FOUNDATIONS OF FOOTBALL

AN ANALYSIS OF THE IFA DISCIPLINARY AND APPEALS FRAMEWORK

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About

Jamie Bryson is Director of JWB Consultancy working in Public Relations, Advocacy and Law. He regularly provides extensive services to a range of solicitors and counsel, including legal research, case preparation and drafting of legal documents and arguments. In addition, he represents a range of clients before Tribunals, HMRC civil investigations, sports regulatory panels and in cases brought via bodies such as the Independent Press Standards Organisation. He is the author of several books, including the NI Constitutional Law series, and academic papers on the Acts of Union and principle of consent forwarded by Mr Justice Richard Humphreys (writing in an academic capacity), High Court Judge of Ireland. He is director of policy and law for Unionist Voice Policy Studies, NI Director of Policy for the Centre for the Union and a member of the NI Constitutional Law Research committee and has appeared before several Parliamentary committees given evidence in respect of devolution and democracy and the transition of armed groups in Northern Ireland.

Selected Publications

Acts of Union and The Principle of Consent: Foreword by Justice Richard Humphreys [2023]

NI Constitutional Law: Acts of Union and NI Protocol [2022]

'Justice, Law and Human Rights' – a Community handbook [2021]

The Belfast Agreement and Brexit- A legal analysis of the constitutional implications of the United Kingdom's arrangements for leaving the European Union

Reviewing the Northern Ireland Act 1998- a legal analysis of the legislative provisions of the 1998 Act

The Case Against Non-Jury Trials- a policy paper on Non-Jury trials and their impact on justice

'The Constitutional Implications of the NI Protocol'- A legal analysis

Judicial Review – An accessible remedy?

Article 2 of the Protocol/Windsor Framework – The effect on UK Immigration policy

Key IFA cases in which Jamie Bryson has appeared on behalf of appellant:

Sandy Row v NAFL [2023] IFA AC – Appeal upheld, Sandy Row admitted to the NAFL- judgment of Martin Wolfe KC lays down procedural fairness principles which are applicable to decision making by bodies under the IFA

Greenwell Star v NAFL [2023] IFA AC- Appeal upheld, refusal of membership of the Amateur league quashed

Greenwell Star v NAFL (2) [2023] IFA AC- Appeal upheld, second admissions process quashed, Greenwell Star admitted to the NAFL

Clonduff v NAFL [2023] IFA AC- Appeal upheld, refusal of membership of the Amateur league quashed

Clonduff v NAFL (2) [2023] IFA AC- Appeal upheld, second admissions process quashed, Clonduff admitted to the NAFL

Shankill Juniors v NIYFA [2023] IFA AC- Appeal upheld, Disciplinary process quashed by agreement for procedural irregularity

Knockbreda v Co Antrim Sheild Committee [2023] IFA AC- Appeal refused,

Dundela v IFA Disciplinary Committee [2023] IFA DC- Appeal upheld, Disciplinary charges and £1,000 fine quashed for invalidity drafted charge

East Belfast v NAFL [2024] IFA AC- Appeal upheld, improper procedure amending rules and accordingly Walter Moore cup rules as to player eligibility not in force and charges against club dismissed. East Belfast FC reinstated to the semi final.

East Belfast v IFA Football Committee [2024] IFA AC- Appeal upheld- proposed amended 'discrimination' clause in Disciplinary Code removed; Emma McIlveen BL gives detailed judgment on jurisdiction of IFA Appeals Committee.

Lower Shankill v NAFL [2024] IFA AC- Appeal upheld, expulsion from NAFL quashed for procedural irregularities, Lower Shankill re-admitted to league

Greenwell Star v Co Antrim FA [2024] CAFA DC- Disciplinary challenge upheld, charge alleging 'homophobic' comments and a 10 game ban overturned.

Ballymena United/Josh Carson v IFA Disciplinary Committee [2024] IFA DC- (under appeal at time of writing)

East Belfast/Scott Harvey v IFA Disciplinary Committee [2024] IFA DC- (under appeal at time of writing)

Dergiview v IFA Challenge Cup Committee [2024] IFA AC- Appeal refused, panel affords Irish Cup committee broad discretion

Foundations of Football

An analysis of the IFA Disciplinary and Appeals Framework

By Jamie Bryson

Introduction

There is a growing field of football 'law' in Northern Ireland, with recent years seeing a significant increase in challenges on traditionally public law grounds to decisions by IFA bodies, either via challenges under the Disciplinary Code to the Disciplinary Committee, appeals to the IFA Appeals Committee and on a small number of occasions Arbitration proceedings.

This has built up a body of 'case law' and seen the IFA Appeals Committee in particular becoming (as it should) more akin to Tribunal proceedings with parties almost always now being legally represented, with cases on increasingly complex legal issues being Chaired by legally qualified committee members.

The author of this paper has been involved in a large volume of these cases therefore has both a particular interest and knowledge of the proceedings and how the procedure and process has developed. It will be argued in this paper that the IFA Disciplinary and Appeals process is not fit for purpose, in particular it is argued that- structurally- there is a lack of independence in-built within the architecture of the IFA's committees and there is an absence of proper legal safeguards or appeal remedies, including due to the purported ousting of the High Court, which does not provide sufficient protection for the rights of clubs, players or officials.

The IFA structure

The IFA is a complex and inter-locking structure, with the Board sitting at the apex and underneath them a series of committees who manage various aspects of football administration. There are also 'Departments' internally within the IFA who have certain functions and powers.

It is important to note that within the structures of the IFA, three committees fall within the definition of 'Judicial committees' as defined in Article 1 of the IFA Articles of Association, namely the Disciplinary Committee, the Licensing Committee and the Appeals Committee. These committees each have several legally qualified members appointed to those bodies, but these appointments are made by the Board and those serving do so at the pleasure of the board.

The reference to these committee's being 'Judicial' in nature exposes a tension within the structures of the IFA itself, which has led (and will continue to lead) to confusion, conflicts of interest and a efforts by the IFA Board and/or other actors within the Association to attempt exercise complete control even over those aspects of the structure that clubs and players are told are there to act as 'independent' bodies upholding fairness, natural justice and the interests of all who play football in Northern Ireland.

This paper will consider the two core 'Judicial committees', namely Disciplinary and Appeals, and explore how the Disciplinary and Appeals process in fact lacks proper structural independence and legal safeguards for those engaged within its ambit.

