

**BEFORE THE UKA APPEAL PANEL**

**BETWEEN:**

**CHRIS BLACK**

**Appellant**

**and**

**UK ATHLETICS LIMITED**

**Respondent**

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**THE DECISION OF THE APPEAL PANEL**

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**Introduction**

1. On 22 October 2024 the Appellant lodged a Notice of Appeal against the findings of a UK Athletics Disciplinary Panel as set out in a Written Decision (hereafter “the Decision”) dated 20 September 2024.
2. The Notice of Appeal sets out the following Grounds of Appeal as contained in within Regulation 21 of the UK Athletics Disciplinary Rules and Procedures (hereafter “the Rules”):
  - 2.1. There has been a material failure by the Disciplinary Panel to follow the process outlined in the Rules, which has resulted in substantial injustice. (Rule 21.1.1)
  - 2.2. That the Disciplinary Panel, or any member of it, or any person involved in making the relevant Decision lacked the required independence and has demonstrated bias or bad faith when making the decision. (Rule 21.1.4)
3. This Appeal was heard by the following members of an Appeal Panel;
  - i) Euan Gosney, Chair of the Appeal Panel;
  - ii) Sally Clark; and
  - iii) Andy Battle.

**The Rules**

4. Rule 21 of the Rules sets out the available grounds of appeal against a decision. The grounds contained in Rule 21 are exclusive. A person with standing, such as the Appellant, can only appeal on the grounds that are contained in Rule 21.
5. A Notice of Appeal, detailing the grounds on which an Appellant proposes to rely, must be submitted within 21 days of date of a UKA Disciplinary Decision. A Notice of Appeal served outside of this period will normally not be accepted other than in the most exceptional of circumstances.
6. In the circumstances of this case the Appellant was permitted to be allowed to proceed with the Appeal notwithstanding the Notice of Appeal was served after the expiry of the 21 day period.

## The Appeal Hearing

7. The Appeal Hearing took place on 24 April 2025. The Appellant was represented by Mr Robert Landells. The Respondent was represented by Mr Max Baines, Counsel.
8. At the Appeal Hearing the Appellant sought to advance further submissions that were not contained within the original Note of Appeal. Rule 22.4 of the Rules states that the Note of Appeal must set out the **full details** of the ground(s) of the Appellants appeal and include “.....Details of the grounds(s) of appeal upon which the Appellant relies, **including the precise manner in which the Appellant alleges that such ground(s) apply.....**” (emphasis added).
9. The Appeal Panel heard from Mr Baines whether there was to be any objection to the further submissions sought to be argued by the Appellant. Mr Baines advised the Appeal Panel that he had no objection in principle to the Appeal Panel hearing these further submissions and proposed to deal with these in the course of his oral submissions. Having regard to the Respondents’ lack of opposition and to the general principles of fairness, the Appeal Panel were content to allow the further submissions to be made during the Hearing. The Appeal Panel were assisted by Mr Landells who had helpfully prepared a comprehensive written document detailing these further submissions which was circulated to all parties. This formed the basis of the Appellant’s submissions. For ease of reference, this Decision follows the structure as set out by Mr Landells in his written document. The Appeal Panel were grateful to both Mr Landells and Mr Baines for their assistance throughout the Appeal Hearing.

**Ground 1 –** *There has been a material failure by the Panel to follow the process outlined in the Rules, which has resulted in substantial injustice. (Rule 21.1.1)*

### 1.1 Inadequate Time to Prepare the Defence

10. The Appellant’s first submission under the first ground of appeal was that he had been given inadequate time to prepare his defence and present all defence evidence and accordingly there had not been a full and fair hearing. This was a criticism that the Appellant had stated within the Notice of Appeal.
11. The Respondent argues that sufficient time was afforded to the Appellant. The Disciplinary Panel heard evidence and submissions over two full days, the second of which was dedicated solely to the Appellant’s evidence and closing submissions. Furthermore, following the Hearing, the Appellant was permitted to serve further documents on two separate dates in June that consisted of additional submissions and further material.

