



**SPORT DISPUTE
SOLUTIONS IRELAND**

CASE STUDY 2017

BACKGROUND

The national governing body (the “Respondent”) received a number of complaints from the parents of a student of the Appellant (the “Complainants”) with regard to the coaching conduct of the Appellant. The national governing body committee (the “Committee”) found the complaint against the Appellant to be proven and imposed a number of sanctions on the Appellant. In accordance with the rules of the national governing body, the Appellant appealed the decision of the national governing body to *Sports Dispute Solutions Ireland* (“SDSI”, formerly *Just Sport Ireland*).

THE NATIONAL GOVERNING BODY AND SDSI RULES

The rules of the national governing body set out that appeals from the Committee shall be referred to *SDSI* and stipulated that the appeal to *SDSI* shall be “a fresh hearing as if the first hearing before the Hearings Committee did not take place”, otherwise known as a *de novo* hearing. Further, the rules national governing body set out that the burden of proof rested on the complainant on the balance of probabilities.

The *SDSI* rules permit *SDSI* to hear such appeals where the national governing body’s rules makes specific provision for appeal arbitration – as such the appeal was accepted by *SDSI*.

SOLE ARBITRATOR

The parties to the arbitration agreed that the arbitration panel would consist of a single arbitrator and *SDSI* appointed an arbitrator.

THE HEARING

The hearing was heard over two days at Irish Sport HQ, National Sports Campus, Blanchardstown Dublin 15. The Appellant and Respondent both had legal representation, and advance written submissions were received by the parties.

The Respondent, as national governing body rather than the complainant, represented to the arbitrator that given this was a full de novo hearing in accordance with the rules of the national governing body, the Respondent acted more in the role of an *amicus curiae* (a party who assists a court by offering information, expertise, or insight that has a bearing on the issues in the case) rather than the complainant. This position was not supported by the complainants.

Oral evidence was heard from the following:

- The student (without the Appellant present, in the presence of their parent and limited questioning permitted due to the age of the student);
- A complainant (part evidence, as the complainant did not return for cross-examination);
- The Appellant; and
- Two parents of 7 other students who were coached by the Appellant.

As the complainant evidence was not completed, the Appellant and Respondent agreed that the evidence of the complainant could not be accepted and the only evidence against the Appellant related to the evidence of the student. The evidence of the student did not disclose any breaches to the rules or code of ethics of the national governing body.

DECISION

The complainant did not discharge the burden of proof on the balance of probabilities, in accordance with the rules of the national governing body, and the complaint was not proven. Therefore, the Appellant's appeal was allowed.