

8th Edition



Cumann Lúthchleas Gael - Lámhleabhar Smachta 2018
GAA DISCIPLINARY HANDBOOK 2018

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CUMANN LÚTHCHLEAS GAEL

LÁMHLEABHAR SMACHTA

DISCIPLINARY HANDBOOK

(8th Edition)

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INTRODUCTION

This Eighth Edition of the Disciplinary Handbook takes account of Rule change approved by Congress and provides guidance on procedures to be followed by Committees with responsibility for the administration of Discipline in the Association.

This Disciplinary Handbook suggests best-practice Guidelines which will help to ensure that the Association's Disciplinary Code is clear, workable, fair and efficient.

The Handbook is intended to assist in the implementation of the Rules and is not a substitute, in any form, for the Rules of the Official Guide.

The availability of Standard Forms in relation to the Disciplinary Process, should greatly reduce the possibility of error and the potential for Appeals.

Included as Appendix IV is a proposed Standard Appeal Form, which has been approved by Central Council. It is intended to assist appellants in their compliance with formalities specified in Rule, but its use is optional.

The Rules Advisory Committee members hope that this Disciplinary Handbook will be widely utilised, and that its contents will be of valuable assistance to Units and Members of the Association in their exercising of the disciplinary processes.

Liam Ó Catháin,
Cathaoirleach,
Coiste Chomhairleach na Rialacha,
Bealtainne 2018.

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Part I

MEANING AND EFFECT OF THIS HANDBOOK

Disciplinary Procedures are governed by the Enforcement of Rules portion of the Official Guide. They are not governed by this Handbook, which has been prepared to assist in understanding the Rules concerned and putting them into practice.

Sometimes this Handbook will give an opinion as to the manner in which compliance with the Official Guide might be achieved in some circumstances, and it may be useful to consider that view. However, once you are operating within the bounds of the Rules, you should allow enough flexibility to be both efficient and fair.

WHAT ROLE DO YOU PLAY ?

The Competitions Control Committee: You have the general authority to organise Games and, in the context of Discipline, you have the role of ensuring that breaches of Rule are detected and that those guilty of infractions are made accountable. You process Referees' Reports and complaints of breaches of Rule arising from Competitions and Games; you investigate allegations of breaches of Rule; you charge those accused of breaches of Rule; you notify them of their rights; you ensure that relevant evidence is available for any Disciplinary Hearings; and you record all breaches of Rule and penalties imposed. In short, your duty is to ensure that the provisions of the Official Guide are upheld in relation to Competitions and Games. Your Secretary will carry out a number of the procedural tasks assigned to you.

The Management Committee: You have the same role in relation to Discipline as the Competitions Control Committee but not in relation to matters arising from Competitions and Games. As most infractions arise out of Games, you will not be involved in Disciplinary Matters as often as the Competitions Control Committee.

The Defending Party: You have been accused of an Infraction of the Rules. The Disciplinary Code is designed to ensure (a) if you are innocent of the breach alleged against you, that you are cleared of it; and (b) if you are guilty of it, that you receive a penalty that is reasonable and appropriate for that Infraction, as prescribed in Rule.

The Hearings Committee: You are the Decision-Makers in the system. Where the Management Committee or the Competitions Control Committee charges the Defending Party and the Defending Party maintains his innocence, you decide on the basis of evidence before you whether the Defending Party is innocent or guilty of the infraction alleged. If you decide that he is guilty of it, you decide what the appropriate penalty in accordance with Rule is to be. You are also responsible for ensuring that the Rules and Procedures are properly followed. Ideally a Hearings Committee should consist of experienced past and present members (excluding current Members of the Management and Competitions Control Committees) of the relevant Council or Committee and it may be helpful if one of them has legal experience.

The Secretary of the Hearings Committee: Where a Hearing before the Hearings Committee is required, you shall play a role in setting up the Hearing and ensuring that communications between the parties are in order.

Part II

SETTING UP THE COMMITTEE STRUCTURES

The roles of those involved in the Disciplinary Process have been discussed in Part I above. It is important that every County Committee, Provincial Council and Central Council sets up its Committees correctly so that the system can be operated properly.

County Level

A Management Committee is a statutory Sub-Committee of the County Committee and has specific functions in relation to Disciplinary Matters which do not arise from Competitions or Games.

County Committees must have a Competitions Control Committee. This is to be appointed by the County Committee. Its main role is in relation to fixtures but it has a number of specific functions relating to Discipline arising from Competitions and Games.

The Divisional Sub-Committees and other Sub-Committees formed under Rule 3.19 (I) will also each have to maintain a Competitions Control Committee of at least five members.

Every County Committee must have a Hearings Committee, to be appointed by the County Committee. This must have at least five members. It should be noted that the members of the County Hearings Committee do not all have to be current members of the County Committee itself. This allows the County Committee to draw upon expertise of former Chairpersons, former Secretaries, or other persons with relevant experience. Current members of the Management and Competitions Control Committees are not eligible.

The County Hearings Committee may deal with all disputed Disciplinary Matters within the County. Alternatively, it is open to a County to have a Bye Law to provide that its Divisional and other Sub-Committees have their own or shared (with other Sub-Committees) Hearings Committees. In a large County, this allows for a geographical spread and limits the workload of the County Hearings Committee.

The membership of the Competitions Control Committee and Hearings Committee is by appointment and not by election. The membership of these committees can therefore be altered by the body that appoints them.

Provincial Level

A Management Committee is a statutory Sub-Committee of the Provincial Council. The Management Committee has specific functions in relation to Disciplinary Matters which do not arise from Competitions or Games.

A Provincial Council must have a Competitions Control Committee. This is to be appointed by the Provincial Council. Its main role is in relation to Fixtures but it has a number of specific functions relating to Discipline arising from Competitions and Games, other than Inter-County Senior Championships.

Every Provincial Council must have a Hearings Committee to be appointed by the Provincial Council. This must have at least five members. It should be noted that the members of the Provincial Hearings Committee do not all have to be current members of the Provincial Council itself. This allows the Provincial Council to draw upon expertise of former Chairpersons, former Secretaries, or other persons with relevant experience.

Current members of the Management and Competitions Control Committees are not eligible, save the Provincial Secretary in the case of Appeals.

The Provincial Hearings Committee shall deal with all disputed Disciplinary Matters within the Provincial Council's jurisdiction. It shall also adjudicate on Appeals arising from Counties within the Province.

Central Level

A Management Committee is a statutory Sub-Committee of the Central Council. It has specific functions in relation to Disciplinary Matters which do not arise from Competitions and Games.

The Central Council, like County Committees and Provincial Councils, must have a Competitions Control Committee. Its main role is in relation to Fixtures but it has a number of specific functions relating to Discipline arising from Competitions and Games under the jurisdiction of the Central Council and from Provincial Senior Championship Games.

The Central Council shall have a Central Hearings Committee. The Central Hearings Committee shall deal with all disputed Disciplinary Matters arising at Central Level.

The Central Appeals Committee shall adjudicate on all appeals at Central Level. It shall consider applications for a Review of Suspensions as set out in Rule 7.12 and make recommendations on these applications to Central Council.

Part III

COMMENCEMENT OF DISCIPLINARY ACTION

Disciplinary Action commences in one of two ways.

Firstly, where a Referee's Report discloses an Infraction arising from a game, which calls for a penalty over-and-above what has been actually imposed on the field (usually arising from a player being ordered off, but potentially also from other incidents), Disciplinary Action is thereby commenced and the Competitions Control Committee must process it.

Secondly, where information comes to the attention of the Competitions Control Committee or the Management Committee by other means, which suggests that a breach of Rule has taken place, either the Management Committee or the Competitions Control Committee has authority to decide whether or not Disciplinary Action is warranted. Thus, for example, a Member of the Association may have seen an incident at a game or afterwards which was not contained in a Referee's Report, or vandalism of Club premises or some other misconduct, and may notify the Council or Committee having jurisdiction over the matter. The Management Committee or the Competitions Control Committee may in matters arising in their respective spheres make preliminary enquiries and then decide whether to initiate an investigation. The power to take Disciplinary Action (i.e. to "charge" a Member or Unit) is in the hands of Management/Competitions Control Committee and cannot be appealed.

In relation to the second category of cases above, there is an important limitation on the authority of the Competitions Control Committee to commence Disciplinary Action arising from Games and it is to be found in Rule 7.3(f). The Competitions Control Committee must first seek clarification from the Referee that he did not adjudicate upon the subject matter of the Request.

TERMINOLOGY

All references to the Competitions Control Committee below should be taken as applying equally to the Management Committee, where appropriate.

INVESTIGATION OF ALLEGATIONS

The ordinary case: Where a Referee's Report is concerned, the Competitions Control Committee analyses the Report. Before taking any action on foot of the Report, the Committee should examine the Report to ensure:

- (1) that it complies with Rule 1.7 (Official Guide, Part 1). In all cases where the Report is not signed in Irish, as required under Rule, it must be sent back to be rectified.
- and
- (2) that it complies sufficiently with Rule 1.6, Rules of Control (Official Guide, Part 2). This is important for the proper reporting of incidents and for proper record-keeping. If the Report does not contain every item under Rule 1.6 above, that does not mean it cannot be used. However the Referee may be asked to rectify any omissions that the Competitions Control Committee considers are relevant.

Where the Referee's Report contains enough detail about the incident concerned (e.g. "*Player 'A' ordered off for striking an opponent with the fist*"), no further investigation is usually required and the Notice of Disciplinary Action can be sent out with a copy of the Referee's Report (or a portion of it) attached.

Sometimes, a Referee's Report may not contain sufficient detail. For example, serious injuries may have been suffered as a result of an Infraction, and some information regarding those injuries may be relevant to the penalty in the event of the Infraction being proved or admitted.

