

# DISPUTES RESOLUTION AUTHORITY

Record No:  
DRA/19/2005

**BETWEEN:-**

**THOMAS SHAW**  
**-and-**  
**JOHN ROWNTREE**  
**(as nominees of Michael Davitts GAC)**

**Claimants**

**-and-**

**COUNTY ANTRIM COMMITTEE**  
**-and-**  
**SOUTH ANTRIM COMMITTEE**

**Respondents**

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## DECISION

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### **Factual Background/Chronology.**

1. 6 July 2005 - Letter from South Antrim Executive Committee to Michael Davitts GAC for meeting 14 July 2005. Under 14 and Minor teams suspended until meeting has taken place.
2. 14 July 2005 - Meeting about recent referee's report regarding disciplinary incidents.
3. 18 July 2005 - Telephone call. Minor game of 19 July 2005 can proceed.
4. 18 July 2005 - Michael Davitts GAC hold meeting about discipline.

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5. 22 July 2005 - Letter from South Antrim Executive Committee to Michael Davitts GAC requesting meeting with them for 28 July 2005 about referee's report.
6. 11 August 2005 - Letter from South Antrim Executive Committee to Michael Davitts GAC. Gerard Cairns suspended for 48 weeks. Mark Dean suspended for 12 weeks. Stephen Toner exonerated of any blame.
7. 23 August 2005 - Letter from South Antrim Committee to Michael Davitts GAC requesting meeting 30 August 2005 with them about incidents arising from various referees' reports and a lack of discipline in their juvenile section.
8. 30 August 2005 - South Antrim Executive Committee meeting about incidents and discipline.
9. 1 September 2005 - Letter from South Antrim Executive Committee to Michael Davitts GAC. Recommendation of suspension of all games involving your club.
10. 12 September 2005 - South Antrim Committee meeting. Alleged ratification of the South Antrim Executive Committee recommendation.
11. 14 September 2005 - Letter from South Antrim Committee to Michael Davitts GAC confirming ratification.
12. 26 September 2005 - Meeting of the County Antrim Committee. Hearing appeal from Michael Davitts GAC. Appeal dismissed.

### **The Dispute.**

Michael Davitts GAC (hereinafter referred to as Davitts) dispute the procedural correctness of the recommendation that was passed at the meeting of 12 September 2005 of the South Antrim Executive Committee at Casement Park, Belfast.

The recommendation read as follows:

As a follow-up to the disciplinary meeting of the South Antrim Executive Committee, it has been decided that under rules 140, 141, 142, 129, 130, 137, 138/4, & 152, An Treoir Oifigiúil 2003, the Disciplinary Committee recommends that all South Antrim/Bord na nÓg games involving your club have been suspended until the end of the year 2005.

The Committee also recommended that participation in our leagues in the year 2006 is conditional upon the following points being adhered to:

1. Names of all team mentors are to be presented to South Antrim Executive.

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2. All team mentors must have the relevant child protection documentation.

According to the recommendation, all South Antrim/Bord na nÓg games involving Davitts had been suspended until the end of the year 2005. Whether this amounted to all teams of the Davitts club or all underage teams or solely, in practical terms, to the Under 14 team was not entirely clear.

Davitts feel that they have not received fair treatment by the South Antrim Committee.

Davitts have exhausted their rights of appeal as per Rule 151(b) of An Treoir Oifigiúil 2003 and now wish to make a request for arbitration to the Disputes Resolution Authority (“the DRA”). The parties have agreed to submit to the jurisdiction and procedures of the DRA and this decision will therefore have the authority and force applicable to Arbitration Proceedings under the Arbitration Acts 1954-1980.

### **Proceedings.**

A request for Arbitration was lodged with the DRA on 30 September 2005 by Thomas Shaw and John Rowntree as nominees of Michael Davitts GAC. By letter dated 4 October 2005 the Secretary of the DRA informed all parties that a request had been received. In accordance with s.6.4 of the Disputes Resolution Code, such parties were notified that the Commencement Date of the proceedings was 1 October 2005.