### Disciplinary Panel’s Decision

12. The Appeal Panel were satisfied that the Appellant was given sufficient time to prepare and present his defence. The initial letter from UK Athletics containing the Charge Sheet was sent to the Appellant on 13 December 2022. This Charge Sheet set out the 14 charges against the Appellant and included the detail of each charge and the particular provision of the relevant regulatory scheme said to have been engaged. The full Disciplinary Hearing took place on 4 and 5 June 2024 respectively. This was some 17 months after service of the Charge Sheet.
13. The Appellant, in preparation for the Disciplinary Hearing, lodged a number of documents. These were considered by the Disciplinary Panel and some were referred to within the Decision (at paragraphs 29, 30 and 31). It was plain that the Disciplinary Panel had regard to the material provided by the Appellant.

14. The Disciplinary Panel recognised that there were limitations placed on both the Appellant and the Respondent on the second day of the Disciplinary Hearing due to time constraints. In light of this, the Appellant was permitted by the Disciplinary Panel to lodge further documentation and closing submissions following the Hearing, which the Appellant did. The Respondent elected not to add to what had already been submitted.

## **1.2 Failure to Properly Review and Consider Exculpatory Evidence**

15. The Appellant argues that material submitted by him was either “ignored or only superficially reviewed” by the Disciplinary Panel. This was not an argument initially contained in the Appellant’s Notice of Appeal.
16. As stated in paragraph 4 above, Rule 21 of the Rules sets out the available grounds of appeal against a decision. In terms of Rule 21.1.1 for the Appellant to be successful he would need to demonstrate that there had (1) been a material failure to follow the process outlined in the UK Athletics Disciplinary Rules and Procedures and (2) that this material failure had resulted in substantial injustice.
17. The Rules are clear. A Disciplinary Panel’s decision about what weight, if any, to attribute to a piece of evidence is a matter for the Disciplinary Panel alone (Rule 14.1). An Appeal Panel has no jurisdiction to interfere in that process. The Disciplinary Panel, having heard and considered all the evidence in a case, is in the best position to determine the strength or weakness of particular piece of evidence. A Disciplinary Panel is free to accept or reject evidence as they see fit.
18. It is not necessary that a Disciplinary Panel address in detail each separate piece of evidence submitted or relied upon in a case. All that the Rules require is that clear reasons be given for the conclusion reached in the Written Decision. (Rule 16.3).
19. In this case, the Disciplinary Panel produced a Decision comprising 46 pages. The Decision addresses in detail the evidence the Disciplinary Panel considered relevant and important to their conclusions. The Decision is comprehensive and the Disciplinary Panel provide clear reasons for their conclusions.
20. The Appeal Panel were not persuaded that the Disciplinary Panel had either ignored or superficially reviewed evidence provided by the Appellant.

## **1.3 Denial of Cross-Examination Rights: Improper Vulnerable Witness Designation**

21. The Appellant argues that there was a material failure by the Disciplinary Panel to follow the process as set out in the Rules such that he was prevented from properly cross-examining the witness [REDACTED] at the Hearing. The Appellant argues that the material failure by the Disciplinary Panel was two-fold.
22. Firstly, the Appellant argues that without having obtained an independent psychological or medical evaluation, the Disciplinary Panel were in error in determining that [REDACTED] was a vulnerable witness who was entitled to special measures.
23. This point can be addressed succinctly. The Rules provide that a vulnerable witness **is** (emphasis added) any person who has (actually or allegedly) suffered abuse (sexual or otherwise) or any form of bullying or harassment (Rule 11.7.2). In cases in which a witness may give evidence about alleged abuse, the formulation of Rule 11.7.2 does not leave the question of assessing whether a witness may or may not be vulnerable open to the discretion of the Disciplinary Panel. In such a case a witness may be said to be *deemed* vulnerable witness. This was the case here. This approach is the consistent with the practice adopted in Courts.

24. The Charges faced by the Appellant include multiple instances of alleged abusive behaviour, primarily of a sexual nature, against [REDACTED]. Accordingly, there can be no criticism of the Disciplinary Panel's decision to classify [REDACTED] as a vulnerable witness.

