

**IRISH FOOTBALL ASSOCIATION
APPEALS BOARD**

In the matter of an appeal by LOUGHGALL FOOTBALL CLUB (“Loughgall FC”) against two decisions taken by the NORTHERN IRELAND FOOTBALL LEAGUE (“NIFL”)

Appeals Committee:

Rachel Best KC

Carley Shields

David Lennox

LOUGHGALL FC were represented by Sam Nicholson (Chairman), John McCann (Treasurer) and David Johnstone (General Manager)

The **NIFL** were represented by Michael Ward (Barrister-at-law), Ciara McReynolds (Director) and Steven Mills (Chief Operating Officer).

DECISION

This is the unanimous decision of the IFA Appeals Board which was reached following a hearing which took place on 19th August 2024.

Having regard to the reasons set out below, the unanimous decision of the Board is that:

1. The Board has jurisdiction to determine the “League Cup” appeal.
2. The “League Cup” appeal shall be upheld in favour of Loughgall FC.
3. The “Participation Agreement’ appeal shall be upheld in favour of Loughgall FC.

Relevant Findings of Facts and Background

1. These are two appeals brought by Loughgall FC against the decisions of NIFL on 8th July 2024 (“The Participation agreement” decision) and 9th July 2024 (the “League Cup” decision). The Board wishes to express its gratitude to all parties involved in relation to how they presented their respective positions and the papers provided to assist discussion.
2. This decision deals with the specific factual situation in relation to both of the appeals. It is not a discussion or decision on the rights or wrongs of Sunday football, and nothing contained herein should be construed either way.

3. As the core aspects of these appeals were based on similar issues, by agreement, they were considered and dealt with together.

4. The relevant background is as follows:

a. On 8th July 2024 Loughgall FC, along with other clubs in the league, attended a NIFL Premiership Sub-Committee meeting. After the appeal hearing on 19th August, the NIFL sent the IFA Appeal Committee the minutes of this meeting. It is clear from the relevant minutes that on 8th July, the clubs were presented with the “Season 24/25, Participation Agreement” with a significant amendment now including a “*Schedule 3, Sunday Waiver*”.

b. Schedule 3 had not been raised with the Clubs in advance of the 8th July 2024 meeting, which provided as follows:

“The Sunday Waiver is an “opt-in” incentive for Clubs willing to commit to offering more availability and flexibility in terms of match scheduling and kick-off times.

All Clubs will receive a Minimum Guarantee from NIFL Broadcast agreements with the opportunity to “opt-in”.

Option One: *Minimum Guarantee (MG) Payment for all Clubs: £8k*

Option Two: *Commit to Sunday fixtures (away only) plus any mid-week (max 2 Sunday away fixtures): MG plus £6k= £14k*

Option Three: *Commit to Sunday fixtures (home and away) plus any mid-week (max 2 Sunday Home or Away): MG plus £12k = £20k*

c. It was the agreed position of the parties that historically, custom and practice was that each of the Clubs in the League (12) received £10,000 from the League. This “pot of money” totalled an amount paid out by the League of circa £120,000. This was the same “pot of money” which now made up the 3 Options available (as set out above) to the Clubs. When questioned by the Board the NIFL accepted that if each of the Clubs had accepted “Option 3” there would have been funds to meet the selection. This would have been circa £240,000, which was double the original “pot” now available under this “Sunday Waiver” “Opt-In incentive scheme”.

d. The Clubs were each asked to select one of the options in relation to the “Opt-in” incentive Scheme. Loughgall FC have not selected any of the options. It was outlined before the Board, on behalf of the Appellant, that as they did not agree to participate in Sunday football the “only” option for them was Option One. This new policy reflected, in reality for the Appellant a reduction in funds received from £10,000 to £8,000. This was a loss of £2000 from the outset. In addition, the Appellant would not be able to avail of the extra funds of £6000 (Option 2) or £12,000 (Option 3) solely because they did not agree to play Sunday football.

e. On 9th July 2024 the NIFL sent a letter to all Clubs in the membership of the NIFL regarding “*Competition entry- BetMcLean Cup*”. This letter states as follows:

“All clubs in membership of the NI Football League are invited to participate in the BetMcLean Cup.

New for 2024/25 clubs are requested to confirm their entry by way of email by noon on Monday 15th July 2024.

Please note that following the recent success of the final being played on a Sunday and following discussions at Board and Premiership level, the NI Football League plan to extend the right to reserve scheduling League Cup matches on a Sunday, to now include the potential to schedule semi-finals on that day.

This move aims to maximise the potential and grow our flagship cup competition in terms of attendance, commercial and broadcast interest.

