

## **Case 24 – Selection Appeal**

### **2012 London Olympic Games**

#### **Key words**

*Selection Policy; Appeal; Team Selection; Unfair; Olympic Games; Selection Process; Grounds of Appeal; [Fair Selection of athletes](#)*

#### **Summary**

Athlete Y appealed the decision of the British Canoe Union (BCU) Selectors not to select her to represent Great Britain in the sprint kayak discipline at the London 2012 Olympic Games (the Games). The appeal was considered by a sole Arbitrator appointed by Sport Resolutions pursuant to the BCU Dispute Resolution in Disciplinary Procedures (the Disciplinary Procedure). Athlete Y argued that the selection process was flawed. The Arbitrator found that the information considered by the BCU Selectors was in keeping with the Selection Policy and therefore the appeal was dismissed.

#### **Background Facts**

Athlete Y appealed the decision of the BCU Selectors not to select her to represent Great Britain in the sprint kayak discipline at the Games. Athlete Y argued that the selection process was flawed on the basis that; i) BCU did not apply its own selection processes; ii) the production of an additional Crew Boat Strategy constituted an expansion or modification of the Selection Policy; iii) BCU failed to follow its own policy in that it had attached considerable weight to non-medal winning results in the 2011 World Championships (the Championships); and iv) those responsible for running the GB Women's Sprint Team departed from the Crew Boat Strategy.

## **Reasoning and Decision of the Tribunal**

The potential grounds of appeal were not specifically provided for in the Procedure so the arbitrator set out that an athlete can only appeal in circumstances where the non-selection; i) was not in accordance with the Selection Policy; or ii) the Selection Policy had been misapplied; or iii) the decision maker had shown bias; or iv) the conclusion is one that no reasonable decision maker could have reached.

The Arbitrator found that there was no evidence to suggest that BCU did not apply its own selection processes. The Arbitrator also found that the Crew Boat Strategy constituted guidance as to the policy rather than a statement of policy itself and that therefore by not applying this strictly, the BCU had not misapplied the Selection Policy.

The Arbitrator further held that the Selection Panel was not limited to only take account of medal winning performances at the Championships; rather the Selection Policy did allow for performances generally to be considered. The Arbitrator therefore found that the information considered by the BCU Selectors was in keeping with the Selection Policy and therefore the appeal was dismissed.

## **Learning points**

Where a National Governing Body (NGB) seeks to produce additional documents or strategies within the selection process, it should make it clear to athletes that the documents are intended to provide guidance to the selection policy, rather than to form part of it. This case also sets out the test of the grounds upon which an athlete can appeal, namely:

- 1) If the selection is not in accordance with the selection policy;
- 2) If the policy has been unfairly or misapplied;
- 3) If the decision maker has shown bias; or
- 4) If the conclusion is one what no reasonable decision maker would have reached.

Unless the regulations of the National Governing Body set out other reasons, the only grounds for appeal are those identified, and an arbitrator will take care not to interfere with the exercise of discretion within those limits.