Sometimes also, a Referee's Report will have ambiguities in it, and it may be necessary to seek a Clarification. This must be sought in writing. Any Clarification so provided must also be in writing, and becomes part of the Referee's Report.

There are occasions where a Referee's Report contains evidence of an Infraction, but the Competitions Control Committee is of the view (whether through television coverage or otherwise) that e.g. the ordering off was unwarranted. What should the Competitions Control Committee do in this case? The answer is that it must process the case in the ordinary way. The Competitions Control Committee does not have power to exonerate a player; that function is reserved to the Hearings Committee. The Competitions Control Committee is, of course, entitled to express its doubts to the Hearings Committee about the Infraction reported.

Complex cases: In other cases, such as in cases arising from a melee at a game or an incident occurring after the game, a fuller investigation may be required. "Investigations" which used to be carried out as formal Hearings, are no longer provided for in Rule.

The investigation of infractions does not require any specific formalities or procedures and the Competitions Control Committee has the authority and freedom to conduct it in whatever manner it considers appropriate. This is important, because the Competitions Control Committee must carry out its investigation as quickly as possible and charge any relevant parties before it is too late to be effective.

There is no Hearing at this stage because no findings of fact are made. The Competitions Control Committee has no power to make findings of fact: that is the job of the Hearings Committee if the case is defended. If the allegation is contested, the Defending Party will have an opportunity to seek a Hearing, and all the necessary rights and protections will be available to that party when the matter comes before the Hearings Committee.

A typical investigation in these circumstances would involve one or more of the Competitions Control Committee speaking with persons who might have witnessed the incident being investigated and taking statements. Sometimes there will be a video. If it was at a game, the Referee's Report should be checked for any references, and all match officials should be spoken to. If somebody was injured, he may be spoken to, and if he is willing to give details of his injuries, a report or a note of these injuries may be taken. As in any case, the Referee's Report should be checked to ensure that all necessary information is contained in it.

Should the Competitions Control Committee speak with persons who might subsequently be accused of an Infraction when carrying out their investigation? There is no fixed answer to this; it will depend on whether the Committee feels it is necessary. As this procedure is not a criminal investigation by the police, there is no right to silence as such, and a "caution" (i.e. a warning that the member may be charged) is not essential.

Where statements are being taken from anybody, it is best practice that two or more members of the Competitions Control Committee attend. This avoids later disputes as regards what was said and to whom, etc.

On foot of the investigation, a decision to initiate Disciplinary Action may be taken by the Competitions Control Committee. This task should be carried out by means of a collective committee decision. Remember, however, that Rule 7.3(f) applies where the matter under investigation arises from Games (i.e. "occurring on or in the vicinity of the Field of Play immediately before, during or after a Game") and must be complied with before any Disciplinary Action in these cases may be commenced. If the Committee members decide to commence Disciplinary Action, a Disciplinary Report must be prepared.

THE DISCIPLINARY REPORT

This is prepared by the Competitions Control Committee or the Management Committee, depending on whose investigation it is. The four essential contents of a Disciplinary Report are set out in Rule and are:

- The name of the person or Unit accused of an Infraction (the Defending Party)

- A brief description of the Infraction alleged and the Rule(s) concerned. This means that both a statement of what is alleged to have happened *and* the Rule(s) of the Official Guide concerned must be stated. Where a Referee's Report is concerned, the brief description will generally be in the Referee's Report itself, and as long as the Rule is identified in the Notice, a separate statement of what happened will be unnecessary.
- Copies of all documents and other relevant evidence available to the Competitions Control Committee - this would always include a Referee's Report, where relevant. Also of relevance might be statements taken from witnesses, letters received from witnesses, medical reports (in exceptional cases) or a video tape.
- A list of witnesses who will be required by the Competitions Control Committee for any Hearing. Where a Referee's Report is concerned, there will usually be no need for any witnesses. The Rules allow for this list to be updated at a later stage if necessary.

A formal Disciplinary Report is set out in *Appendix II*. However, it should be noted that in the vast majority of cases, a copy of the Referee's Report, or applicable part thereof, with a proper cover letter attached (stating the Rule(s) concerned), will be sufficient, without any need for a formal document.

NOTIFICATION

The Competitions Control Committee must notify the Defending Party of the Disciplinary Action. The purpose of notification is:

- to inform the Defending Party that he is being charged with an Infraction;
- to give him a fair opportunity to dispute the charge brought against him;
- to give him a fair opportunity to admit the charge and accept a suggested penalty; and
- to inform him of his position in the event that he **(a)** admits or **(b)** disputes the charge.

What must the Notice contain?

The Notice must include (either in the letter itself or in the accompanying documents) the four essential provisions of a Disciplinary Report; it must also include a Proposed Penalty; and it must inform the Defending Party of that Party's right to a Hearing by replying within three days from the date and time of receipt of the Notice. It should also warn the addressee of the consequences of a failure to reply to the Notice,

In most cases, the Notice will have a Referee's Report attached and will include any further information needed to make up the requirements (such as the specific Rule provisions), together with a Proposed Penalty.

In more complicated cases, a formal Disciplinary Report (with any further documents that are referred to in the Disciplinary Report) will be attached, and a Proposed Penalty will be suggested.

The ***Proposed Penalty*** is the key to disposing of the vast majority of cases with the minimum effort. Where the Infraction is not disputed, this fast-track system, allows an admission to be made so the time and expense of a formal hearing can be avoided, for the benefit both of Committees and Defending Parties. The Proposed Penalty is what the Competitions Control Committee believes the appropriate penalty, under the applicable Rule(s), to be for the Infraction alleged. It can never be less than the minimum applicable. A Competitions Control Committee should not have a fixed policy in relation to proposed penalties and should assess every individual case on its own merits.

In general, if there are no unusual or aggravating circumstances, the penalty proposed will be the minimum applicable for the Infraction alleged. It will exceed the minimum in two circumstances. First, certain "Repeat Infractions" occurring within a 48-week period (or a 96 week period in relation to Category VI), will carry a minimum penalty that is double the normal minimum. Secondly, if the Competitions Control Committee feels that the gravity of the Infraction calls for a greater penalty than the minimum, then a greater penalty may be proposed. If a greater penalty than the minimum is proposed, the Disciplinary Report (or Referee's Report) should ideally include sufficient detail to

give the Defending Party a brief explanation as to why that greater penalty is being proposed (and should include a reference to the rule governing that matter (i.e. Rule 7.5(b)).

It would also be helpful for the Notice to confirm, where applicable, that a player stands suspended by a Match Suspension or a Term of Suspension pending the determination of the Disciplinary Action. This extra detail is not essential as it is not prescribed by Rule and as the Defending Party can always refuse the Proposed Penalty and seek a Hearing. Nevertheless, it is helpful.

As noted previously, functions of the Competitions Control Committee can be delegated. Thus, when deciding what penalty to propose, the Competitions Control Committee may wish to have a formal meeting, but it may also delegate the function to one or more of its membership. Some may have a mixed procedure where one or two members are delegated the task of proposing penalties, while at the same time being obliged to have the authority of the full Committee to propose penalties greater than the minimum. The important thing to remember is that, whatever system is used, the Committee should formally minute any decision to delegate functions (ideally at the start of each year i.e. after the previous County Convention) and if the delegation is subject to qualifications, those qualifications should also be minuted.

To facilitate the Defending Party, a Reply Form (prescribed by Central Council) shall be attached. The Reply Form is available in Appendix II.

Some standard Notice Forms are set out in Appendix II. It is not necessary to strictly follow these Notice Forms, so long as the essential requirements are present in the Notice being issued.

It is important that the Notice is properly served on the Defending Party. The Rules for serving notices are set out in Rule 4.6.

An individual may be served -

- Personally (i.e. by handing it to the individual), or
- By post or hand delivery to his usual address, or
- By post or hand delivery to his Club Secretary or County Secretary if the Disciplinary Action arises out of an Inter-County game, or
- By facsimile or e-mail (either to his individual number/address or to those of his Unit Secretary)

N.B.: When a Notice is sent via a Unit Secretary, it must be addressed to the Member personally.

A Club or Committee is served by either serving its Secretary personally or by post, hand, e-mail or facsimile delivery to the address/number of the Unit or its Secretary.

A Note should be kept of when, where and how the Notice was served.

Exclusion cases: where the Defending Party is not entitled to a Hearing as of right

These cases concern:

- Infractions carrying a specified minimum fine as penalty (*i.e only where the minimum fine is imposed*).
- Loss of Points for failure to fulfil a league fixture;

In such cases, the Defending Party is notified of the imposition of a penalty. The Management Committee or the Competitions Control Committee, as appropriate, may agree to a Hearing or a Review, but that is not obligatory. However, when notification of imposition of penalty is given, the Defending Party will be entitled to an Appeal.

In relation to the first case above, where the Management Committee or the Competitions Control Committee intends to propose a fine in excess of the minimum fine, the Committee must issue Notice of Disciplinary Action and follow the standard procedures

REPLY

The Defending Party must now respond to the allegation made. Where there is no dispute that the Infraction as alleged has occurred and the Defending Party considers the Proposed Penalty to be correct, then the Defending Party will save both the Party and the Competitions Control Committee the trouble of a Hearing by accepting the Proposed Penalty.

If the Defending Party does not Reply within *three days* from the date and time of receipt of the notice (See provisions of Rule 4.6 (b) Communications-Time of Delivery), then that Party is taken to have accepted the Proposed Penalty. This period may appear to be very short; however it may be necessary to move things along very quickly because of ongoing Competitions. It is essential, therefore, that he is properly served, and that the date and time of posting are noted by the Secretary of the Competitions Control Committee.

