

INDEPENDENT APPEAL PANEL of UK

ATHLETICS

In the matter of disciplinary proceedings brought pursuant to the
UK Athletics Disciplinary Rules and Procedures

UK ATHLETICS ("UKA")

– and –

UKA

MR T SACH

APPELLANT

THE DECISION

of THE APPEAL PANEL

1. This is an appeal lodged by Tony Sach ("the Appellant") in respect of disciplinary proceedings brought against him by UK Athletics ("UKA"). This followed a disciplinary hearing held on 27th and 28th September 2023 together with a sanctions hearing held on 22nd January 2024. The original disciplinary panel consisted of Shamini Nainappan Grayson who was Chair, together with John Curry and Denzil Johnson ("the Disciplinary Panel").
2. At the disciplinary hearing, certain charges were upheld against the Appellant and at the sanctions hearing the following sanctions were imposed upon him:-
 - a. a declaration that the Appellant is ineligible to apply for a licence on a permanent basis;

- b. a recommendation to UKA that if the Appellant reapplies for an official's licence that such application be refused indefinitely;
 - c. the Appellant to be barred from competition or taking part in any event run or organised under UKA rules of competition (save an exception for the supply of sporting equipment, if so contracted);
- 3. The Appellant now appeals both the liability decision and the sanctions decision.
- 4. This appeal was heard by
 - a. Clive Dobbin (Chair)
 - b. Scott Murray
 - c. Euan Gosney

("the Appeal Panel")
- 5. The appeal hearing took place on Tuesday 28 January 2025, with the Appeal Panel meeting again on Monday 3 February 2025 for the purposes of reaching its decision. What follows is the unanimous decision of the Appeal Panel.

Grounds for an appeal

- 6. Mr Sach outlined his grounds of appeal in a document that consisted of 26 pages. Attached to this document were some further 126 pages of additional evidence. These grounds of appeal were helpfully summarised in UKA's response to the appeal. The Appellant confirmed, at the outset of the appeal hearing, that the headings in UKA's response were a helpful summary of the Appellant's grounds of appeal, and so the appeal hearing, and this decision, follows these same headings.
- 7. An Appellant can only appeal a decision of a disciplinary panel on certain limited grounds. These are specified at paragraph 21 of the disciplinary procedure and are as follows

21. Grounds of Appeal

21.1. A person with standing, being UK Athletics and the parties set out in paragraph 20.2 above, the Respondent to disciplinary proceedings or HCAF, may appeal on the grounds, and only on the grounds, that:

21.1.1. In the case of a UKA Disciplinary Decision, there has been a material failure to follow the process outlined in the UK Athletics Disciplinary Rules and Procedures, which failure has resulted in substantial injustice;

21.1.2. In the case of a HCAF Disciplinary Decision, there has been a material failure to follow the process outlined in the relevant HCAF Rules and Procedures, which failure has resulted in substantial injustice;

21.1.3. In the case of an ADP Decision, there has been a material failure to follow the process outlined in the ADP Rules and Procedures, which failure has resulted in substantial injustice;

21.1.4. UKA Disciplinary Panel, or any member of it, or any person involved in making the relevant Appeal Decision, lacked the required independence and has demonstrated bias or bad faith when making the decision;

21.1.5. The ADP, or any member of it, or any person involved in making the relevant Appeal Decision, lacked the required independence and has demonstrated bias or bad faith when making the decision;

21.1.6. UKA Disciplinary Panel, ADP or HCAF reached an Appeal Decision on the basis of an error of law;

21.1.7. The sanction (including where no sanction is levied) is either too lenient or too severe; or

21.1.8. In relation to all of the appeals under paragraph 20.1 (and exclusively for those under paragraph 20.1.5 to 20.1.7) the Disciplinary Decision is perverse or one that no reasonable person could have arrived at.