*The Panel's decision to allow [REDACTED] to be present during the questioning of [REDACTED] evidence and the role played by [REDACTED] at this questioning,*

25. The second strand of the Appellant's argument under this ground is a criticism firstly of the Disciplinary Panel's decision to permit [REDACTED] to be present during [REDACTED] evidence and secondly to allow [REDACTED] and [REDACTED] access to the defence productions, which the Appellant submits also contained the line of agreed questioning that would form the Appellant's cross-examination of the witness, prior to [REDACTED] giving evidence.

26. In order to properly determine this submission, it is necessary to set out the procedural history. A Preliminary Hearing was held on 15 March 2023. During that Preliminary Hearing an Agenda was prepared by the Chair of the Disciplinary Panel that was approved by the parties. This Agenda is contained within a Directions Order dated 22 March 2023 and includes an Order by the Chair that the Respondent file an application for special measures in relation to the evidence of [REDACTED] which would then be considered at a later date.

27. The Respondent's application for special measures was dated 14 April 2023 and ran to 19 paragraphs. It contained detailed submissions as to the special measures that it suggested be adopted by the Disciplinary Panel for the taking of [REDACTED] evidence. The application included a submission (at paragraph 16) that [REDACTED] be accompanied by [REDACTED] and who was said to have provided one-to-one case management support to [REDACTED] since 29 November 2022 and whose role would be restricted to providing emotional support only to [REDACTED] during her evidence.

28. A Preliminary Hearing held on 24 May 2023 at which the Respondent's application for special measures was presumably considered. The relevant Directions Order was issued on 26 May 2023. The Directions Order makes no specific declaration that, after considering the submissions lodged on behalf of the Respondent, the Disciplinary Panel were satisfied that [REDACTED] was a vulnerable witness for the purposes of the proceedings. However, it is evident from the Directors Order that the Disciplinary Panel must have been satisfied. Nevertheless, having invited submissions from parties on this specific question, it might have been of assistance particularly in cases in which one party is a lay representative, for a specific order on this point to be recorded. Nevertheless, it is implicit in the terms of the Order that the Disciplinary Panel were satisfied that [REDACTED] would be entitled to the support of [REDACTED] at the hearing during which her evidence in cross-examination would be taken.

29. The first date for the proposed cross-examination of [REDACTED] was 21 November 2023. As matters transpired, [REDACTED] was not present during [REDACTED] questioning. It is not necessary to know the reasons why. At the cross-examination on 21 November 2023, [REDACTED] was supported by [REDACTED]. On 16 October 2023 the Appellant was written to advising him that [REDACTED] would be present during [REDACTED] questioning and that the Disciplinary Panel had determined that [REDACTED] role at the cross-examination would be limited to providing emotional support only. It is clear from the Disciplinary Panel's detailed Written Decision that [REDACTED] purported involvement was explored with her by the Disciplinary Panel and the Disciplinary Panel obtained assurances from [REDACTED] that she would have no active involvement in the proceedings other than supporting [REDACTED] during her evidence.

30. Accordingly, other than the change in the person providing support to [REDACTED] during the cross-examination, there was no variation to the special measures previously granted by the Disciplinary

Panel in the Directions Order of 26 May 2023. The Appellant was advised of the change in personnel in advance of the cross-examination and made no objection.

31. It was open to the Disciplinary Panel to order any special measure it considered was required for the protection of the witness and their mental or physical wellbeing or to ensure that witness is able to give their best evidence to the UKA Disciplinary Panel (Rule 11.6.5). The power conferred on the Disciplinary Panel in such cases is a wide one and for the discretion of the Disciplinary Panel at first instance, who considers all of the relevant issues including the overarching duty to ensure the fairness of the proceedings.
32. The Rules make no express provision regarding the appointment of supporters to assist a vulnerable witness during their evidence. It must, however, be implicit in the general power conferred on a Disciplinary Panel under Rule 11.6.5 that it is procedurally competent for such an appointment to be made in appropriate cases.
33. The Disciplinary Panel considered the nature of the allegations and the specific needs and requirements of the witness. The Disciplinary Panel exercised their discretion accordingly. It could not be said that, having considered it appropriate that ■■■ has the assistance of a supporter during her evidence, the Disciplinary Panel failed in the exercise of their discretion and failed to follow the process contained in the Rules.

