

Disciplinary Committee Inquiries

The Disciplinary Committee of the GBGB were in attendance at a meeting held on Thursday 13 July 2017:-

Mr K Salmon (in the chair)
Mr R Woodworth CBE
Dr AJ Higgins

1.1 DISCIPLINARY COMMITTEE'S REASONS - INCIDENT AT OWLERTON STADIUM – REGISTERED OWNER MR N WILEMAN

Background

The Disciplinary Committee considered a report received from Mr P Rosney, stipendiary steward, concerning an incident involving registered owner Mr N Wileman in that it is alleged that, between race 8 and 9 of the Three Steps to Victory competition held at Owlerton Greyhound Stadium on 5 April 2016, Mr Wileman trespassed onto the racing track, entered an area where he had no reason to be and/or handcuffed himself to the fencing that separates members of the public from the grass verge adjacent to the outside running rail (the incident). That conduct was intended to disrupt the racing being conducted at the Stadium.

Mr Wileman did not attend. GBGB was represented by Louis Weston of Counsel, instructed by Ben Rees.

1.2 Mr Wileman's non-attendance

By an email dated 1 July 2017 to the Chairman of this Disciplinary Panel Mr Wileman stated as follows:

With regard to my disciplinary hearing all I have tried to do is highlight wrong doing within the sport. This has resulted in the governing body and its hierarchy targeting me, making false and malicious allegations none of which can be substantiated.

I have done nothing wrong and broken no laws, unlike the GBGB who are currently under investigation by the City of London Police for bribery, corruption and fraud. The "legal" guidelines and framework have no binding power as they do not apply to me, as I have not owned a dog or participated in the industry for some time. How do they have the audacity to judge me in some "kangaroo" court when they themselves are guilty of the charges I am accused of? Hypocrisy of the highest order.

This email is consistent with other letters written by or on behalf of Mr Wileman in which he describes the whole disciplinary process as "a sham" and a "witch hunt".

The Disciplinary Committee would have welcomed Mr Wileman's attendance, as was made plain to him in correspondence. On the morning of the inquiry Mr Gibson spoke to Mr Wileman by telephone to see if he was going to attend. He replied that he was not willing to be "judged by a corrupt organisation".

1.3 **Procedural History**

This inquiry was first scheduled for 11 October 2016. Mr Wileman had consistently stated that he could not receive a fair hearing because he was prevented from disclosing important material relevant to his defence by reason of the ongoing police investigation. For that reason the October hearing was adjourned.

The matter was next listed on 1 February 2017. Mr Wileman did not attend, but it was plain from letters sent on his behalf that his position remained the same. Mr Weston strongly urged the Disciplinary Committee to deal with the inquiry forthwith, on the basis that the date for assessing Mr Wileman's conduct and motivation was 5 April 2016. He submitted that the committee had all the necessary information before it, and nothing that might emerge in the future could be relevant.

However, the Disciplinary Committee was concerned that it did not know the nature or extent of Mr Wileman's evidence, which Mr Wileman plainly felt to be important and relevant. The Committee noted that he had been advised not to disclose anything which might prejudice the police investigation, albeit that only Mr Wileman and his legal advisers knew what information he possessed.

In those circumstances, the Disciplinary Committee was not prepared to reject Mr Wileman's evidence at this stage as Mr Weston urged it to do. The Committee felt that to do so might result in Mr Wileman being treated unfairly. The inquiry was therefore adjourned for three months, at which point the situation would be reviewed by the Disciplinary Committee.

In May 2017 confirmation was received from the City of London Police that the release of material in Mr Wileman's possession would not conflict with nor prejudice their investigations. The inquiry was therefore scheduled for 13 July 2017.

The Disciplinary Committee notes that Mr Wileman has not revealed any of the material of the sort he claimed was necessary for his defence. Although his email of 1 July 2017 has a number of attachments in the form of Jpeg documents and YouTube clips, in the view of the Committee, and in the absence of any explanation from Mr Wileman, these were all in the public domain at all material times and could have been produced by him at any stage.