The Respondents were given 7 days from the Commencement Date to serve a reply to the claim, if they wished, in accordance with s.3 of the Disputes Resolution Code.

By fax, dated 6 October 2005, Coiste Chontae Aontroma sought additional time for consideration of the claim and a subsequent amendment of the Commencement Date. The additional time sought was due to the fact that the claim needed to be put before the County Committee for its consideration and that this meeting was due to take place on 10 October 2005.

The Secretary accepted the explanation and exercised his discretion to extend the time limit under Rule 2.2 of the Code to that date.

By letter, dated 11 October 2005, addressed to the DRA, the Respondents replied to the Claimants submissions. This reply was not submitted on the prescribed “Form 2: Response to Request for Arbitration.” in accordance with s.3 of the Disputes Resolution Code.

A letter, dated 12 October 2005, from the DRA to Coiste Chontae Aontroma acknowledged receipt of the response and asked for the reply to be forwarded on Form 2 as prescribed. This was ignored by Coiste Chontae Aontroma.

On 18 October 2005 the Secretary of the DRA notified all parties in writing of the date and venue of the Tribunal hearing.

By letter, dated 19 October 2005, the Claimants notified the DRA that they had received the Respondents' reply seeking further information on a particular issue in their application. The Claimants referred all parties to the relevant section of their application for clarification on the issue of parity with other clubs in South Antrim.

In a letter dated 22 October 2005 the DRA notified all parties that a Tribunal member had asked to be removed from the hearing due to a possible conflict of interest. Mr. Damien McMahon was provisionally selected to replace him and if the parties had any objections, then they should notify the DRA before 26 October 2005.

By Email, dated 26 October 2005, to the DRA, the Respondents objected to the inclusion of Mr. Damien McMahon on the panel because he had been a member of a Tribunal in a case regarding transfers involving the Antrim County Committee and that they considered that this was too recent a matter to permit his again participating in a Tribunal hearing a further case involving the Antrim County Committee.

In reply by post, fax and Email dated 27 October 2005, the Secretary of the DRA notified the Respondents that this objection was rejected, as it failed to disclose a "genuine conflict of interest" as envisaged in s.5.3 of the Disputes Resolution Code and that the Tribunal hearing would proceed as arranged. The objection was not renewed by the Respondents, or either of them, at the hearing.

### **Preliminary Issues.**

At the commencement of the hearing, Mr. Eamon McMahon (who appeared for the Antrim County Committee) queried why Mr. Paddy McIlvenny (who appeared for the South Antrim Committee) and himself had been named individually on the application for arbitration by the Claimants. The Tribunal explained that a named person had to act on behalf of a Committee in proceedings where the Committee is a party, as the Committee has no legal personality in its own right.

It was submitted and accepted by the Tribunal and all parties present that Mr. Eamon McMahon and Mr. Paddy McIlvenny would act as nominees of the Antrim County Committee and South Antrim Committee respectively.

It was further submitted and accepted that Mr. Eamon McMahon would represent both the Antrim County Committee and the South Antrim Committee in these proceedings.

### **The Claimants' submissions.**

The Claimants made a number of submissions and sought to challenge the decision of the Antrim County Committee and the South Antrim Committee on a number of grounds. They contended that Coiste Aontroma Theas wrote to Davitts on 6 July 2005 requesting the attendance of Davitts at a meeting of the South Antrim Executive Committee on 14 July 2005

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at Casement Park, Belfast and purporting to suspend the Davitts Under 16 and Minor teams with immediate effect.

On 14 July 2005, Davitts attended the said meeting. The meeting was stated to be informal and was specifically stated to be in reference to particular disciplinary incidents arising out of two games, namely,

1. Davitts –v- St.Brigids, U16 Football, 30 May 2005.  
The referee, Gerard Flanagan, retired from the game, citing persistent verbal abuse from players and officials from Davitts.
2. Davitts –v- Lamh Dhearg, Minor Football, 21 June 2005.  
Gerard Cairns was reported by the referee, Garrett Duffy, for verbal abuse.  
Stephen Toner was reported for deliberately striking with the fist.  
Mark Dean as reported for severe verbal abuse.