*The materials provided to ■■■ in advance of her evidence.*

34. The Appellant attacks the Disciplinary Panel's decision to allow ■■■ sight of the defence productions in advance of her evidence. The Appellant argues that included in these defence productions were the agreed lines of cross-examination. He argues that this provided ■■■ with an unfair advantage. The Appellant further argues that the provision of materials to ■■■ in advance of her giving her evidence allowed her time to prepare her responses with the assistance of ■■■ who as well as being ■■■ support was also her solicitor. The Appellant argues that there was a material failure by the Disciplinary Panel to follow the process outlined in the Rules which resulted in substantial injustice.
35. At the Appeal Hearing, Mr Baines, on behalf of the Respondent, developed upon his written submissions by explaining that the decision by the Disciplinary Panel to provide ■■■ with a copy of the bundle of documents shortly before her remote cross-examination was a decision borne out of pragmatism and a desire to manage the process as effectively and efficiently as possible. Mr Baines in his written submissions at paragraph 30 argues that the provision of the defence material to ■■■ formed part of the special measures process of recording ■■■ evidence in advance of the hearing.
36. From considering the materials provided to the Appeal Panel, the decision to allow documentary materials to be provided to ■■■ in advance of her being questioned does not appear to be something that was contained in a Directions Order. Neither did it form part of the Respondent's submissions in the written application for special measures, dated 14 April 2023.
37. There can be no doubt that the decision that ■■■ should be provided with the documentary materials in advance of her giving evidence was a decision made by Disciplinary Panel on a pragmatic basis and considering what was in the interests of justice and in line with their duty to ensure ■■■ has the opportunity to give her best evidence. It does not follow that the decision to do this was necessarily procedurally improper. However, the decision appears to have been made *in absentia* and without the input or knowledge of the Appellant. The possibility of materials being sent to ■■■ in advance did not seem to form part of discussions during any of the previous Preliminary Hearings or following correspondence regarding the special measures or the best way to obtain ■■■ evidence. By failing to inform the Appellant, he was therefore deprived of making any submissions about the appropriateness

of [REDACTED] having access to the documentary materials in advance, or from putting forward alternative suggestions about how this may be done in real time, such as through remote screen-sharing.

38. That is not to say any such submissions, were they made, would necessarily have been successful. Furthermore, for the Appellant to be successful in this Appeal he must demonstrate firstly that any failure by the Disciplinary Panel to follow the process in the Rules was a material failure and secondly that this failure has resulted in substantial injustice.
39. In so far as the content of the materials provided to [REDACTED] the Decision of the Disciplinary Panel makes this clear. At paragraph 15, the Decision states *"Safeguards to the integrity of the process, included, for example, a prohibition the Panel directed upon [REDACTED] being sent a draft of the proposed cross-examination in advance."* . This is supported by reference to the materials provided to the Appeal Panel (Bundle E, pages 256 and 257). The documentary materials were sent to [REDACTED] by email both on 20 November 2023 and again on 9 April 2024 (The issue of [REDACTED] having potentially retained access to the documentary productions is considered below). In these emails the attached documents are clearly referenced. The documentary materials provided to [REDACTED] did not, contrary to the view of the Appellant, contain the list of agreed questions formulated between the Appellant and the Respondent. Accordingly, no conceivable injustice could be said to arise on the basis that [REDACTED] had advance sight of any of the questions that would be put to her.
40. The access that [REDACTED] had to the documentary material prior to her evidence was something within the knowledge of the Disciplinary Panel. It was something the Disciplinary Panel would have had to consider when it came to assessing [REDACTED] credibility and reliability. The Disciplinary Panel would also have been aware that the documentary materials were sent to [REDACTED] on more than one occasion and would have required them to consider what, if any, impact this had on their assessment of [REDACTED] evidence. This is equally true of the Disciplinary Panel's consideration of any apparent differences or inconsistencies in the various accounts given by [REDACTED] during the course of the proceedings.
41. Equally, the Appellant argues that [REDACTED] was sent documentary productions on 20 November 2023 and was able to retain this material and 'adjust' her evidence accordingly. The Appellant points to what he says are differences in the subsequent statement provided by [REDACTED] on 30 January 2024 and the discrepancies in this account when compared to [REDACTED] earlier statement as being supportive of this contention. This argument proceeds on the basis of speculation. It was open to the Appellant to explore any inconsistencies in [REDACTED] account and to explore reasons for this in cross-examination and in final submissions. The Appellant was given the opportunity by the Disciplinary Panel to amend his proposed line of questions in light of [REDACTED] subsequent written statement. Any discrepancies in [REDACTED] various accounts would have been apparent to the Disciplinary Panel in their overall consideration of [REDACTED] evidence.
42. The Disciplinary Panel could not have anticipated the request by [REDACTED] to adjourn her evidential hearing on 21 November 2023. In light of the reasons put forward for the adjournment, it was appropriate for the Disciplinary Panel to grant it. It is unfortunate that as a consequence of that adjournment, [REDACTED] may have been able to retain the documentary materials provided to her. The documents that may have been retained by [REDACTED] were no more than those that [REDACTED] would have been referred to in the course of her evidence. Cross-examination should not be construed to be an opportunity to 'ambush' an unsuspecting witness. Furthermore, any retention of materials by [REDACTED] was not something that arose directly because of the Disciplinary Panel's failure to follow the process. It therefore cannot be said that any substantial injustice arose.