8. At a directions hearing held on 11 September 2024 the Appellant confirmed that he was appealing on two grounds being that:-

- a. There was a material failure to follow the process outlined in the disciplinary rules, resulting in substantial injustice (paragraph 21.1.1)
- b. The decision was perverse or one that no reasonable person could have arrived at (paragraph 21.1.8).

Preliminary issues

9. During the appeal hearing a number of preliminary points arose.

10. Firstly, as stated above, for the purposes of the appeal hearing, the Appellant sought to introduce a number of additional documents in support of his appeal. During the hearing, UKA confirmed that they did not object to the introduction of this further evidence.

11. Whilst UKA confirmed that they did not object to the introduction of this additional evidence, the Appeal Panel decided that it still needed to determine itself whether this additional evidence could be admitted, in accordance with the disciplinary rules. The Appeal Panel noted paragraph 27.3 of the Disciplinary Rules and Procedures which states that:-

"27.3 no new evidence shall be omitted in respect of appeal unless the Appeal Panel determines that

23.7.1 the evidence was not available at the time of the original hearing, notwithstanding the exercise of reasonable diligence by the person seeking to introduce it

23.7.2 the evidence is credible and

23.7.3 the evidence is relevant"

12. The Appeal Panel considered the above, and noted that the above may apply differently to the different documents and evidence which the Appellant sought to introduce at the appeal stage. Rather than consider each document at the outset of the appeal hearing, the Appeal Panel decided that it would consider the above should the issue arise during the hearing in the event that it was necessary for the panel to consider any of the additional evidence. At that point the Appeal Panel would consider whether the relevant evidence could, and should, be admitted in accordance with the provisions of paragraph 27.3 of the rules. However, ultimately, the issue did not arise during the hearing and so it was unnecessary to consider the above any further.
13. The second preliminary issue was that the Appellant asked for the hearing to be recorded. Again, UKA did not object to this. After considering this application, the Appeal Panel decided that the hearing could be recorded, but that the recording itself would not be shared with the Appellant, and instead a transcript would be produced. This transcript would then be provided to UKA, and UKA would be permitted to make redactions to this transcript where necessary, for example, to protect the confidentiality of witnesses. This redacted transcript would then be provided to the Appellant. It was felt by the Appeal Panel that this was the proper way to proceed in order to protect the confidentiality of the witnesses.
14. The final preliminary issue was that the Appellant challenged the composition of the Appeal Panel on the basis that it did not include a person with experience in officiating. The Appellant made a similar challenge to the composition of the Disciplinary Panel and this challenge to the composition of the Disciplinary Panel is considered further below.
15. Paragraph 23 of the disciplinary rules covered the appointment of an appeal panel, the relevant extract of which is:-

23. Appointment of an Appeal Panel

- 23.1. Following receipt of a Notice of Appeal, UKA shall appoint a panel consisting of three Arbitrators, one of whom shall be designated as the Chair (the "Appeal Panel").*
- 23.2. All Arbitrators must be free of conflicts of interest. Each Arbitrator must disclose the existence of such conflicts before accepting an appointment to sit on an Appeal Panel.*
- 23.3. UK Athletics shall notify the parties to the appeal of the identity of the Appeal Panel.*
- 23.4. Any challenge by a Respondent to the suitability or impartiality of a member of the Appeal Panel must be made within 7 days of the receipt of the identity of the Appeal Panel.*
- 23.5. In the event of such a challenge, the challenge may either be resolved by consent or by the decision of the Chair of the Appeal Panel.*
- 23.6. Where the impartiality of the Chair is challenged, this matter shall be resolved by the CEO of UKA (or a suitably qualified member Disciplinary and Appeal Case Panel nominated by such CEO).*
- 23.7. The Chair of the Appeal Panel shall be legally qualified, being either a barrister of at least 12 years call or a solicitor of at least 10 years post-qualification experience.*

16. If the Appellant wished to challenge the composition of the Appeal Panel then he was required to do so within 7 days of being notified of the proposed panel members. The Appeal Panel asked for copies of the e-mails in which the Appellant asserts that he challenged the composition of the Appeal Panel. The Appellant did not have copies to hand during the hearing and so the Appeal Panel gave him until 31 January 2024 to provide a copy of the relevant e-mails.

