

INDEPENDENT DISCIPLINARY PANEL

of ENGLAND ATHLETICS

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

ENGLAND ATHLETICS ("EA")

The Governing Body

– and –

PAUL BAXTER

The Respondent

THE DECISION

of THE DISCIPLINARY PANEL

1. EA brought various charges against the Respondent, detailing breaches of the UK Athletics & HCAF Technical Officials and Volunteer Codes of Conduct.
2. The Charges derived from breaches of the relevant UKA Licence schemes for Officials and for Volunteers and related Codes of Conduct. The breaches identified are prohibited by reference to the UK Athletics Licence Terms and Conditions for both Technical Officials and for Volunteers (the "Licence Schemes"), and the relevant Codes of Conduct. They relate to the alleged conduct and behaviour of UK Athletics Technical Official Licence Number: [REDACTED].
3. The Respondent was both a member and Technical Official for City of York Athletics Club, but resigned from this position during the course of these proceedings. City of York Athletics Club is affiliated to EA and the Respondent is a member of EA. As part

of club affiliation and membership, EA expects all its clubs and members to abide the UKA and HCAF Codes of Conduct, see 'Section 2.3 Jurisdiction over Misconduct and Serious Misconduct' of the EA's National Disciplinary Policy.

4. The Respondent also acts under the auspices of his UKA Technical Officials License more broadly as volunteer for YDL, Northern Athletics, and the Northern Track and Field League.
5. On 31 January 2022, EA received a complaint from athlete member ██████████ in which she described that the Respondent had directed "threats, bullying and harassment" at her online.
6. The Respondent was suspended by EA on 1 February 2022 pending further investigation.
7. The investigation was conducted by the EA Investigation Officer, underpinned by the following policies and documents:
 - 7.1. UK Athletics National Disciplinary Procedure;
 - 7.2. EA National Disciplinary Procedure; and
 - 7.3. UKA & HCAF Codes of Conduct for both Volunteers and Technical Officers.
8. Upon conclusion of the investigation by EA Investigation Officer, the following charges were raised against the Respondent:
 - 8.1. That between 10 December 2021 and 28 January 2022, the Respondent pursued a course of conduct online amounting to harassment. This included making a number of inappropriate, threatening, bullying or harassing online posts of Facebook about athlete ██████████ which made her feel intimidated, alarmed or distressed or otherwise fear for her personal safety ("Allegation 1");
 - 8.2. That on 28 January 2022, the Respondent created a specific post entitled 'Who is ██████████ and tagged some 52 members in athletics with the intention of bullying and harassing ██████████ ("Allegation 2)';
 - 8.3. That between 10 December 2021 and 28 January 2022, the Respondent through act or omission deliberately incited bullying, harassment, threats or hate speech

- directed at [REDACTED] by others in athletics and through act or omission failed to delete or moderate posts to prevent further abuse or harassment ("Allegation 3");
- 8.4. That on 22 February 2022, the Respondent posted private and confidential EA paperwork relating to the investigation on Facebook, including onto the account of Northern Athletics causing further harassment, alarm, distress and witness intimidation. Further, the Respondent commented and liked comments on this post which were inappropriate or abusive in nature ("Allegation 4"); and
- 8.5. That on various dates between 2018 and February 2022 the Respondent posted a series of posts/inappropriate comments online which may bring the sport into disrepute and discourage participation ("Allegation 5").
9. It is alleged by EA that by the allegations listed in paragraph 8, the Respondent has committed breaches of the following provisions of the Code of Conduct for Officials and Volunteers:

Code of Conduct: Technical Officials, namely

Officials must demonstrate proper personal behaviour and conduct at all times.

- 2.6 *avoid swearing and critical, abusive language or irresponsible behaviour, including behaviour that is dangerous to me or others, acts of violence, bullying, harassment and physical and sexual abuse;*
- 3.1 *respect the rights, dignity and worth of every athlete and others involved in athletics and treat everyone equally;*
- 3.3 *act with dignity and display courtesy and good manners towards others;*
- 3.4 *in no way undermine, put down or belittle other officials, athletes, coaches or practitioners;*
- 4.3 *cooperate fully with others involved in the sport such as other technical officials, competition providers/organisers, team managers, coaches and representatives of the governing body in the provision of fair and equitable conditions for the conduct of athletics events under the relevant rules of competition; and*
- 4.8 *not use my position as a technical official to incite or engage in sexual activity, inappropriate touching or communication (in person or social*

media or any other form of verbal or non- verbal communication) with athletes who are aged over 18 years. In certain circumstances a violation of this code may result in a technical official licence being permanently.

