

## News

# BCLP SUCCESSFULLY REPRESENTS NOTTINGHAM FOREST FOOTBALL CLUB IN FA CASE

Sep 05, 2025

BCLP's London commercial disputes team successfully represented Nottingham Forest Football Club in its claim against the FA, in which the Club sought (amongst others) an order and declaration that an FA-appointed arbitrator should be removed from a panel hearing regulatory proceedings against the Club, on the grounds that he was insufficiently independent and impartial. The BCLP team acting for the Club was made up of **Graham Shear** (Partner), **Andrew Street** (Partner), **Irina Tuca** (Associate) and **Chloe Allen** (then Trainee, now Associate).

The case concerned an incident which happened in a match between Nottingham Forest Football Club (the "**Club**") and Chelsea Football Club, which resulted in the FA bringing regulatory proceedings against the Club (the "**Chelsea Proceedings**"). The Chair of the FA Appeal Board in the Chelsea Proceedings was Mr McPherson KC.

The Club is also involved in a separate set of proceedings, in which the FA charged the Club with a breach of FA Rule E3.1 in relation to a separate incident, related to a match between the Club and Everton Football Club (the "**Everton Proceedings**"). In the Everton Proceedings, one of the issues in dispute was the quantum of the sanction imposed on the Club. As part of some preliminary applications made by the Club, one of the points which was subject to a preliminary determination was the appropriateness of the sanction imposed. Mr McPherson KC was Chairman of the FA Commission which determined (on papers) various preliminary matters. In dismissing the Club's submission that the sanction imposed was arbitrary, Mr McPherson KC noted that the submission was "*somewhat hysterical*".

In the present case, the Club sought, amongst others, a declaration that Mr McPherson KC is insufficiently independent and impartial to determine the Chelsea Proceedings on the grounds of apparent bias, and an order that he should be removed from the FA Appeal Board in the Chelsea Proceedings, in light of the comment made by Mr McPherson KC in the Everton Proceedings. The Club argued that the phrase "*somewhat hysterical*" satisfies the apparent bias test, as it would lead a fair-minded and informed observer to conclude that there was a real possibility that Mr McPherson KC was biased against the Club.

The Tribunal (chaired by Kim Franklin KC, sitting alongside Lord Neuberger of Abbotsbury and Edwin Glasgow CBE KC) unanimously agreed. In deciding that the public law test of apparent bias was met, the Tribunal considered that it was material that the phrase “*somewhat hysterical*” was “*inherently highly pejorative*”, carrying “*serious disapproval of the party and its representatives who advanced the argument*”. The Tribunal also held there was nothing about the Club’s argument on sanctions which warranted such disapproval; rather, the Tribunal found the Club’s submissions to be “*sound*”, and therefore concluded that the comment made by Mr McPherson KC would be seen by the notional fair-minded independent observer to be “*an unjustified, inappropriate, and personal attack on the Club and its legal representatives*”.

The Tribunal therefore “*ha[d] no doubt*” that Mr McPherson should not sit on the tribunal dealing with the Chelsea Proceedings. As such, the panel granted a declaration that Mr McPherson KC was insufficiently independent and impartial on grounds of apparent bias and should be recused from the Chelsea Proceedings, and an order that he is removed from the FA Appeal Board in the Chelsea Proceedings and replaced as Chair. The Tribunal also ordered the FA to pay both the Club’s legal costs and the Tribunal’s fees.

Although the Chelsea Proceedings remain ongoing, the Club’s successful challenge against the FA’s appointment of Mr McPherson KC is a big milestone in those proceedings and is a reminder of the standards expected of arbitrators in reaching their determinations and the language used for that purpose.

## **RELATED CAPABILITIES**

- Professional Sports Team Representation
- Sports, Media & Entertainment
- Litigation & Dispute Resolution

## MEET THE TEAM



### **Graham Shear**

London

[graham.shear@bclplaw.com](mailto:graham.shear@bclplaw.com)

[+44 \(0\) 20 3400 4191](tel:+442034004191)



### **Andrew Street**

London

[andrew.street@bclplaw.com](mailto:andrew.street@bclplaw.com)

[+44 \(0\) 20 3400 3658](tel:+442034003658)



### **Irina Tuca**

London

[irina.tuca@bclplaw.com](mailto:irina.tuca@bclplaw.com)

[+44 \(0\) 20 3400 4062](tel:+442034004062)

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.