#### Materials Provided to [REDACTED]

43. The Appellant argues that the Disciplinary Panel's decision to provide [REDACTED] with the

documentary materials was improper.

44. From the material provided to the Appeal Panel, [REDACTED] appears to have been fulfilling a dual role; as both [REDACTED] solicitor, in some capacity, and as a supporter for [REDACTED] during her evidence in these proceedings. There is nothing inherently improper in this. However, it does appear that there has been a lack of clarity and communication regarding the remit of [REDACTED] role which has resulted in a degree of confusion.
45. Repeating what was stated above (at paragraph 36), no specific Directions Order was made notifying parties that, in advance of [REDACTED] evidence, documentary productions would be shared with [REDACTED] and also with [REDACTED]. Nevertheless, this was what happened.
46. The Disciplinary Panel, having clarified [REDACTED] remit on 21 November 2023, noted that her remit was limited to overseeing [REDACTED] general welfare and not to take any part in helping [REDACTED] as a witness. The clearest expression of [REDACTED] role is contained in Paragraph 15 of the Decision as to be “presence only”. In fulfilling that ‘limited’ task, it is difficult to understand why it was thought necessary for [REDACTED] to receive the documentary productions in advance of [REDACTED] evidence. Nevertheless, this was what happened on both 20 November 2023 (Appeal Bundle E, page 256) and again on 9 April 2024 (Appeal Bundle E, page 258).
47. The question for this Appeal is whether there has been a material failure by the Disciplinary Panel to follow the process outlined in the Rules, which has resulted in substantial injustice (Rule 21.1.1). The Disciplinary Panel derives its powers from the Rules. Included in the Rules is the power for a UKA Disciplinary Panel to determine its own procedure (Rule 9). Additionally, the wide powers extending to Vulnerable Witnesses have also been discussed above. A UKA Disciplinary Panel does not derive its powers from what is contained in a Directions Order. Although, it would have been helpful to the Appellant for the Disciplinary Panel to have expressly indicated in a Directions Order that its preference was to have the materials provided to [REDACTED] through her solicitor, [REDACTED] the failure to do so does not mean that there has been a material failure. Consideration must be given to the wider facts and circumstances of the case.
48. In the circumstances of this case, the Appeal Panel could find nothing that amounted to a substantial injustice arising out of the Disciplinary Panel’s decision to provide [REDACTED] with the documentary productions in advance of [REDACTED] evidence. There was nothing arising in the evidence that would suggest a substantial injustice arose. The test is a high one. [REDACTED] did not play a role in the cross-examination. There is no evidence that [REDACTED] has assisted or ‘coached’ [REDACTED] in her evidence. There is no suggestion that [REDACTED] attained what the Appellant describes as an “unfair advantage”. The Appellant’s argument cannot succeed.

