

Case 26 – Selection Appeal

2012 London Olympic Games

Key words

Selection Policy; Discretion; Team; Emphasis; Best Possible Results; Medals; Objectives; Fair Selection of athletes

Summary

Athlete D appealed the decision of the National Performance Director (NPD) not to nominate her for selection for the 10m individual platform diving event at the 2012 Olympic Games. An Appeal Committee was appointed by Sport Resolutions to hear the appeal pursuant to the BS Fast Track Team Selection Appeals Procedure. The Appeal Committee found that the Selection Policy objectives were to win diving medals and that the NPD's discretion not to select Athlete D to the 10m individual event was justified and permitted within the Selection Policy. The appeal was therefore dismissed.

Background Facts

Athlete D had been selected to Team GB at the London 2012 Olympics for the 10m synchronised pair platform diving event, but not for the 10m individual platform diving event. Athlete D appealed the decision of the NPD not to select her for the 10m individual event and leave to appeal was granted by the Appeal Committee.

The relevant Selection Policy stated that the objectives for the individual 10m event were i) to select athletes who will form the team to achieve the best possible results; ii) to select athletes who will have the best chance of potential success; and iii) to select athletes who have the potential to succeed in the 2016 Olympics.

Reasoning and Decision of the Tribunal

Athlete D claimed that the decision was not made in accordance with the published selection criteria. Athlete D argued that she was the UK's best ranked athlete in her event by some margin, and had consistently better results in the 10m individual event than the selected athlete, and that to reach the decision he did the NPD had gone outside the Selection Policy.

The NPD explained that he did not regard Athlete D as a serious medal prospect for the 10m individual event, but did for the 10m synchronised event. The NPD considered that on occasions that Athlete D had competed in both events, her performance in the 10m synchronised event had suffered, and adduced data that supported this conclusion. The NPD had therefore believed that it would not be in the best interests of the team to select Athlete D to both events.

The Appeal Committee noted the emphasis placed upon the best possible results for the team, and further noted that the Selection Policy started by stating that "[d]iving is an extremely subjective sport and thus there will be a significant component of subjective decision making in regard to final selection of the team".

The Appeal Committee found that the Selection Policy objectives were to win diving medals and that the NPD had not gone outside the Selection Policy when exercising his discretion to form the team. The Appeal Committee considered it permissible for the NPD to have in mind the realistic prospect of medalling in the 10m synchronised event when selecting athletes to the 10m individual event. This was particularly so when; i) the Selection Policy objectives were focussed on winning medals and achieving the best possible results for the team, and; ii) where the NPD genuinely considered there to be evidence that competing in both events may affect Athlete D's performance in the 10m synchronised event. The appeal was therefore rejected.

Learning points

- Selectors may exercise discretion when making selection decisions, but only in so far as they are permitted to by a selection policy. As a consequence, Selection Policies should be as clearly drafted as possible and make clear when decisions will be based on subjective considerations.
- Where selection policies expressly include likelihood of success in the future (e.g. future Olympics) as a relevant consideration, it necessarily implies that the best athlete for the current competition/event may not be selected.

