

# Disputes Resolution Authority

An Córas Eadrána

**DRA 09 of 2021: In the matter of an arbitration under the Disputes Resolution Code and the Arbitration Act 2010**

*Between:*

**CK/LK/RK/MK/LK**

*Claimants*

*v.*

**COISTE CEANNAIS NA GCOMORTAISÍ LAOISE - (LAOIS CCC)**

*First Named Respondent*

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

*Second Named Respondent*

**AN LÁR CHOISTE ACHOMHAIRC - (CAC)**

*Third Respondent*

**CLG TROMAIRE - (TRUMERA GAA)**

*Interested Party*

**CLG SEANCHUA- (SHANAHOE GAA)**

*Interested Party*

**CLG COILLTE - (COLT GAA)**

*Interested Party*

**CLG COILLTE SEANCHUA - (COLT-SHANAHOE GAA)**

*Interested Party*

**Hearing:** 20 July 2021, Remotely

**Tribunal:** Mr. Aaron Shearer BL, Mr. Michael Moroney, Willie Barrett

Secretary to the DRA, Rory Hanniffy BL

**VERDICT:** The claim **succeeds / is dismissed**.

**KEYWORDS:** *Application for Attachment to first club outside Catchment Area – R6.4 TO and Laois Bye-law 5*

*Powers of County CCC and Powers delegated to County CCC by County Committee – R3.20(ii) TO*

*Whether decisions by County Committee to designate Catchment Areas have status of Regulation – R3.19(d)*

**LIST OF REMOTE ATTENDEES:**

*Claimants*

Kieran Collins BL  
Orla Kirwan - Parent  
William Kirwan - Parent

*First Respondent*

Karl McGuckin BL  
Peter O'Neill

*Second Respondent*

Margaret Doyle

*Third Respondent*

Matt Shaw

*Trumera GAA*

Grainne Kirwan

*Shanahoe GAA*

Michael Bergin

*Colt GAA*

Roisín Doogue

*Colt-Shanahoe GAA*

Michael Bergin

## FACTUAL BACKGROUND

1. The Claimants are all persons yet to reach their majority and for reasons of discretion and in an effort to minimise any additional scrutiny of them, they have been anonymised for the purposes of the within decision.
2. On or about the 19<sup>th</sup> day of April 2021 the first named Respondent met to consider Attachment to First Club applications made for and on behalf of the five Claimants.
3. The facts of the case are that the Claimants Permanent Residence is situate in the Parish of Raheen which is situated in the Catchment Area for CLG Seanchua. The Claimants' position, and this appears to be accepted, was that their Permanent Residence is closer to the grounds of CLG Tromaire than the grounds of CLD Seanchua. However, CLG Tromaire is situated in a different Catchment Area to that in which the Claimants' Permanent Residence is situate. An application for Attachment to a club outside a particular Catchment Area was permitted under the Laois Bye-Laws and specifically Bye-Law 6(f)(ii)(c) permitted an Attachment application based on proximity to a club base.
4. Notwithstanding the geographical proximity of the Claimants' permanent residence to CLG Tromaire, the Claimants' attachment applications were rejected by the First Named Respondent on the basis that allowing them would have a detrimental effect on playing numbers in CLG Seanchua. The decision of the First Named Respondent was communicated to the Claimants by e-mail dated 20<sup>th</sup> April 2021.
5. The Claimants appealed the decision to the Second Named Respondent which made its decision on the 24<sup>th</sup> May 2021. In its written decision dated 25<sup>th</sup> May 2021 the second named Respondent determined that the first named Respondent had infringed and/or misapplied Rules 6.3 and 6.4 of the 2020 Official Guide, as

well as having infringed and/or misapplied Bye Laws 5 and 6(f)(ii)(c) and thus the second named Respondent upheld the Claimants' appeal.

6. The first named Respondent appealed the decision of the second named Respondent to the third named Respondent. The third named Respondent met on the 3<sup>rd</sup> June 2021 to consider the matter and provided a detailed and very helpful written decision dated 8<sup>th</sup> June. The third named Defendant determined that the decision of the second named Respondent ought to be quashed. A number of bases for that decision were given. Firstly, it was held that there had been a failure on the part of the second named Respondent to invite all parties who had attended at the original hearing before the first Respondent to attend at the hearing before it. Secondly the second named Respondent had erred in finding that once the criteria for attachment to a club outside a Catchment Area had been met that the first Respondent had no discretion other than to grant the attachment application. The effect of the decision of the third named Respondent was to quash the decision of the second named Respondent.