1.4 **The position of the Disciplinary Committee**

The Disciplinary Committee notes Mr Wileman's view that it is part of a "corrupt organisation". Whether or not there is substance in Mr Wileman's allegations, factually his statement is incorrect. The Disciplinary Committee is not part of GBGB. It is the Disciplinary Committee of the Greyhound Regulatory Board and as such it is wholly independent of GBGB. It follows that the committee is able to evaluate Mr Wileman's case fairly and impartially.

1.5 For the avoidance of doubt, the Disciplinary Committee limits the scope of this inquiry to the incident at Owlerton Stadium on 6 April 2016. Mr Wileman levels a large number of accusations at various people connected to GBGB. These are irrelevant to this inquiry except insofar as they explain Mr Wileman's motivation. The Disciplinary Committee accepts that he has a genuine belief in the truth of these accusations. It is not necessary for the Committee to decide whether or not they are true, nor does it have the necessary information to do so.

1.6 **Jurisdiction**

Mr Wileman asserts that he is not bound by the GBGB rules of racing because he has not owned a dog or participated in the industry for some time.

1.7 Mr Wileman was one of three registered owners of a greyhound named Blissful Kate. His registration is dated 21 February 2014. He signed the usual declaration on the application form by which he stated that he had read the rules of racing and agreed to be bound by them. It is Mr Wileman's case that Blissful Kate was transferred from his ownership in October 2015, at which point he ceased to be a registered owner. GBGB received no notification of that change of ownership notwithstanding that as an owner Mr Wileman was under a duty pursuant to rule 18 (ii) of the GBGB rules of racing to inform GBGB of any change of ownership.

1.8 Mr Weston makes four submissions regarding jurisdiction. Firstly, he asserts that Mr Wileman was a registered owner at all material times, because his name was registered on 21 February 2014 and remained registered until the Retired Greyhound trust informed GBGB of Blissful Kate's retirement on 12 October 2016.

1.9 Secondly, he adopts a point raised by the chairman of this Disciplinary Panel, that even were that not the case rule 2, which defines persons subject to the rules, states:

...every person who is an owner...shall be deemed to have read the GBGB Rules of Racing...and then and thereafter whether or not he/she subsequently ceases to fall into one of the above categories to submit himself/herself to such rules...

It follows that Mr Wileman was bound by the rules even if he had ceased to be an owner.

1.10. Thirdly, he asserts that the reference to "a person" in the wording of rule 152 means any person and is not limited to a person subject to the rules.

1.11 Finally, he asserts that under the terms of rule 160 (vi) (d) the Disciplinary Committee has power to warn off "any person not subject to these rules by virtue of rule 2", provided that person has been given the opportunity to show cause at an inquiry why he/she should not be warned off. By an email dated 29 March 2017 from solicitors acting for GBGB Mr Wileman was given express notice that GBGB was going to invite the Disciplinary Committee to make an order under rule 160(vi)(d). He therefore had the opportunity to make representations to the Committee, but chose not to do so.

1.12. The Disciplinary Committee agrees with the first, second and fourth of those submissions. Mr Weston has prepared a detailed skeleton argument dealing with the first, third, and fourth of those submissions, and has referred us to the Irish Turf Club's appeal decision in the case of Logan. We agree with his submissions, as set out in his skeleton argument (save as to his third submission) and conclude that a person's status as a registered owner can cease only when their name is removed from the register. Whether or not they, in fact, continue to own a greyhound is immaterial. Mr Wileman was therefore subject to the rules of racing.

1.13. Even if that was not the case the wording of rule 2 is clear. A person subject to the rules by virtue, among other things, of being an owner, remains subject to the rules after they have ceased to be an owner. Messrs Freeths solicitors, acting for Mr Wileman, stated in a letter dated 22 February 2017:

We very much doubt the legitimacy of this extremely wide ranging provision, seeking to bind individuals to rules potentially decades after they have ceased to have any connection with GBGB...