UKA and HCAF Club Volunteer Code of Conduct, namely

- *follow the relevant guidance on social media use and not post on social media any content which is inappropriate or offensive;*
- *avoid swearing, abusive language and irresponsible or illegal behaviour, including behaviour that is dangerous to me or others, acts of violence, bullying, harassment and physical and sexual abuse;*
- *volunteer my time without discrimination on grounds of age, gender, sexual, cultural, ethnic, disability or religious preference; and*
- *respect the rights, dignity and worth of every person and treat everyone equally, regardless of background or ability.*

10. EA appointed the following members of a disciplinary panel (the "Disciplinary Panel" / "we" / "us") to adjudicate this case:

Clive Dobbin	Chair
Amanda Jane Field	Panel member
Scott Murray	Panel member

11. The Disciplinary Panel was provided with the EA Investigating Officer's Report, supporting documents including witness statements and screenshots, various policies and procedures, as well as communications with the Respondent.

12. The Disciplinary Panel convened via videoconference at 10am on Tuesday 14 March 2023 to deal with this case. The Disciplinary Panel heard submissions from both the Respondent and EA.

13. The applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, we would be satisfied that an event

occurred if we considered that, on the evidence, it was more likely than not to have happened.

14. The following is a summary of the principal submissions provided to us. It does not purport to contain reference to all the points made; however, the absence in these reasons of any particular point, or submission, should not imply that we did not take such point, or submission, into consideration when we determined the matter. For the avoidance of doubt, we have carefully considered all the evidence and materials furnished with regard to this case.
15. EA and the Respondent are aware of the facts of this case. We do not propose to recount all the facts in the same manner or order as the parties have done in their submissions, except where necessary for the purpose of our decision.
16. We noted all evidence submitted and findings made by the EA Investigation Officer, including mitigation factors and risks identified. We also noted the submissions made by the Respondent.
17. Based on the evidence before us and on the standard of proof required, being the balance of probability, the Disciplinary Panel made the following findings:

Allegation 1

18. This allegation relates to a number of social media posts which the Respondent accepts he posted. These were the following posts:
 - 18.1. On 10 December 2021, the post or comment ██████ lies you can see it in her eyes;
 - 18.2. On 28 January 2022 the post or comment 'Don't trust ██████ or his Facebook puppet ██████ You have been warned;
 - 18.3. On 29 January 2022 the post 'Who is ██████' which forms the basis for Allegation 2; and
 - 18.4. On 28 January 2022 the post or comment 'Viciously castigated – she hasn't seen anything yet LOL.

19. The Respondent admitted that the above posts or comments breach the Codes of Conduct with the exception of the comment referred to at paragraph 18.1. The Respondent submitted that this post related to the lyrics of a song, and were totally unrelated to ██████████. The Disciplinary Panel did not accept this explanation. The Respondent had already formed views about ██████████ by the time of the post, and had re-joined the social media group (IWOAAR) under a different name on 14 November 2021. The Respondent said during the hearing that the lyrics resonated with him, and the Disciplinary Panel believed that they resonated with him because of the reference in the lyrics to ██████████, and what was happening at that time with ██████████ ██████████. This is supported by his subsequent post on 28 January 2022 which included the words ██████████, IHMO you lie'. The Disciplinary Panel therefore concluded that this post was a reference to ██████████, and further that it did constitute a further breach of the Codes of Conduct.

Allegation 2

20. The Respondent admitted that this post, which forms the basis of allegation 2, did constitute a breach of the Codes of Conduct.

Allegation 3

21. This charge had two elements:
- 21.1. the failure by the Respondent to delete or moderate the subsequent comments made by others on the 'Who is ██████████' post; and
 - 21.2. that the Respondent liked certain of the comments made by others (namely the 'Spot on, she's devils piss' comment) and that he made further comments himself (namely the 'Viciously castigated – she hasn't fucking seen any thing yet LOL' comment).
22. The Respondent admitted this allegation, and admitted that his conduct as alleged under this charge constituted a breach of the Codes of Conduct.

Allegation 4

23. This charge also had two elements:

- 23.1. Firstly, that he posted confidential information about the investigation (namely a letter to him dated 1 February 2022) on social media; and
- 23.2. Secondly, that the post which accompanied the charge by its nature, and wording, constituted a breach of the Codes of Conduct.
24. The Respondent admitted both elements of the charge, and accepted that they constituted a breach of the Code of Conduct.
25. The Disciplinary Panel considered this allegation, particularly with regard to the allegation that there had been a breach of confidentiality. In this regard, EA relied upon the fact that the letter was headed "Private and Confidential" and also paragraph 1.3 of the EA National Disciplinary Policy which says:

"Confidentiality, diligence, fairness, impartiality, natural justices are key features of these Disciplinary Procedures and will be applied at all times."

The Disciplinary Panel were not satisfied these things were sufficient to impose an obligation of confidentiality on the Respondent and so whilst the Respondent did admit this element of the charge the Disciplinary Panel did not agree, and therefore have not upheld this element of Allegation 4.

26. However, the Disciplinary Panel were satisfied that the post which accompanied the copy of the letter did constitute a breach of the Codes of Conduct, in particular the reference to 'They are all self-perpetuating shallow characters with no fundamental interest in the grass roots of my sport'.

