

Gloves off in the latest Irish boxing club disputes

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The Irish High Court has affirmed the principle that a member of a club, which is an unincorporated association, cannot sue that club. Unfortunately for Crumlin Boxing Club in Dublin, a 'member' was deemed not actually to be a member by the High Court, opening the possibility that the club might be held liable for injuries the claimant suffered from an alleged assault on a club trip.

Background to the case

In November 2023, Ms Justice Phelan held that a person could sue a boxing club in Dublin as they were not a member of the club. It is a long-standing legal principle that an unincorporated association of persons, which is the structure for most sports clubs in Ireland, cannot be sued by one of its members. Membership of an unincorporated association is based on a contract between the member in question and all other members of the association. Since an unincorporated association or club has no separate legal identity as distinct from its members, a member suing the club, whether by means of an action against the club's trustees or committee members as member representatives, is in law suing themselves.

What is an unincorporated association?

An 'unincorporated association' means an association that is a voluntary non-profit association like a club, society or other group. In these groups, people come together for at least one common purpose such as sport. Most sports clubs in Ireland are by default unincorporated associations.

What happened in the case of Glenn Doyle v Crumlin Boxing Club and Irish Athletic Boxing Association?

1. **The Incident:** Mr Doyle sued Crumlin Boxing Club and the Irish Athletic Boxing Association (IABA), the national governing body for boxing in Ireland, alleging he sustained injuries requiring hospitalisation, due to an alleged assault by an individual while on a club trip in June 2017
2. **Membership Status Dispute:** Doyle considered himself a member of Crumlin Boxing Club, but the club did not recognize him as an official member due to lack of formal registration, benefits, and fee payment
3. **Legal Liability Question:** The court had to determine whether Mr Doyle was a member of Crumlin Boxing Club and consequently whether the club could be held liable for Mr. Doyle's alleged injuries from an assault by an unknown individual
4. **Club's Administrative Shortcomings:** The judge found that the Crumlin Boxing Club lacked a written constitution and proper membership rules, relying instead on sign-in books and files, which did not meet the IABA requirement for maintaining official registration books with member names and details
5. **Importance of Clear Membership Rules:** Ms Justice Phelan emphasized that clubs must have clear and enforceable membership rules to ensure certainty and protection for all members, especially where sporting events and activities entail risk for participants, many of whom are children, and where the club arranges insurance cover for members as part of their membership. For example, if a person was not deemed to be a member, insurance would not be available to them. The absence of such rules undermine the club's control over its membership and can have significant negative implications
6. **Judgment on Membership:** Ms Phelan could not conclude that Mr. Doyle was a legal member of the club at the time of the incident in June 2017, as he was not entered in the membership register, did not enjoy all membership benefits, and did not fulfil the membership obligations. The question of whether any liability arises for the club on the fact will be determined separately

Current consultation from the Law Reform Commission

In 2023, the Law Reform Commission (LRC) issued a consultation paper to examine the law on civil and criminal liability as it applies to clubs, societies and other unincorporated associations. It identified a number of issues with the existing use of unincorporated associations as the default structure for sports clubs, including ownership of property, ability to contract with third parties and ability to bring proceedings or defend proceedings.

The LRC sought submissions on the issue by March 2023.

Conclusion

National governing bodies, clubs and individual club members should be aware of the risks and legal uncertainty that are inherent in membership of an unincorporated association. Clubs should consider the taking the following steps to mitigate those risks:-

1. Ensure that the club constitution and disciplinary procedures are fit for purpose and reviewed at least every three years
2. Apply the membership rules of the club rigorously. Ms Justice Phelan noted that the chilling effect of exposure to litigation for clubs is best avoided through clear rules of members and adherence to those rules
3. Incorporate as a company limited by guarantee, particularly where the club has significant assets and/or revenue. Incorporation greatly reduces the legal risks posed to those involved as members and officers of clubs by affording members with limited liability. In addition, it is a more efficient for a company to acquire, hold and dispose of property than trustees appointed to hold property on behalf of the members of the club

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