It was submitted to the Committee that any disciplinary problems with Davitts were no worse than those experienced by other clubs in South Antrim. It was, however, stated by the Committee to the representatives of Davitts that the problem related to “the line” rather than the players.

The Davitts representatives indicated that they would take steps to call their mentors together and call a Club Committee meeting to discuss the issue and take appropriate actions to address any concerns.

They stated that the problem would be investigated, although there was no acceptance by them of the specific allegations by the referees within the reports relating to those matches.

On 18 July 2005 Davitts were informed by telephone by the Chairman of the South Antrim Committee that the minor game involving Davitts on 19 July 2005 could proceed. Later on the same date, Davitts held a Committee meeting and a record of the meeting was recorded. This record was submitted to the South Antrim Committee on 19 July 2005.

By way of letter dated 22 July 2005, a number of Davitts players were called to a meeting of the South Antrim Executive on 28 July 2005. At this meeting Gerard Cairns denied allegations of verbal abuse to the referee, although accepted that he had been generally “verbal”. He further denied approaching the referee after the game.

In correspondence, dated 11 August 2005, Gerard Cairns was suspended for 48 weeks under Rule 138 Category A offence, s.3(i).

Mark Dean was suspended for 12 weeks arising out of the game versus Lamh Dhearg on 21 May 2005.

Stephen Toner was exonerated of all blame. It emerged that the offending player in respect of the alleged incident was a different player and this was a case of incorrect identification.

By way of correspondence dated 23 August 2005, Davitts were requested to attend a meeting of the Executive Committee of Coiste Aontroma Theas at Casement Park on 30 August 2005. The purpose of the meeting was not stated.

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At the meeting Davitts were asked to give an account of alleged problems concerning Davitts. The accusation seemed to be a general one regarding discipline. Davitts explained that the club and those responsible for the organisation were doing their best in an area or location that experienced various socio-economic problems. It was explained that there were problems in the recruitment of mentors. Davitts stated that they would seek to address problems at the AGM and attempt to encourage different persons to come forward as mentors.

On the 2 September 2005 Davitts received a letter containing the recommendation as outlined already in the Disputes section of this decision.

On 12 September 2005 the South Antrim Committee met and the recommendation in question was raised at the meeting. The Committee comprises of both the Executive Committee and two delegates from each of the divisional clubs. The Claimants contend that the Chair (Mr. Charlie Martin) read out the recommendation of the Executive Committee meeting of 30 August 2005. The recommendation was not proposed or seconded as per Rule 142(f) of An Treoir Oifigiúil 2003. Davitts objected to the recommendation and asked for a vote on the issue. This request was ignored and Davitts were told that the recommendation was passed, as there were no objections.

At the County Antrim Committee meeting on 26 September 2005, the minutes of the South Antrim Committee meeting of 12 September 2005 were read out. These included the allegation that the recommendation of the South Antrim Committee of 30 August 2005 was passed unanimously. These minutes were challenged by Davitts. Other delegates supported the stance of Davitts including St.Malachy's, Rossa and Sarsfields. Two letters, from the St.Malachy's Club and Cumann na Fuisseoige were submitted to the Tribunal in support of this contention.

Davitts had requested that the minutes of the 12 September 2005 meeting of the South Antrim Committee should be amended to record the objections made by Davitts at that meeting. Davitts had also requested a copy of the original minutes from the meeting of 12 September 2005. These requests were ignored.

The Claimants submit that the meeting of 12 September 2005 did not consider the issue properly or at all. It is submitted that the failure to consider the objections of Davitts and/or the provisions of An Treoir Oifigiúil 2003 represents a breach of the Applicant's rights and legitimate expectations to have the matter fully considered by the South Antrim Committee.

