

Without prejudice, I hereby make notice of my desire to appeal against the International Triathlon Union (ITU) World Duathlon Championship Competition Jury's decision to reject my appeal against disqualification from the above event held on 4th September 2010 for the reasons shown in Section A of this submission and in accordance with paragraph 12.2.b. of the ITU's Competition Rules dated 23/01/2010. In addition, I authorise without prejudice the Chief Executive of The British Triathlon Federation (BTF), Zara Hyde-Peters, to represent my appeal with the ITU Executive Committee to allow expedition of this appeal whilst the Executive is available at Budapest, provided that I receive full minutes of the appeal hearing.

A. Appeal against the Competition Jury's Decision

1. I hereby base my appeal on the following grounds:

- a. The Technical Delegate (TD) is allowed by ITU rules to adapt rules for multisport. Whilst the rules recommend penalties for wearing arm and leg coverings on cycle and run legs, there is room for the TD to allow the wearing of arm warmers/leggings/socks on the grounds of medical safety.
- b. It has been the case this year that TDs have allowed the wearing of compression socks when they have not compromised the competition, for example obscuring leg markings, which was not a requirement in this event.
- c. It has been the case this year that TDs have allowed the wearing of compression socks on medical grounds and therefore precedent has been set thus reinforcing the understanding that TD discretion is accepted by the ITU.
- d. TDs may allow the wearing of leg coverings for medical grounds in extreme cold conditions and yet on this occasion, an athlete with an evidenced serious medical concern requiring the wearing of compression socks was excluded.
- e. That other competitors have the choice whether to race with or without compression socks without risk however my choice was to race with compression socks or be excluded from the event.
- f. It is evident that there is sufficient misunderstanding or conflicting opinions of this rule between the ITU, ITU race officials, the TD, the race referee, LOC marshals, the BTF and the Team Manager (TM) and I strongly believe no sufficiently clear instruction was made on which basis I had lost my appeal to the Competition Jury.

B. Detail of Case Background to Support Appeal

2. I qualified for the above World Championships through winning my Age Group (AG) at the BTF's National Duathlon Series in 2009, the final race of which was held in October of that year. I have had the honour to represent Great Britain (GB) on many occasions at AG level and made extreme efforts to win this Series as it would allow me 12 months in which to prepare for the World Championships on home soil. Over recent years, working with my support team, we have paid particular attention to developing a preparation and racing strategy that makes allowances for my physical and mental limitations. These conditions may be summarised by my suffering from Post Traumatic Stress Disorder after service with the United Nations in Rwanda in 1994. This condition led towards my suffering a stroke in 2001 causing partial loss of function on my left side and this was further complicated by a fracture of the right tibia and fibula. I returned to multisport as a method of rehabilitation and my last operation as a result of these injuries was in 2004. At my last MOD assessment, which excludes some of the more recent concerns, my accepted conditions were assessed as being 15 – 19% disability.

3. I also qualified for the European Duathlon Championships which were held in Nancy on 2nd May 2010. The day before this race, during a chance encounter, I was advised that I would not be allowed to wear 'compression socks' by the GB TM. This was confirmed by the TM later that day at the team briefing and I therefore sought out the TD for this event and explained my situation. Using his discretion, the TD allowed me to compete wearing 'calf guards' provided I sought a medical certificate from my doctor to support my need to wear this type of leg covering. Despite some questioning by race officials and fellow competitors, I was allowed to race without too much interference.

4. As a result of this experience, on my return home I examined the latest version of the ITU rules and was surprised that such an important change to the status quo had not been widely communicated and that the exclusion of 'compression socks' did not appear to be relevant to the sport of duathlon. As instructed, I attended my doctor's surgery and received a letter supporting my need to wear 'compression socks'. My doctor highlighted that not using compression may increase the risk to my health.

