

**BEFORE THE UK ATHLETICS DISCIPLINARY PANEL**

**IN THE MATTER OF UK ATHLETICS DISCIPLINARY RULES AND PROCEEDINGS AGREED AND ADOPTED ON 28 APRIL 2022 ("The Rules") AND THE ARBITRATION ACT 1996**

**BETWEEN:**

**UK ATHLETICS LIMITED**

Complainant

-and-

**MARTIN MORLEY**

Respondent

1. These are the written reasons and decision of the Independent Disciplinary Panel appointed to adjudicate upon alleged disciplinary matters brought against the Respondent.
2. The Respondent is charged with an alleged act of Misconduct pursuant to Rule 2 and 6.3 of the UKA Disciplinary Rules namely that on 19 July 2022 he attended at the home address of [REDACTED], a witness in a recent case against him, unannounced and uninvited, and spoke with her in a manner that caused her upset and distress. It is further alleged that this act was also in breach of the terms of a live suspension as a coach, prohibiting the Respondent from contacting or attempting to contact the complainant or witnesses in respect of separate disciplinary proceedings against him.
3. The Respondent is a member and licenced coach of Lincoln Wellington Athletic Club (the "**Club**"). The Club is affiliated to England Athletics ("EA"), the North of England Athletic Association and the Lincolnshire Athletics Association. The UK Athletics Disciplinary Panel has jurisdiction.
4. On 10 August 2021, the Respondent engaged in a confrontation with the President of the Club. The incident was subsequently reported to EA by the Secretary of the Club. Specifically, allegations were made concerning the verbal and physical conduct of the Respondent towards the Club President (the "**initial case of misconduct**").
5. Following initial investigations, the Complainant wrote to the Respondent on 13 August 2021 (the "**Suspension Letter**") informing the Respondent that a complaint had been made to England Athletics about his conduct as a licenced coach. The Complainant informed the Respondent that his licence was suspended with immediate effect in the following terms:

*“In these circumstances UK Athletics follow a standard procedure through which your UK Athletics coach licence is suspended on an interim basis **until the outcome of the disciplinary process**” (emphasis added).*

6. On 1 June 2022, an Independent Disciplinary Panel of England Athletics considering the initial case of misconduct found the Respondent to have been in breach of sections 2.3 and 2.5 of the UK Athletics & HCAF Coaches Code of Conduct. Accordingly, the Independent Disciplinary Panel imposed sanctions upon the Respondent that included firstly, a warning in respect of his conduct and secondly, that before the Respondent can return to any form of participation in athletics in England, he must complete a suitable programme of training and education aimed at addressing the matters that form the subject of the charges which the Respondent has been found to have breached
7. This decision of this Panel of 1 June 2022 was expressly made subject to the right of appeal. The time limit for intimating the appeal was due to expire on 22 July 2022 following an application by the Respondent to extend the time limit.
8. On 19 July 2022, at around 2.30pm, [REDACTED] alleges that the Respondent attended her home address, unannounced and uninvited, and spoke with her in a manner that caused her upset and distress.
9. At a Directions Hearing on 25 October 2022 the UK Athletics Disciplinary Panel ordered parties to address a Preliminary Issue at a Directions Hearing on 14 November 2022. The Preliminary Issue was focused on whether the conditions of the Respondent’s suspension as a licenced coach (imposed as of 13 August 2021) were in force at the time of the alleged Misconduct, namely 19 July 2022. While the Respondent had not hitherto disputed that the conditions of his suspension were in force at the time of the alleged breach, the Panel, having regard to the fact that the Respondent was not legally represented and pursuant to the powers available to it under Rule 9.2.10 determined that it would be both competent and appropriate for the Preliminary Issue to be addressed at this stage in the proceedings.
10. The Directions Hearing of 14 November 2022 required to be discharged due to the Chair of the Disciplinary Panel becoming unavailable. It was therefore agreed with consent of all parties that the Preliminary Issue would be addressed at the outset of the Disciplinary Hearing on 18 November 2022.
11. The Disciplinary Panel convened via videoconference at 10am on 18 November 2022 to address the Preliminary Issue and if appropriate thereafter to hear evidence in respect of the allegation of misconduct.

### *The Preliminary Issue*

12. The Panel were grateful for the detailed written and oral submissions presented by counsel for the Complainant. The Panel were unanimous in finding that the conditions of the

Respondent's suspension were not in force as at 19 July 2022. Accordingly, the Panel determined that it would not be competent for the Complainant to found on the averment in the Charge that when the Respondent attended at the home address of [REDACTED] on 19 July 2022 it was in breach of the terms of current suspension as a coach.