17. Subsequent to the hearing the Appellant provided copies of a number of e-mails. The first e-mail the Appeal Panel considered was an e-mail sent on 1 April 2024 in which the Claimant said:-

I find no issues with the panel, except there appears to be no one with up to date officiating knowledge which I feel may be relevant in this situation.

18. The Appellant then sent a further e-mail on 3 April 2024 which said:-

Thanks for your email - the panel listed below seem reasonable however I again request someone with athletics officiating experience be on the panel as many of the claims against me relate to official roles and expectations as well as officiating etiquette issues.

19. The Appeal Panel considered the above e-mail. The Appeal Panel noted that both e-mails referred to the lack of officiating experience, but also said "*I find no issues with the panel...*" (e-mail of 1 April 2024) and "*...the panel listed below seem reasonable*".

20. Taking the wording used by the Appellant into account, the Appeal Panel concluded that the Appellant had not challenged the composition of the Appeal Panel, and the Appellant had in fact confirmed that he had no issue with it, and found it to be reasonable.

Grounds of Appeal

21. As stated above, the Appellant accepted that the headings included in UKA's response to the appeal was a useful summary of his grounds of appeal, and that the Appeal Panel should follow these headings in the appeal. These grounds of appeal fell under 3 broad headings which were:-

- a. Breach of procedure;
- b. The decision was perverse or one that no reasonable person could have arrived at;
and
- c. The sanction imposed was too severe.

22. Each of the above is considered in detail below.

Breach of process

23. In relation to the first of the above grounds of appeal, being a breach of procedure, the Appellant alleges the following:-

- a. The investigation was insufficient, incomplete and not in line with best practice;
- b. Several of UKA's witnesses refused to answer the Appellant's questions. The Appellant gave the example of [REDACTED], stating that UKA manipulated the witness so that she only answered UKA's question and refused to answer those put by the Appellant;
- c. UKA refused to allow an Athletics Technical Officiating Adviser to form part of the Disciplinary Panel, despite repeated requests by the Appellant;
- d. The Appellant was prevented from asking questions of certain witnesses, as some witnesses were not present at the hearing and others refused to answer questions;
- e. UKA failed to disclose the nature of the complaint made against the Appellant until a late stage and witness statements were only provided the day before the hearing;
- f. UKA breached confidentiality by disclosing case materials to other athletics officials;
- g. UKA did not discharge the burden of proof in respect of the charges brought against the Appellant; and
- h. Relevant evidence was excluded from the proceedings, the Appellant asserted two of his witnesses were not interviewed by UKA.

24. With regard to the ground of appeal identified at paragraph 23.a above, namely that the investigation was insufficient, incomplete and not in line with best practice, the submission of UKA was that this ground of appeal related to the investigation which led to the disciplinary proceedings whereas the permitted ground of appeal contained at paragraph 21.1.1 of the disciplinary rules relates, and is limited, to the hearing itself.

25. Ground 21.1.1 is as follows

"in the case of a UKA disciplinary decision, there has been a material failure to follow the process outlined in the UK Athletics Disciplinary Rules and Procedures which failure has resulted in substantial injustice."