If the Defending Party replies that that Party is not accepting the Proposed Penalty, the case shall be referred to the Hearings Committee.

EXCEPTION TO ABOVE PROCESS FOR RULE 7.2(b) CATEGORIES I AND II INFRACTIONS

Where in the case of Rule 7.2(b) I and II Categories Infractions, the Penalty being notified is one already served of 'Debarment from Playing for the Remainder of the Game, including Extra-Time', the member involved shall only, at this point, be entitled to written Notice of Confirmation of the Penalty and not to a Hearing. If and when a Match or Time Suspension is a Proposed Penalty for Repeat Infractions as provided for in Rule, the member may seek a Hearing at which he will be entitled to tender evidence with regard to any or all instances in which he was issued with Yellow or Black Cards relevant to the Proposed Suspension.

Part IV

WHERE THE PROPOSED PENALTY IS ACCEPTED

Where the Proposed Penalty is accepted, either by the Defending Party accepting it in the Reply Form or by not replying, the Proposed Penalty becomes a formal penalty and is placed on the record of the Defending Party by the Competitions Control Committee. Confirmation of this penalty shall be sent to the Defending Party, quoting the Rule(s) under which the penalty is imposed. It goes without saying that there can be no Appeal against the imposition of a penalty where the proposed penalty is accepted.

Part V

WHERE THE PROPOSED PENALTY IS NOT ACCEPTED

In order to refuse the Proposed Penalty and seek a Hearing, all the Defending Party needs to do is to state that Party's refusal in the Reply Form.

If the Defending Party has any special request(s) (e.g. if the Party is, or the Party's witnesses are, unavailable on any particular date) these too should be stated, so that the Secretary of the Hearings Committee, who will have to set a date for the Hearing, can accommodate the request(s), within reason.

CLARIFICATION OF A REFEREE'S REPORT

The Defending Party may request that Clarification of a Referee's Report be sought, and if the Party does, the Competitions Control Committee must comply with the request.

To take an example, the Referee's Report may be based on information given by his Umpire: if the Defending Party has video evidence showing that the Umpire was not in a position to witness the alleged infraction, it would be appropriate to have the Referee clarify whether or not he got his information from the Umpire.

ACCESS TO OFFICIAL RECORDS

Prior to 2018, there was a broad entitlement to what were referred to as "Official Documents". However due to over-extensive and oppressive use of the facility, provisions suggesting a general entitlement were amended and now the only basis for a Defending Party to obtain any documents, whether official or not and whether records or documents of any other kind is either (a) voluntarily on foot of a request by the Defending party or (b) on foot of a direction by the Hearings Committee under Rule 7.3(z). If application is to be made to the Hearings Committee it may lack credibility if a written request has not previously been made.

SETTING UP THE HEARING

The Secretary of the Competitions Control Committee, on receiving the Reply seeking a Hearing, sends the Disciplinary Report and Notice together with the Reply to the Secretary of the Hearings Committee. The Secretary of the Hearings Committee convenes a meeting of the Hearings Committee (there may be a pre-arranged schedule of meetings into which the case can be "slotted"). Copies of the Notice, the Disciplinary Report and the Reply should be available to the Hearings Committee conducting the Hearing.

The Proposed Penalty must be "blacked out" on the copy of the Notice of Disciplinary Action forwarded to the Hearings Committee. This is to help to eliminate the influence that the Proposed Penalty might have on the minds of the Hearings Committee. If they find the Infraction proved, they must fix a penalty on the basis of what has been presented to them and not what was proposed by the Competitions Control Committee. Often disclosure of the Proposed Penalty will happen anyway, especially in high profile cases (and often because the Defending Party or his Club/County discloses it): that will not invalidate the proceedings but is undesirable.

The Secretary of the Hearings Committee then notifies the Secretary of the Competitions Control Committee and the Defending Party of the place, date and time of the Hearing.

If the Competitions Control Committee wishes to add to its list of witnesses, it must notify the Defending Party and the Secretary of the Hearings Committee (ideally in writing, for proof purposes) at least 24 hours before the appointed starting time of the Hearing.

CONDUCT OF THE HEARING AND RULES OF EVIDENCE

Attendance: The Hearing should be attended by:

- At least three members of the Hearings Committee (otherwise the meeting lacks the required quorum).
- Not more than two Representatives of the Management or the Competitions Control Committee, as the case may be.
- The Defending Party
 - who if an Individual Member, may be accompanied by one Full Member of his Club/Unit. A Youth Member may additionally be accompanied by his parent(s) or guardian(s).
 - which if a Club, Committee or Council, shall be represented by a maximum of two of its Full Members.
- Any Witnesses - it is the responsibility of the party calling a witness to make sure he attends.

Evidence: Subject to exceptions, evidence should be given orally. Letters and documents should not be treated as conclusive evidence of what they say if their contents are going to be the subject of a major dispute. Obviously the person who created a document may give oral evidence that the document is accurate: if he does, then the document is considered to have the status of oral evidence. Essentially, the Hearings Committee should assess each item of evidence and where it is coming from, and attach weight or importance to it accordingly. Thus a letter from the Defending Party's brother, stating that the Defendant Party "*has never been in a fight in his life*", would obviously be of little value to the Hearing.

Referees' Reports: One of the principal exceptions to the general preference for oral evidence is the Referee's Report. The Referee's Report (including any Clarification) is proof of what it says except where "*unedited video evidence or other compelling evidence*" shows that the Referee has made a mistake. There is no special manner by which video evidence should be shown. The video can be slowed down, speeded up and so on, as long as it is not altered. Whoever is introducing it in must provide the other side with a copy of the tape/DVD in advance of the Hearing so that they have a chance of viewing it.

What is "*other compelling evidence*"? It is not possible (or indeed desirable) to define this exhaustively. This rider is added to the Rule because there is always a possibility that some evidence may be available that is of such evidential force that it cannot be ignored. It may, for example, be a photograph of an incident proving mistaken identity. It may be a *combination* of other items of evidence. While what is "compelling" is a question of fact to be decided by the Hearings Committee, it is suggested that the following are some examples of what - taken on their own - would *not* be "compelling":

- the opinions of spectators at the game;
- the opinions of County Committee Officials present at the game;
- an admission by another player that it was he who committed the infraction (as that would tend to invite false admissions from weaker team members to exonerate the "star" player).

Note, however, that the above matters may, combined with other evidence, demonstrate that the Referee's Report contains an error.

Order of events: At the outset of the Hearing, the Competitions Control Committee should state the allegation made, read out any relevant extracts from any Referee's Report concerned, and introduce any witnesses. The witnesses, if any, should then be asked to give their evidence.

The Defending Party or his Club/Unit Representative is allowed to cross-examine the witnesses after they have given their evidence. If any new facts are discussed in the cross-examination, the Competitions Control Committee may ask further questions of the witnesses arising from those new facts. After the Competitions Control Committee's witnesses, if any, have given their evidence, the Defending Party's witnesses, if any, give theirs, and the same protocol applies as regards questioning.

The Hearings Committee may ask questions of the witnesses at any time during the Hearing. If the Defending Party is in the best position to prove a fact (e.g. his age) and does not do so, the Hearings Committee is entitled to consider that his reasons for not doing so are self-serving. Obviously if a good reason is available, that should be taken into account, but the Defending Party may not sit silently and assume that his silence cannot be held against him.

When the evidence has been given, the Competitions Control Committee and the Defending Party may each make a statement in their favour, and answer any questions put to them by the Hearings Committee. The Hearings Committee should keep Minutes of the Hearing.

Bias/conflicts of Interest: Rules are included to ensure that decision-makers in the system are free from external sources of influence when dealing with disciplinary cases, such as loyalty to their own club, lobbying or unauthorised communications. It is important to guard not only against actual bias, but also against the perception of bias; thus even if a decision-maker is motivated only by a determination to get to the right answer, the mere appearance of a conflict of interest (e.g. that his own club might gain a collateral benefit from the outcome of the proceedings) may be enough to justify his standing down from the case. This is important for the maintenance of confidence in the system.

That is not to say that any tenuous link at all is enough to warrant a committee member standing down. The committee need only guard against a *reasonable* perception of bias, so the committee is entitled to take a pragmatic approach. The Committee Member should inform his Chairperson at the earliest opportunity of a conflict of interest.

A sensible approach is for the Chairperson of the Hearing or meeting to remind the members of the committee involved of the obligation to declare any actual or perceived conflicts of interest. In the case of a Hearing, the chairperson of the Hearings Committee should disclose any perceived conflicts of interest disclosed to him and should ask the Competitions Control Committee and Defending Party to confirm that they have no objection to any of the presiding members of the Hearings Committee. If objection is voiced and it is reasonable, the member concerned should stand down. If the objection is not considered reasonable, the member need not stand down but in general the benefit of any doubt should be given to the party objecting. Minutes should record that the members were asked to disclose actual or perceived conflicts of interest and that the parties were given an opportunity to object to the membership.

Sometimes, during a Hearing, some hostility may develop between one or other party and one or more members of a Hearings Committee. This alone is not evidence of bias. Bias will generally only invalidate a decision if the bias arises from some factor or source *external* to the proceedings themselves.

Proposed Penalty: We have seen earlier that the Proposed Penalty is blacked out on the documentation sent to the Hearings Committee. The Proposed Penalty should not arise for discussion at all. Sometimes the Defending Party might only have sought a hearing because he thought that the Proposed Penalty was too harsh and is seeking a lower penalty. In that case, he may argue that the Infraction was not grave enough to merit what was proposed. The Competitions Control Committee should not get drawn into a debate on whether the Proposed Penalty was fair or not, because it has no status once a hearing is sought. The Competitions Control Committee attends the Hearing in order to show (a) that an Infraction occurred and (b) how grave the Infraction was. It is for the Hearings Committee to decide what the penalty should be in a case of a proven Infraction and if the Proposed Penalty is brought up by the Defending Party, the Competitions Control Committee should restrict itself to stating that the Proposed Penalty is irrelevant and that the Hearings Committee is empowered to impose such penalty as it sees fit (within Rule) on the basis of the minimum applicable penalty and the gravity of the case. Always remember, the Hearing is not an “appeal” against the Proposed Penalty.