13. UK Athletics' power to impose a suspension on a participant is provided for at Rule 6 of the Rules:

*"6.1. Where UK Athletics consider that a Participant may have committed Misconduct, it may impose such interim or protective measures as it considers appropriate.*

*6.2. These measures may include:*

*6.2.1. The imposition of a temporary suspension upon a Participant pending a hearing;*

*6.2.2. The temporary suspension of a Participant's licence pending a hearing."*

14. Rule 6.1 provides that *"Where UK Athletics consider that a Participant may have committed Misconduct, it may impose such interim or protective measures as it considers appropriate."* While the Rules provide UK Athletics with broad powers to suspend a participant's licence these powers are not open ended. Rules 6.2.1 and 6.2.2 qualify these powers and regulate the period by which that temporary suspension must come to an end. The Panel in coming to judgement stop short of concluding that the wording "pending a hearing" is to be read so narrowly as to be limited in all cases to a hearing the purpose of which is to determine whether the act of Misconduct has been established (i.e. the Disciplinary Hearing). There are of course many types of Hearing in a course of disciplinary proceedings (Directions Hearing, Disciplinary Hearing and Appeal Hearing to name three). Furthermore, there may be several hearings of one type during the course of a particular case. Accordingly, it is important and we think necessary, that a person who is the subject of a suspension is provided with sufficiently clear information from which they may properly understand when the effect of the suspension (and any conditions attached thereto) comes to an end. This was not the case here. The Disciplinary Panel having regard to all of the information placed before it (including but not limited to, the Suspension Letter, the written decision by the Independent Disciplinary Panel of England Athletics considering the initial case of misconduct and various email correspondence between the Respondent and UK Athletics) were unanimous in concluding that in the particular circumstances of this case the "hearing" would most reasonably be understood to mean the Disciplinary Hearing of 1 June 2022 before the Independent Disciplinary Panel of England Athletics.

15. The lack of clarity is compounded by the choice of wording in the letter to the Respondent of 13 August 2021. The wording ***"until the outcome of the disciplinary process"*** contained in the suspension letter to the Respondent of 13 August 2021 is not wording which features anywhere within the Rules. It is wording open to a number of competing interpretations as to what "disciplinary process" is meant to mean. This is not satisfactory when the effect of

the suspension is a curtailment of a participant's freedoms and a restriction of their activities. The period for which a participant is to be subject to restrictive conditions should be clear and unambiguous.

16. The Charge on the Charge Sheet issued to the Respondent is not framed in such restricted terms as to limit the allegation of Misconduct simply to the fact that at the time of attending at [REDACTED] address on 19 July 2022 the Respondent was said to be subject to the terms of a suspension. It is alleged that the Respondent attended the home address of [REDACTED], a witness in a recent case against you, unannounced and uninvited, and spoke with her in a manner that caused upset and distress to [REDACTED]. Accordingly, notwithstanding that the Panel determined that the conditions of the suspension were not in force at the time the Panel were unanimous in concluding that the remaining substance of the allegation if proved could amount to Misconduct. The Panel were content therefore to hear evidence about what allegedly took place on 19 July 2022. The Respondent had fair notice of the charge against him and accordingly the Panel were of the view that there was no prejudice to the Respondent in the Panel taking this course of action.

#### *The Evidence*

17. The applicable standard of proof in this case is the civil standard, namely on a balance of probabilities. The burden of proving the charge rests with the Complainant.
18. The Disciplinary Panel heard evidence from [REDACTED], [REDACTED], Martin Morley and [REDACTED]. It is not necessary to rehearse the evidence of this case. Any facts referred to are those pertinent to our decision.
19. [REDACTED] and [REDACTED] adopted the terms of their respective previous written statements, and each witness expanded briefly on these during the course of their evidence to the Panel. The Disciplinary Panel found both [REDACTED] and [REDACTED] to be credible and reliable and had no hesitation in accepting their evidence. [REDACTED] account of what took place on 19 July 2022 and the effect of the Respondent's attendance at her home was corroborated by the evidence given by [REDACTED] who received a telephone call from [REDACTED] at 15:02 on 19 July 2022 shortly after the Respondent's attendance at [REDACTED] address. [REDACTED] described [REDACTED] as being distressed and upset, struggling to speak as she was crying. [REDACTED] describes the content of the phone call and the description of the events as relayed to her by [REDACTED] was consistent with the evidence given by [REDACTED] at the hearing. In her oral evidence to the Panel, [REDACTED] stated that she reported the incident to the police and was able to provide details of the Police Reference Numbers.
20. The Panel did not accept the evidence of the Respondent or [REDACTED] as it related to the events of 19 July 2022. In his evidence the Respondent denied that he would leave the house, even occasionally, during the two-week period following [REDACTED] discharge from hospital on 14 July 2022. It was his evidence that while his daughter lived in the same village, she was not in a position to assist with [REDACTED] care because [REDACTED] did