26. The Appeal Panel noted that the wording above refers to *'a material failure to follow the process outlined in the UK Athletics Disciplinary Rules and Procedures'*. The Appeal Panel then considered the disciplinary rules as a whole and noted that they not only govern the disciplinary hearing but also refer to the investigation (for example, see section 5 of the disciplinary rules). Therefore, the Appeal Panel did not accept the submission of UKA that this ground of appeal could only relate to the disciplinary proceedings themselves, and instead decided that the failure to follow the disciplinary rules could relate to any aspects of those rules, including the investigation.
27. The complaint of the Appellant in this regard primarily concerned his assertion that the investigation had been incomplete or insufficient, in that certain witnesses had not been investigated.
28. However, the Panel noted that rule 5 concerns the powers of UKA with regard to investigations. The wording is specifically *'powers of investigation'* and not *'obligations of investigation'*. Therefore rule 5 gives UKA the power to conduct an investigation, and a power to obtain witness evidence, but not an obligation to do so. The Appeal Panel felt that to convert rule 5 into an obligation would put UKA into an impossible position, in that if the individual being investigated asked that someone be interviewed then UKA would be obliged to do so, whether or not UKA thought that that witness was relevant, and that it could then potentially require UKA to require that witness to then give evidence at any subsequent disciplinary proceedings when UKA had no power to compel such attendance.
29. The Appeal Panel further noted that UKA was the prosecuting authority, and brought cases against individuals accused of breaching the rules and related codes of conduct. It was therefore incumbent on UKA to gather sufficient evidence to present to a disciplinary panel

for that panel to uphold an allegation of misconduct. UKA therefore suffered the risk that if it gathered insufficient evidence then it would not be able to successfully secure a finding of misconduct.

30. It was then for the person accused of misconduct to gather whatever evidence they wanted to gather to defend the allegation of misconduct against them. If they believed that this evidence in defence should include a statement from a specific individual then it is open to them to obtain such witness evidence. It is not on UKA to obtain that statement on behalf of the individual concerned. It is for that individual to prepare their own defence.
31. Finally, the Appellant refers to evidence from other witnesses which could have been obtained which would have refuted the allegations being made against the Appellant. The Appeal Panel noted that the Appellant had himself obtained that witness evidence, and so the Appeal Panel could not see that any injustice had been suffered by the Appellant, even if it could be suggested that there had been some obligation on UKA to obtain these statements on the Appellant's behalf.
32. For all of the above reasons, this ground of appeal was rejected.

Witnesses did not answer questions

33. With regard to the ground of appeal identified at paragraph 23.b above (being that several of UKA's witnesses refused to answer questions), the Appellant gave the example of [REDACTED], stating that UKA manipulated the witness so that she only answered UKA's questions and refused to answer those put by the Appellant.
34. The Appeal Panel noted that [REDACTED] did not attend the disciplinary hearing, and simply relied on the statement she had provided and stated that she did not intend to provide any further testimony.
35. The Appeal Panel concluded that UKA were entitled to present written witness evidence, and it was then for the hearing panel to decide what weight to put to that evidence. UKA did not have the power to compel attendance of any specific individual at a disciplinary hearing.

If a particular witness refused to attend, then it was open for the disciplinary panel to give less weight to the evidence from that witness.

36. It was also noted that the Appellant himself had submitted 4 statements, by way of counter statements, and these witnesses did not attend the original hearing and did not give live evidence.

37. Therefore, in summary, both UKA and the Appellant had submitted evidence by way of written statement only. To do so was not a breach of the disciplinary procedure. Even if only UKA had submitted written evidence, the Appeal Panel were not satisfied that this would have put the Appellant to a substantial disadvantage, as the panel would simply put such weight to such statements as they saw fit, which would normally be less weight. There was even less of an argument of injustice the case when the Appellant also adduced evidence by way of written evidence only.

38. For the above reasons, this ground of appeal was also rejected by the Appeal Panel.

Technical official not part of panel

39. The next ground of appeal was that UKA refused to allow an Athletics Technical Officiating Adviser to form part of the disciplinary panel, despite repeated requests by the Appellant (see paragraph 23.c above).

40. The Appeal Panel noted paragraph 8.1 of the disciplinary rules which states:-

8.1. UKA Disciplinary Panel shall be composed of three members selected by UKA for their expertise, and experience in Athletics or sport generally, and for their impartiality. No person may be appointed a member of a UKA Disciplinary Panel if they have any current financial relationship with UKA, or are biased or lack impartiality on any basis. Each member shall be required to complete a statement of impartiality.