Legal Representation is not provided for in Rule. The Association is amateur in nature and disciplinary proceedings rarely have serious consequences, beyond the penalties imposed internally. In general therefore, lawyers cannot attend Disciplinary Hearings, unless by coincidence a Full Member of the Defending Party’s Unit happens to be a lawyer.

FAIR PROCEDURES

The Rules of Procedure set out in Rule 7.3(u) to (aa), are designed to ensure that fair disciplinary procedures are followed. These rules are designed to ensure as far as possible that Disciplinary Procedures are fair and that there is little scope for drifting into error.

It is important to note that the Hearings Committee has flexibility under those rules to run the Hearing in such manner as it considers appropriate, so where an unusual issue arises, there is scope to deviate from the normal process in order to ensure that the issue is dealt with fairly and efficiently.

Where issues arise in the course of a Hearing, for which there is no specific guidance from the Rules, the Hearings Committee should bear in mind the two fundamental Rules of Fair Procedures:

- Both the Competitions Control Committee and the Defending Party should be given an adequate opportunity to give their respective sides of the story. This includes the right to bring witnesses, the right not to have evidence heard “behind their back”, a Hearing date that is reasonably convenient for them and so on.
- The Hearings Committee must be impartial and even-handed, and no member of the Hearings Committee should have a vested interest in the outcome of the Hearing. If in any doubt, a member should declare any possible conflict, and give the parties an opportunity to object.

If the Hearings Committee bears these two principles in mind, as well as the importance of efficiency, then it is not likely to make mistakes.

As mentioned previously, while the Competitions Control Committee members are present essentially to prosecute the case, they may take the view that the Defending Party should be exonerated e.g. if video evidence suggests that the Defending Party is innocent of the Infraction alleged. The process is about getting the right answer, not “winning” or “losing”.

Rectifying Procedural Errors that Arise

There may also be cases where the Competitions Control Committee becomes aware before the Hearing that it has breached some technical requirement, such as stating the incorrect Rule in the Notice of Disciplinary Action. In those cases, it is suggested that the sensible thing to do is to bring the technical defect to the attention of the Defending Party and the Hearings Committee (via its Secretary) and to propose a resolution. The Hearings Committee has a general power to “*decide on all matters of procedure*” and may take such steps as are appropriate to the proper administration of any contested Disciplinary Action.

In the case of errors in documents, Rule 7.3(k) allows for documents to be amended with the permission of the Hearings Committee. Where an amendment is allowed, the Hearings Committee may direct that the amendment be given retrospective effect i.e. that the case proceeds as if the amended version was always the version in being. If this is appropriate the Competitions Control Committee should ask the Hearings Committee to so direct. Note that it is for the Hearings Committee to allow the amendment or refuse it; however unless some serious and irreparable prejudice is to be suffered by the Defending Party, the Hearings Committee should allow such amendments.

By way of example, take a case where a Hearing has been sought and it is subsequently (but prior to the Hearing date) noticed that the Notice of Disciplinary Action quoted the wrong Rule. In that case, the Competitions Control Committee should write to both the Defending Party and the Secretary of the Hearings Committee identifying the amendment sought to be made and issuing a copy of the document in amended form. (The Competitions Control Committee should take care not to disclose the Proposed Penalty in this Process). As it is the decision of the Hearings Committee to allow or disallow the amendment, this should be dealt with as the first issue at the Hearing. The Defending Party may object to the proposed amendment. The Hearings Committee should decide at a preliminary stage whether to allow the amendment to be made and, if so, whether to attach any conditions to the amendment. A condition might provide, for example, that the Defending Party is given a fresh

opportunity to consider whether to accept the proposed penalty notwithstanding that – due to the retrospective effect of the amendment – that time will have passed. Alternatively, an adjournment of the Hearing may be directed. If, say, the Defending Party objected that the amendment was of such import that he required more time to prepare for the Hearing, an adjournment may be appropriate, although in these cases it is to be remembered that the Defending Party may have had knowledge of the proposed amendment some time earlier than the actual Hearing, so that the contents of the amendment are no surprise.

It may be that an error in a document is discovered during the course of the Hearing. In that case the Competitions Control Committee should point out the error and request an amendment.

If the amendment is a mere formality that the Competitions Control Committee is in a position to repair there and then without undue prejudice to the Defending Party, it is unlikely that an adjournment will be required but if the Defending Party wants to consider his position vis-à-vis the Proposed Penalty or if the amendment means that he genuinely requires time to deal with new matters arising, it may be necessary to postpone the Hearing.

It is important that formalities are complied with as they protect the rights of Defending Parties; it is equally important, however, that technical errors do not interfere with the proper determination of disciplinary proceedings, and all parties involved - the Competitions Control Committee, the Defending Party and the Hearings Committee - must all remain conscious of this. Disciplinary Hearings are not criminal trials.

CLARIFICATION OF REFEREE'S REPORT AFTER THE HEARING

In the course of a Hearing it may emerge from the evidence that the Hearings Committee requires further information from the Referee. If so, the Hearings Committee, at its absolute discretion, may seek Clarification, after the Hearing. This must be sought in writing, and any Clarification so provided must also be in writing. It is important to note that in this circumstance, Clarification may only be sought or used if it may serve to mitigate the Penalty or exonerate the Defending Party.

This power is not one that would be required often. In general, any glaring ambiguities would have been the subject of clarification before the hearing. Nevertheless, the facility exists because the Hearing may throw up some unusual factor that had not been foreseen by the various parties concerned.

While not required by Rule, it may be useful for the Hearings Committee to make a Preliminary Decision, which would be kept private, and in the event that the Clarification received does not serve to mitigate or exonerate, the Preliminary Decision can be made Final, without the need for further discussion. This saves time, and also ensures that any 'negative' Clarification received does not affect the minds of the Committee Members in making a Final Decision.

DECISION BY THE HEARINGS COMMITTEE

The members of the Hearings Committee should take some time to confer in private before giving their Decision. They may choose not to make a Decision on the occasion of the Hearing e.g. they may require more time to consider the evidence. The Hearings Committee should note that it has no role in dictating policy for the Association. It should not seek to be seen as a defender of Referees or Committees or players. Its role is to assess the evidence put before it in an impartial manner and to adjudicate on the disputed facts or interpretations in dispute. It is by discharging this function fairly and in good faith that a Hearings Committee provides the best service to the Association.

How far must the Competitions Control Committee go to prove their case? This is not a criminal trial so the Infraction does *not* have to be proved "beyond reasonable doubt". The standard set out in the Rules is that the Hearings Committee must be satisfied that the Infraction is "more likely to have occurred than not to have occurred."

The Hearings Committee may decide that what has occurred is not as serious as the Infraction alleged but that an Infraction of lesser seriousness has occurred, and may impose a penalty applicable to

that lesser Infraction, in substitution. Thus, for example, an allegation may be made of “kicking with force”, but a video may show that what most likely occurred was “kicking with minimal force”. In that case, a penalty appropriate to “kicking with minimal force” may be imposed, even though the charge was for “kicking with force”.

The Hearings Committee may make a finding that the facts proven disclose an infraction that differs from that alleged in the Notice of Disciplinary Action but is in the **Same Category of Infraction** and may make a decision accordingly. Thus for example, an allegation may be made of “kicking with minimal force” but a video may show that what most likely occurred was “an attempt to kick with minimal force”, which is the Same Category of Infraction. In such circumstance, an appropriate penalty for “an attempt to kick with minimal force” may be imposed without further charge.

When giving their Decision, the Hearings Committee must state the Rule(s) under which the Decision was taken. Although it is not obligatory, it is sometimes a good practice to give brief reasons for a Decision. For example, if there is a dispute of fact, they might state why they believe one version and not the other, even if it is simply to say that they found one version to be more credible. Often the only evidence will be the Referee’s Report and the Defending Party’s testimony. In that case, the test is for the Defending Party to provide “compelling” evidence that the Referee made a mistake. If the Defending Party’s evidence is not compelling, that would be the reason for simply finding the allegation as proven.

Decision on Penalty: If an infraction is proved, the Hearings Committee must decide what penalty to impose. It is essential that the Hearings Committee treats the case on its own merits and does not adopt a policy of, for example, imposing severe sanctions in relation to particular offences in order to deter others from committing them. The policy is set by the rules and the minimum penalties. Therefore, to adopt a fixed policy of imposing in all cases a more severe penalty is to re-write the rule and is impermissible. Every case must be dealt with on its own merits and penalties above the minimum are justified only where the gravity of the Infraction warrants it.

The Hearings Committee should guard against being influenced by what the Proposed Penalty was, when deciding penalty. Once the Proposed Penalty is rejected it counts for nothing and the Hearings Committee cannot have regard to it when deciding penalty. That is why the Proposed Penalty is blacked out from the copy of the Notice of Disciplinary Action forwarded to the Hearings Committee. As noted earlier, sometimes the Proposed Penalty will come to the attention of the Hearings Committee by other means, and in those cases the members of the Hearings Committee must do their best to put it out of their minds.