not want her daughter visiting her while she was in such a condition. Mr Morley accepted in his evidence that he knew where [REDACTED] lived and in his own evidence volunteered that it would take him around 20 – 25 minutes to drive to her address. Despite his evidence that [REDACTED] was lying about what she said took place on 19 July 2022 Mr Morley offered no explanation why [REDACTED] or [REDACTED] would go to the lengths of providing what would amount to maliciously false accounts before the disciplinary panel.

21. This evidence was contradicted by the evidence of [REDACTED] who confirmed that on occasion Mr Morley did leave the house at times whilst he was caring for her and in particular described how on Mondays and Fridays the Respondent would leave the house to play badminton. On these occasions her daughter would come to the house to look after her. [REDACTED] further stated that in period following her discharge from hospital she received home visits from a nurse who visited her two days a week. One of those fixed days was a Tuesday (it is not a matter of dispute that 19 July 2022 was a Tuesday). [REDACTED] accepted that she was unable to vouch for Mr Morley's whereabouts when he was not in the house and furthermore she was unable to point to anything in particular about the 19 July 2022 that would cause her to remember Mr Morley's movements that day. This is understandable given her situation, the pain she was in during this period as she recovered from her injuries and the medication that she was taking at the time which included liquid morphine.
22. Accordingly, the Panel were unanimous in finding that on the balance of probabilities the Respondent attended at the home address of [REDACTED], around 2.30pm on 19 July 2022 unannounced and uninvited and spoke with her in a manner which caused her upset and distress.
23. Rule 2.5 of the Code of Conduct for Coaches provides that a responsible athletics coach will *"avoid swearing, abusive language and irresponsible behaviour, including behaviour that is dangerous to [them] and to others, acts of violence, bullying, harassment, and physical and sexual abuse."* (emphasis added). Rule 2.10 of the Code of Conduct provides that an athletics coach will *"act ethically, professionally and with integrity, and take responsibility for [their] actions"*.
24. The Disciplinary Panel are satisfied that the Respondent's conduct on 19 July 2022 amounted to a breach of the Rules 2.5 and 2.10 of the Code of Conduct for Coaches. Having regard to the wording of Rule 2.2 of the Rules, any breach of the Code of Conduct constitutes Misconduct. Accordingly, the Panel are satisfied that the charge of Misconduct against the Respondent is proved.
25. The Respondent was made subject to a warning in respect of his conduct by the Independent Disciplinary Panel of England Athletics on 1 June 2022. Accordingly, the Panel consider it appropriate to assign a hearing as soon as reasonable practicable in order to determine the appropriate sanction in this case.
26. The seat of arbitration is London.

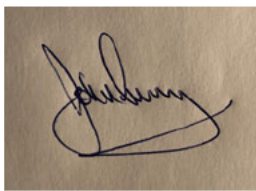


**Euan Gosney (Chair)**

**Edinburgh**



**Denzil Johnson**



**John Curry**

**2 December 2022**

**BEFORE THE UK ATHLETICS DISCIPLINARY PANEL**

**IN THE MATTER OF UK ATHLETICS DISCIPLINARY RULES AND PROCEEDINGS AGREED AND ADOPTED ON 28 APRIL 2022 ("The Rules") AND THE ARBITRATION ACT 1996**

**BETWEEN:**

**UK ATHLETICS LIMITED**

**Complainant**

**and**

**MARTIN MORLEY**

**Respondent**

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**DECISION ON SANCTION**

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1. On 19 July 2022 the Respondent attended the home address of [REDACTED], a witness in a recent case against him unannounced and uninvited and spoke with her in a manner that caused her upset and distress. This was a breach of Rule 2.5 and Rule 2.10 of the Code of Conduct.
2. At the time the Respondent attended at [REDACTED] address she lived alone. The Respondent attended at around 2.30pm. [REDACTED] was surprised by the Respondent attending at her address. [REDACTED] described the Respondent as wanting to let her know about all the problems a recent and separate disciplinary hearing had caused both him and his wife. [REDACTED] described the Respondent's behaviour at first as being quite reasonable. However, the Respondent then proceeded to blame [REDACTED] as being responsible and in particular that it was her false statement to the disciplinary panel that had caused all the problems.
3. [REDACTED] specifically recalled the Respondent as having said to her that the next time she was in the shower she was to remember that his wife can no longer cry or laugh. [REDACTED] described this comment as being a direct reference to her previous testimony. She described the encounter with the Respondent to be very upsetting.
4. What is of note is that the Respondent's behaviour on 19 July 2022 occurred less than two months after the Respondent had been found to have committed a separate act of Misconduct. On 1 June 2022 an Independent Disciplinary Panel of England Athletics found that the Respondent had breached Sections 2.3 and 2.5 of the Code of Conduct. The circumstances of that case are analogous to the present case in that it involves the same or similar type of irresponsible behaviour and that it is behaviour committed against personnel ([REDACTED]) of Lincoln Wellington Athletics Club.
5. The Respondent was sanctioned by Independent Disciplinary Panel of England Athletics and was given a warning in respect of his conduct and required to complete a suitable programme of

