

IN THE MATTER OF UK ATHLETICS DISCIPLINARY PROCEEDINGS
BEFORE THE DISCIPLINARY COMMITTEE

UK ATHLETICS LTD (Complainant)

and

ANDREW BUTCHART (Respondent)

Statement of Disciplinary Committee Decision

Hearing date 8th July 2021

These are the reasons for the written decision statement of a Disciplinary Committee Decision arising from a hearing held via zoom on Thursday 8th July 2021 in accordance with the The Complainant's Disciplinary Rules and Procedures

Appeal Board [REDACTED] (Chairperson) [REDACTED] [REDACTED]

Complainant UK Athletics Ltd (represented by [REDACTED] of Counsel)

Respondent Andrew Butchart (represented by [REDACTED] of Counsel)

This was a hearing pursuant to complaints made by the Complainant against the Respondent (an Elite Athlete and a member of The Complainant's World Class Programme) arising out of a podcast made by the Respondent and broadcast on Sunday 27th June 2021 which the Complainant alleged breached certain provisions of The Respondent's Athlete Agreement with the Complainant and amounted to Misconduct within the Rules of the Complainant and further that within the podcast the Respondent had allegedly admitted to falsifying a PCR Test which also amounted to Misconduct.

There were two charges:-

1. That on or around the week of 21st June 2021 the Respondent participated in a podcast and made certain statements which were more fully set out in the letter of charge of 1st July 2021 and in so doing behaved in a manner which was disgraceful to or opposed to the general interest of The Complainant or the sport of athletics or which brought the sport into disrepute and which was behaviour which was otherwise considered by the Complainant to be unacceptable and contrary to the conduct expected of a person participating in athletics contrary to clause 2.1)v) of the Complainant's Rules and Dispute Resolution and Disciplinary Proceedings and clauses 9.1(9.1.1 to 9.1.5) of the Complainant's World Class Programme Athlete Agreement to which the Respondent was a party.

2. That on a date unknown at a location unknown whilst travelling for athletics purposes the Respondent falsified a PCR test form and in so doing behaved in a manner which was disgraceful or opposed to the general interests of the Complainant or the sport of athletics or which brought the sport into disrepute or which was behaviour that was otherwise considered by the Complainant to be unacceptable and contrary to the conduct expected of a person participating in athletics contrary to clause 2.1 (iv) of the Complainant's Disciplinary Rules and Dispute Resolution and Disciplinary Procedures and clause 9.1 (9.1.1 to 9.1.5) of the Complainant's World Class Programme Athlete Agreement to which the Respondent was a party

The Committee have upheld the complaints of the Complainant in respect of Charge 1 as set out above in their entirety . However, as it felt that the evidence produced by the Complainant fell short of the proof required for them to find that he had actually falsified a PCR Test and therefore it did not uphold the complaint of The Complainant in respect of Charge 2

The reasons for upholding the first complaint are as follows:-

Counsel for the Respondent made a preliminary submission that insufficient time had elapsed between the initial letter to the Respondent and proceeding with the charges. However, The Committee felt there were adequate reasons for an accelerated hearing and the Respondent had not objected prior to the hearing nor was any mention made in the submissions made on behalf of the Respondent even though all the facts were available at the time they were made. In any event the Committee felt there was no grounds for taking the submission into account in their findings as the Podcast the subject of the two complaints spoke for itself.

In suggesting effectively that the manipulation of test results was endemic in the sport (the Respondent claimed that " everyone's faked PCR tests ") that in the opinion of The Committee amounted to Misconduct in itself. The demonstration of how this could be achieved only added to the wrong. The Respondent himself whilst claiming that what he had said was "rubbish " also admitted that what he had said was " awful " and there was no further attempt by him to explain why he had said what he said other than to admit " he was not good with words " and that his mouth " ran away " with him. There were no real submissions or arguments for mitigation other than he was desperate to get home having been away for so long.

The facts emerged during the hearing that he had flown without a negative test certificate and had simply hoped that he would receive a negative result by the time he landed. The fact that he had made the podcast at all in breach of the rules was bad enough but the content was, in his own words truly " awful, " Although he was not specifically charged with travelling without a proper certificate the fact that he did and this put the lives of everybody with whom he came into contact at risk was in itself a breach of his Athlete's Agreement and behaviour which under 2 (v) of the Complainant's Disciplinary Rules was "disgraceful

or opposed to the general interests of the UKA or the sport of athletics or which bring the sport into disrepute.” The same was considered to be the case in respect of the podcast itself.

At a time of great sensitivity when athletes would be travelling the world, hoping to qualify for the Olympics and then travelling again when chosen, making the suggestion that some athletes were prepared to forge documents to achieve their aims was reprehensible and certainly amounted to breaches of the Athletes Agreement referred to in the charges and fell within the bounds of 2.1 (v) of the Disciplinary Rules as above. To describe proper and reasonable precautions put in place by responsible Governments around the world as a “ball ache “ was downright offensive. The Respondent’s offer to “ apologise and then apologise again and again “ was simply insufficient and he appeared not to grasp the seriousness of what he had done and what he had said in the podcast. The podcast was specifically aimed at athletes and as the Respondent explained they would listen to it every Sunday whilst running. The contents would quite possibly have encouraged any of them to take whatever risks might be necessary to get them where they wanted to be with the least possible inconvenience. Certainly, the Respondent admitted that he had in effect gambled and rolled the dice on the results of his own test just to be able to get his flight from LAX and get back home to his partner without undue delay as he “ had been away for so long. “. In fact he could have delayed his flight for 24 hours, waited for his result and then flown back. But, he was not prepared to wait for that short period and in effect, the message in his podcast, was to encourage others to follow his example. His effort to cast doubt on the accuracy of what he had said by saying that he had not queued at all and had never been to Finland, the country he mentioned in the podcast, nor had any intention of travelling there, did not persuade the Committee that the impact of the podcast was any the less.

There could be no doubt that the wording he used (including expletives) could do nothing for the reputation of UK Athletics, the sport generally and indeed the high standards that would be expected from a UK elite athlete selected to represent his country at the Tokyo Olympics. Indeed, had the timing of the offences been otherwise the Committee might have suspended him with immediate effect but after some discussion decided that to stop him running in Tokyo at the age of 29 when it was likely to be his last opportunity was on balance disproportionate. But, only just, so serious were his offences. Hence the relatively high fine to reflect that.

The Committee did not think the cases cited by counsel for the Respondent could affect their decision , nor could his complaints that the Complainant had failed to conduct a full investigation before proceeding with the charges. The podcast was a classic illustration of *res ipsa loquitor*. It truly did speak for itself and The Respondent made no attempt to deny he had spoken the words complained of, only that they did not mean what they said on the face of them. Whilst there was clearly an element of exaggeration in saying “ everyone “ did it and also that the Committee agreed with some of his description of it being “ rubbish “ there was enough in there to convince them that he did intend largely to say what he did or for it to mean what it appeared to say. The very fact that he hesitated midstream and asked if he could get into “ trouble from the police” , as pointed out by counsel for the Complainant was very persuasive. The Committee were convinced that he knew that what he was saying was wrong and indeed what he had done was wrong and yet, even though he

gave himself the opportunity to stop when he hesitated and thought about it, he continued nevertheless with disastrous results not only for the reputation of the sport, but for he himself.

For all the above reasons the Committee upheld the complaint on the First Charge and whilst not being entirely convinced of his innocence on the second charge felt that the Complainant had failed to provide sufficient hard evidence that he had falsified a certificate even if he might have considered doing so.

Dated this 12th day of July 2021

██████████

(Chairperson)