We hope all clubs accept this invitation and by confirming entry agree to waive any restrictions with Irish FA regulations in regard to Sunday football for this competition from the semi-final onwards”.

5. The NIFL accepted that in previous years the letters did not contain the paragraph waiving restrictions on Sunday football. This was a change in procedure.

6. All parties agreed that the key issue in this appeal was the interpretation of **Regulation 39(b)** of the IFA Regulations as applied to the facts of these situations.
7. **Regulation 39(b)** provides as follows:

“No match shall be played within Northern Ireland on a Sunday, unless the two participating clubs and competition organisers agree to do so. No sanction may be taken against any Club, combination of Clubs or individual player not agreeing to participate in Sunday Football. Any complaint or allegation of discrimination shall be referred to the Board for determination”

Key points advanced

“Participation Decision”

8. **Loughall FC** advanced the following points:
 - a. They accepted that this was not a discussion or debate on the merits or otherwise of Sunday football. Their Appeal was in relation to the interpretation of Regulation 39(b) of the IFA Regulations and the protection it offers.
 - b. They did not agree to play football on a Sunday. Reference was made to religious beliefs and other factors such as Sponsorship, which would be removed if they agreed to play football on a Sunday.
 - c. The inclusion of Schedule 3 in the NIFL Participation agreement, immediately reduced the funds available to the Club solely on the basis that they were not willing to agree to playing Sunday football.
 - d. The funds provided by the NIFL to each Club in the League were usually £10,000 and now were reduced to £8,000.
 - e. In addition, they were not able to avail of the extra £6000 (Option 2) or £12,000 (Option 3) as a result of not agreeing to play Sunday football.
 - f. These two points represented a financial penalty for not agreeing to participate in Sunday football.
 - g. These two points were a “sanction” under Regulation 39(b) which were as a direct result of not agreeing to participate in Sunday Football.
 - h. The actions of the NIFL amounted to discrimination.

9. **NIFL** advanced the following points:

- a. The NIFL is a limited company formed to run, administer, operate and commercially exploit the NIFL Leagues, including without limitation the League.
- b. It was entitled to distribute the funds as it saw fit.
- c. There was no entitlement of any Club, including the Appellant, to any set figure.
- d. This was not a sanction under Regulation 39(b). The “Opt-In” scheme was a method in which all Clubs could only gain from.
- e. No match had been arranged for the Appellant on a Sunday and therefore there was no breach of the IFA Regulation.
- f. The NIFL was entitled to operate and enhance all commercial opportunities for the NIFL leagues. The broadcasting opportunities for the NIFL leagues is paramount in the progressing the member Clubs and football in Northern Ireland.
- g. The NIFL considers the IFA Regulation to be detrimental to the advancement of football in Northern Ireland through the limiting of commercial and revenue generating opportunities.

“League Cup Decision”

10. **Loughall FC** advanced the following points:

- a. The letter of 9th July was a decision that was amenable to appeal before the Board.
- b. On any ordinary interpretation of the content of the letter of 9th July from NIFL, it meant that in accepting the invitation to participate in the competition and by confirming entry that this was an agreement to “waive any restrictions within Irish FA regulations in regard to Sunday football for this competition from the semi-finals onwards”.
- c. As the Appellant did not agree to participate in Sunday football it would be prevented from entering this competition.
- d. This constituted discrimination.

11. **NIFL** advanced the following points:

- a. The letter of 9th July was not a decision and therefore this matter was not properly before the Appeals Board; “Correspondence” was not binding.
- b. The Appeal was “premature” as the Appellant was not subject to having to play on a Sunday yet.

- c. There would be a “discussion” if the Appellant participated in the competition and got to the Semi-final or final.
- d. Whilst the Respondent reserved the right to “schedule” the final on a Sunday, it remained subject to Regulation 39(b) of the IFA football regulations i.e. that the match cannot be played without the agreement of the two clubs involved.
- e. The Appellant has not been “banned” from entry into the competition. Accordingly, the Appellant has suffered no sanction and no loss.
- f. There has been no discrimination.

Findings

12. The Appeals Board carefully considered all information and submissions before it and make the following findings.

“Participation Decision”

13. The Appeals Board accepts that the Respondent is entitled to distribute its funds as it sees fit and recognises the commercial realities of running a League. However, the division and distribution of funds and the actions of the Respondent must be in accordance with the IFA Regulations.

14. Regulation 39(b) is specifically designed to protect those from sanction if they do not wish to participate in Sunday football. Such protection is important to protect those with differing views and to ensure respect is maintained in all aspects of the game.

15. Regulation 39(b) and in particular use of the word “sanction” is sufficiently wide to include the situations before the Board.