The Disciplinary Committee

The Disciplinary committee deals with breaches of the IFA Disciplinary Code. If a report is received (usually via a referee's match report)[1]. Article 13 (1) empowers the Disciplinary Committee to issue a charge, and Article 13 (2) provides the power for the Committee to offer a sanction. This is simply an opportunity to 'plead guilty' and accept the offered sanction.

Article 13.1 provides:

> *"13.1 The Committee may issue a Notice of Complaint to a player, official, match official, club, league or any other recognised football body or person under the jurisdiction of the Irish Football Association in respect of an alleged breach(es) of this Code. The Committee may also issue a Notice of Complaint to a player, official, match official, club, league or any other recognised football body or person under the jurisdiction of the Irish Football Association pursuant to Article 17 of the Irish FA Articles of Association or with any matter deemed to potentially be in breach of the spirit of this Code."*

Article 13.2 provides:

> *"13.2 A Notice of Complaint may be accompanied by a sanction offer that would apply to the offence which is detailed in each Article. Any sanction offer will be determined by the Committee based on the facts and circumstances of the alleged breach(es) of this Code. Where the Committee is satisfied that the particular facts and circumstances of the alleged breach(es) of this Code necessitate a hearing, no sanction offer will be made in the Notice of Complaint Letter"*

There are several fundamental flaws in this process. The practice in recent years has been that IFA staff members from the Discipline department 'triage' disciplinary reports, decide whether a charge should be issued, and then- if deemed appropriate by those staff members (who are not part of the Disciplinary Committee)- issue such a charge and offer of a sanction under Article 13 (1) and Article 13 (2) respectively. However, this is in fact *ultra vires*. The power to issue a charge and offer a sanction is conferred on 'the

[1] The report and relevant material must be lodged via Comet system within 24 hours. If this is not done, any report is evidentially inadmissible. See judgment of Barry Finnegan in *Cliftonville v NIBFA* [2021] IFA AC.

Disciplinary Committee', which is defined in Article 2.6 of the Disciplinary Code in the following way:

> *"2.6 Disciplinary Committee: The Committee convened pursuant to Article 13 of the Irish Football Association Articles of Association to deal with all football related disciplinary matters. The IFA Disciplinary Committee comprises 9 members. The quorum for the Committee is 3 members, one of whom shall have a legal background. The Committee shall have the power to appoint Sub-Committees as they see fit to deal with all disciplinary matters including hearings. Each Sub-Committee shall comprise of no fewer than 3 members, one of whom should be from a legal background."*

It is obvious to point out that IFA staff members, or the Disciplinary department, triaging disciplinary reports and exercising the powers under Article 13.1 and Article 13.2 is unlawful. They are not the Disciplinary Committee, nor a sub-committee thereof and accordingly they have no power to issue any charge or sanction.

In recent times in some high- profile cases the position adopted by the Disciplinary Committee[2] has been to claim that the initial charge was issued by the Committee after their initial consideration. This raises another (perhaps even more serious) fundamental issue. If that indeed is correct (and these claims that the Committee itself considered and issued some charges can presently be properly characterised as a mere assertion) then you have a situation whereby the Committee issues a charge, and if you wish to contest the charge, the hearing is held before that very same Committee who issued the charge. The question then de-facto resolves itself with the Committee asking itself whether it was correct to issue the charge.

In a criminal law context this would be like the PPS bringing charges, and then the PPS presiding over a hearing as to whether to convict the accused of charges they themselves have brought. The absurdity can be illuminated by the following example: who brings Disciplinary charges against an accused player/official/club? The answer is found in Article 13 (1) of the Disciplinary Code, it is the Disciplinary Committee. If a player/official/club wishes to challenge the charge, who hears the case? The Disciplinary Committee. Therefore, the situation turns into X v Disciplinary Committee, heard and determined by the Disciplinary Committee.

This bears some resemblance (as does other issues to be discussed) to *O'Conner and Broderick's Application* [2005] NIQB 40 in which Weatherup J (as he then was) quashed a PSNI internal disciplinary charge owing to the very same type of cross-contamination in legal representation (and by logical extension the same people issuing and determining charges, which also raises obvious apparent bias issues). The current approach said to be adopted is unsustainable on the basis of *O'Conner and Broderick*.

[2] *Josh Carson v IFA Disciplinary Committee* [2024] IFA DC; *Scott Harvey v IFA Disciplinary Committee* [2024] IFA DC (both these cases remain under Appeal at the time of writing).

In light of the above, it is clear that whatever way you look at it, there is a significant structural frailty in the Disciplinary Committee process raising important legal issues about the manner by which charges and sanctions are being dealt with by the IFA.

It is a misnomer to describe the Disciplinary Committee as being 'independent' of the IFA. The Disciplinary Committee operates under the direction and control of the IFA Board, and all members (including the legally qualified members) serve ultimately at the pleasure of the Board, and are subject to the IFA Code of Conduct.

This entwining and aligning of interests is evident by the fact that the same legal representatives act for the IFA Board, IFA Disciplinary Committee, IFA Football Committee and IFA Appeals panel.

In one example, legal representatives appeared before the IFA Appeals Committee, for whom they act in any arbitration proceedings, representing the IFA Football Committee. An important issue arose thereafter in respect of disclosure of material held by the IFA Board, which would undermine the IFA Disciplinary Committee's case in another appeal, and was plainly problematic for the IFA Football Committee in the completed appeal. The same legal representatives acted for the IFA Board advising on how to handle those issues arising from the Football Committee case, then appear again for the Disciplinary Committee in the other related case. Put simply, the same legal representatives and counsel advised the IFA Board on how to handle disclosure issues, which arise from a case in which they represent the Football Committee and which are also relevant to a case in which they are acting for the Disciplinary Committee. This means the IFA Board- who are themselves meant to be independent of the other committees- are advised in a manner which benefits the legal representative's other clients, the Football and Disciplinary Committees, meanwhile all of this goes on behind closed doors and is concealed from the appellant/s. It is obviously improper.

This type of circular (and self-evidently wholly conflicted) legal representation infecting every aspect of the process and all arms of the IFA simultaneously, fundamentally undermines any suggestion of there being independence. It also fatally taints the fairness of the process, and offends the rule against apparent bias, see again *O'Conner and Broderick's Application*.