Although not required by rule, it would be good practice, where a penalty greater than the minimum is being imposed, to give a brief reason for the decision to impose the more severe penalty. For example, if the infraction gave rise to a serious injury, the Hearings Committee may be disposed to imposing a greater penalty than the minimum, in which case, the decision might refer to the fact that the injury had occurred. Reference should also be made, in the case of suspensions, to the rule governing that aspect (Rule 7.5(b))

NOTIFICATION AND RECORDING OF DECISION

The Secretary, on behalf of the Hearings Committee, shall notify the Competitions Control Committee and the Defending Party in writing of the Decision. If a penalty is imposed, that shall be placed on the Defending Party’s record by the Secretary of the Competitions Control Committee, stating the Rule(s) under which the Decision was taken. If the penalty includes a suspension that is more than the minimum, it is advisable to cite Rule 7.5(b) which sets out the grounds for awarding suspensions greater than the minimum.

Since a number of minimum suspensions are doubled on commission of a second similar Infraction within 48 weeks, it is important that disciplinary records are kept accurate and easily accessible.

DIRECTIVE OF CENTRAL COUNCIL ON RULE 7.2(b) - RE MATCH SUSPENSIONS AND ALTERNATIVE PENALTY TO NON-APPLICABLE MATCH SUSPENSIONS (JANUARY 2015)

Where a Match Suspension has been imposed and it subsequently becomes apparent to the Committee-in-Charge that due to some circumstance the Match Suspension cannot be implemented **in full or in part in the specified Competition:**

- (1) There is an **obligation** on the Committee-in-Charge to inform the player that a two weeks suspension applies in substitution of each one Match Suspension.
- (2) The two weeks suspension should apply **immediately**. For example - if a player has a **two** Match Suspension, has served one and the second Match Suspension cannot be implemented in the specified Competition, the two weeks Suspension should apply from the date of the game in which the first Match Suspension was served.
- (3) The Committee-in-Charge should advise the player as soon as it becomes apparent that the Alternative Penalty shall/may apply — even giving advance provisional notice where feasible.
- (4) In the event of an Alternative Penalty being applied, it is not necessary for the Committee-in-Charge to **charge** (i.e. Propose a Penalty to) the player again — but merely advise him of the Alternative Penalty.
- (5) In the event that a Committee-in-Charge does not advise a player of the Alternative Penalty becoming immediately operative, it is not to be taken that the player has played while under suspension.

As stated, the **obligation** is on the Committee-in-Charge to inform the player of the Alternative Penalty — and if this is inadvertently done **late**, the player shall serve the two weeks suspension from the date of his last game in the code.

- (6) Committees-in-Charge should note that the circumstances outlined in Rule 7.2(b) warranting the application of the Alternative Penalty are **non-exhaustive**. Other examples would include a change in the Championship status of a Club Team for the following year (say relegated to a lower status) or player (say a player who plays in a higher Championship status than the grade in which he is to serve the Match Suspension)

(End of Directive)

In the context of the above Directive and in accordance with Rule 7.2(b), it is to be noted that Match Suspensions involve the next game(s) of a specific competition of a current year and/or of the following year only.

Part VI

Objections

WHERE AN OBJECTION IS LODGED

On receiving an Objection, the Secretary of the Competitions Control Committee, in consultation with the Chairperson, checks if the Objection is in order, in accordance with Rule 7.10 in respect of:

- (i) Time - not later than three days after the official starting time of the game.
- (ii) Submission in duplicate (except where sent by e-mail)
- (iii) Signature (in Irish); If sent by e-mail, name in Irish;
- (iv) Grounds (statement as to what infringement is alleged to have been made, and reference to the Rules and/or Bye-Laws and the numbers thereof, which it is alleged to have been breached)
- (v) Fee
- (vi) Use of the Irish Language (in Gaeltacht or Bye-Laws requirement)

If the Objection does not comply with Rule 1.7, the Secretary affords the Objector one opportunity to repair the defect(s) within the time allowed under Rule (maximum three days) by the Competitions Control Committee.

If the Objection is considered to be in order, the Secretary of the Competitions Control Committee sends a copy of the Objection to the Secretary of the Defending Party.

If the Objection is considered to be out of order by the Secretary in consultation with the Chairperson, the Secretary advises the Objector accordingly, giving the reason(s). This decision shall be reported to the next meeting of the Competitions Control Committee and recorded in the Minutes.

If the Secretary and Chairperson are in any doubt as to whether an Objection is in order, they should refer the matter for decision to the Competitions Control Committee.

It should be noted that where an Objection is ruled out of order, an aggrieved party has the right of appeal against that decision i.e. the decision to Rule the Objection out of order (not the substantive issue of the Objection).

SETTING UP THE HEARING

The Competitions Control Committee provides a Hearing to the parties to an Objection unless the Defending Party lodges a written admission.

The provision of allowing the Defending Party to admit the validity of an Objection eliminates the necessity for a Hearing.

In the event of a Hearing, the Secretary of the Competitions Control Committee convenes a meeting of the Committee, and notifies the Objector and the Defending Party of the place, date and time of the Hearing. There is provision in Rule 7.10(h) for the parties to request and obtain access to relevant Official Records.

CONDUCT OF THE HEARING AND RULES OF EVIDENCE

The Hearing shall be attended by:

- (a) at least three members of the Competitions Control Committee (otherwise the meeting lacks the required quorum);
- (b) not more than two Full Members of each of the Objecting Party and the Defending Party;
- (c) any Witnesses.

At the outset of the Hearing, the Chairperson, in the presence of the Objector and the Defending Party, outlines the procedures which will be followed during the Hearing. The Chairperson controls the conduct of the Hearing. The following Notes are provided by way of guidance only:

- (i) The Objector states the Grounds of the Objection;
- (ii) The Objector introduces any Witnesses, who then give their evidence;
- (iii) If the Objector is using video evidence, such evidence is presented;
- (iv) The Defending Party responds, introduces any Witnesses, who give their evidence and presents video evidence, if any;
- (v) Representatives of either Party to the Objection have the right to cross-examine a Witness or to question evidence presented;
- (vi) Each Witness should be called individually, and having given his evidence and been cross-examined should remain at the Hearing;
- (vii) No evidence shall be given or submissions made in the absence of any party to the Objection;
- (viii) The Members of the Competitions Control Committee are invited to put questions to the Objector and the Defending Party and their respective witnesses;
- (ix) When this process is completed, the Objector and the Defending Party are invited to each make a concluding statement.

FAIR PROCEDURES

The Rules of Procedure set out in Rule 7.10 (i) to (l), which apply to the Hearing, are designed to ensure that Fair Procedures are followed.

The object of the Hearing is to arrive at a fair Decision, having given the Objector and the Defending Party an adequate opportunity to state their respective cases and to call witnesses.

DECISION

On completion of the Hearing, both parties withdraw and the Members of the Competitions Control Committee decide on whether the Objection should be upheld or dismissed.

The Committee may choose not to make a Decision on the occasion of the Hearing e.g. they may require more time to consider the evidence.

An Objection shall only be upheld in either of the following cases:

- (i) The Competitions Control Committee is satisfied that the Objector has proven that the Defending Party has committed an Infraction which carries the penalty of Forfeiture with Award of Game to the Objector;
- (ii) The Competitions Control Committee is satisfied that the Objector has proven that the Referee:
 - (a) did not *record* a score allowed by him or
 - (b) incorrectly *recorded* a score allowed by him,which affected the result of the Game.

The onus is on the Objecting Party to prove that the Defending Party committed the Infraction referred to in (i) above, or that the Referee erred as stated in (ii) above.

In the event of an Objection being upheld, the fee paid is refunded.

Whether the Objection is upheld or dismissed, the Competitions Control Committee may commence Disciplinary Action as, in its discretion, it deems appropriate.

NOTIFICATION AND RECORDING OF DECISION

The Competitions Control Committee informs the Objector and the Defending Party of the Decision, ordinarily immediately following the Decision being made (i.e. on the occasion of the Hearing).

The Secretary of the Competitions Control Committee gives written notice of the Decision subsequently.

The Competitions Control Committee should keep Minutes of the Hearing.

COUNTER-OBJECTIONS

The provisions of Rule 7.10 also apply to Counter-Objections.

The Guidance Notes on Objections are also applicable to Counter-Objections.

Where a Counter-Objection is lodged, the Competitions Control Committee may hear the Objection and Counter-Objection either separately or together, depending on the subject matter of each. This is at the discretion of the Committee.

Either way, the Competitions Control Committee shall issue one Decision at the end of the process.

Part VII

Appeals

PROPOSED STANDARD APPEAL FORM

A proposed Standard Appeal Form has been approved by Central Council, and is provided as Appendix IV. It is intended to assist Appellants with their compliance with formalities specified in Rule and its use is optional.

WHERE AN APPEAL IS LODGED

On receiving an Appeal, the Secretary of the appellate Hearings Committee, in consultation with the Chairperson, checks if the Appeal is in order, in accordance with Rule 7.11, in respect of:

- (i) Time - within three days from the date and time of notification of the decision

OR

- where the notification of the decision is not required in Rule, within three days from midnight following the meeting at which the decision was made.
- (ii) Submission in duplicate (except where sent by e-mail).
- (iii) Signature (in Irish); If sent by e-mail, name in Irish.
- (iv) Grounds (statement as to what infringement is alleged to have been made and the specific Rule(s) alleged to have been infringed or misapplied).
- (v) Fee.
- (vi) Use of the Irish Language (in Gaeltacht or Bye-Laws requirement).

The Secretary also checks if the Appellant has requested an Oral Hearing.

(Note: In the case of an Appeal regarding an application for Transfer Within a County, Rule 6.5(f) sets out less technical requirements.)

If the Appeal does not comply with Rule 1.7, the Secretary affords the Appellant one opportunity to repair the defect(s) within the time allowed under Rule (maximum three days) by the Appellate Hearings Committee.

If the Appeal is considered to be in order, the Secretary of the Appellate Hearings Committee sends a copy of the Appeal to the Secretary of the Unit against whose decision the Appeal is being made i.e. the Decision-Making Committee.