41. Paragraph 8.1 therefore stipulates that a UKA disciplinary panel shall be comprised of three members selected by UKA for their "*expertise, and experience in athletics or sport generally and for their impartiality*".
42. Therefore, the rules did not require panel members to have particular experience in athletics, and that experience in sport more generally was sufficient.
43. Further, to uphold this ground of appeal relating to a breach of procedure the Appeal Panel needed to be satisfied not only that there had been a breach of procedure, but that the breach had resulted in substantial injustice to the Appellant.
44. The Disciplinary Panel consisted of three independent panel members. It was noted that the allegations against the Appellant essentially related to serious misconduct around his behaviour, including charges of a sexual nature, rather than breaches of the technical rules which required any specialist knowledge of technical officiating within athletics.
45. The Appeal Panel therefore concluded that the absence of a technical member from the panel was not a breach of the disciplinary procedure, and neither did it cause the Appellant any injustice.
46. For these reasons, this ground of appeal was rejected.

Appellant not permitted to ask witnesses questions

47. The next ground of appeal, which is the ground identified at paragraph 23.d above, was that the Appellant was prevented from asking questions of certain witnesses, since some witnesses were not present at the hearing and others refused to answer questions. As part of this, the Appellant further complains that the special measures which were afforded to certain witnesses made it impossible for him to properly conduct his cross examination.
48. The Appeal Panel noted that following a preliminary hearing on 18th September 2023 the Disciplinary Panel directed that 4 of UKA witnesses should be granted special measures. The special measures that were agreed were that certain witnesses could be accompanied by a friend or family member and in respect of another witness questions in cross examination

were to be agreed in advance and put to the witness via the panel chair. The Appeal Panel felt that these were reasonable and appropriate in the circumstances of the case.

49. It is permissible for special measures to be granted, and this is provided for by paragraph 11.6 of the disciplinary rules. Paragraph 11.6 says:-

11.6. In relation vulnerable witnesses giving evidence, UKA Disciplinary Panel shall have the power to do any of the following or a combination of the following:

11.6.1. Disapply paragraphs 11.4 and/or 11.5 above entirely;

11.6.2. Order that cross examination is directed through the Chair of UKA Disciplinary Panel;

11.6.3. Order that cross examination be carried out in advance of the hearing with only limited persons present;

11.6.4. Order that cross examination be carried out in writing with questions put to the witness and answered in writing prior to the hearing;

11.6.5. Order any special measures it considers are required for the protection of the witness and their mental or physical wellbeing or to ensure that the witness is able to give their best evidence to UKA Disciplinary Panel.

50. The Appeal Panel noted that the special measures which were agreed were permitted by rule 11.6, in that rule 11.6.2 permitted the special measure of questions to be asked through chair, and rule 11.6.5 was a general provision which would permit things such as allowing a witness to be accompanied by a friend.

51. The Appeal Panel also noted that the special measures which were agreed did not prevent the Appellant from asking the witnesses questions, only that for one of the witnesses these questions needed to be agreed and put through the chair.

52. The Appeal Panel concluded that the special measures which were agreed were within the provisions of the rules, and further that they did not make it, as alleged by the Appellant, impossible for the Appellant to properly conduct his cross examination and questions could still be put to witnesses, albeit they were put through the chair.

53. For the above reasons, this ground of appeal was rejected by the Appeal Panel.

Late disclosure of nature of complaint and witness evidence

54. The next ground of appeal, see paragraph 23.e above was that UKA failed to disclose the nature of the complaints made against the Appellant until a late stage and witness statements were only provided the day before the hearing.

55. The Appeal Panel noted that witness statements were provided to the Appellant together with the charge letter on 2nd March 2023. The material provided shortly ahead of the hearing was a copy of the original complaints and these were provided in response to a specific request by the Appellant for such document. It was submitted by UKA that copies of the original complaints were not normally provided, but that they had been provided in this case in response to a specific request from the Appellant.