Therefore, even if members of the IFA Disciplinary Committee strive (as some do) to be independent, they are in fact unable to be so because the entire process and structure is set up to give the appearance of independence and a 'Judicial' committee, but beneath this veneer the structure is constructed so to compel the opposite. It is of course also true that if someone becomes a little too 'independent' for the IFA's liking, then the Board can simply remove them. If we again think of a criminal justice context, that would be like the Director of Public Prosecutions appointing Judges, who serve at the grace and favor of said DPP, and are liable to removal at any time or at the conclusion of a temporal limit. This would be absurd, but yet is precisely what is passed off as an 'independent Judicial' structure within the IFA.

An example of flaws in the IFA Disciplinary Code

As an aside, the Disciplinary Code itself remains riddled with difficulties and contradictions. To give one example, Article 14.13- Article 14.15 provides:

> *14.13 A player or official who is reported for assault or battery of an opponent or any other person other than a match official will be sanctioned with a minimum 3 match standard suspension and a £100 fine imposed on their club.*
>
> *14.14 A player or official who is reported for biting or spitting at an opponent or any other person other than a match official will be sanctioned with a minimum 6 match standard suspension and a £100 fine imposed on their club.*
>
> *14.15 A player or official who is reported for unsporting conduct towards a match official will be sanctioned with a minimum 5 match standard suspension and a £100 fine imposed on their club.*

The burden is on the Association to prove the charge, and the charge is that which is set out in the relevant provision. As with a statutory offence, you look at the provision to ascertain the elements of the offence which if proven to the requisite standard (balance of probabilities in civil or non- criminal Disciplinary proceedings) is made out and the accused is therefore guilty.

In the above example of offences lifted from the code it ought to be apparent that the core constituent element of each offence is that the relevant conduct is 'reported'. Therefore, to make out the offences at 14.13-14.15, the only element which must in fact be proved is that the alleged misconduct has been 'reported'. This means that the mere proving that 'a report' has been made is enough to make out the elements of the relevant offences. There is no requirement that the accused be proved to have actually committed the alleged misconduct, a mere 'report' alleging he/she did is enough.

That is patently absurd, and the diabolical drafting has plainly passed unnoticed given that the Disciplinary Committee have operated on the basis of requiring the actual conduct to be proved, but therein lies another fundamental problem.

The Disciplinary Committee has only two lawful choices: (i) find the accused guilty on the basis of a report alone, the central element of the offence having been satisfied; or (ii) in exercise of the overriding jurisdiction to act compatibly with natural justice and fairness (and in Disciplinary proceedings Article 6 ECHR in so far as applicable), refuse to find any accused guilty because the offence itself is inherently in breach of natural justice in so far as to be proved it only requires a report to be made, with no requirement to prove the alleged conduct giving rise to the report.

However, what the Disciplinary Committee cannot do is 'read-in' elements to the charge which aren't there, even to make it fair. Put simply, they cannot re-write or interpret the offence in a way whereby it requires proof of the conduct because in doing so they would be unilaterally amending the Disciplinary Code and even if such an approach was

eminently sensible or in fact in the interests of the accused, that matters not. They have no power to do it. If they were to find someone 'not guilty' on the basis that the conduct wasn't proved, then how could this in fact be lawful when the elements of the relevant offences only require a 'report' alleging misconduct?

If this was a statutory offence coming before a Judicial authority within the ambit of the Human Rights Act 1998, such a judicial body could exercise the powers in the 1998 Act to interpret the provision compatibly with Convention rights, but given this is ostensibly a private law matter in the realm of contract, there is no such power. That leaves only a binary choice: find guilty on a charge which is defective and in breach of the most elementary principles of justice and fairness (and is plainly unlawful) or, on this basis, find an accused not guilty and leave it up to the drafters to properly amend the Code to deal with this error.

Another prominent 'abuse' of the Disciplinary Code which has become prevalent has been the IFA 'Referee' Department, usually in response to social or mainstream media, of their own volition retrospectively seeking to alter on-field decisions by virtue of referring to the Disciplinary Committee specific incidents requesting that, for example, a yellow card is upgraded to a red card.

There are important issues (which are to be determined in *Josh Carson v IFA Disciplinary Committee*) about even the process by which certain individuals within the referee's Department make these referrals, given there is obvious problems of a lack of delegation and additionally, even if there were proper delegation in place (of which there is not a scintilla of evidence), there- at least in the *Carson* case- are issues in respect of sub-delegation and offending the *delegatus non protest delegare* principle.

This is in addition to a another core problem. The provision relied upon to make these referrals has been Article 34 which has the heading "*ARTICLE 34 MISCONDUCT WHICH HAS COME TO THE ATTENTION OF THE COMMITTEE OTHER THAN BY MEANS OF A MATCH OFFICIAL'S REPORT*".

Article 34, relied upon by the referee's Department in the controversial cases in which they have made referrals, reads:

> *"34.4 A League, Divisional Association, Committee, Committee member, match official or department within the IFA submitting a complaint of misconduct must submit their complaint in writing dispatched by email to discipline@irishfa.com within 14 days from the alleged misconduct coming to their attention. The IFA will send a copy of the complaint to the club or person who is the subject of the complaint"*

There is a very clear problem. This 'gateway' to lodge complaints is for misconduct which comes to the attention other than by means of a match official's report. In circumstances whereby the referee's Department, of its own volition, is seeking to, for example as in the *Carson* case, upgrade a yellow card to a red, this is not a matter which comes other than via a referee's report (because the referee's report records the decision to issue a yellow

card), but rather is an effort to alter a decision made on-field and recorded in a match officials report.

It seems self-evident to point out that if Article 34.4 is to be applied to permit retrospective challenges to on-field decisions (as the Disciplinary Committee and referee's Department contend) the clubs etc. can refer on-field decisions to the Disciplinary Committee seeking to have them overturned. It de-facto creates a chaotic process whereby you can appeal via Article 34.4 if for example the referee issuing a player in the opposing team a yellow card, and you think it should have been a red. The consequences of the interpretation of Article 34.4 contended for have not been properly considered much less understood.

In the Disciplinary Code, there is a provision (Article 1.9) that permits the Disciplinary Committee to correct an obvious error, but that is vested in the Disciplinary Committee, and the threshold is high- the error must be an obvious one. That someone may have on balance come to a different decision is not enough. It is essentially equivalent to an irrationality provision (i.e., no reasonable person could have possibly made the impugned decision). It may be that clubs or Departments could make a referral under Article 1.9 (even that is disputable, it may be that the provision relies on the Disciplinary Committee acting of its own motion), however making a referral under Article 34.4 is the wrong gateway and that can't be remedied, any such referral is plainly invalid.