The Secretary of the Appellate Hearings Committee also sends a copy of the Appeal to the other party (parties) that was/were involved in the previous Hearing(s).

If the Appeal is considered to be out of order by the Secretary in consultation with the Chairperson, the Secretary advises the Appellant accordingly, giving the reason(s). This decision shall be reported to the next meeting of the appellate Hearings Committee, and be recorded in the Minutes. If the Secretary and Chairperson are in any doubt as to whether an Appeal is in order, they should refer the matter for decision to the appellate Hearings Committee.

It should be noted that where an Appeal is ruled out of order, an aggrieved party has the right of appeal against that Decision i.e. the decision to rule the Appeal out of order (not the substantive issue of the Appeal).

SETTING UP THE APPEAL HEARING

In the event of an Oral Hearing being sought by any party to the Appeal, the Secretary of the Appellate Hearings Committee convenes a meeting of the Committee and notifies the Appellant, the Decision-Making Committee, and any party (parties) involved in the previous Hearing(s), of the place, date and time of the Hearing of the Appeal. The Decision-making Committee must send a copy of the minutes of its meeting to the Appellate Hearings Committee.

CONDUCT OF THE HEARING OF THE APPEAL AND RULES OF EVIDENCE

The Hearing of the Appeal shall be attended by :

- (a) at least three members of the appellate Hearings Committee (otherwise the meeting lacks the required quorum);
- (b) the Appellant, if an individual member, who may be accompanied by one Full Member of his Club/Unit or in the case of an Appeal regarding a Transfer or Attachment to a Unit, by either one Full Member of his current Club/Unit or of the Club/Unit to which he wishes to Transfer or be Attached; the Appellant, if a Unit, by a maximum of two of its Full Members.
- (c) not more than two Full Members of the Decision-Making Committee;
- (d) not more than two Full Members of any and each other party involved in the previous Hearings*
- (e) any Witnesses, but only witnesses who gave evidence at the first Hearing may be called.

In the case of Disciplinary Action, while all parties to any original Hearing shall have the right to be present at the Hearing of an Appeal, it is not envisaged in the case of County, Provincial and National Committees that it will be generally necessary for these bodies to be represented at an Appeal by both their respective Hearings Committee and Management Committee/Competitions Control Committee. However, the body that originally proposed the penalty shall have a right to have two representatives in attendance at the Appeal, if it deems it to be necessary, and shall be accordingly notified of the Appeal and Hearing by the Secretary of the Appellate Hearings Committee.

At the outset of the Hearing, the Chairperson, in the presence of the Appellant and Decision-Maker, outlines the procedures which will be followed during the Hearing of the Appeal. The Chairperson controls the conduct of the Hearing; the following Notes are provided by way of guidance only -

- (i) The Appellant states the grounds of the Appeal;
- (ii) The Appellant introduces any Witnesses who then give their evidence;
- (iii) Each Witness should be called individually, and having given his evidence and been cross-examined should remain at the Hearing;
- (iv) If the Appellant is using video evidence, such evidence is presented;
- (v) The Decision-Making Committee responds, introduces Witnesses, who give their evidence, and presents video evidence, if any;
- (vi) Representatives of the other party (parties) to the previous Hearing(s) shall have the right to participate in the Hearing;
- (vii) The members of the Appellate Hearings Committee are invited to put questions to the Appellant, and the Decision-Maker and their respective witnesses;
- (viii) When this process has been completed, the Appellant and Decision-Maker are invited to each make a concluding statement.

FAIR PROCEDURES

The Rules of Procedure set out in Rule 7.3 (u) to (aa), which apply to the Hearing of the Appeal, are designed to ensure that fair procedures are followed. The comments in Part V above, regarding the conduct of disciplinary hearings, will also give some guidance here.

It is important to remember that, while the rules of evidence are the same at an Appeal Hearing as at a Disciplinary Hearing, Appeals are narrower in scope and generally involve an examination of the procedural correctness of the original decision-making process rather than a full rehearing of the substantive facts.

The object of the Hearing is to arrive at a fair Decision having given the Appellant and the Decision-Making Committee an adequate opportunity to state their respective cases and to call witnesses.

DECISION

On completion of the Hearing of the Appeal, both/all parties withdraw and the Members of the Appellate Hearings Committee decide whether the Appeal should be upheld or dismissed.

The Committee may choose not to make a Decision on the occasion of the Hearing e.g. they may require more time to consider the evidence.

The Grounds of an Appeal have been widened to allow an Appellate Hearings Committee to interfere with a Decision where there is a clear injustice in the Decision-Making process used by the Committee, as distinct from the actual penalty imposed.

If procedures used by the Decision-Making Committee are found to be defective, the original Decision can be set aside, but that should not in itself mean that the substance of the case should be disregarded. A unit or Member who succeeds in an Appeal by virtue of a technicality should not be allowed to avoid a penalty for an Infraction.

An Appeal shall be upheld only where:

- (i) there has been a clear infringement or misapplication of Rule by the Decision-Making Committee
- OR**
- (ii) the Appellant's right to a fair Hearing has otherwise been compromised to such an extent that a clear injustice has occurred.

In the event of an Appeal being upheld, the Appellate Committee decides:

- (i) to annul the Decision appealed against, and direct that no further action be taken by the Decision-Making Committee.
- OR**
- (ii) to send the matter back to the Decision-Making Committee for re-hearing or re-processing, with or without recommendations as to procedure.

(NOTE: In the case of a Player who is suspended as defined in Rules 7.5(i), (1) or (2), or 7.5 (l) (1) or (2), the Player shall stand suspended pending the outcome of the re-hearing or the re-processing of the matter.)

- OR**
- (iii) to substitute the Decision of the Decision-Making Committee with its own Decision.

Since Appeals are concerned with issues of compliance with formalities (the dreaded "technicalities") and fairness of hearings, where they are upheld they will usually have been successful, not because the initial decision was wrong, but rather because it was made in an irregular manner. For this reason, Option (ii) is the most likely course of action if an infringement or misapplication of rule has taken place. Option (iii) should generally only be taken if the Appeal Committee has heard all the evidence that was put before the Hearings Committee and is in a position to come to a firm view that - on the facts of the case - the Infraction is proved or not proved as the case may be. Sometimes option (iii) will be useful where there is pressure of time. Option (i) will only be applicable in a small minority of cases.

In the event of an Appeal being upheld, the fee paid is refunded.

NOTIFICATION AND RECORDING OF DECISION

The Appellate Hearings Committee informs the Appellant, the Decision-Making Committee and any other party that was entitled to be present at the Hearing of the Decision, ordinarily following the Decision being made (i.e. on the occasion of the Hearing).

The Secretary of the Appellate Hearings Committee ordinarily gives written notice of the Decision subsequently. Where an Appellate Hearings Committee announces its Decision on the occasion of the Hearing and any party requests written notification immediately, the Secretary shall comply with this request.

The Appellate Hearings Committee shall keep minutes of the Hearing of the Appeal.

APPEALS/HEARINGS REGARDING TRANSFERS/ATTACHMENT TO A UNIT

Appeals Regarding Transfers Within A County

While not a Disciplinary matter, a process governing applications for Transfer Within a County may involve Appeals which have some less technical requirements to other Appeals. Consequently, it is important to outline the process involved in this Handbook.

The Competitions Control Committee, in the first instance, is responsible for making decisions on applications for Transfer Within the County. The Club of the member seeking a transfer shall be notified of the application and its observations shall be considered, if received within such time as may be directed by the Competitions Control Committee. If requested by any party involved, the Committee shall give the applicant and the two Clubs concerned the opportunity of attending a convened Hearing to outline their respective positions on the application. Any party may call witnesses at the Hearing.

The Competitions Control Committee shall make its decision in accordance with Rule and the County's Bye-Laws.

The County Hearings Committee shall adjudicate on Appeals that may arise from decisions of the Competitions Control Committee on applications for transfer.

An Appeal against a decision on a transfer may be made by an aggrieved party. The process is less technical in matters of submission than as provided for in other Appeals under Rule 7.11. An Appeal against a decision on a Transfer Within the County shall be made in writing within three working days of the receipt of notification of the decision, it shall state the grounds on which the appeal is being made and shall be signed in Irish by the Applicant Player or in the case of a Club, by its Secretary. Other formalities regarding submission of Appeals (e.g. provision of duplicate copy, fee) outlined in Rule 7.11 (f) to (i) are not required in this case. All other relevant Sections of Rule 7.11 do apply.

In the written appeal, the Grounds should preferably give the reason(s) for the Appeal, the facts alleged in support of the grounds and, if known to the Appellant, indicate what Rule/Bye-Law is/are claimed to have been infringed or misapplied. This information will assist in focusing on the issue to be determined, as the Scope of Appeal is limited. The appeal is not a re-hearing but rather a review of the process adopted at Competitions Control Committee level.

In all cases of Appeals on Transfers Within a County, the applicant player and the two clubs concerned shall have the right to be in attendance at the Hearing. Only witnesses who gave evidence at the first Hearing may be called.

As with any other Appeal, an Appeal shall be upheld only on the basis of the Provisions of Rule 7.11(o):

- (i) there has been a clear infringement or misapplication of a Rule/Bye-Law by the Competitions Control Committee,
- or**
- (ii) the Appellant's right to a fair Hearing has otherwise been compromised to such an extent that a clear injustice has occurred. No determination of fact by the Decision-Maker shall be set aside unless shown to be manifestly incorrect.

Appeals Regarding Inter-County Transfers

It should be noted that in the case of an Appeal in connection with an application for an **Inter-County Transfer**, the full regulations outlined in Rule 7.11 do apply.