#### **1.4 Reasonable Diligence in Introducing [REDACTED] Statement**

#### **1.8 Application of Rule 27.3: Admissibility and Consideration of New Evidence**

49. These arguments have been grouped together as they were both the subject of a determination by the Appeal Panel which is issued in the Directions Order of 5 February 2025. It is not necessary to repeat the decision here. The Appellant is not permitted under the Rules to re-raise these arguments in the Appeal Hearing. The submissions under these headings must therefore be refused.

#### **1.5 Failure to Reconcile Contradictory Evidence**

#### **1.6 Destruction of Key Evidence (The Diary)**

#### **1.7 Misuse of Text Message Evidence and Unsubstantiated Generalisation of Guilt**

50. The arguments made by the Appellant under these headings are an attempt to relitigate matters in

the Appeal that were decided by the Disciplinary Panel. An Appeal Hearing is not an opportunity for an Appellant to relitigate matters. Matters of credibility and reliability of a witness and the assessment of evidence are matters for the Disciplinary Panel at first instance who are in the best place to judge these matters having considered all of the relevant evidence competently presented before them in the case.

**Ground 2 – *The Panel lacked the required independence and has demonstrated bias or bad faith when making the decision (rule 21.1.4)***

51. Notwithstanding, the nature of the points raised by the Appellant in this Appeal, there is a large degree of cross-over between Grounds 1 and 2. This is not a criticism of the Appellant. Accordingly, it is not necessary to rehearse the Appeal Panel’s reasons for its decision in respect of Ground 2.
52. The Appellant argues that the failure by the Disciplinary Panel to allow sufficient time for a full and fair hearing was addressed in paragraphs 10 – 14 (inclusive) above. There is nothing in the Disciplinary Panel’s Decision or the handling of the case that would suggest a lack of independence or demonstration of bias or bad faith. On the contrary, the Disciplinary Panel went to great lengths to ensure that the proceedings were fair, including providing the Appellant with the opportunity to submit further written submissions and documentation following the conclusion of the Disciplinary Hearing.
53. The Appellant argues that by allowing [REDACTED] access to the bundle of documents prepared for cross-examination, the Disciplinary Panel lacked independence and demonstrated bias or bad faith.
54. For the reasons given in paragraphs (21 – 50 inclusive) there is nothing in the Disciplinary Panel’s Decision or the handling of the case that would suggest a lack of independence or a demonstration of bias or bad faith. The Disciplinary Panel has a duty to ensure that a vulnerable witness is able to give their best evidence to the UKA Disciplinary Panel (Rule 11.6.5). In this case, [REDACTED] was giving her evidence remotely. There were a substantial number of documentary productions in this case. The decision of the Disciplinary Panel to allow [REDACTED] access to the bundle of documents – but not the questions by parties – was a decision borne out of a desire and need to ensure that the cross-examination was conducted as effectively and efficiently as possible.
55. The Appellant argues that there was “interference” in defence preparation by Counsel for the Respondent and by [REDACTED]. This argument is wholly without merit. The Respondent was entitled, by virtue of the Directions Order dated 26 May 2023, to provide any edits or comments to the Appellant’s questions for [REDACTED]. It was the Disciplinary Panel who decided on the final list of questions to be put to [REDACTED] having considered submissions from the Appellant and the Respondent. This is entirely in keeping with Rules 11.6.2 and 11.6.4.

56. This ground of appeal is refused.

**Ground 3 – *Breach of Section 3 Health and Safety at Work Act 1974***

57. The Appellant argues that UKA had a statutory duty to ensure the health and safety of individuals not in their employment but who may be affected by the conduct of its undertaking.
58. As is stated above, Rule 21 of the Rules sets out the available grounds of appeal against a decision. The grounds contained in Rule 21 are exclusive. A person with standing, such as the Appellant, can only appeal on the grounds that are contained in Rule 21.



59. Ground 3 is not a ground of appeal contained within the Rules. This Appeal Panel has no power to consider it.

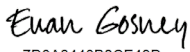
60. This ground of appeal is therefore also refused.

### **Conclusion**

61. Having taken all matters into account, and for the reasons given above, the Appeal Panel has concluded that the appeal should be rejected.

62. In accordance with paragraph 29 of the UKA Disciplinary Rules, the decision of this Appeal Panel is final and binding on all parties.

Euan Gosney  
Chair of the Appeal Panel

Signed by:  
  
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07 July 2025