

**IN THE MATTER OF PROCEEDINGS BROUGHT
UNDER THE BETTING RULES
OF THE DARTS REGULATION AUTHORITY**



BETWEEN:

DARTS REGULATION AUTHORITY

Governing body for Darts

-and-

KYLE McKINSTRY

Respondent

**REVISED DECISION
OF
THE DRA DISCIPLINARY COMMITTEE**

INTRODUCTION

1. The Disciplinary Committee (the Committee) of the Darts Regulation Authority (DRA) convened for a hearing by means of a video conference on 17 October 2020 to consider allegations of breaches of DRA Rules by Kyle McKinstry (McKinstry) in relation to three matters (Charges).
2. The DRA was represented at the hearing by Louis Weston of Counsel. Nigel Mawer QPM of the DRA was also present. McKinstry was present at the hearing and, at his request, was accompanied by Mr Warriner-Little of the Professional Darts Players Association (PDPA). None of these persons were present or involved during the Committee's subsequent determination of its decision.

3. Charge One alleged that McKinstry agreed to fix the outcome of a match against David Evans on 30 April (the Evans Match) by contriving to lose the match 0:5 and that he passed information of his intention to do so to others who placed bets on this outcome contrary to Section 2.1 of the DRA Betting Rules, which state:

2.1 It shall be a breach of these Rules for a Participant to do any of the following:

2.1.2 Corruption: (i) to fix or contrive, or to be a party to any effort to fix or contrive, the result, score, progress, conduct or any other aspect of the Darts Event;

2.1.3 Misuse of inside information: (i) to use for betting purposes, or to provide to any other person for such purposes, any information relating to the Darts Event that the Participant possesses by virtue of their position within the sport that is not in the public domain or readily accessible by the public.

4. Charge Two alleged that he fixed his performance in a match against Wessel Nijman (the Nijman Match) on 2 May 2020 by deliberately failing to score any 180 scores in the match; and that he alerted others to his intention prior to the match, thus allowing them to place winning bets on this specific outcome, matters also contrary to Sections 2.1.2 and 2.1.3 of the DRA Betting Rules.

5. Charge Three alleged that he failed to co-operate with a subsequent DRA investigation by failing to provide his mobile phone billing as required and requested by the DRA, contrary to Rule 4.5 of the DRA Rules:

4.5 Each Player or Registered Agent shall co-operate with the DRA in any investigation carried out by or on behalf of the DRA under the provisions of these Rules including (but not limited to):

...

4.5.4 Procuring and providing to the DRA upon its request any documents, information or any other material of any nature whatsoever not held by the Player or Registered Agent which the Player or Registered Agent has the power to obtain;

4.5.5 *Providing the DRA with access to all records relating to the alleged breach. This includes, but is not limited to; betting accounts, bank records, telephone records, internet service records, social media accounts, email and other records stored on phones, tablets, electronic devices, computer hard drives or otherwise. To facilitate this, the Player or Registered Agent will surrender any such devices for examination by the DRA or its representative.*

6. Prior to the hearing the Committee and McKinstry were supplied with several documents for their consideration. These included:

- Letter of Charges dated 18 August 2020;
- Witness Statement of Nigel Mawer QPM dated 4 September 2020;
- Witness Statement of Tom Mace dated 1 September 2020;
- Betting Master Spreadsheet;
- Recordings and written transcripts of interviews with McKinstry on dated 1 June and 20 April 2020;
- Bank Statements of McKinstry;
- Email correspondence between the DRA, McKinstry and others re itemised phone billing;
- Video of match McKinstry v Evans dated 30 April 2020;
- Match statistics;
- Match results from Modus Event dated 30 April 2020;
- McKinstry Betting Bet 365;
- Sportradar Investigation Report;
- List of unused material; and
- Case Summary prepared by Louis Weston dated 3 September 2020.

7. At the hearing, McKinstry confirmed acceptance of Charge One in confirmation of the admissions he had previously made in interview on 24 August. The breach on that matter was recorded as proven. The Hearing was therefore left to consider the remaining two charges.