Representation at Appeals/Hearings regarding a Transfer or Attachment to a Unit

A member seeking a Transfer or Attachment to a Unit of the Association may be accompanied by one Full Member of either his current Club/Unit **or of the Club/Unit to which he wishes to transfer or be attached** (Rule 6.7).

ARBITRATION

If a Party to a Hearing (a Member or Unit) contends that any decision of the Hearings Committee is illegal or legally invalid, that party must first exhaust all available avenues of appeal under the Rules of the Association, bringing the alleged illegality or invalidity to the attention of the relevant Appellate Committee (i.e. stating it in the Notice of Appeal).

If the Appellate Committee rules against the Aggrieved Party on the point concerned, or if it is alleged that, for some other reason, the decision of the Appellate Committee is illegal or legally invalid, one or other party may seek to have the validity of the Decision ruled on by the Disputes Resolution Authority (D.R.A.).

It is important to remember that Arbitration is not an Appeal. It is designed to replace the role of the Courts in assessing whether there has been a breach of Fair Procedures. It is not concerned simply with whether the Decision was right or wrong on matters of fact, but whether it was reached in a fair and procedurally correct manner.

REHEARING AND REPROCESSING OF CASES

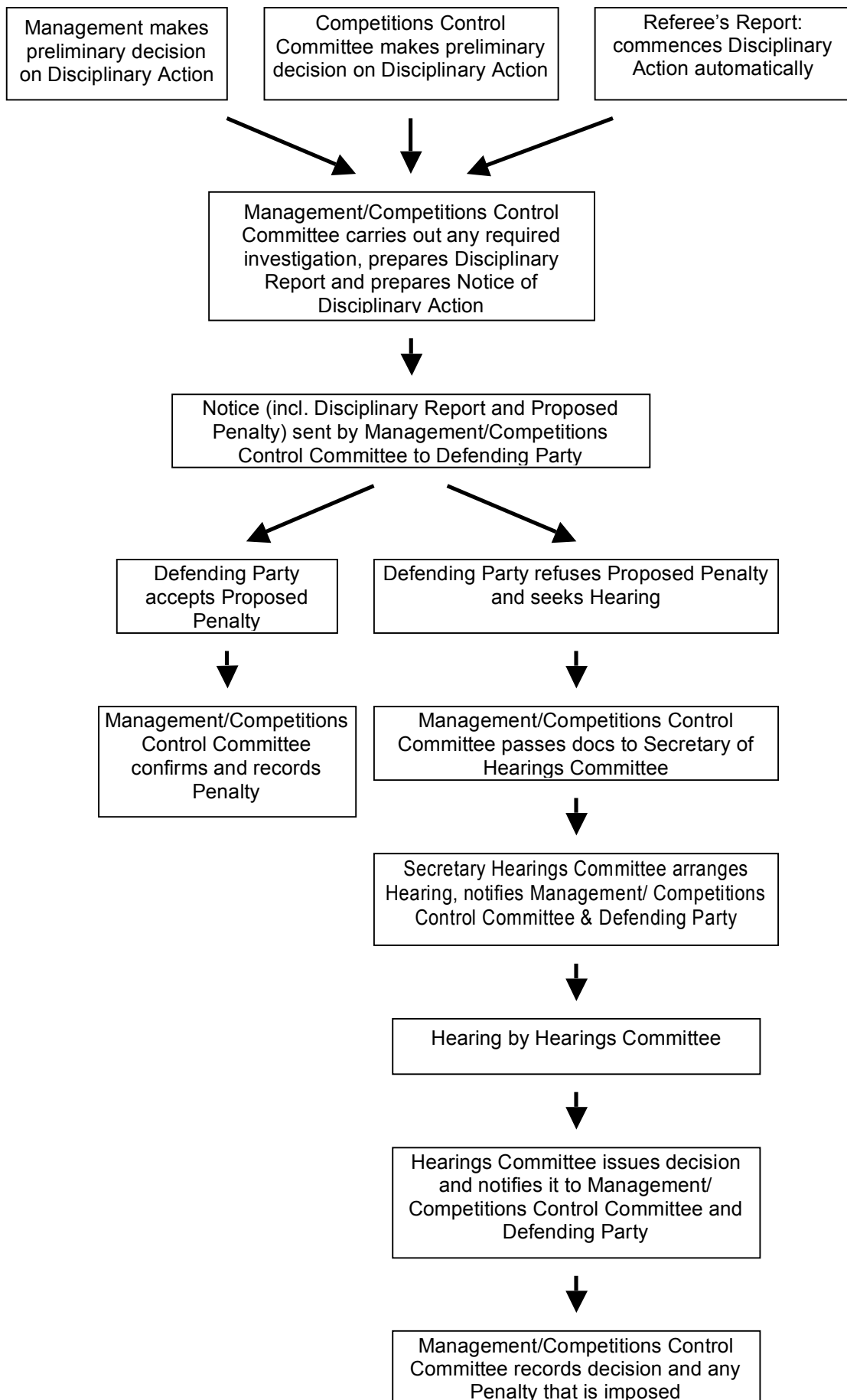
Occasionally, an Appeals Committee or the Disputes Resolution Authority will require cases to be re-heard or re-processed. Where this involves a rehearing, it will sometimes be required that a differently constituted Hearings Committee and/or Competitions Control Committee deal with it.

In these cases, it is open to the Management Committee of the Council or Committee in Charge to appoint temporary members to the Hearings Committee to deal with the case (as a meeting without the original members may not be quorate). The simplest thing is for the Secretary of the Hearings Committee to write to the Management Committee requiring the latter to appoint a temporary Hearings Committee. The temporary Hearings Committee (including a temporary Secretary) should be appointed by a meeting of the Management Committee and should take over the matter from the point at which the Disciplinary Action is required to be recommenced. When the temporary Hearings Committee has heard and determined the case its function is complete and it is discharged.

Where a case is reheard/reprocessed, credit shall be given for a period of suspension already served for the Infraction concerned (Rule 7.5 (j)).

APPENDIX I

Model For All Disciplinary Proceedings



APPENDIX II

A. DISCIPLINARY REPORT

(this is not necessary where sufficient detail is contained in referee's report)

1. Date of Decision to Investigate:

2. Infraction alleged and Rule(s) alleged to have been breached:

3. Referee's Report included: Yes*/No* (*delete as appropriate)

4. List of persons interviewed:

5. Club(s)/Member(s) against whom disciplinary action is to be commenced:

6. List of persons (if any) who will be summoned to give evidence at Hearing (note: this may be amended prior to the hearing):

7. List of documents attached:

8. Brief description of the event(s) alleged (use attached sheet as required):

Síniú: _____

Rúnaí,
Management*/Competitions Control Committee*.
(delete as appropriate)

Dáta: _____

B. NOTICE OF DISCIPLINARY ACTION
(On foot of a Referee's Report)

TO: _____

A Chara,

1. Arising from the contents of the Referee's Report concerning a game under the Rules of the Association between _____ and _____, at _____ County _____ on the _____ of _____, 20____, a copy of which report is attached, you are hereby notified that you have been reported to have committed the following Playing Infraction, that is to say:

_____ which is classified as a Category _____ Playing Infraction under Rule _____ of An Treoraí Oifigiúil which carries the appropriate penalty set out in Rule _____.

2. Under Rule _____ of An Treoraí Oifigiúil, a minimum/fixed penalty of:

_____ is set down for the Infraction alleged.

3. Having regard to the applicable rules, the Referee's Report, your record, and its powers pursuant to An Treoraí Oifigiúil, the Competitions Control Committee hereby notifies you of the following Proposed Penalty:

_____ Reason if greater than minimum: (e.g. "Repeat Infraction", "Gravity" – in which case Rule 7.5(b) should be referred to.)

4. **You are now entitled to either:**

- (a) accept the Proposed Penalty set out above, or**
(b) request a Hearing before the Hearings Committee

5. If you choose to request a Hearing, you will be notified of the time, date and place of the Hearing and you will be informed of your rights and the procedures applicable to the Hearing. If you request a Hearing, you will be entitled to bring witnesses..
6. You may exercise your choice by serving a letter on the Competitions Control Committee in accordance with An Treoraí Oifigiúil within 3 days from the date and time of receipt of this Notice.

Take Notice:

You are*/are not* entitled to play until this disciplinary action has been completed (*delete as appropriate).

If you do not exercise your choice in the prescribed manner, you will be taken to have chosen to accept the Proposed Penalty set out in this letter.

Is mise le meas.

Sínte: _____
Rúnaí,
Competitions Control Committee.

Dáta: _____

C. NOTICE OF DISCIPLINARY ACTION
(Cases not arising from Referee's Report)

TO: _____

A Chara,

1. Arising from a decision of the Competitions Control Committee to commence disciplinary action concerning the events described in the attached Disciplinary Report, you are hereby notified that a charge is laid against you for having committed the following Playing Infraction*/ Infraction of Rule* (**delete as appropriate*):

(which is classified as a Category _____ Playing Infraction under Rule _____ of An Treoraí Oifigiúil)* (**delete as appropriate*)

2. Under Rule _____ of An Treoraí Oifigiúil, a minimum/fixed penalty of:
_____ is set down for the Infraction alleged.

3. Having regard to the applicable rules, the Disciplinary Report, your record, and its powers pursuant to An Treoraí Oifigiúil, the Competitions Control Committee hereby notifies you of the following Proposed Penalty

Reason if greater than minimum: (e.g. "Repeat Infraction", "Gravity" – in which case Rule 7.5(b) should be referred to.)