However, those procedural errors, whilst serious and fatal (or at least ought to be) for those specific cases, are of less importance than an important principle which goes to the heart of fairness. There is no VAR in Northern Ireland football. Therefore, that creates a situation whereby some decisions will be effectively 'reviewed', based on whether there were TV cameras at a game, or not, whilst other decisions will not be reviewed. This creates inconsistency and unfairness: a club who suffers from a poor decision may have this decision reviewed if there was a TV camera there, but if there was not, then there is no review available. There needs to be a consistent and equitable policy applied across the board, not one which depends on external factors (i.e., was the game being covered by the BBC).

If on-field decisions are going to be reviewed retrospectively, then there must be a mechanism whereby every decision, or a clear category of decisions, can be reviewed, in every game. At least this would ensure the same standard and approach is applied uniformly across the board. That is likely impractical in the absence of serious technology investment (effectively introducing VAR or something equivalent for retrospective post-match reviews of decisions), therefore it is difficult to see how it can be remotely justifiable to operate on the basis that depending on external factors, beyond the control of clubs, the IFA will adopt a piecemeal and inconsistent policy whereby some decisions will be subject to review, and others not.

In another absurd provision, Article 15.2, inter alia, provides:

> *"15.2 A player, official, match official, club, league or any other recognised football body or person under the jurisdiction of the*

> *Irish Football Association must not make comments or post content in the media or social media which:*
>
> *(i) Imply bias, incompetence, or question integrity and/or bring the game into disrepute or which are abusive, offensive and/or insulting and such comments are considered to be football related;…"*

This provision is so wide (one suspects deliberately so) that it encompasses essentially any criticism whatsoever of the IFA. For example, if the IFA Board is squandering monies, mismanaging their responsibilities (such as some may say they did in respect of Casement Park) or acting arbitrarily, anyone who dares questions this is guilty of this offence. It is a means by which the IFA think they can stifle dissent and is deeply concerning for all those who value free speech and accountability.

By way of one final example (and there could be many more provided), there are many disciplinary charges being laid on the basis of match reports lodged more than 24 hours after the commencement of the relevant match. This is prohibited as Rule 6.5 provides:

> *"6.5 The referee report must be submitted by the referee via the Comet System at the earliest opportunity following completion of the match and not later than 24 hours after the commencement of the match taking place"*

The effect of a late match report alleging misconduct is that the match report is evidentially inadmissible (i.e., there can be no charges based upon the report). This was set out in the judgment of Appeals Committee Vice Chair Barry Finnegan in just judgment in *Cliftonville v NIBYA* [2023] IFA AC where he said:

> *"Disciplinary reports must be submitted by Match Officials via the Comet system at the earliest opportunity following completion of the match and not later than 24 hours after the commencement of the match taking place. Any such report which falls beyond the period is inadmissible from an evidential standpoint"*

Therefore, all clubs should review any disciplinary charges and the timing of Comet reports alleging misconduct. If it is outside 24 hours, the match report is inadmissible and in the absence of same, there is no basis to initiate any charges under Article 13.1 of the Disciplinary Code.

The Appeals Committee- The final bulwark?'

In respect of decisions of the Disciplinary Committee, or any other body within the IFA, an Appeal lies to the IFA Appeals Committee appointed under Article 14 of the IFA Articles of Association. This is, at least structurally, important because it prima facie raises significant issues about whether the panel can, as a matter of law be held to be

independent. The dicta in *Mutu and Pechstein v Switzerland* App nos. 40575/10 and 67474/10 (ECHR, 2 October 2018):

> *"1. In order to establish whether a tribunal can be considered "independent", regard must be had, inter alia, to the manner of appointment of its members and their term of office, the existence of guarantees against outside pressure and the question whether the body presents an appearance of independence (see Findlay v. United Kingdom, 25 February 1997, § 73, Reports 1997-I, and Brudnicka and Others v. Poland, no. 54723/00, § 38, ECHR 2005-II)."*

There are neither safeguards in the appointment process, nor guarantees against outside pressure to act as protective mechanisms to prevent the IFA Board and/or their legal advisors, or other lower committees, from seeking to influence or pressure the Appeals Committee.

It is important to note that the power to make decisions on grounds of appeal advanced is vested in the three-person (or more) panel appointed to deal with any specific appeal. The powers to dismiss, or declare 'invalid' appeals or grounds thereof, rest solely with the panel and cannot be unilaterally exercised by any individual member of the Appeals Committee, including the Chair. This principle was reiterated during his time as Chair by Martin Wolfe KC.

This extends to ratifying unilateral actions thereafter. As the committee has no power to delegate the power vested in it under Article 14 (5) to any individual member of the committee to unilaterally exercise, it cannot retrospectively make good any such unlawful exercise of power by ratifying it. As Lord Denning said in at page 40 of *Barnard v National Dock Labour Board* [1953] 2 QB 18:

> *"If the Board have no power to delegate their functions to the port manager, they can have no power to ratify what 5 he has done. The effect of ratification is to make it equal to a prior command; but just as a prior command, in the shape of a delegation, would be useless, so also is a ratification."*

The Appeals Committee in recent years under the Chairmanship of Martin Wolfe KC, thereafter Chairwoman Emma McIlveen BL and the ongoing vice-Chairmanship of Barry Finnegan (solicitor) has consistently demonstrated independence, ruling many times against various arms of the IFA, with notable cases including *Sandy Row v NAFL, East Belfast v NAFL, Linfield v IFA Disciplinary Committee, Enniskillen Rangers v IFA Disciplinary Committee* and *East Belfast v IFA Football Committee*. This has obviously not met with universal acclaim within the IFA who have veered between bemusement and fury that a 'Judicial' Appeals Committee would in fact dare to act independently or not in the subjectively defined 'interests' of the Association.

It is imagined that significant efforts will be deployed by the IFA Board to neuter the Appeals Committee, whether that be by trying to appoint into key roles and cases those

who are more amenable to 'staying onside' (to deploy football parlance) with the IFA and who will rule accordingly, or perhaps they may ultimately take the nuclear option of amending the Articles to restrict the jurisdiction of the Appeals Committee.