56. The Appeal Panel concluded that the vast majority of the documentation was provided to the Appellant in advance of the hearing and included within the hearing bundle. The Appeal Panel did not accept that the failure to provide the original complaints was a breach of the rules, but even if it was the Appeal Panel did not accept that it would put the Appellant to substantial injustice. The Claimant had been provided with copies of the statements which contained the evidence being relied upon by UKA in support of the charges against the Appellant, and so the Appellant was able to properly prepare his case even in the absence of copies of the original complaints.

Breach of confidentiality

57. The next ground of appeal, see paragraph 23.f above, was that UKA had breached confidentiality by disclosing case materials to other athletics officials.

58. The Appeal Panel sought to clarify this ground of appeal during the appeal hearing. The Appellant confirmed that it related to his assertion that witnesses had been speaking to each other.

59. However, the Appeal Panel noted that the Appellant had himself been in contact with witnesses in the case, albeit indirectly. In particular, it was known to the Appellant that a [REDACTED] was likely to be a witness/complainant in the case against him, but he still asked someone, namely [REDACTED], to approach her.

60. Therefore, even if it can be said that witnesses had been speaking to each other the Appeal Panel concluded that this did not put the Appellant to a substantial injustice, particularly in light of the Appellant also seeking to communicate with witnesses, albeit indirectly.

Burden of proof

61. The next ground of appeal, see paragraph 23.g above, was that UKA did not discharge the burden of proof in respect of the charges brought against the Appellant.

62. The Disciplinary Panel had been satisfied that the burden of proof had been discharged and made the decision it did. This ground of appeal is therefore considered below as the Appeal Panel felt that it was more properly described as the decision was perverse and one that no reasonable person could have arrived at.

Relevant evidence was excluded from the proceedings.

63. The next ground of appeal, see paragraph 23.h above, was that certain evidence was excluded from the proceedings.

64. The Appellant alleged that two of the witnesses were not interviewed by UKA. UKA were required to gather evidence in support of the charges for a panel to determine whether the Appellant had committed misconduct. The Appellant is then free to gather his own evidence in support of his defence to the charges which have been brought.

65. As stated previously, there is no obligation on UKA to gather evidence in support of the Appellant's defence to those charges, and the Appellant is free to do this himself.

66. However, in any event the Appellant refers to two witnesses being [REDACTED] and [REDACTED]. The Appellant obtained witness statements from these two individuals and their statements were included in the hearing bundle. Therefore, even if there was any obligation on UKA to obtain statements from these individuals, which the Appeal Panel did not accept, then evidence from them had been obtained by the Appellant and their statements were included in the hearing bundle in any event. Therefore, the Appellant could not say that he had suffered any injustice, let alone a substantial injustice, by UKA not obtaining witness statements for him.

Decision was perverse or one that no reasonable person could have arrived at

67. This ground of appeal was broken down into the following sub-headings:-

- a. UKA witnesses had colluded with each other;
- b. UKA cherry-picked witnesses' evidence;
- c. UKA treated the Appellant with disrespect, by using legal jargon;
- d. Other matters

Collusion

68. Under this ground of appeal, the Appellant alleged that UKA's witnesses had colluded with each other in terms of the allegations made against the Appellant.

69. The Disciplinary Panel had, in its decision, gone through each of the charges, and the evidence in support of it, including the evidence from witnesses. They had then reached a decision on each of the charges after assessing the evidence, including after assessing and making findings on the credibility of witnesses.

70. The Disciplinary Panel were the most appropriate body to come to the findings it did and were best placed to form a view on the credibility of witnesses, having heard themselves from those witnesses who gave evidence in person. The Appeal Panel did not hear evidence from any witnesses, and so was not able to form a view on the strength of their credibility.

71. Other than to say he disagrees with their evidence (by including in his appeal a detailed critique of their evidence) the Appellant has not stated why the Disciplinary Panel should not have come to the conclusions that it did based upon the credibility of those witnesses. This ground of appeal is therefore rejected.

UKA cherry picked snippets of the witness' evidence in order to advance the most damaging case against the Appellant.

