

BEFORE THE UK ATHLETICS APPEAL COMMITTEE
ON APPEAL FROM THE UK ATHLETICS CASE MANAGEMENT PANEL

BETWEEN:

UK ATHLETICS LTD (“UKA”)

National Federation

-and-

JOHN LEES

Appellant

DECISION ON SANCTION

Introduction

1. By a decision on liability dated 2 November 2021 (“**the Liability Decision**”), this Appeal Committee (“**the Committee**”) unanimously found that the Appellant (“**A**”) had committed breaches of his UKA coaching licence by:
 - 1.1. In 2018, massaging an athlete who was under 18 and abusing her by repeatedly touching her breast area and buttocks (charge two);
 - 1.2. At the end of 2013 or early 2014, making a sexualised comment to a female athlete while stretching her lower body, causing her fear and alarm (charge three);
 - 1.3. At the end of December 2017, massaging the same athlete and touching her vagina (charge 4);
 - 1.4. In September or October 2016, causing injury to an athlete by administering a chiropractic adjustment, endangering her safety (charge six), and
 - 1.5. Between 2009 and 2020 providing chiropractic adjustments to athletes while not being appropriately qualified to do so (charge eight).

2. A admitted two further charges:
 - 2.1. At his home address, massaging the same athlete as in charge two, while she was under 18, on various dates (charge one), and
 - 2.2. Making inappropriate and sexualised comments to athletes in his training group (charge seven).
3. At the end of the Liability Decision, the Committee asked for written arguments on sanction from both UKA and A. Written submissions were received from UKA on 9 November 2021. A four-paragraph email was sent by Julie Barnett, solicitor for A, the following day, 10 November 2021. She subsequently confirmed the email encapsulated the totality of the submissions on behalf of A.

UKA's submissions

4. UKA stated that the appropriate sanction to be imposed should be a permanent withdrawal of A's UKA coaching licence. It argued such a sanction was lawful because:
 - 4.1. It was not in restraint of trade. A was not trading. Rather, A had expressly disavowed coaching being his job, designating it instead as his "vocation". Further, there was no evidence of A being paid to coach. The doctrine was therefore inapplicable.
 - 4.2. It was not disproportionate. A permanent withdrawal would go no further than reasonably necessary bearing in mind the gravity of the conduct. UKA pointed to lifetime bans in doping cases and argued:

"...the misconduct proved or admitted in this case goes far beyond the doping cases where lifetime bans have been imposed, by virtue of the fact that they do not involve the infliction of mental or physical harm on third parties. A permanent withdrawal is therefore justifiable on this basis."
5. In relation to proportionality, UKA pointed out that the young women who had complained about A had suffered with various difficulties, including eating disorders, which had been caused or perpetuated by the conduct of A. Further one athlete (the subject of charge six at paragraph 1.4 above) had suffered an injury to her lower back.

6. In addition, a permanent withdrawal of A's coaching licence would, in practice, have a limited effect since:
 - 6.1. UKA had no power to exclude A from wider or other participation in the sport, or to stop him coaching without a licence.
 - 6.2. UKA could not stop A from being licenced by another sporting body, or remove any licence already granted by such body.
 - 6.3. As stated above, A would lose no monetary benefit.
7. UKA noted, among other things, the nature of the misconduct found by the Committee and the attitude of A. It emphasised the Committee's findings concerning A's cavalier attitude to the rules; his lack of boundaries, and his diminished credibility in various respects.
8. UKA argued that there was no scope for rehabilitation in this case:

"[A] has shown a blatant disregard for the rules and an insistence on doing things his way...He could not even acknowledge that what he did was wrong..."

Submissions on behalf of A

9. Ms Barnett's email of 10 November 2021, on behalf of A, stated that the sanction sought was disproportionate. Among other things she submitted:
 - 9.1. Aspects of the Committee's Liability Decision were unsound;
 - 9.2. The Committee failed to understand the role and function of a coach (in particular by reference to our concern about A designating his relationship with one young athlete as "father like");
 - 9.3. It was unfair for the Committee to have adopted the civil standard of balance of probabilities;
 - 9.4. The sanction should not exceed the five-year period which had been determined by the Case Management Group (which decision was the subject of the appeal to the Committee).

Decision of the Committee

10. We take into account the submissions of both UKA and A. We have considered the issue of proportionality. We also refer to our findings in the Liability Decision.
11. We consider A's conduct to have been very serious. Further, we are very troubled by his attitude and his continuing failure – as evidenced by Ms Barnett's email – to take any responsibility or to accept his conduct was wanting in any way.
12. We note the emphasis, in UKA's submissions, on the need for trust in the coaching relationship. UKA stated:

“...parents and teachers must be willing to trust in the fact that when their child, pupil or young person's welfare is entrusted to a UK Athletics' licensed coach, that trust will not be misplaced. No parent would sensibly ever place their child or dependant under the tutelage of a coach if there is any prospect that they will be abused. If there is no such trust and confidence, a person who has a talented athlete as a child will direct that child away from an activity in which there is a risk that they could be abused.”
13. Our unanimous view is that A's conduct and failure to accept any need for change renders him untrustworthy and unsuitable to work as a UKA licensed coach now or in the future.
14. We have therefore decided that the appropriate sanction is the permanent withdrawal of A's UKA coaching licence.

JANE MULCAHY QC

MICHELLE NORTH

MARTIN SLEVIN

17 November 2021