

Arbitration Case Study 2

Arbitrating an Athlete Selection Dispute between an Olympic Athlete and a National Governing Body

Dispute background

A top ranked athlete appealed the decision of an NGB not to nominate him for selection for the London 2012 Olympic Games. Only one place was available in the relevant discipline. The NGB argued that the preferred athlete was more likely to medal at the Olympic Games than the appellant due to his greater commitment to the sport, recent form and changes to the scoring system which were more suited to his tactical approach to the sport. Moreover, the NGB argued that the world ranking systems were not an accurate reflection of medal winning potential. The appellant argued that he was equally committed, that the selection process was biased and that the Selection Committee had failed to take into account all relevant information in coming to its decision.

The parties

An elite athlete in an Olympic sport and the National Governing Body for that sport.

Service provided by Sport Resolutions

The London 2012 Olympic Selection Policy of the NGB made reference to Sport Resolutions as the independent tribunal to which all athlete selection appeals should be directed. On receiving notification from the NGB that an appeal was likely, Sport Resolutions provided initial guidance on jurisdiction and on the documents that needed to be filed by the athlete as part of his notice of appeal. Sport Resolutions liaised directly with the representatives of the athlete to ensure that his notice of appeal was correctly filed in accordance with the Appeal Arbitration Rules of Sport Resolutions (UK).

Sport Resolutions nominated a panel of three to hear the appeal. The panel was chaired by an experienced barrister and also included a referee from a related Olympic sport and a second barrister who had competed in another Olympic sport at elite level. The parties were given an opportunity to raise any objections to the impartiality of the panel.

Sport Resolutions organised a telephone directions hearing at the conclusion of which the chairman of the tribunal issued a written Directions Order which set out the timetable to be followed. Sport Resolutions facilitated the exchange of written submissions, witness statements and skeleton arguments. A full day hearing was held at Sport Resolutions' Arbitration Centre within one week of the appeal being filed. A written decision with reasons was distributed to the parties within two days of the hearing. The whole process was concluded within 8 days.

Cost to the parties

The total bill for the appeal tribunal was £3,800. The costs of the arbitration were met by the NGB. This included the fees and travel expenses of the panel and the fees of Sport Resolutions which included use of its Arbitration Centre. Each party was responsible for their own legal costs.

Outcome achieved

The appeal was heard within 8 days, well in advance of the cut off date for final selection by the British Olympic Association, for London 2012. The appeal was allowed on the basis that the Selection Committee was biased and that it had taken into account incorrect facts in making its decision. In referring the matter back to the NGB Selection Committee for reconsideration, the panel gave clear directions as to the process to be followed.

Benefits

The athlete was able to argue his case before an independent panel who had no involvement in the running or decision making of the sport.

The NGB benefitted from having their decision making process independently reviewed and received clear directions about how they needed to correct the process, which they duly did, and thereby reduced the risk of further challenge and criticism.

The matter was resolved swiftly, in private and at reasonable cost.



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