72. UKA provided evidence by way of 11 witnesses, 7 of which appeared at the hearing. The Disciplinary Panel had the entirety of their witness statements before them. This ground of appeal is not that only part of the evidence of particular witnesses was before the panel, but was rather that only part of that evidence was relied upon or referred to by UKA. This, the Appeal Panel thought, arose out of a misunderstanding by the Appellant of the process of a disciplinary hearing.

73. At the conclusion of the hearing, it was for UKA to make closing submissions, during which it would have gone through each of the charges, outlining why it believed that the Disciplinary Panel should uphold the charge, referring to the evidence in support of those charges. It was then for the Appellant to make his submissions in his defence of the charges, and to draw attention to the evidence in support of those submissions. It is the nature of closing submissions that the representative of UKA would rely on, or refer to, the evidence in support of its case.

74. Therefore, it cannot be said that their decision was based upon UKA cherry picking the evidence of the witnesses. The entirety of the evidence was before the Disciplinary Panel. UKA was simply doing its job as a prosecuting body, by making submissions in support of the charges, and in referring to the evidence in support. To the extent that the Appellant felt that there was other evidence which supported his defence to the charges, or if he believed that UKA was not referring to the evidence in a balanced way, then it was open to him to make those submissions.

UKA treated the Appellant with disrespect in particular by using legal jargon in correspondence with the Appellant having been advised of his neurodiversity.

75. In considering this ground of appeal, the Appeal Panel considered the documents that had been put before the Disciplinary Panel by the representative to UKA. This included UKA skeleton argument and the submissions by UKA on sanction. It also considered the written submissions which were prepared for the purposes of this appeal hearing. It noted that such documents were clear, and, in the opinion of the Appeal Panel, written in plain English.
76. The Appellant was an experienced official, and very experienced in athletics. He also had prior experience of the disciplinary rules and of disciplinary proceedings. The Appeal Panel therefore rejected the assertion that the Appellant had been treated with disrespect by the use of legal jargon.
77. This ground of appeal also refers to the Appellant's neurodiversity. The Disciplinary Panel's consideration of the Appellant's neurodiversity is considered further below.
78. More generally, with regard to the argument that the decision was perverse, at pages 10-20 of the grounds of appeal the Appellant conducts a detailed analysis of the witnesses of UKA identifying points which he disagrees with. In conducting this analysis the Appellant asserts that the decision against him must be perverse.
79. The appeal is not an opportunity for the Appellant to relitigate the case. The Appeal Panel did not have the advantage of hearing the witnesses and observing their testimony and cross examination. The Disciplinary Panel conducted a detailed analysis of the evidence and made detailed findings in respect of each charge. It therefore cannot be said that their decision was perverse simply by the Appellant conducting a critique of the evidence of the witnesses for UKA.
80. Therefore, the Appellant cannot simply conduct a critique of why he disagreed with the evidence of the witnesses or evidence before the original Disciplinary Panel. Something more

is required to show that the decision is perverse, or one that no reasonable panel could have arrived at. The fact that the Appellant simply disagrees is not enough.

Sanction was too severe

81. With regard to this ground of appeal, the Appellant relies upon the following:-

- a. UKA did not request an independent assessment or medical report from the Appellant in respect of his neurodiversity;
- b. The Panel relied on previous findings against the Appellant which were incorrect or biased;
- c. UKA did not put examples of the Appellant's positive contribution towards officiating in Athletics before the Panel

Appellant's neurodiversity

82. With regard to the ground of appeal referred to at paragraph 81.a above, the Appellant argues that UKA did not request an independent assessment or report in respect of his neurodiversity.

83. The Appellant's assertion of neurodiversity was specifically considered at paragraph 13 of the decision on sanction with regard to mitigating factors, but the Disciplinary Panel concluded that it could not take this into account without the Appellant presenting medical evidence to support this assertion of neurodiversity.

