. Nor do the County Bye-laws include any such restriction.
19. Rule 7 of the Bye-laws is entitled "Permission to Play". It states:
- "Subject to Rule 6.8(b), T.O. 2018, the CCC shall process and make decisions on applications received on or before January 31<sup>st</sup> in any year for permission for a player from an exclusively Football Club to play hurling with a Dual Club or a player from an exclusively Hurling Club to play Football with a Dual Club, subject to any restrictions provided in these Byelaw 6."*
20. Bye-law 6 is in fact related to Transfers and does not include any restrictions related to Independent Teams. It does, at sub-section (F) include guidelines to assist the CCC in its deliberations as to what will constitute "other relevant connection" for the purpose of Bye-laws 5, 6 and 7. Three criteria are identified, namely:
- a) Parentage Rule
  - b) Primary School
  - c) Proximity to Club base

21. Although “other relevant connection” is not a term used in Bye-law 7 (or, for that matter, Bye-law 6) and it is difficult therefore to read the Bye-laws in a coherent way. We are, however, satisfied that on a purposive interpretation of the Bye-laws, the criteria identified as Guidelines in Bye-law 6 may be of assistance to Laois CCC in deciding on applications for permission to play under Bye-law 7 in the absence of any other express criteria though we consider it would be helpful for the criteria to be applied to permission to play applications – which clearly give rise to different considerations than transfers – be expressly set out in the Bye-laws.
22. In the circumstances, an application for permission to play by someone in the position of the Claimant must be decided on its merits and cannot be refused by reference to a policy or rule to the effect that he must play on an independent team where no such policy or rule exists.

## **DECISION**

23. In the circumstances, the decision of Laois CCC should be quashed and the Claimant’s application should be remitted to Laois CCC for further consideration. We direct that the application be re-considered at the next meeting of Laois CCC.
24. It follows that the decision of Leinster HC was incorrect insofar as it found that there had been no misapplication of rules and its decision should also be quashed.

## **COSTS AND EXPENSES**

25. The Tribunal directs that the DRA’s expenses be discharged by Laois CCC. The Tribunal further directs that the deposit lodged by the Claimant be reimbursed by the Secretary.

**Date of Oral Hearing:** 29<sup>th</sup> July 2020

**Date of Agreed Award:** 25<sup>th</sup> August 2020

**By email agreement on agreed date above.**

**Rory Mulcahy SC**

**Michael Moroney**

**Jarlath Burns**