In truth it seems unlikely they will do the latter as to do so would be to represent 'defeat' in so far as they would have to publicly admit that too many significant decisions couldn't stand up to scrutiny of an independent Appeals Committee, so therefore they must limit the remit of the Appeals Committee. But they have already tried diligently to do it subtly in *East Belfast v IFA Football Committee* [2024] IFA AC, in which this representative appeared for the appellant who succeeded in having a proposed new definition of 'discrimination' removed from the Disciplinary Code, but more importantly in that case the IFA failed in their efforts to narrow the jurisdiction of the Appeals Committee.

It cannot be ruled out however that the IFA can manage to secure a more compliant Appeals Committee who will prioritise relationships with the IFA over acting as a final bulwark for players and clubs who have no other remedy to right injustices or wrongs. If this occurs, the IFA will simply rely upon more compliant Appeals Committee members to narrow their own jurisdiction and close down challenges which are inconvenient for the Association corporately. There is a reason why Judicial independence, and the appearance thereof, is such a fundamental principle. There is also a reason why the Appeals Committee should be independent from the IFA Board, and Chief Executive, not least given that the legal representatives who advise both regularly appear before the Appeals Committee representing other arms of the IFA (such as the Football Committee or Disciplinary Committee).

There have been efforts in a number of recent cases to continue persuade the Appeals Committee to take a narrow approach to jurisdiction by in submissions urging them to close down the grounds of challenge which can be advanced, in essence seeking the Appeals Committee to reject any effort to bring challenges on traditionally 'public law' grounds, and to shut off any 'procedural fairness' or 'natural justice' issues in so far as they relate to requiring material to be disclosed. It remains unclear the true extent by which, if at all, the IFA Board either directly or via their legal representatives as surrogates have sought to direct and control the Appeals Committee's procedures.

It ought to be pointed out of course that challenges on public law grounds in sports disciplinary proceedings cannot in fact be lawfully simply waved away or ignored. True it is that, in strict legal theory, sporting rules are a private law matter of contract, but that is a fiction and artificial creation, as set out by Lord Denning in *Enderbury Town Football Club v Football Association* [1971] 1 All E.R. 215. The rules are akin to a legislative code and must be subject to the same standard of review, and the control of the court, particularly when the governing body has a regulatory monopoly over all football in Northern Ireland. The Appeals Committee may not be a Judicial Review court, but it might as well be. If they refuse to apply the rules in a proper way, then this is subject to the same standards of review in private law.

In *Stevenage Borough Football Club v the Football League* (unreported) Carnworth J (as he then was) observed there were several cases in which the court had exercised supervisory jurisdiction in respect of sporting regulatory bodies, including focusing on

the control and power of regulatory bodies, treating their rules as a legislative code, following the dicta of Lord Denning in *Enderbury Town*.

In more recent times, Lord Woolf MR interestingly eschewed efforts to insulate disciplinary proceedings (in respect of private law challenges) from public law principles, stating in *Modahl v British Athletics Federation (No. 1) 183*:

> *"there no reason why there should be any difference as to what constitutes unfairness or why the standard of fairness required by an implied term should differ from that required of the same tribunal under public law"*

It is clear therefore that try as some may wish to close down the scope and nature of the challenges which come before the Appeals Committee, as Lord Woolf MR made clear, this is not permissible as a matter of law.

There is also a serious question around the IFA Appeals being held behind closed doors, particularly in cases whereby there is a financial or restrictive penalty (i.e., a sanction prohibiting playing) applicable. This is even more pronounced at the higher level of the game whereby playing football is part of the 'profession' of senior players.

In these circumstances ECHR Article 6 plainly applies to the proceedings. In *Mutu and Pechstein* the court said at paragraphs [56]-[59]:

> *2. The Court reiterates that Article 6 § 1 applies only to the determination of "civil rights and obligations or of any criminal charge" (see Le Compte, Van Leuven and De Meyere v. Belgium, 23 June 1981, § 41, Series A no. 43).*
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> *3. As regards application no. 40575/10, the Court notes that the first applicant complained about the arbitral award of 31 July 2009, which ordered him to pay damages to Chelsea Football Club. The rights in question are clearly of a pecuniary nature and stem from a contractual relationship between private persons. They are therefore "civil" rights within the meaning of Article 6 of the Convention.*
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> *4. As regards application no. 67474/10, the Court observes that it is the award of 25 November 2009, confirming the second applicant's suspension for two years, which is at issue. Here too, as this is a disciplinary procedure before the professional bodies and in the context of which the right to carry on an occupation is at stake, there is no doubt as to the "civil" nature of the rights in question (see, mutatis mutandis, ibid., § 48).*
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> *5. Article 6 § 1 of the Convention is therefore applicable ratione materiae to the disputes, forming the subject matter of the present case, to which the applicants were parties before the CAS.*

It is clear that the relationship between IFA and players/clubs is contractual, therefore engaging private law 'civil' rights, and thus bringing disciplinary proceedings squarely within the ambit of Article 6 ECHR.

And the court went on to deal with the entitlement, unless waived, to have a public hearing, saying at paragraphs [175]-[179]:

> *6. The Court reiterates that the public character of proceedings constitutes a fundamental principle enshrined in Article 6 § 1 of the Convention. It protects litigants against the administration of justice in secret with no public scrutiny and is thus one of the means whereby confidence in the courts can be maintained. By rendering the administration of justice visible, it contributes to the achievement of the aim of Article 6 § 1, namely a fair trial, the guarantee of which is one of the fundamental principles of any democratic society (see Diennet v. France, 26 September 1995, § 33, Series A no. 325-A; B. and P. v. the United Kingdom, nos. 36337/97 and 35974/97, § 36, ECHR 2001-III; Olujić v. Croatia, no. 22330/05, § 70, 5 February 2009; Martinie v. France [GC], no. 58675/00, § 39, ECHR 2006-VI; and Nikolova and Vandova v. Bulgaria, no. 20688/04, § 67, 17 December 2013).*
>
> *7. Article 6 § 1 does not, however, prohibit courts from deciding, in the light of the special features of the case submitted to them, to derogate from this principle: in accordance with the actual wording of this provision "... the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice"; holding proceedings, whether wholly or partly, in camera must be strictly required by the circumstances of the case (see Diennet, § 34; Martinie, § 40; Olujić, § 71; and Nikolova and Vandova, § 68; all cited above).*
>
> *8. There may be proceedings in which an oral hearing is not required under Article 6, for example where there are no issues of credibility or contested facts which necessitate a hearing and the courts may fairly and reasonably decide the case on the basis of the parties' submissions and other written material (see, for example, Döry v. Sweden, no. 28394/95, § 37, 12 November 2002; Pursiheimo v. Finland (dec.), no. 57795/00, 25 November 2003; and Şahin Karakoç v. Turkey, no. 19462/04, § 36, 29 April 2008). Accordingly, even where a court has jurisdiction to review the case both as to facts and as to law, the Court cannot find that Article 6 always requires a right to a public hearing irrespective of the nature of the issues to be decided. There are other considerations,*