The Claimants further submit that the punishment handed out to the club is wholly disproportionate and have requested details of comparative disciplinary statistics involving all other clubs in the division. This information too has not been provided. It is further submitted that the suspension of all games at all levels runs contrary to the Association's aims and that the decision to suspend is in breach of said aims, as well as in breach of Rule 4. Further, such a decision does nothing for the promotion of the Association's aims at local level, as per Rule 22.

Davitts submit that this dispute arose from a letter of 1 July 2005 citing a "general conception of a lack of discipline". The allegations regarding Davitts have never been specified in

writing or orally. Davitts state that they have not been afforded any or proper opportunity to defend the club against any allegations that have resulted in the club's suspension.

Davitts feel that they have not received fair treatment due, in part, to partiality on the part of those representing the various Committees at meetings. Davitts have concerns regarding the role of those Committee members who are or who have been associated with McDermotts GAC. Davitts and McDermotts are local rivals within the Lower Falls area of Belfast and it alleged, there is historic bad feeling between these clubs. The Claimants submit that it is wholly inappropriate for such rivals to be passing judgement in circumstance such as these.

The Claimants further submit that the sanctions in this case are indicative of a general attitude towards Davitts by the South Antrim Committee over many years. Davitts submit that the punishments towards their players are often comparatively severe. They allege that they have been subject to a "witch hunt" by the South Antrim Committee.

It is further submitted that there was no investigation as per Rule 152 in this case and that the procedures in that rule should have been followed in this case.

Finally, the Claimants point out that participation by Davitts in next year's league is conditional on the provision of certain information by Davitts. The Claimants submit that it is entirely fair, consistent and proper that such requirements are put to every club in South Antrim; in which case, Davitts would have no difficulty in complying with any such requests.

### **The Respondents submissions.**

In reply to the Claimants' case, the Respondent raised a number of points. They contend that the minutes of the 12 September 2005 meeting of the South Antrim Committee were not produced to Davitts because they had not been adopted when they were requested and therefore this was the sole reason for not forwarding same to Davitts. It was stated that both those minutes and the minutes of 26 September 2005 were now available. The said minutes were submitted and tendered as evidence to the Tribunal and the Claimants.

The Respondents state that there are twenty-two teams in the South Antrim Division including Davitts and that the submission by the Claimants of only two letters supporting their stance was not indicative of a large support for Davitts.

It was submitted by the Respondents that Davitts is a valued club in the Association but that the Club must accept its failings in discipline. The Respondents state that they take a very serious view of disciplinary matters and that the Davitts club was being diminished by the misconduct of its players and mentors.

It was submitted that there was an underlying issue of discipline, which affected numerous clubs in the County, and the South Antrim Committee took action for a recurring problem with Davitts under age teams. Between September 2004 and September 2005, there has been a major recurring problem of lack of discipline in the Davitts club. Nine referees' reports about players and mentors and one report of a referee having to abandon the game because of

the conduct of the Davitts club had been received. The referees' reports were submitted and tendered as evidence to the Tribunal.

The Respondents also stated that there have been thirty-nine suspensions in the South Antrim division of which fourteen related to the Davitts club - almost 40% of the total suspensions. Of these fourteen suspensions only one related to an adult team with the remaining thirteen relating to the under age teams. The breakdown of the fourteen suspensions were ten player suspensions and four mentor suspensions. Documentation tabulating these suspensions were submitted and tendered to the Tribunal and the Claimants at the hearing.

The Respondents submit that over the period of September 2004 to September 2005 there has been a total of 37 letters of communication with Davitts. They further submit that Davitts have admitted that they have problems with discipline but have not done anything about it. The Respondents state that it is their responsibility for games within its jurisdiction and that there is a duty of care involved in mentorship's.

