

Case 28 – Selection Appeal

2014 Sochi Winter Olympic Games

Key words

Selection Policy; Discretion; Objective; Subjective; Sochi 2014; Bias; Appearance of Bias; Exercise of Judgement; Fair Selection of athletes

Summary

Athlete K appealed the decision of British Bobsleigh not to nominate him for selection to Team GB at the 2014 Sochi Winter Olympic Games on the grounds that British Bobsleigh had not followed the Selection Policy, and that the selection procedure was unfair as it contained an appearance of bias. An Appeals Committee was appointed by Sport Resolutions in accordance with British Bobsleigh's Olympic Selection Document. The Appeals Committee found the decision had been taken in accordance with the Selection Policy and there was no real evidence to support the contention of bias. Consequently, the appeal was therefore dismissed.

Background Facts

Athlete K appealed the decision of British Bobsleigh not to nominate him for selection to Team GB at the 2014 Sochi Winter Olympic Games.

Reasoning and Decision of the Tribunal

Athlete K appealed on two grounds, firstly that British Bobsleigh had not followed the Selection Policy because (a) objectively measuring his past performance

against the past performances of others selected, he made the sled move faster, and (b) that the summary of concerns provided to him by the Performance Director were inaccurate, misplaced or outweighed by the objective data that he made the sled move faster. Secondly, that the selection procedure was unfair because one member of the Selection Panel had a vested interest in the selection of another athlete, having been identified in the media as that athlete's coach, and therefore there was an appearance of bias.

The Selection Policy contained several "objective" and "subjective" criteria that the Selection Panel should take into account when making its decision as to the athletes who would have "the greatest medal winning potential", and made clear that the selection process was "an exercise of judgement and is guided by, but not determined by, results in competition and statistical data."

On the first ground of appeal, the Appeals Committee was not satisfied that the Selection Panel had failed to take account of the objective criteria listed in the Selection Policy and recognised that the weight to attach to each of those criteria was a matter of judgement for the Selection Panel; they had a wide margin of discretion. On the second ground of appeal, the Appeals Committee was not satisfied that an outside observer, properly informed of the facts, would consider that there was a real risk that the decision on selection would be affected by bias, and found that the coach on the Selection Panel was a British Bobsleigh coach whose services were available to all team athletes, including Athlete K. The Appeals Panel therefore dismissed Athlete K's appeal.

Learning points

- Where a Selector is afforded a measure of discretion, this must be exercised in a fair and unbiased manner, taking into account all matters referred to in the Selection Policy. However, an appeal panel will not interfere with the exercise of that discretion if properly exercised.