> *including the right to trial within a reasonable time and the related need for expeditious handling of the courts' caseload, which must be taken into account in determining the need for a public hearing (see Varela Assalino v. Portugal (dec.), no. 64336/01, 25 April 2002). The Court has previously found that proceedings devoted exclusively to legal or highly technical questions may comply with the requirements of Article 6 even if there was no public hearing (see Jurisic and Collegium Mehrerau v. Austria, no. 62539/00, § 65, 27 July 2006, and Mehmet Emin Şimşek v. Turkey, no. 5488/05, §§ 30-31, 28 February 2012).*
>
> *(ii) Application of those principles to the present case*
>
> *9. The Court would point out that, in its judgment of 10 February 2010, the Federal Court merely found that the second applicant was not entitled to rely on any right to a public hearing before the CAS, under Article 6 § 1 of the Convention, because that principle was not applicable to voluntary arbitration. The Federal Court nevertheless emphasised that, having regard to the importance of the CAS in the world of sport, such a hearing would have been "desirable" (see paragraph 23 above).*
>
> *10. The Court would further observe that the principles concerning public hearings in civil cases, as described above, are valid not only for the ordinary courts but also for professional bodies ruling on disciplinary or ethical matters (see Gautrin and Others v. France, 20 May 1998, § 43, Reports 1998-III).*

Applying those principles, there are many IFA Appeals which, applying Article 6 ECHR, should be held in public. There are no grounds to justify departing from that fundamental principle (unless the accused waives the right to a public hearing) which can be credibly advanced by the IFA. If individuals wish to avail of that right, they should request a public hearing.

Another fundamental right within Article 6 ECHR is the right to a trial or determination of your civil rights (i.e., disciplinary sanctions) within a reasonable period of time. The IFA itself states that Appeals should, where possible, be heard within 14 days (see Article 14 (5). In some instances appeals have taken upwards of four to five months. By any yardstick, that would seem to be a breach of Article 6 ECHR. The remedy for this should be a reduction in sanction, or the quashing of a sanction in extreme cases. The power to, for example, suspend a sanction is found in Article 12 of the Disciplinary Code. In extreme cases, it would seem that by way of remedy for undue delay, the Appeals Committee if they uphold a sanction, should exercise their discretion in the interests of justice (see Article 14 (6)) to, within the parameters of the Disciplinary Code, suspend a sanction.

Arbitration- A fictitious 'remedy'

That brings us to the most egregious and dishonest aspect of the IFA Appeals and Disciplinary process. If someone is dissatisfied with an Appeals Committee decision, Article 3 of the IFA Articles provides they can bring such a case to 'Arbitration'. This clause additionally purports to oust the jurisdiction of the High Court, thus closing off (they think) any possibility that a player or club can seek to vindicate their rights in that forum.

This is a perfect example of the duplicity within the Appeals and Disciplinary process. They purport to shut down any avenue for someone who feels wronged to challenge them legally in the High Court, but instead say 'you can Arbitrate'. However, what they don't advertise is that if you Arbitrate, and lose, the IFA will pursue your club or, if an unincorporated association (as most Amateur clubs are), the individual members of your committee or club personally for between £30,000-£60,000 in 'costs'. The question for the vast majority of clubs, most notably Amateur clubs run by volunteers as an unincorporated association, then becomes 'no matter how wronged you have been, do you want to risk your house to challenge the IFA?'. The answer will always inevitably be that all but the richest clubs in the country with such an extortionate amount of money available to risk will have to bow out, and thus the IFA- no matter how unjust or wrong their decision- escape.

The scenario set out above is not sensationalist or hypothetical: the IFA in *Donaghadee v IFA* pursued two men, one who was fighting for his life requiring an urgent kidney transplant and another a hospitalised pensioner, for costs from an Arbitration, actively pursuing and threatening to take from them their homes. In that case, they managed merely to get a paper judgment against a pensioner in the High Court (i.e., a costs order which could be enforced against a straw man), notwithstanding their 'gallant' efforts. Madam Justice MacBride in that case ruled that the constitution, given one individual 'straw man'[3] came forward to say he unilaterally took the decision to enter the Abritration, placed sole liability on this individual who could never settle any order anyway.

At this juncture it is important to emphasise that, in this context, a strong and truly independent Appeals Committee to act as the final bulwark is essential for players and clubs. This is the *prima facie* last hope at justice and fairness, and it is equally therefore apparent that if the IFA have a compliant Appeals Committee essentially able to be manipulated, 'talked to', or bullied, then they can do whatever they want because (they think) they are free from any external legal scrutiny or accountability because clubs or players cannot actually arbitrate, and they have (again, they think) ousted the jurisdiction of the High Court via their Articles.

However, things are not quite as straightforward as they think. The IFA and their 'judicial committees' are not as insulated from external judicial scrutiny as they believe themselves to be. In the already highlighted ECHR case of *Mutu and Pechstein*, dealing

[3] In legal terms the phrase 'straw man' or 'man of straw' is used to describe a party to civil proceedings who has no discernable financial income or disposal assets, therefore making any order to pay monies merely a paper judgment which in practical terms can never be satisfied or enforced.

with the applicability of Article 6 ECHR, the court at paragraph [113]-[115] laid down particular principles in respect of Arbitration clauses:

> *11. In the present case, the Court takes the view that the choice before the second applicant had not been whether to take part in one competition rather than another, depending on whether or not she had accepted the arbitration clause. Unlike the choices before the applicants in the Tabbane, Eiffage S.A. and Others, and Transportes Fluviais do Sado S.A. cases (all cited above) – which had been in a position to enter into an agreement with one commercial partner rather than another –, the only choice in the second applicant's case was between accepting the arbitration clause and thus earning her living by practising her sport professionally, or not accepting it and being obliged to refrain completely from earning a living from her sport at that level.*
>
> *12. Having regard to the restriction that non-acceptance of the arbitration clause would have entailed for her professional life, it cannot be asserted that she had accepted that clause freely and unequivocally.*
>
> *13. The Court thus concludes that, even though it had not been imposed by law but by the ISU regulations, the acceptance of CAS jurisdiction by the second applicant must be regarded as "compulsory" arbitration within the meaning of its case-law (contrast Tabbane, cited above, § 29). The arbitration proceedings therefore had to afford the safeguards secured by Article 6 § 1 of the Convention (see paragraph 95 above).*

As is apparent, this case distinguished truly voluntary agreements which oust the High Court and require matters to go Arbitration, and mandatory Arbitration clauses in so far as clubs or players/athletes truly have no choice but to agree to such clauses because agreement is necessary to be able to play football at all under the jurisdiction of the IFA.