## DISCUSSION

7. When various of the issues in the case were sieved through, the Tribunal formed a view that the case came down to two central issues. One whether a valid "*Catchment Area*" designation had taken place in County Laois and two, whether the requirement in Bye-Law 5 of the Laois Bye-Laws (which stipulated that anyone wishing to attach themselves to a club whose permanent residence is outside their catchment area must apply to the CCC before 31st January) had a basis in rule
8. The Tribunal considered whether purported ratification/designation of catchment areas in Laois in February 2021 by the County Management Committee was defective/flawed/invalid. Certain Emergency Powers were introduced within the Association arising from the ongoing public health

emergency caused by Covid 19. The Tribunal considered whether the Emergency Powers and, in particular, 1(C) thereof, permitted the delegation to the Laois County Management Committee of the power to designate a "Catchment Area". That power is given to the County Committee by Rule 6.3 of the Official Guide [*An area determined by the County Committee as representative of the hinterland of one or more Clubs*]. The Tribunal was obliged to consider whether a provision to delegate that power was provided for in either the Emergency Powers provisions or at Rule 3.20 of the Official Guide.

9. The question which arose was whether there had been a valid "Catchment Area" designation in Laois and if there had not been, was it the case that at the time these applications for attachment were made, that there were in fact no valid Catchment Areas in Laois such as might fetter the Applicants entitlement to join CLG Tromaire.. It was common case that the February 2021 decision of the Management Committee of the Laois County Board (to designate Catchment Areas) was not capable of being relied upon. However, there was a 2020 decision of the County Committee to designate "Catchment Areas" within the county. The question was whether that decision remained in force pending a fresh, valid decision of the County Committee to designate Catchment Areas within the County. The Tribunal was not referred to anything within the Association's rules or within the County bye-laws which required Catchment Areas to be freshly designated each year.
10. The Tribunal also considered Rule 3.19(d) of the Official Guide. It was discussed whether that Rule gave the status of regulation to any decision of the County Committee re "Catchment Areas". That same rule states 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.*" What flowed from this was a consideration of whether, if there was a "regulation" passed re catchment areas in 2020, it still remained in force at the time the relevant decision in this case were made. It appeared to the Tribunal that proof that Catchment Areas were properly

designated by Laois County Committee in 2020 would in turn be proof that those same Catchment Areas were operative and remained relevant within the County in 2021.

11. The second of the central issues in the case was then considered by the Tribunal. The Laois Bye-Laws stipulate a need for an application to the Laois CCC in respect of an application to attach to a club outside your Catchment Area - Bye-law 5 made necessary such an application. The question for the Tribunal was whether requiring such an application to be made to the Laois CCC was at odds with or was ultra vires the Official Guide.
12. Rule 3.20(ii) of the Official Guide details what powers a CCC shall have and the power to adjudicate on Attachment applications is not one of them. However, the rule does also provide as follows: "*A County Committee may delegate other plenary powers to its Competitions Control Committee....*". The question considered was whether the need to apply to the CCC in attachment applications is such a plenary power and if it is, is its delegation otherwise at odds with the rules. The Tribunal was inclined to the view that the need to apply to the CCC in attachment applications is such a plenary power. The question which flowed from that determination was whether the delegation of that power was otherwise at odds with the Rules. As per Rule 3.17 of the Official Guide, County Bye-Laws cannot be contrary to rule.
13. The Claimants cited Rule 2.1 of the Official Guide - *Membership of the Association shall be granted only by a Club*. The argument goes that if a person is entitled to apply for membership of a club outside its Catchment Area, then it is for the club, and the club alone, to adjudicate on that application for membership. The Applicants in this case argued that they were entitled to apply for membership of CLG Tromaire because their permanent residence is closer to that club than any other.