The Committee notes that Mr Wileman transferred ownership of Blissful Kate in October 2015, only some 6 months prior to the incident at Owlerton stadium. On the facts of this case, therefore, it is not necessary to consider whether someone would be bound by the rules for “decades”, but it would be very odd if someone bound by the rules did not continue to be bound by them until such time as the consequences of their conduct as a person subject to the rules are at an end. Given the clear wording of rule 2 and given that Mr Wileman’s name remained on the register due to his own failure to comply with rule 18 (ii), the Committee is satisfied that at the time of the incident Mr Wileman remained subject to the rules of racing.

1.14. Further, the wording of rule 160(vi)(d) plainly gives the Disciplinary power to warn off someone who is not subject to the rules, although that power applies only if the Committee conclude that warning off is the appropriate penalty.

1.15. As for rule 152 the Disciplinary Committee considers that “person” as it is used in that rule must mean a person subject to the rules of racing. It is headed “Breach of rules – how committed.” It refers to a person “taking any action expressly or impliedly forbidden by these Rules” or “failing to take any action which under these Rules he/she was expressly or impliedly required to take”. This only makes sense when speaking of a person subject to the rules. Mr Weston draws a distinction with rule 153 which imposes a duty on “any person subject to the rule” to report any breaches of the rules to the appropriate authorities, but in the judgment of this Committee that is consistent with rule 152 applying only to persons subject to the rules, in that it imposes an additional duty upon such persons. The more telling distinction is with rule 160 (vi) (d) which refers in terms to “any person who is not otherwise subject to these rules”.

1.16. **The Incident**

The principal evidence which GBGB put before the Committee was a video which clearly shows Mr Wileman handcuffed to the support of some temporary fencing close to the third bend at Owlerton. His position was close to the outside running rail and the hare rail. Security staff then intervene and cut Mr Wileman free using bolt cutters. He is then removed from the course. In a further video the remains of the handcuffs are still visible attached to the support.

1.17. This evidence was elaborated by Mr Tweed and Mr Hamilton who describe Mr Wileman angrily making foul-mouthed demands to speak to Mr John Gilburn, the managing director of Owlerton Stadium. From the video it can be seen that in any case Mr Gilburn was present when Mr Wileman was being removed from the track side.

1.18. The evidence of what happened at Owlerton is clear and overwhelming. Indeed, Mr Wileman himself does not deny that he handcuffed himself to the fence. In a letter from Messrs Freeths date 5 October 2016 written on Mr Wileman’s behalf it is stated:

The reason Mr Wileman ended up handcuffing himself to the railings at the Stadium was in protest at Mr Bird's refusal to deal with the concerns about the conduct of individuals involved with GBGB which Mr Wileman had repeatedly raised with Mr Bird and with Mr Gilburn.

The letter then goes on to set out a lengthy list of the attempts Mr Wileman made to contact various persons connected to GBGB.

1.19. Mr Weston submits that this conduct amounts to a very serious breach of the rules of racing. He submits that this was a premeditated act. Mr Wileman had set out equipped with handcuffs with the intention of disrupting racing at the final of the Three Steps to Victory, category one competition, a high profile meeting which was being broadcast by Sky TV. His position close to the hare rail meant that racing could not be conducted safely until he had been removed. The potential disruption was very serious and would have affected the enjoyment not only of racegoers, but also of the Sky audience. In fact, racing was only delayed by one minute, due to the timely and efficient intervention of the racecourse staff, but Mr Wileman can take no credit for that.

1.20. The Disciplinary Committee is in no doubt that these breaches have been proved. Rule 174 (xii) prohibits persons acting in any violent or improper manner on any land or premises used by GBGB or licensed by GBGB. Mr Wileman's actions plainly amounted to improper behaviour, which in turn puts him in breach of rule 152(i). Equally, he has acted in a manner prejudicial to the proper conduct of GBGB Greyhound racing, in breach of rule 152(ii).

1.21. Mr Wileman chose not to attend this inquiry, despite being given every opportunity to do so. Neither did he provide any of the information which he claimed was necessary to his defence. Such material as he did provide had been in the public domain for some time, and in the absence of Mr Wileman's oral explanation does not assist the committee. Mr Weston asserts, and this Committee agrees, that there were many legitimate ways in which Mr Wileman could have aired his grievances, but an attempt to disrupt racing at Owlerton was not one of them. His actions are completely without justification.