This throws into significant doubt the previous leading authority in *Stretford v Football Association* [2007] EWCA Civ 238 and raises the prospect the court on the basis of distinguishing voluntary and mandatory Arbitration clauses, rule the ouster clauses unlawful. At its lowest, *Streford* cannot be reconciled with *Mutu and Pechstein*.

Distinguished legal expert Ben Ciscernos, writing academically in the International Sports Law journal[4] (on the subject of whether sporting regulatory bodies should be subject to Judicial Review, but touching on Arbitration clauses), has said:

> *"...the validity of "forced arbitration" clauses contained in SGB regulations has been cast into doubt by the ECtHR decision in Mutu and Pechstein which recognised the lack of genuine consent by*

[4] Challenging the call: Should sports governing bodies be subject to judicial review?

> *participants to SGB regulations. This reinforces the analysis in Part 3.1.1 with regard to the artificiality of the contract deemed to exist between participants and SGBs and may lay the foundation for a future challenge to the validity of SGB arbitration clauses in English law. Moreover, it is suggested that, if JR of SGBs is accepted, the administrative courts might be more willing to find arbitration clauses invalid, owing to their approach to ouster clauses"*

A club or player is not permitted to play football in Northern Ireland unless they agree to be bound by the IFA Articles of Association, Disciplinary Code and all other applicable rules and regulations. Therefore, as a pre-requisite to participating in football- either as a hobby or profession- you must agree that any disputes will be finally settled by Arbitration and you agree have no right to go to the High Court (notwithstanding, as explained, the right to Arbitration is a fiction because such is the cost risk, it is so prohibitive that it affords no remedy at all) thus the IFA are completely insulated from any external scrutiny. It is a Stalinist type approach which has led to many significant injustices going unchallenged[5].

The mandatory requirement in the IFA Articles to agree to oust the jurisdiction of the High Court and that all matters can only go to Arbitration is in light of *Mutu and Pechstein* not as solid a barrier to external judicial scrutiny as the IFA has come to believe. Indeed, their vindicative pursuit of seriously-ill and elderly individuals in the *Donaghadee* case is in fact the very first point against them in the High Court when it is argued that the mandatory Arbitration clause cannot oust the jurisdiction of the High Court at all because there was no freely given consent, and this is self-evident because due to the IFA using costs as a prohibitive weapon to close the door to Arbitration, it is in fact no remedy at all, so why would anyone have agreed to waive their rights to judicial remedy, or under Article 6 ECHR for disciplinary matters, in exchange for a fictitious remedy?

Therefore, the IFA and by extension the Appeals Committee are not in fact insulated from their decisions or ancillary matters in respect of procedural fairness and/or disclosure requirements as a species of same, being subjected to public judicial scrutiny. At an appropriate moment, when there is an issue of real substance in respect of a breach of natural justice or procedural fairness, which as those requirements are within the Disciplinary Code are in fact express terms of contract (or indeed applicable rights under Article 6 ECHR which are implied into a Disciplinary procedures in certain circumstances), a High Court challenge can be brought, for example, for breach of contract, or to challenge the failure of the procedure to ensure safeguards guaranteed by Article 6 ECHR in certain disciplinary proceedings.

It is inevitable that in an effort to stem the tide of challenges, the IFA will try to get their Disciplinary Committee and Appeals Committee 'onside' to 'make an example' in an appropriate case via a disproportionate and unjust sanction or procedural approach. At that point, they will be at their most vulnerable to a substantive High Court challenge.

[5] For example, the PSNI football team issued a public statement in 2021 stating they felt wronged by an AC decision, but due to the treatment of Donaghadee FC by the IFA, they were simply unable to Arbitrate due to the IFA's weaponisation of potential costs.

The Arbitration clause, which falls into the category of mandatory within the distinctions set out in *Mutu and Pechstein*, cannot save the IFA in such circumstances. It is of course true that, with the appropriate applicant, legal aid for such a challenge would be available, or at least a protective costs order, therefore depriving the IFA of their greatest weapon, namely using their financial firepower to intimidate anyone who would dare to seek to challenge them via external judicial or even Arbitral proceedings. The tables would be turned in such a circumstance and it would be the IFA facing costs.

The reality that this pathway exists, and will at the opportune moment be pursued, ought to give pause for thought to all those involved in relevant decision making given the reality that such persons need to be mindful of the fact that their decisions, the reasons offered for same, and/or the ancillary procedural steps taken may very well be held up to public judicial scrutiny by a High Court judge.

Conclusion and Recommendations

The IFA Disciplinary and Appeals process is not fit for purpose. There are several fundamental frailties and, as laid out in only a little detail in this paper, a somewhat shocking absence of safeguards or remedies for clubs or players who are subject to unjust and/or unlawful decisions. These issues are not with the individuals on the relevant Committees, but rather with the structure itself and how it is set up to encourage a compliant attitude and deference to the subjectively defined 'best interests' of the IFA corporately, rather than doing what is right.

It is an underappreciated fact that the IFA Board, and its committee structures, are there to serve the membership. It has too often been the case that the members have been viewed as being there to serve the Board. It always remains open for clubs to revolt and bring forward changes to the Articles to ensure proper fairness for all clubs and players, and to act as a bulwark against the worst excesses of elements of the IFA who have become accustomed to power without accountability.

