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Tribunal upholds appeal against non-selection for NZ Canoe Racing team

The Sports Tribunal has upheld an appeal by Andrew Roy against a decision of Canoe Racing New Zealand (CRNZ) to not select him for the Under 23 K1 200 event at the World Championships.

The Tribunal concluded that CRNZ's decision not to select Mr Roy did not conform with the Selection Policy that laid down the criteria for selection decisions. The Tribunal held that the Selection Terms of Reference (which the Tribunal said must be read together with the Policy) governed the processes which must be followed in making selection decisions but that they had not been properly followed and/or implemented. The Tribunal also concluded that Mr Roy had not been afforded a reasonable opportunity to satisfy the requirements of the Policy.

There were a number of breaches of the Terms of Reference including selectors failing to comply with: formal selector meeting requirements, formal voting requirements, timing requirements and the requirement to prepare a selectors report for the CRNZ Board giving reasons for their selection decisions including why Mr Roy wasn't selected. There was a failure by CRNZ to ensure the Board, which was the ultimate decision maker, was aware of Mr Roy's non-selection and the reasons for that recommendation so that the Board could ensure proper processes had been followed.

As well as these breaches the Tribunal found there were other aspects indicating that the Policy had not been followed by CRNZ and Mr Roy had not been given a reasonable opportunity to satisfy the selection criteria. The Tribunal concluded that the assessment of Mr Roy's performances and potential was too undisciplined and casual to be regarded as reliable. It thought in particular that, contrary to the intention of the Policy, Mr Roy's disappointing performance in the 2015 National Championships, which had been hampered by weed obstructions in the water and inadequate regatta organisation in terms of times between events, had not been balanced against superior performance in other nominated selection events. The Tribunal also thought that Mr Roy had been disadvantaged by being deprived of an opportunity to take part in the 2014 World Championships (another nominated selection event) and had been unfairly assessed for selection purposes in relation to alleged behaviour and character issues.

Given these findings, the Tribunal considered that the grounds of the appeal had been made out but thought that, contrary to the usual practice, the matter of Mr Roy's selection should not be sent back to CRNZ for reconsideration. The Tribunal said that it is not a task that the selectors should properly be asked to undertake objectively and dispassionately or, on the facts of this case, can reasonably be expected to undertake without regard to their earlier views.

The Tribunal's decision was therefore to allow the appeal and order that Andrew Roy be selected for the K1 200 Event for the 2015 World Championships.

In conclusion the Tribunal said:

Finally but very importantly, we note that both parties indicated that they wished to work together to re-establish good relationships. We commend them for this. Many sporting bodies and athletes incur difficulties from time to time but, for the good of the sport, usually resolve and put them behind them.

The decision in this case is available from the website of the Sports Tribunal (www.sporttribunal.org.nz). See *Andrew Roy v Canoe Racing New Zealand* (ST 05/15). Copies can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: info@sporttribunal.org.nz).