4. **You are now entitled to either:**
(a) accept the Proposed Penalty set out above, or
(b) request a Hearing before the Hearings Committee
5. If you choose to request a Hearing:
(a) The minimum/fixed penalty (in the event of a finding of responsibility) shall be: _____
(b) You will be notified of the time, date and place of the Hearing and you will be informed of your rights and the procedures applicable to the Hearing. If you request a Hearing, you will be entitled to bring witnesses.
6. You may exercise your choice by serving a letter on the Competitions Control Committee in accordance with An Treoraí Oifigiúil within 3 days from the date and time of receipt of this Notice.

If you do not exercise your choice in the prescribed manner within 3 days from the date and time of receipt of this Notice, you will be taken to have chosen to accept the Proposed Penalty set out in this letter.

Is mise le meas.

Sínte: _____
Rúnaí,
Competitions Control Committee.

Dáta: _____

D. NOTICE OF DISCIPLINARY ACTION
(Cases where hearing not available)

TO: _____

A Chara,

1. You are hereby notified of the imposition upon you of the following fixed penalty:

Arising from your having committed the following Infraction:

2. Under An Treoraí Oifigiúil, you are not entitled to a hearing in respect of the imposition of this penalty, however you are entitled to an Appeal from the decision.

Please note that any Appeal must be lodged within three days from the date and time of receipt of this notification.

Is mise le meas.

Sínte: _____

Rúnaí,
Competitions Control Committee.

Dáta: _____

E. REPLY TO NOTIFICATION OF DISCIPLINARY ACTION

To: Competitions Control Committee

A Chara,

I refer to your Notice of Disciplinary Action dated _____ and I hereby choose:

To accept the Proposed Penalty set out*
or
To request a Hearing arising from the Notice*

*(*delete as appropriate)*

In the event that I choose to accept the Proposed Penalty, I understand that this is immediately in force and will be placed on my record.

In the event that I choose to request a Hearing arising from the Notice, I will attend at the Hearing at the time and date fixed. I have the following requests with regard to the hearing *(leave blank if not applicable)*:

(i) I am not available on the following dates/times _____

(ii) I would prefer that a Hearing be held on*/before* *(*delete as appropriate)* the following date _____ Reason: _____

(iii) I wish to bring video evidence: Yes
No

(iv) I wish to bring the following witnesses _____

(v) Other request(s) *(use separate sheet if required)*

Is mise le meas.

Sínithe: _____

Dáta: _____

(Note to defending party: Non-compliance by the Hearings Committee with any requests made above with regard to the Hearing does not invalidate any procedure adopted by it in this matter)

F. NOTIFICATION OF HEARING DATE

To: _____ and: Competitions Control Committee

"Defending Party" _____

Re: Notice of Disciplinary Action dated: _____
Reply dated: _____

Take Notice that the Hearing of this disciplinary action will take place on the _____ of _____, 20__ at _____ a.m./p.m at _____

All parties should be present in advance of the appointed start time with all or any witnesses and any changes in any list of witnesses set out in the Disciplinary Report or Reply should be notified to the other side no later than 24 hours prior to the appointed start time.

If any guidance is required as to the operation of the Rules, the undersigned may be contacted, however any advices given shall not form part of the proceedings or be relied upon to challenge any aspect of the proceedings.

Video playing facilities will*/will not* be provided.

Is mise le meas.

Sínithe: _____
Rúnaí,
Hearings Committee.

Dáta: _____

APPENDIX III

Checklist A: Competitions Control Committee/ Management Committee

Referee's Report Cases

- Report received and date noted
- If Referee's Report does not comply with Rule 1.7, Part 1, refer it back to be rectified.
- If Referee's Report does not comply adequately with Rule 1.6, Rules of Control, Part 2, refer it back to be rectified.
- Defending Party identified
- Rule identified
- Min/fixed penalty identified
- If Clarification necessary, seek Clarification
- If Clarification sought, Clarification received
- Defending Party's record checked
- Proposed Penalty decided
- Reasons given for Proposed Penalty (if not minimum)
- Notice prepared
- Copy Referee's Report (including any Clarification) enclosed
- Draft Reply form enclosed
- Notice served
- Date and method of service of notice recorded
- Reply Received and date noted

Other Cases

- Date of decision to act noted
- Investigation carried out
- Defending Party identified
- Rule identified
- Min/fixed penalty identified
- Defending Party's record checked
- Proposed Penalty decided
- Reasons given (if not minimum)
- Notice prepared
- Reasonable reply period set down
- Copy Referee's Report (including any Clarification) enclosed (if any relevant evidence in it)
- Draft Reply form enclosed
- Notice served
- Date and method of service of notice recorded
- Reply Received and date noted

Where Proposed Penalty accepted

- Record of Defending Party updated
- Proposed Penalty Confirmed to Defending Party

Where Hearing Requested

- Secretary of Council or Committee in Charge notified
- Date recorded
- Disciplinary Report/Referee's Report included
- Notice of Disciplinary Action included
- Proposed Penalty "blacked out"
- Reply included
- Notification of hearing date received from Secretary
- Witness list updated and time/date noted
- If video used, copy sent to Defending Party in advance of hearing
- Attend hearing with all required witnesses and documents (incl. referee's report and any video evidence)
- Notice of decision received
- Appeal received (if applicable)
- Record of Defending Party updated (if applicable)

Checklist B: Defending Party

- Notice of Disciplinary Action received
- Time for Reply checked
- Unavailable dates noted
- Any special requirements noted
- Reply sent (date, time and method recorded)

Where Proposed Penalty accepted

- Confirmation received

Where Hearing Requested

- Notification of hearing date received from Secretary
- Witness list updated and time/date noted
- If video used, copy sent to CCC in advance of hearing
- Attend hearing with all required witnesses and documents (incl. any video evidence)

After hearing

- Notice of decision received
- Appeal made (if applicable)
- (if applicable) Form fully filled out
- (if applicable) Appeal sent (date, time and method recorded)

Checklist C: Secretary Hearings Committee

Preparation for hearing

- Notification received from Competitions Control Committee
- Date recorded
- Disciplinary Report/Referee's Report included
- Notice of Disciplinary Action included
- Reply included
- Date/time/place arranged with at least 3 of Hearings Committee
- Date/time/place notified to Defending Party and Competitions Control Committee
- Documents sent to Hearings Committee Members

After hearing

- Notice of decision sent to Competitions Control Committee and Defending Party

Checklist D: Hearings Committee

- Any procedural objections noted and dealt with
- Hearing satisfactory
- Any subsequent Clarification required?
- Date and reasons for decision included
- Decision (and reasons) notified to Secretary of the Competitions Control Committee and Defending Party.

APPENDIX IV
REQUEST APPEAL - COUNTY/PROVINCIAL LEVEL

(notes in italics are for assistance only)

Chuig: An Runai.

For Appeals note:

- Riail 7.11 Treoraí Oifigiúil - Appeals*
- Riail 1.7 Treoraí Oifigiúil - Use of the Irish language*
- Riail 4.6 Treoraí Oifigiúil - Communications*

Appellant Details

Name of Appellant Member/Unit (as Gaeilge):

Address (as Gaeilge)

Telephone No. (1). _____

Telephone No. (2). _____

Fax: No.: _____

Email address: _____

Date of Birth (if under 18): _____

Signature of Parent/legal guardian (if under 18) _____

Print Name: _____

Decision-Maker Concerned

I wish to appeal against a decision made by: _____

Submission of Appeal

Note Riail 7.11 (f) Treoraí Oifigiúil.

An appeal shall be submitted in duplicate to the secretary of the Appellate Hearings Committee, to be received within 3 days from the date and time of notification of the decision, or where notification of the decision is not required in Rule, within 3 days from midnight following the meeting at which the decision was made.

Date of Notification of Decision/Decision being made _____

Grounds of Appeal

List the Rules of the Association of which it is claimed the respondent(s) is/are in breach together with the grounds for stating that the Rules/s have been breached (*use additional sheet/s if required*):

- 1. _____
- 2. _____
- 3. _____
- 4. _____

Note that this is a summary of the grounds of appeal. Please use additional sheets to set out the facts alleged in support of the grounds.

Oral Hearing

I request an oral hearing: Yes
 No

Appeal Fee

Note Riail 7.11 (g) (3) Treoraí Oifigiúil

An appeal shall...be accompanied by fee of €100 in the case of a Club or individual Member, and €300 in the case of a County Committee or Provincial Committee.

I have enclosed the appropriate appeal fee as:

Cheque
Postal Order/Bank Draft
Electronic Deposit

Please submit Electronic Deposit to the following account:

GAA Account, Bank, Bank Branch

A/C No. Branch No.

Note Riail 4.6 (f) Treoraí Oifigiúil 'where any notice or other communication is to be accompanied by monies or any other enclosure, transmission of the notice or other communication by email or facsimile shall not be invalid if the relevant enclosure is actually received within two working days of the email or facsimile transmission.'

It is the responsibility of the appellant to provide evidence of submission of the appeal fee where the appropriate fee has been sent but not received. It is suggested that all appeals sent through the postal system are registered.

Witnesses

(use separate sheets if required)

I wish to bring the following witnesses *(note that only witnesses who provided evidence at the original hearing may be called)*:

Name 1. _____

Name 2. _____

Name 3. _____

Appeal Hearing Date

I am not available on the following dates/times: _____

I would prefer that any Appeal be heard on*/before* (* delete as appropriate) the following date:

Reason _____

Other Requests

(use separate sheets if required)

Note: non-compliance by the Appellate Hearings Committee with any requests made above with regard to the hearing of an appeal does not invalidate any procedure adopted by it in this matter).

*Sínithe (as Gaeilge) _____

Dáta _____

*Note: An Appeal must be signed, as Gaeilge, by the Appellant or in the case of a Club, Committee or Council, by its Secretary.

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GAA Páirc An Chrócaigh,
Baile Átha Cliath 3

GAA, Croke Park,
Dublin 3