The Respondents submitted that Davitts was not being treated any differently from any other club. They had received fair treatment and would continue to do so. The submission of the Claimants that Committee members who are or have been associated with rival clubs are not impartial was wholly disputed. It was pointed out that the Chairman of the South Antrim Committee (Mr. Charlie Martin) did not chair the meeting of the Committee held on 12 September 2005 but stepped aside to let the Secretary propose the recommendation in question as a gesture to show his impartiality.

The Respondents refuted the allegation that there were procedural irregularities at the South Antrim Committee or County Committee level in dealing with the issues giving rise to this hearing.

They further contended that Davitts were given numerous opportunities to address the problems of discipline but the issue was not improving as evidenced by the referees' reports.

Finally the Respondents stated that they were willing to give an undertaking that as from 1 November 2005, Davitts were welcome to participate at all levels in any winter competitions. It was pointed out that the South Antrim Committee was considering introducing new competitions as the "traditional competitions" were now effectively over.

The Respondents further submitted that, in practical terms, only the Under 14 team was suspended and not all of the teams, or even all under age teams of the Davitts club, since the only competition outstanding was the Under 14 Championship.

### **Rules.**

Rules referred to by both parties throughout the Tribunal hearing of this particular dispute were as follows:-

#### An Treoir Oifigiúil 2003.

Introduction, 4, 22, 57, 58, 59, 60, 129, 130, 137, 138, 140, 141, 142, 151, 152, 153,

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Antrim County Bye-Laws.

(General Organisation/Structure) – 1.00, 1.01, 1.03, 1.06,  
(Divisional Sub-Committees) – 5.00, 5.01, 5.03, 5.04,  
(County Disciplinary Sub-Committee) – 7.00, 7.04,

**The Decision.**

The Tribunal has considered the written submissions on behalf of the Claimants which were supplemented by oral submissions on their behalf by Counsel. The Tribunal has also considered the evidence tendered and submissions made on behalf of the Respondents and after careful deliberations, we unanimously find as follows:

1. In practical terms the only substantive issue before the Tribunal was that only the Under 14 team from the Davitts Club had been affected by the suspension decision.
2. There were elements of procedural irregularity as regards the general handling of this matter by the Respondent. However this was not of such magnitude to vitiate the integrity or objective of the decision made.
3. This, together with the undertaking given to the Tribunal by the Respondents that, as from 1 November 2005, all teams of the Davitts club are eligible to participate in any competition in the South Antrim division, the Tribunal did not feel that the procedural irregularities were so fundamental as to warrant the intervention of the DRA.
4. The Tribunal is most critical of the manner in which the Respondents conducted themselves in their approach to these DRA proceedings and the manner in which they conducted themselves in response to requests for information from the Claimants. The Respondents largely ignored the procedures contained within the Disputes Resolution Code as regards responding and replying to the claim and furnishing written evidence or documentation upon which they intended to rely in advance of the hearing. It is wholly unacceptable that voluminous written material relied upon by the Respondents should only be produced at the outset of the Respondents' case midway through the hearing.
5. The Tribunal postulates that had a proper approach been taken by the Respondents to these DRA proceedings and the requests for documentation from the Claimants, the need for a hearing might well have been avoided.
6. The Tribunal does not accept the contention of the Claimants that there is a lack of parity of treatment of it by the Respondents in comparison with other clubs in the South Antrim Division.

7. The Tribunal finds that there is a problem with discipline within the Davitts club.
8. We further find that the Respondents acted reasonably in making such recommendation/decision, having regard to the finding of the Tribunal that the effect of the decision, in practical terms was to suspend the Davitts Under 14 team only.

The decision of the Tribunal is that we refuse the Claimants the relief sought or any relief.

The Tribunal invites written submissions from the parties within seven days of the date of this decision on the following matters:

- (a) legal costs
- (b) the expenses of the DRA

Dated this 19th day of November 2005.

FELIX SWIFT.BL. (CHAIRMAN)  
DAMIEN McMAHON  
PATRICK McCARTAN