5. Up to this point, the use of compression clothing had been at my discretion and I had trialed a variety of uses since their introduction. After meeting with my doctor on this specific point however, it was now compulsory that I wore compression during competition or I would not be complying with my medical practitioner's guidance and would almost certainly be invalidating any insurance policies covering events.

6. I supplied a copy of the medical letter to the BTF soon after this meeting with my doctor and continued my preparations for the World Championships assuming that I had complied with all instructions necessary to compete. A week before the event, the BTF sent a reminder to competitors – I assume just to the GB AG team – reminding them to bring their medical certificates with them for the event and I again forwarded my letter to the BTF and the TM for this event. I took this communication to mean that I would be allowed to compete at the World Championships.

7. On Thursday 2nd September, during a chance encounter with the TM, I was advised that there were again concerns over 'compression socks' and now also concerns over the medical certification but that he would clarify the procedure at the team briefing the next day. I had received an email from the BTF that day concerning the ban on disc wheels and naturally assumed that if compression socks were also banned then there would have been a similar communication. At the team briefing at 11:45 on Friday 3rd September, the TM briefed all GB AG competitors that they would need to take a hard copy of their doctor's certificate with them to transition prior to the race start if they wanted to wear compression socks. Because I had pre-supplied my certificate and did not have a hard copy with me, the TM said that he had printed one out and he gave me this copy at the end of the team briefing.

8. On race day I had already observed a couple of athletes competing in compression clothing and took photographs of one competitor in case there were any further concerns over my competing. I arrived at transition early to deal with any questioning or delays and entered transition and racked my bike as per usual. I then went in search of the race referee armed with my certificate. I spoke to two ITU officials and the 2nd put a call over his radio for Lorand Kalotai (LK) to attend. At this stage I believed that LK was the race referee to whom I should pass on my medical certificate. At no time was I told that I was not allowed to race. Whilst awaiting LK I

returned to my racking position and continued with my race preparations, donning a pair of Fusion 'calf guards' which cover from just below the knee to just above the ankle. I also wore a pair of anklet socks which stop just below the ankle.

9. The two officials I had spoken to were still nearby and I asked again where the race referee was. It was now 40 minutes from the race start and so I needed to start my warm up procedure. As I did so I saw Paul Groves (PG) whom I assumed to be an official and we had a brief discussion about my compression socks and he reiterated that I needed to see LK. I had been given a description of LK and I continued to look for him whilst warming up within the transition area. With 20 minutes to go, I now had to make my final preparations and I continued to search for LK without success. With 5 minutes to go I approached the athlete's start pen and was ushered in by the official. I was still carrying my doctor's certificate and I put this into my race suit pocket in case it was called for although at this stage I simply assumed that PG had resolved the issue with the elusive LK and that I was cleared to race.

10. At the turnaround point of the end of the third lap of the first run I became aware of 2 people – I assumed an official and a marshal by the black and red jackets – calling out my race number. I looked over and the marshal told me to roll down my compression socks. I replied that I was in a race and that I couldn't. As I made the turn to go out on my 4th lap I asked her if she was a doctor and took out my doctor's certificate. The marshal repeated the request and I stated that it was too late as I was in a race. I continued on my final run lap.

11. As I approached my bike in T1 I was aware of an official near my rack position. As I put on my helmet, the official spoke but I did not fully hear what he was saying. I understood the gist to be that he wanted me to either remove or roll down my 'compression socks'. I asked him if he was a doctor and if he was over ruling my doctor's certificate. He said no, apologised and showed me a yellow card.

12. I left transition and cycled to the penalty box. I asked the official if I had a penalty, what it was and I provided my race number. The official said that she did not know and so I continued on the cycle course. When I reached the penalty box a second time I again asked but the official did not know. By now my partner was on the hill and I asked her to try to encourage the marshal to investigate which she did. On the third lap I was told by the marshal that I needed to see the race referee and I tried asking all the officials I saw between leaving the penalty box and descending the main slope where I wanted to concentrate more on the course. When I reached the penalty box on the 4th occasion I was told by the official that I had two yellow cards and must see the race referee. On hearing that I was now to be disqualified (DQ) I made my way around the course slowly and carefully to avoid impeding any other athletes and on completing the bike section of the race I entered T2.