1.22. **Penalty**

The Disciplinary seeks to impose the least penalty possible consistent with the seriousness of these breaches. We have considered appendix VI of the GBGB rules of racing which deals with GRB Guidelines, Process and Penalties. Paragraph 6 sets out the available penalties. At paragraph 6.6 it states:

A severe reprimand is appropriate where the misconduct is of a serious nature but there are particular circumstances of the case or mitigation advanced which satisfy the Disciplinary Committee that there is no continuing risk to the welfare of the greyhound or risk to the betting public, and there is evidence of the affected persons understanding and appreciation of the conduct found proved.

In this case there is no mitigation, and not only has Mr Wileman failed to demonstrate any understanding of these breaches, but he expresses absolutely no remorse, indeed he feels he has done nothing wrong. In those circumstances, the committee consider there is plain ongoing risk to the betting public. A severe reprimand, and therefore any lesser penalty, is not appropriate in this case.

1.23. The committee considers that a fine alone would not meet the justice of this case. The breaches and their potential effects are far too serious for that. The remaining penalties are disqualification and warning off. Mr Wileman is not a licence holder, therefore disqualification is not appropriate. The disciplinary committee therefore orders that Mr Wileman be warned off. We have considered whether the warning off should be time-limited, but once again we consider the breaches to be so serious that only an indefinite order meets the justice of the case. It is of course open to Mr Wileman to apply in due course for the warning off to be lifted. Given our order for costs (see below) we feel it would be disproportionate to impose a fine.

1.24. Costs

Mr Weston applies for costs totalling £25,545.60.

1.25. The Disciplinary Committee has considered whether GBGB were justified in employing solicitors and counsel to deal with this matter. Mr Wileman by a letter dated 17th August states that he is not going to be professionally represented in connection with this inquiry, so there is no need for GBGB to be. In the judgment of this Committee matters are not that simple. In the ordinary way an inquiry of this sort would be presented by the Director of Regulation, Mark Bird. Mr Wileman has consistently maintained that Mr Bird is subject to a conflict of interest, for example in a letter of 22 February 2017 from Messrs Freeths it is stated that Mr Wileman considers “the whole process tainted by Mr Bird’s bias, whether actual or perceived, and because of this Mr Wileman considers he will not receive a fair hearing”. His criticisms of Mr Bird pre-date the commencement of these proceedings, and indeed he is among the members of the GBGB executive whose alleged failure to listen to Mr Wileman’s complaints, is the stated reason for his behaviour at Owlerton on 6 April 2016. In light of those criticisms, and of the generalised criticism of and hostility towards GBGB, this Committee does not believe it would have been possible or proper for Mr Bird or any other member of GBGB staff to deal with this inquiry. It follows that the instruction of a solicitor was reasonable. These were breaches of the most serious kind and it is therefore proportionate that GBGB be represented by senior counsel with expertise in sports law.

1.26. The Disciplinary Committee went on to consider the amount of costs claimed. There is correspondence running to about 250 pages. Most of that correspondence has been generated due to Mr Wileman’s conduct of this case. His insistence that he could not receive a fair trial without being able to disclose material relevant to the police investigation resulted in very extensive enquiries being made of the police. All of that was, as it turned out, wasted effort because in spite of being given every opportunity to do so, including two adjournments, Mr Wileman produced no such material. Equally, correspondence relating to his criticisms of GBGB was rendered nugatory by his failure to attend this inquiry. Had we heard Mr Wileman’s case we might have taken a different view, but we did not have that opportunity. In those circumstances, we take the view that these costs were incurred due to Mr Wileman’s litigation conduct and accordingly we order him to pay the full amount. We have considered the hourly rates and counsel’s fees set out in the two schedules provided to us and consider them to be unexceptional. They reflect the current market rates, and there is no proper basis for us to interfere with them.