Allegation 5

27. This allegation, of bringing the post into disrepute, was by reference to the posts and comments referred to in other charges. EA explained during the hearing that where it is alleged that the conduct alleged also brings the sport into disrepute this is included in a separate, further, charge.
28. Again, this charge was admitted by the Respondent.

Codes of Conduct

29. The Disciplinary Panel considered the social media posts and comments and found that, where it says above that they breach the Codes of Conduct, they breach paragraphs 2.6, 3.1, 3.3 and 3.4 of the Code of Conduct for Technical Officials, together with the provisions of the Code of Conduct for Volunteers which are referred to above.
30. The Disciplinary Panel considered paragraph 4.3 of the Code of Conduct for Technical Officials, which obliges a Technical Official to cooperate fully with others. It is understood that this relates to the alleged failure by the Respondent to cooperate with the investigation. No charge was brought with regard to this alleged failure, and so no finding of a breach of paragraph 4.3 was found by the Disciplinary Panel. Further, even if a separate charge had been brought in this regard, the Disciplinary Panel noted the explanations given by the Respondent for the alleged failure to cooperate.
31. The Disciplinary Panel also considered paragraph 4.8 of the Code of Conduct for Technical Officials and considered whether there had been inappropriate comments. The Disciplinary Panel thought that the reference to inappropriate comments was a reference to comments of a sexual nature, and noted that no allegation of comments of a sexual nature was included within the charged. Therefore, the Disciplinary Panel did not find a breach of paragraph 4.8.
32. We also received risk assessment and recommended sanctions, and submission on the withdrawal being sought of the Respondent's Technical Official Licence and membership of EA.
33. We were mindful that the legality of a withdrawal in this case could potentially be impugned under two doctrines of English Law, namely:
- 33.1. The rules prohibiting the enforcement of covenants in restraint of trade; and
- 33.2. The administrative law requirements that any sanctions imposed by a private disciplinary body must be "proportionate".
34. We were satisfied that the temporary withdrawal sanction would not be a restraint of trade on the Respondent and it would not be disproportionate in this case.
35. The Disciplinary Panel noted the submissions of the Respondent. He stated that he

had already been suspended for a period of 12 months, and urged the Disciplinary Panel to impose a ban on his Technical Officials License for no longer than 2 years (the EA were seeking a ban of between 2 and 5 years). He further urged the Disciplinary Panel not to impose a ban on his memberships of any EA club, as this would prevent him from volunteering, and he believed that he had a lot to contribute with regards to volunteering. The Respondent also, in mitigation, said that he had strong views and beliefs about EA, and its support (or lack of support) of grass roots athletics, and that he was merely expressing his beliefs.

36. The Disciplinary Panel took the submissions of the Respondent into account. The Disciplinary Panel noted that the Respondent had strong, and genuine, views but that this did not condone the manner in which he expressed those views, which was wholly inappropriate. The Disciplinary Panel also felt that a ban should be imposed on his membership of an EA club, as his behaviour should not be condoned even in the ambit of a volunteer. However, the Disciplinary Panel did feel that the behaviour was more serious for an official, and so concluded that a longer ban should be imposed on the Respondent in his capacity as an official.
37. The Disciplinary Panel noted that EA were seeking a referral of the investigation and panel findings and misconduct hearing result to all parties involved, as directed by EA. The Disciplinary Panel noted however that EA had confirmed that this decision would be published, and be publicly available. The Disciplinary Panel thought that this was sufficient, and nothing further needs be referred to those involved, but did agree that this decision could be sent to the parties, including those involved in the investigation, in advance of being published and publicly available.
38. We, therefore, impose the following sanctions on the Respondent:
 - 38.1. the Respondent's membership and association including all activities as a volunteer with YDL, the Northern League and Northern Athletics should be terminated with immediate effect. As part of this the Respondent should be specifically removed from all online groups belonging to any EA affiliated club or association;

- 38.2. the Respondent's Technical Officials License be revoked by UKA with immediate effect for a period of 3 ½ years, effective from the date of the interim suspension (namely 1 February 2022);
- 38.3. the Respondent be prevented from applying for membership of any EA club or affiliated special association for a period of 2 years, effective from the date of the interim suspension (namely 1 February 2022);
- 38.4. Upon any return to the athletics environment and EA affiliated club or special association membership, the Respondent should not hold any position of responsibility such as a committee member for a further period of 1 ½ years after the expiry of the period mentioned in paragraph 38.3 (i.e. 1 ½ years from 1 February 2024); and
- 38.5. Upon any return to the athletics environment and EA affiliated club or special association membership, the Respondent should be required to complete necessary and linked training courses including on topics of equality, diversity and inclusion, safeguarding and anti-bullying in sport, as directed by EA.
39. Our decision is subject to right of appeal in accordance with applicable rules and regulations.

Signed...

Clive Dobbin

Clive Dobbin
Chair
On behalf of the Disciplinary Panel

15 March 2023