16. “Discrimination” in this context means being treated less favourably because the Appellant would not agree to participate in Sunday football.

17. The less favourable treatment in this case is the reduction from £10,000 to £8000. It is accepted that there was no contractual entitlement to these monies however the custom and practice of the League was that this was paid to each club for at least the last 2 years.

18. It was suggested by the Respondent that finances were such that the monies were reduced. The Board does not find that this could be the case given the acceptance by the Respondent it had enough funds to provide for a situation

where all Clubs accepted Option 3 i.e. costing the League £240,000 rather than the original £120,000.

19. The Respondent accepted that the “Opt-in incentive” was designed to encourage Clubs to sign up to Sunday football. Indeed, the title of the Schedule itself is “Sunday Waiver” the focus of this Schedule clearly is on the playing of Football on a Sunday.
20. The Board concludes that by reducing the monies paid out in relation to Option one (i.e. no agreement to Sunday football) that constitutes a sanction and is in contravention of Regulation 39(b).
21. The Board further concludes that by offering the Clubs Option 2 (an extra £6000) and Option 3 (an extra £12,000); in order to agree to play Sunday football this amounts to a sanction against those Clubs not willing to participate in Sunday football and amounts to a contravention of Regulation 39(b).
22. The Board recognises the commercial reality of running a League however Schedule 3 as drafted is not compliant with Regulation 39(b) and therefore cannot stand. The League must review and amend its Participation Agreement.

“League Cup Decision”

23. It is the Board’s determination that the NIFL’s letter of 9th July is a decision susceptible to appeal as per Article 14 (2) of the IFA’s Articles of Association.
24. If, as was advanced by the NIFL, they would abide by the IFA’s Regulations and would adhere to Regulation 39(b) then there would be no reason for the inclusion of the sentence *“We hope all clubs accept this invitation and by confirming entry agree to waive any restrictions with Irish FA regulations in regard to Sunday football for this competition from the semi-final onwards”*.
25. The Board agrees with the Appellant that on any ordinary reading of this paragraph, an entrant Club would be required, in order to enter the Competition, to waive the restrictions with the IFA Regulations as regards Sunday football. No reason was advanced by NIFL as to the inclusion of this paragraph now, which was not present in letters sent in previous years.

26. It is entirely understandable that the Appellant would be concerned and consider that the NIFL required a waiver regarding Sunday football before the Appellant could be entered into the Competition. Such a requirement is not in accordance with Regulation 39(b) and the inability to participate in the Competition constitutes a sanction against the Appellant for not agreeing to participate in Sunday football.

27. The Board were referred to the NIFL Cup Rules 24/25 which provides at Rule 6(b)

All matches shall be played under the Laws of the Game as approved by the International Football Association Board and in accordance with the Articles and Rules of the IFA.

28. The Board notes that at Rule 6(e) of the Cup rules, the NIFL *reserve the right to schedule the final on a Sunday*. The Board considers that at its height the NIFL can “schedule” a final on a Sunday but cannot act contrary to Regulation 39(b) by forcing a team to play on a Sunday. In addition, there is no provision in the NIFL rules for the scheduling of a “*semi-final*” match on a Sunday, despite what is contained in the letter of 9th July 2024.

29. The Board considers that 9th July letter was designed to put in place an entry requirement to waive the restrictions on participating in Sunday football before the Appellant could participate in the BetMcLean competition. This is not in accordance with Regulation 39(b) and cannot stand.

Conclusion

30. For the reasons stated herein, the appeals are upheld.

31. In relation to the “*Participation Decision*” the Board concludes that Schedule 3 of the Participation agreement is contrary to Regulation 39(b) and its provisions constitute a sanction against the Appellant for not agreeing to participate in Sunday Football. This Schedule has no effect, and the matter is returned to the League for their reconsideration.

32. In relation to the “*League Cup*” decision the Board concludes the letter of 9th July constitutes a decision under the provisions of Article 14(a) of the IFA Articles of Association and it has jurisdiction to consider the Appellant’s appeal.

33. The Board considers that the letter of 9th July constitutes a sanction against the Appellant in not agreeing to participate in Sunday Football. The ordinary interpretation of the letter means the Appellant would have to waive its rights under Regulation 39(b) in order to participate in the Competition. This is contrary to the provisions of Regulation 39(b) and accordingly the Board determines any such requirement to waive the restrictions of the Irish FA as regards Sunday Football cannot stand and the Appellant should be free to enter the Competition, for all stages, without any requirement to waive its position in not agreeing to participate in Sunday football.

Dated: 20th August 2024

A handwritten signature in black ink, appearing to read 'R. Best', with a stylized flourish at the end.

Rachel Best KC