

IRISH FOOTBALL ASSOCIATION

APPEALS COMMITTEE

In the matter of an appeal by **BALLYMENA UNITED FOOTBALL CLUB** ('the Appellant') against a decision made by the **IFA DISCIPLINARY COMMITTEE** ('the Respondent')

Appeal Board:

Carley Shields

David Lennox

Mervyn Wheatley

Attendees:

1. The Appellant was represented at the hearing by Jamie Bryson, also in attendance on behalf of the Appellant was Phil Lewis, secretary for the Appellant.
2. The Respondent was represented at the hearing by Shaun Jemphrey of King & Gowdy Solicitors and Laura King BL, also in attendance on behalf of the Respondent was Andrew Raffin (King and Gowdy), Robert Fenton (IFA Disciplinary Committee member), Leigh Sillery (Head of Domestic Football Operations) and Killian Spence (Pupil Barrister).
3. The Board thanked the parties for their substantial written and oral submissions and for their attendance at the hearing.

Background:

4. The appeal originates from a match played on 10 August 2024 between Linfield FC and the Appellant, when one of the Appellant's players, Josh Carson, was cautioned for unsporting behaviour when, having challenged for the ball, he came into contact with a Linfield player's legs. He received a yellow card for the incident.
5. On 13 August 2024, the Disciplinary Manager at the IFA received an email from Mr Davey, Senior Refereeing Manager at the IFA, relating to the tackle and referring the matter under Article 34.4 of the IFA's Disciplinary Code (the 'Disciplinary Code'). This email was considered by the Respondent at its meeting held on 14 August 2024.
6. On 16 August 2024, a Notice of Complaint was issued against Mr Carson sanctioning him to a three match ban as a result of a breach of Article 1.9(ii) of the Disciplinary Code. The Appellant filed an appeal against this Notice of Complaint, which was heard by the Respondent on 16 October 2024. The Respondent upheld the sanction. It is in relation to that decision that this appeal is filed.
7. The Appellant pursued the following grounds of appeal:
 - (i) Failure to disclose the identity of the committee of 14 August 2024;
 - (ii) Failure to give reasons for the charge;
 - (iii) The Disciplinary Code is not lawfully in force;

- (iv) The referral under Article 34 was invalid;
- (v) Mr Davey had no power to make the referral pursuant to Article 34; and
- (vi) the decision made was irrational.

Points raised on appeal:

- 8. The Appellant made the following key points:
 - a. Mr Bryson highlighted that the tackle had already been dealt with in the match report and it is only if the Referee does not deal with it in their match report that Article 34 can be utilised.
 - b. Mr Bryson said it would have been different if the Referee himself had highlighted his own error.
 - c. Mr Bryson said that he accepts that Mr Riley is the individual who has powers conferred on him to act on behalf of the Referring Department.
- 9. The Respondent made the following key points:
 - a. There is nothing in Article 1.9 of the Disciplinary Code to allow the Referee to refer things back and submits the Referee would have to use Article 34 of the Disciplinary Code. Article 1.9 sets out the powers the Disciplinary Committee have and Article 34 details the means by which that misconduct can come to the attention of the Committee.
 - b. The Committee considered there was an error of judgment by the Referee and the action taken in relation to same would not open the floodgates for abuse.
 - c. According to Article 34 of the Disciplinary Code, a department can make a complaint, so someone has to be able to do that on behalf of the department.
 - d. Mr Riley's evidence was clear about giving authority to Mr Davey.

The Appeal Board considered each ground of appeal:

- (i) In relation to the failure to disclose the identity of the committee of 14 August 2024, the Appeal Board is content that there is no merit in this ground of appeal. The appeal relates to the decision of the Respondent taken on 16 October 2024.
- (ii) The second ground of appeal - failure to give reasons for issuing the charge – this was not pursued by the Appellant.
- (iii) In relation to the third ground of appeal - the Disciplinary Code is not lawfully in force - the Appeal Board received detailed written and oral submissions on behalf of both parties and confirm that they have been considered in full. The Appeal Board, however, agrees with the Respondent, and is of the opinion that Article 13(3) of the IFA's Articles of Association is clear and provides the Disciplinary Committee with authority to publish a Disciplinary Code. Article 13(3) states "*The Disciplinary Committee will have full powers to deal with all disciplinary matters contained within terms of reference determined for it by the Football Committee together with those*

matters delegated to it by the Board under Articles 10.2 and 17, including the publication of a Disciplinary Code." The Appeal Board therefore confirms that the Disciplinary Code is lawfully in force.

- (iv) In relation to the fourth ground - the referral under Article 34 was invalid – the Appeal Board is of the opinion that Article 34 of the Disciplinary Code is only to be used where, as the title of the Article clearly sets out, there has been misconduct which has come to the attention of the Committee *other than* (our emphasis added) by means of a match official's report. In this instance, the misconduct complained of had already been dealt with in the match official's report. The player had been cautioned during the match for the tackle he made. We do not have VAR in Northern Ireland and we do not want to encourage an unofficial system of such. Article 1.9 of the Disciplinary Code sets out what the Committee shall have the power to do once matters properly come before it. In this case, the complaint was not properly before the Committee.
- (v) In relation to the fifth ground of appeal – Mr Davey had no authority to make the referral under Article 34 of the Disciplinary Code. The Appeal Board notes that pursuant to Article 34.4 a department within the IFA can submit a complaint of misconduct. The Appeal Board is of the opinion that this includes the staff of that department. Mr Davey's title is Senior Refereeing Manager. It makes sense that he should be able to make such a complaint on behalf of the Refereeing Department. The Appeal Board finds that Mr Davey did have authority to make the complaint, if it had been a valid complaint to make, which on this occasion we say it was not.
- (vi) In relation to the sixth ground – irrationality – the Appeal Board is of the opinion that we do not need to consider this ground given that we have concluded that the referral was incorrectly made under Article 34 of the Disciplinary Code.

10. Therefore, in accordance with Article 14(6)(b) of the IFA's Articles of Association, the Board upholds this appeal by setting aside the decision appealed against and quashes the penalty imposed of a three match suspension with immediate effect.

Dated: 13 February 2025

Carley Shields

On behalf of the Appeal Board