13. I saw PG in transition and said that I needed to see the race referee – again not appreciating that this was in fact him. He said that I should complete the race and that we would sort the issue out afterwards. I completed the 2nd run with no further hindrance and returned to the transition area to find the 'race referee'. In transition I met a number of officials and I was told I had been DQ'd and provided with the opportunity to appeal against this. All the officials present at that time were supportive and helpful and appeared genuinely disappointed for me. I asked a number of questions of the officials and I was advised that a revised ruling on leg coverings had been issued on 1st September 2010. I completed the paperwork and submitted

the appeal to PG, then went in search of someone to borrow the £30 fee from and awaited the appeal.

14. I had been offered the opportunity to be accompanied to the appeal by a representative of the federation but had been unable to find anyone and was now tired and hungry. I was called into the appeal by an official and was asked to present my appeal to three officials after they had introduced themselves. LK introduced himself and I still assumed that he was acting in the role of race referee. Also present was Brian Hinton (BH) who I have known by sight for several years and a 3rd official, Jeff Dyrek, who stood in for Sarah Springman (SS). SS felt that coming from my home federation may be seen as a conflict of interests which I understood as being reasonable.

15. I appealed against my DQ on the following grounds:

- a. That I had been allowed to race at the European Championships wearing compression and that therefore I believed that a precedent had been set.
- b. That I was advised by the BTF that I should provide a medical certificate and therefore I concluded that my medical grounds were acceptable. By providing the certificate three months out I had given my governing body plenty of opportunity to contact my doctor if they believed any further information was required.
- c. That the TM had informed me to take my certificate to the start, that at no time had I been briefed or instructed that I could not race and that I therefore assumed I was allowed to race.
- d. That other competitors were wearing compression clothing – and I took my digital camera in to offer evidence of this.
- e. That to carry out the marshals' instructions during the race may have put my health at risk and I explained the background of my medical history, the severity of the illness and the level of disability, the challenges faced in returning to a degree of fitness and how I felt that the sport should be championing its inclusiveness and not excluding someone with a disability.
- f. That I had actively sought to carry out the time penalty for the yellow card and that I had actively sought the race referee to seek clarification of the issue.
- g. That I believed that this ruling was aimed at elite triathletes trying to gain an advantage in the swim during non wetsuit races and/or for body marking where categories are marked on legs, neither of which applied in this particular race.
- h. That I felt that it was disrespectful to make changes to rules in general after the athletes had committed themselves to the cost and training for the event and when it was too late to make alternative arrangements.
- i. That during the race was not the time to be discussing my medical condition and that any changes affecting my entry should have been clarified prior to accepting my entry fee thus allowing me to make a reasoned and informed decision whether to enter based against non compliance with my medical advice and potential invalidation of insurance.
- j. That there were a number of clothing and competition rule infringements including front zips, no names, no country codes, wearing speedos, two piece suits etc which appeared to go unpunished.

16. During my appeal I complained to LK that I had been searching for him and I recommended that he wore a jacket emblazoned 'Race Referee'. Even at this stage he did not inform me of my

misunderstanding. BH stated that the rules had been made clear on Thursday 2nd September and I informed him that I had arrived late on Thursday afternoon, had not been informed of this rule and that *no* official had stated I could not race. In addition, I had been briefed by the TM to take my medical certificate to the race referee and so this message clearly had not been effectively passed on. I reminded the jury that informing of changes on the Thursday before the race was clearly too late anyway after we had gone to the expense of investing our limited time and funds.

