



GLOSSARY

Adverse Analytical Finding

This means that the testing process has revealed a banned substance in the athlete's sample.

Arbitration Agreement

Arbitration is a mechanism for resolving legal or regulatory disputes outside a state based court system. In theory it reduces costs and delay and allows for experts to resolve disputes. The parties to this sort of agreement agree that any disputes between them (e.g. as to disciplinary sanctions for breach of doping rules) will be dealt with by a private individual or panel of individuals (usually with expertise in the area) and that the decision will be binding upon them. Typically athletes will agree to this as a condition of being a member of a sporting organization or in order to compete in sporting events.

Counsel (case 6)

Counsel is the name given to the legal representatives of each of the parties. They are the ones who present the arguments to the disciplinary or arbitration panel.

Ground (case 5)

A 'ground' of appeal is a reason for the appeal. There might be several different reasons for making an appeal.

Equality Act 2010 (case 5)

This is a piece of UK legislation which is aimed at stopping discrimination based on certain characteristics (such as race, religion etc.)

de novo (case 7)

A 'de novo' hearing is one where all the facts and evidence related to a particular dispute are heard or considered afresh.

de novo appeal (case 7)

As above, a "de novo appeal" is an appeal process where the facts and evidence are presented afresh and the tribunal will decide the matter without being bound by any previous process.

Balance of Probability (case 7)



This relates to the standard of proof required to show that something did or did not happen (in other words whether it can be considered 'fact'). It really just asks whether a particular event is more likely than not to have happened or whether an explanation is more likely to be true than false. This is the standard of proof in most private law disputes (e.g. breach of contract).

Specified Substance (case 9)

All substances on the 'banned' list are usually referred to as prohibited substances. Specified substances are named in the WADA Code as their presence is more likely to be due to a non-sporting reason. Specified substances are usually banned only in-competition and, subject to rules in the WADA Code, can result in a lesser sanction subject to the athlete being able to demonstrate how and when such substances were taken.

Ringer (case 10)

A 'Ringer' is a player who is considered a (much) better player than the normal standard of player in a team. The better player (e.g. a professional or semi-professional footballer) is brought in to play in a particularly important or significant match to increase the likelihood of winning.

Comfortable satisfaction (case 11)

Comfortable satisfaction relates to the [standard of proof](#) required to show that something did or did not happen (in other words whether it can be considered a 'fact'). It is a higher requirement than the balance of probability (see above), but a lower standard than is required for the criminal law (beyond reasonable doubt).

Mitigation (case 20)

If a sanction is mitigated, it means it is reduced. For example, if an athlete admits to having a prohibited substance in their body he/she might be banned for a fixed period as stated in the relevant rules (e.g. 2 years) but that sanction could be 'mitigated' (reduced) if they can show that they had no significant fault in how the substance got there.

Disciplinary Process (Case 24)

This describes the way in which breaches of regulations are dealt with by a governing body and is usually set out in writing. If it is thought that an athlete has breached the regulations (e.g. in taking a prohibited substance), then the governing body would start a 'disciplinary process' according to their own regulations. The process usually starts with notifying the athlete, but will also include a hearing (in person or in writing) before a panel and could involve one or more appeals until the athlete either accepts the sanction or exhausts all rights of appeal.

Exercise of Judgement (Case 28)

This means the exercise of choice or discretion.



Natural Justice (Case 32)

This is a fairly complicated concept, but essentially means that there must be procedural fairness in a disciplinary process. For example, an athlete must be allowed some sort of hearing to put forward his/her side of the story and the decisions maker (the disciplinary panel or the selection panel) must be unbiased.

Cross-Appeal (Case 37)

If one party decides to appeal against the decision of a disciplinary hearing or other hearing about a dispute (e.g. an athlete given a 2 year ban and wants to argue for a reduced term) then it is possible that the other side (the governing body) could also appeal for a longer ban. If the athlete appealed and the governing body responded by asking for a longer term, the governing body's appeal would be a 'cross-appeal'.

Errors of Law and Fact (Case 42)

Two sides to a legal dispute will often argue about both what happened (whether there was a prohibited substance in the athlete's blood stream) and what the relevant law is (whether fault is a necessary requirement to be guilty). In coming to a decision, it will usually be necessary to decide what actually happened (to decide questions of fact) and what the relevant law or regulations are and how they apply to those facts (questions of law). Errors of law are errors in deciding what the law is or how it applies and are usually good reasons for an appeal. Errors of fact are errors in deciding what the facts were. Usually it is more difficult to argue the hearing panel was wrong about the facts because they will be seen as in the best position to decide on the evidence presented to them (e.g. whether the athlete was believable).