84. It is the submission of the Appellant that he was not able to obtain a medical diagnosis in time for the disciplinary hearing. The Appeal Panel queried whether the Appellant had obtained, or taken any steps to obtain, a medical diagnosis in advance of the appeal hearing. The Appellant confirmed that he had not.

85. If the Appellant wished to rely on his neurodiversity either in defence of the charges brought against him, or in mitigation, then it was incumbent upon him to obtain medical evidence in support of this. The Disciplinary Panel was entitled not to take this into account in the absence of such evidence.

86. To the extent that the Appellant did not have, or was not given, sufficient time to obtain such evidence at the time of the disciplinary proceedings he could have obtained such evidence for the purposes of this appeal, and in advance of the appeal hearing. The Appellant would have been aware of the relevance of this medical evidence, and the fact that it would form part of this appeal.

87. Therefore the fact that the Appellant had not taken any steps to obtain such medical evidence in advance of the appeal hearing was a relevant factor for the Appeal Panel to take into account in deciding that both the Disciplinary Panel had approached the matter in the correct way, and further that there was nothing before the Appeal Panel which mean that the Appeal Panel should consider matters any differently.

Reliance on previous findings

88. The Appeal Panel noted that the Disciplinary Panel had been provided with evidence concerning previous disciplinary proceedings to which the Appellant had been subject, and had provided a short chronology which cross-referenced this evidence. The Appellant also argues that the Disciplinary Panel relied on previous findings against the Appellant which were incorrect and biased.

89. UKA then referred to the Appellant's previous disciplinary record on the question of sanction, and relied upon this previous disciplinary record in support of its submission that, amongst other things, the Appellant was not capable of reforming his behaviour.

90. The Appellant argues that reliance should not have been placed on these previous disciplinary decisions as they were incorrect and biased. The Appeal Panel rejected this contention. The Appeal Panel concluded that the Appellant's previous disciplinary record was relevant to the question of sanction, and was relevant to the submissions made by UKA. The Appellant's previous disciplinary history was a matter of record, and the Disciplinary Panel were entitled to rely on it, and it was not necessary or appropriate for it to re-litigate each of the previous disciplinary cases to decide whether the finding on each was correct.

91. The Appeal Panel also noted the submission of UKA that the Appellant was incapable of reforming his behaviour in part due to his disregard for previous disciplinary decisions had some force to it, considering that the Appellant was still, even before the appeal hearing, arguing that such previous disciplinary decisions were incorrect or biased.
92. Thirdly, and finally, the Appeal Panel considered the ground of appeal that UKA did not put examples of the Appellant's positive contributions towards officiating in athletics before the Disciplinary Panel. However, the Appeal Panel accepted the submission of UKA that it was open to the Appellant to submit at the hearing whatever character references he wanted the Disciplinary Panel to consider. The Appeal Panel also noted that a number of references were submitted, as noted at paragraph 13 of the sanctions decision.
93. The grounds of appeal presented by the Appellant, and the additional documents attached to it, did include additional evidence in support of the character and contribution of the Appellant. This could have been reviewed as new evidence and so requiring an assessment as to whether such new evidence should be admitted for the purposes of determining this appeal as referred to above.
94. However, the ground of appeal was that UKA did not put before the Disciplinary Panel examples of the Appellant's positive contribution towards officiating. The Appeal Panel rejected this ground of appeal. It was not for UKA to build the Appellant's case for him, and to the extent that he believed that good character evidence, or evidence of his contribution to officiating, was relevant then it was for the Appellant to obtain, and submit, such evidence not UKA.

Conclusion

95. The Appeal Panel thanks both parties for their assistance, and the manner in which they presented their cases at the appeal hearing. Having taken all matters into account, and for the reasons given, the Appeal Panel has concluded that the appeal should be rejected.

96. In accordance with paragraph 29 of the disciplinary rules the decision of this Appeal Panel is
final and binding on all parties.

Clive Dobbin

Chair of the Appeal Panel

C B Dobbin

Dated this 17th day of February 2025