17. I was asked to wait outside whilst the jury deliberated and whilst outside I met the TM and the BTF Administrator. I explained what had progressed so far and the TM was very surprised, exclaiming that BH had said that very morning that I should take my medical certificate to him in transition prior to the race.

18. LK came outside and I assumed that I was to be taken back in to hear the verdict. Still outside, in a public place, he handed me a photocopy of the appeal document and explained that the jury had rejected my appeal based upon the decision to ban compression socks being clearly communicated at the briefing. I challenged him on this drawing on my recent conversation with the TM and he stated that he did not wish to have this type of conversation. I returned my finisher's medal to LK and he hoped that this would not put me off coming again. My partner replied, stating that I couldn't as I wouldn't be allowed to compete.

19. I then went to collect the remainder of my equipment and had a chance encounter with SS. She was understanding and sympathetic to my concerns but stated that the ITU could not accept doctor's certificates and that the BTF were wrong to have advised me otherwise. She did however highlight that two athletes had been given dispensation for this for fully understandable reasons. She was vaguely aware that I had been ill in the past and when reminded of my medical history and that I had told the Competition Jury of this, SS said that she was surprised the jury had not taken this into account during my appeal.

C. Objectives of Appeal to the ITU Executive Committee

20. The objective of this appeal is to respectfully request that the ITU Executive:

- a. Review the actions of the Competition Jury and overturn their decision to reject my appeal.
- b. Reinstate and publish my finishing position and time into the official results of the event.
- c. Review and amend the rule which currently excludes me and others from competition and publish this rule change with immediate effect, allowing all to compete without discrimination.


D. Recommendations for future ITU consideration.

- a. ITU should create a category identification system which allows those who wear compression clothing to compete without penalty.
- b. ITU should decide and clearly publish whether they do or do not accept doctors' certificates and if so, in which cases they are permitted.
- c. If the ITU is to continue with this ruling then for the sake of clarity it may be useful to differentiate between compression socks, tights, ordinary socks and calf guards.

- d. The ITU should ensure that the rules under which the internationals are held are agreed and clearly publicised prior to qualification and, in the worst case, at least 60 days before competition.
- e. Should there be need to change rules for safety reasons or otherwise within 60 days, they should be clearly communicated with reasons and proper provision made for any resultant exclusion of competitors.
- f. Training should be provided so that all ITU and LOC representatives are able to understand and fully implement the rules, in particular if there have been late or controversial changes.
- g. All marshals – but in particular those manning penalty boxes – should understand the penalty rules and punishments and have a clear line of communication to the TD or race referee.
- h. There should be consistent application of rules – this includes clothing, numbers, marking, helmet and in particular drafting.
- i. Briefing of sensitive event rule changes should not be left to volunteers to administer. The ITU should utilise the strong personalities on its staff who possess effective communication skills and a broad range of languages to facilitate this.
- j. A federation representative knowledgeable in the rules and regulations should be available to support all athletes at appeal. It is too much to expect an athlete to be able to represent themselves on technical issues within minutes of completing a race.
- k. Having identified that there was potential for discrimination on disability grounds, the ITU should have taken the necessary steps to mitigate any such situation and brief the officials accordingly. The TD has opened himself and/or the sport up to potentially serious claims of discrimination.
- l. Heads of Federations should not sit on the ITU board. There is the risk of conflict of interest and potential for conflicting opinion between the Executive and the Federation.
- m. It is strongly recommended that controversial rule changes, such as no arm or leg coverings, should be implemented with a publicised explanation. This would reduce the wide range of speculated reasons currently in circulation, none of which appear to stand up to scrutiny. This would also allow competitors to appreciate how this rule fits in to the development of the sport and may allow for a better reception by athletes.
- n. The sport would benefit from an effective and formalised communication channel which would allow recommendations such as this to be forwarded outside of this appeals process.

This appeal is submitted with the best interests of the sport in mind. Thank you for your consideration.

Jon Cowell
12th September 2010



12/09/10