training and education aimed at addressing the matters that form the subject of the charges which the Respondent has been found to have breached before he would be permitted to return to any form of participation in athletics in England.

6. The Respondent's behaviour on 19 July 2022 is in clear breach of the warning issued by the Independent Disciplinary Panel of England Athletics on 1 June 2022.
7. The Panel received submissions from UK Athletics that the following sanctions should be imposed;
  - i) Issue the Respondent with a warning as to his future conduct, pursuant to section 17.2.3 of the UKA Disciplinary Rules;
  - ii) Revoke the Respondent's UKA coaching licence, for a term of 12 months, pursuant to section 17.2.4 of the UKA Disciplinary Rules;
  - iii) Suspend the Respondent's membership of EA, for a period of 12 months, pursuant sections 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules;
  - iv) Terminate the Respondent's membership of Lincoln Wellington Athletics Club with immediate and permanent effect, pursuant sections 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules;
  - v) Restrict the Respondent's membership of any Club under the jurisdiction of EA and/or UKA for a period of 12 months, pursuant sections 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules;
  - vi) Upon any re-admission of the Respondent as a member of any Club under the jurisdiction of EA and/or UKA, restrict the Respondent from holding any position on the committee of that Club for a period of 24 months, pursuant section 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules.
8. The Panel were also provided with an email from the Respondent sent to UK Athletics on 5 January 2023. The Panel were asked by the Respondent to treat this as his submissions in relation to sanction. The Respondent's submissions do not assist his position.
9. The Respondent continues to maintain his previously held position and he continues to deny that any misconduct took place. While this is clearly his prerogative, the contents of the email sent by him demonstrate that the Respondent shows no remorse for his behaviour and has little understanding as to the effect his behaviour had on [REDACTED]. The Respondent continues to assert that [REDACTED] and [REDACTED] gave maliciously false accounts and he chooses to portray himself as a victim of their behaviour. The Respondent demonstrates a lack of insight regarding the consequences of his own behaviour. The Respondent continues to hold confrontational views about operational running of Lincoln Wellington Athletic Club. Against this background it is clear that it would not be appropriate for the Respondent to continue to be allowed to be a member of Lincoln Wellington Athletic Club at present.
10. Having regard to the nature of the misconduct in this case; that the Respondent attended unannounced at the home address of a person who was a witness in a recent case against him and that he thereafter subjected her to behaviour which caused her upset all whilst he subject to a warning regarding his conduct, it is appropriate and proportionate to suspend the Respondent's membership of England Athletics for a period of 12 months.
11. The Panel therefore impose the following sanctions:



- i) A warning in respect of his conduct;
- ii) To Suspend the Respondent's membership of EA, for a period of 12 months, pursuant sections 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules;
- iii) Terminate the Respondent's membership of Lincoln Wellington Athletics Club with immediate effect; and
- iv) Upon any re-admission of the Respondent as a member of any Club under the jurisdiction of EA and/or UKA, restrict the Respondent from holding any position on the committee of that Club for a period of 12 months, pursuant section 17.2.7 and/or 17.2.12 of the UKA Disciplinary Rules.

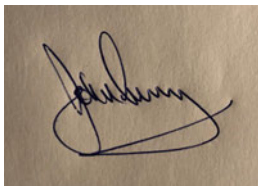
12. The Panel having regard to the sanction imposed by the Independent Disciplinary Panel of England Athletics on 1 June 2022 (namely that before the Respondent can return to any form of participation in athletics in England, he must complete a suitable programme of training and education aimed at addressing the matters that form the subject of the charges which the Respondent has been found to have breached) has still to be undertaken by the Respondent. Accordingly, the Panel do not consider it necessary to impose the same sanction in this case.



Euan Gosney (Chair)



Denzil Johnson



John Curry

9 February 2023