These necessary changes could for example do some of the following:

(i) Provide for an external recruitment process (which doesn't involve- in any shape or form- the IFA's own legal representatives constructing the process) to appoint independent legal representatives (at present this is done by the Board) to sit on the IFA Appeals Committee which should itself be removed from the structures of the IFA and placed on a wholly independently constituted footing, beyond the control of the IFA Board. In order to provide credibility, independence and robust oversight, this independently constituted body should be Chaired by distinguished retired Judge or legal professional such as, for example, Sir Paul Girvan who now practices in the field of Arbitration and also encompass experienced football figures of longstanding pedigree such as, for example, Jim Boyce or Jim Shaw. These are people who could provide the football family with confidence in the integrity of the process.

(ii) Provide for sufficient (but reasonable) remuneration (on a per-hearing attended basis simply to that paid by the FA in England) and reimbursement of reasonable costs for the Independent Appeals Committee members sitting on an Appeal. At the moment those individuals giving up their time and, in respect particularly of the legally qualified members, their expertise to sit on Appeals are not provided with any remuneration at all. That evidently is not an attractive proposition if the desire is to attract the highest standard of Appeals members, and it is a miracle that the IFA have managed to recruit legally qualified members over recent years of such standing and expertise, despite providing no financial consideration for their services (indeed, such persons probably end up out of pocket in terms of their travel costs and giving up their time). In circumstances whereby the IFA are remarkably liberal in forking out significant amounts to their chosen legal representatives (King and Gowdy, and various counsel), it appears extraordinary that they could not merely provide reasonable payment to those sitting on panels for them. The absurdity of this situation is illuminated by the fact that in some cases you may have a KC, an experienced junior barrister and solicitor of high standing hearing an appeal, with the IFA via their Disciplinary or Football Committee appearing before them represented by an array of solicitors from King and Gowdy and experienced counsel, all being well renumerated for their services (as they are entitled to be) out of the IFA's finances, whilst the Appeals Committee are not, it seems, even provided so much as a refreshment much less any renumeration for giving up their time and expertise.

(iii) In light of the above, it would also seem that an independent review on how the IFA Board and Departments spend the Association's money on legal costs in Appeals or in seeking advice on various issues should be undertaken in order to provide transparency. This review should also include any circumstances whereby the IFA appoint counsel to conduct independent investigations in order to explore the process by which the relevant counsel is selected, which should be open and transparent. As a core aspect of this review, there should be transparency as to how the IFA tender for and appoint their solicitors in order to ensure propriety, transparency and that the Association's finances (which ultimately belong to the members) are being managed diligently.

(iv) Prohibit by an amendment to the Articles (which can be brought by clubs) the same legal representatives acting across purposes in the IFA in respect of Disciplinary proceedings (i.e., legal representatives cannot simultaneously act for the Board, the Disciplinary Committee, the Football Committee and purport to advise or represent the Appeals Committee or members thereof, or any variation of the aforementioned cross contamination). In any event the proper application of the Law Society and/or Bar Code of Conduct should, in theory, prevent such conflicted cross-contamination but this has arguably hitherto not been the case.

(v) Amend the Articles to cap the amount of costs in Arbitration to the costs of the Arbitrator, with each side bearing their own legal costs, and furthermore remove the clauses ousting the jurisdiction of the High Court, instead

expressly providing for access to the High Court for breach of contract and/or other specified matters.

(vi) Provide for a 'sanction code' (the equivalent of clearly defined sentencing guidelines) as is available in England for the FA panels in order to provide for a consistent approach to sanctions issued.

(vii) The IFA Appeals Committee should issue rules of procedure to all clubs setting out precisely how the Appeals hearings shall be conducted. These rules of procedure should be independently drafted by a body outside the IFA, such as that suggested at (i) above.

The workings of the IFA Disciplinary and Appeals process is something which should concern all players, officials and clubs. It is in the interests of all those under the jurisdiction of the IFA that it works professionally, properly and consistent with legal principles of fairness and justice. That, as this paper has argued, is presently not the case and this ought to compel changes.

If there is proper engagement with the issues set out in this paper, there is scope for improved confidence in the Disciplinary and Appeals process, including ensuring greater transparency and accountability. It is difficult to see how that is not in the interests of the IFA as a sporting body, and in particular in the interests of all member clubs.

Acknowledgements

It is important, and fair, to recognise those who have contributed positively within the Disciplinary and Appeals process. It seems apparent that failing to specifically recognise such contributions risks undermining the efforts of such persons.

The secretary of the Appeals Committee is Mr William Campbell, who is longstanding servant of football in Northern Ireland and former senior member of the IFA. There could never be any question raised about Mr Campbell's commitment to fairness, independence and transparency. It is to how credit that IFA Appeals are handled professionally, diligently and certainly Mr Campbell does his personal utmost to ensure fairness to all parties. It is of importance that this is recognised and acknowledged, because such individuals are extremely rare. The easier path in most organisations is to sacrifice your own personal principles, sense of fairness and what you know to be right in exchange for an easy life, and even at times patronage. Therefore, when someone displays the qualities evident in Mr Campbell, that ought to be publicly highlighted, in the hope it will act as an example for others. In all my experience of Mr Campbell (inclusive of disagreements), he has remained dedicated to doing things properly and acting fairly. He is someone with whom you can genuinely and honestly disagree but know that there will be no ill-will or grudges held and come the next appeal, he will once again do his utmost to act as a guardian of fairness for all parties. There is absolutely nothing in this paper which should be taken as either an implied or express criticism of Mr Campbell, in fact quite the contrary, he is expressly excluded from any criticisms which are made.

In the period the IFA Appeals committee was led by Mr Wolfe KC and Ms McIlveen BL, ably assisted by vice-Chair Mr Finnegan, players and member clubs could have confidence that their case would be dealt with fairly and properly, with procedural fairness guaranteed. This is a credit not only to the office holders, but all members who served on the Committee. The Appeals Committee, in that period, was far from a rubber-stamping arm of the IFA, and many clubs and players succeeded in overturning unjust decisions imposed upon them which they hitherto would have had to simply endure without proper remedy or recourse. There were also decisions which, for example, this representative disagreed with, but they were at least honest decisions with an effort to set out reasons and come to what the Appeals Committee genuinely and conscientiously believed to be the right result (and they may well have been right and this representative wrong). There is plenty of scope for honest disagreement on such outcomes, but the motive or manner by which the decision makers applied their mind to the relevant issues could never credibly be impugned.

Additionally, there is no criticism made or intended of the Discipline department led by Ms Maura Denny who has discharged the role diligently and with professionalism and courtesy. The identified procedural failings are structural rather than personal in nature.