14. It was highlighted that the power of a club to admit someone to membership is not an unfettered power, specifically in relation to transfers. Applications to transfer from and to clubs within a county require application to the County Committee and the Official Guide specifically reserves a function to the CCC in this respect. [Rule 6.5(c) - *The County Committee shall delegate consideration of Applications to its Competitions Control Committee*].
15. That specific fettering of the power to grant membership is specifically provided for in the Official Guide - more accurately the Official Guide inserts the CCC into the process of transferring from one club to another.. There is no equivalent provision (fettering a club's right to grant membership) in respect of Attachment Applications. Rule 6.4 of the Official Guide relates to and governs attachment applications. A role for a CCC is not specifically provided for in attachment applications.
16. In considering what the drafters of the Rules intended, the Tribunal considered Rule 6.4(e) of the Official Guide. It states: *Where the Club or all of the Clubs which an intending member is entitled to apply to join refuse to accept him as a member, the County Committee may authorise him to apply for membership of such other Club(s) as it deems appropriate having regard to the spirit of the Rules and Bye-Laws applicable*
17. The Tribunal considered the implications of this Rule in the context of the within matter. It was noted that it is only after a person has been frustrated in efforts to join a club that the Official Guide provides for a role for the County Committee in the application process. Other than that the role of the County Committee is to set the conditions for membership of a club. It is clear that if a county wishes to fetter the choice of clubs a person has, that it may do so by means of its Bye-Laws. Indeed Laois specifically provided such a choice in its bye-laws.
18. The argument advanced and considered was that a CCC must have a role in the membership application process so as to ensure that the ethos of the Association

is protected. However, it seems to the Tribunal that a County's Bye-laws can provide such a safeguard perfectly well.

19. The Tribunal is of the view that if the Official Guide had intended the County Committee or CCC to have a role in applications for attachment, that it would have specifically provided for same in the Official Guide, as it does with the transfer application process. The Official Guide very clearly does not do so and the Tribunal is specifically uncomfortable about inferring or implying a role for the County Committee or the CCC in attachment applications.

## DECISION

20. Bye-Law 5 of the Laois County Bye-Laws provides a necessity for persons wishing to make an attachment application to a club outside their Catchment Area to apply to the CCC before 31<sup>st</sup> January in a given year.
21. The Official Guide includes specific provisions in respect of Attachment Applications at Rule 6.4. That Rule does not confer an adjudication or oversight function on the CCC in a county. This is in marked contrast to Rule 6.5 (transfers) which specifically reserves a function to a county's CCC.
22. Rule 6.4 requires a County Committee to provide the conditions for membership of a club with the ability afforded to it to provide a person with a limited or unfettered choice of clubs to which he/she can apply. The only other role reserved to the County Committee by the rule arises where clubs have refused membership to an applicant eligible to make application to them.
23. The Tribunal is asked to infer or imply into the rules an adjudication or oversight function to a county's CCC in attachment applications. In circumstances where the Rules otherwise provide that an Objection can be made in respect of player eligibility, it sees no need or basis to do so.



24. In such circumstances, the Tribunal quashes the decisions of Laois CCC dated 20th April 2021 and CAC dated 8th June 2021.
25. Whilst not forming a basis of its decision, the Tribunal notes that neither the Official Guide nor the Laois Bye-Laws require a fresh designation of Catchment Areas to be made in the county each year. Insofar, therefore, as it may be shown that a valid decision to designate Catchment Areas was made by the County Committee in 2020, it appears to the Tribunal that such designation had the effect of any regulation made by the County Committee, remaining valid unless altered or deleted in accordance with the Rules.
26. The Tribunal invites written submissions in respect of the payment of its expenses and costs in the matter. Such submissions to be furnished to the Secretary by close of business on 25 January 2022.

## **CONCLUSION AND DETERMINATION**

27. The claim succeeds and the decisions of Laois CCC dated 20<sup>th</sup> April 2021 and CAC dated 8<sup>th</sup> June 2021 are quashed.

## **COSTS AND EXPENSES**

28. The Tribunal directs that the DRA's expenses be discharged equally by the first and third named Respondents. The Tribunal further directs that the deposit lodged by the Claimant be reimbursed by the Secretary.

**Date of Hearing:** 13 July 2021

**Date of Agreed Award:** 18 January 2022

**By email agreement.**

**Aaron Shearer BL**

**Michael Moroney**

**Willie Barrett**