BACKGROUND

8. The two matches in question were part of a DRA regulated event, the Modus Icons of Darts series, a tournament promoted by Modus Sports during the Coronavirus Lockdown whereby

matches were streamed online. Players were paid to participate and play from home against other professionals. Participants agreed to be bound by DRA rules.

9. The DRA had received notification of suspicious betting on both the Evans and Nijman Matches. In total, seven different bookmakers reported suspicious betting activity.
10. A thorough investigation was subsequently conducted by Nigel Mawer of the DRA. This identified eight bettors as placing suspicious bets on the outcome of the Evans Match. Two of these individuals also placed bets on a specific outcome of the Nijman Match two days later.
11. In respect of the Evans Match, eight bettors (the bettors) placed 39 successful bets across nine bet types. The stakes involved totalled approximately £3,980. All the bets struck reflected confidence in a specific outcome. In this instance, only a 0:5 David Evans victory would ensure that 36 of the bets would be successful, and six of the bettors placed at least one bet on this exact result occurring. The net profits resulting from the 36 bets were £18,829.95.
12. The three bets placed that would not be guaranteed to win by a 0:5 David Evans were for McKinstry to hit fewer than 1.5x 180s in the match. These bets were also successful, as McKinstry failed to score any 180s during the match.
13. Significant connections were identified between the eight bettors and McKinstry. One of the bettors is a close associate, whilst several of the other bettors are Facebook friends with McKinstry or his partner

THE BETTORS

14. Analysis indicated that the bettors fell into two distinct groups based on geography, social links, and the nature of their betting. Six of the bettors were based in the Craigavon area (the Craigavon Bettors) which is approximately 18 miles from Dungannon where McKinstry and the remaining two bettors (the Dungannon Bettors) lived.
15. The Craigavon bettors displayed strong social links with each other and with McKinstry. The individual whom McKinstry admits he tipped off about his intention to fix the Evans match was one of the Craigavon Bettors.

16. The Craigavon Bettors bet on the 0:5 score line in the Evans Match. The Dungannon Bettors did not bet on this specific outcome.
17. There is no evidence to suggest that the Dungannon Bettors had social links with any of the Craigavon Bettors.

MATCH BETTING

18. In relation to the Nijman Match, the relevant bookmaker raised an alert on the bets placed by the Dungannon Bettors for several reasons including the fact that theirs were the only placed on the McKinstry v Nijman match 180s market worldwide.
19. In respect of this match, the first of the Dungannon Bettors placed three winning bets on the outcome of McKinstry scoring less than 1.5x 180s in the match (one as part of a multiple bet), staking £188.04. This bettor also placed an unsuccessful bet on the same day on another match not involving McKinstry. The second Dungannon Bettor staked £100 on McKinstry scoring less than 1.5x 180s against Nijman. They placed no other bets that day.
20. The first Dungannon Bettor also placed two bets totalling £200 on McKinstry to score less than 1.5x 180s in the Evans Match. They also placed a successful £100 bet on McKinstry to score less than 1.5x 180s against Nijman on 30 April.
21. Additionally, the first Dungannon Bettor placed seven unsuccessful bets with stakes totalling £240 on McKinstry's four matches on 30 April. A common theme of the bets is that they all involved McKinstry performing poorly on the night, either by scoring less than 1.5x 180s in a match or by betting on his opponent to score the most 180s in the match.
22. The second Dungannon Bettor placed £100 on McKinstry to score less than 1.5x 180s in the Evans Match and also placed an unsuccessful bet on McKinstry having the same outcome against Martin Adams.
23. Of his four matches on 30 April, McKinstry scored two 180s against Martin Adams, and failed to score any in his other three matches.

24. It is also relevant to note that the Dungannon Bettors accounts were both opened on 30 April.

INVESTIGATION

25. McKinstry was interviewed in relation to these matters on 1 June. He denied any involvement in fixing the outcome of the Evans Match. He initially admitted knowing one of the Craigavon Bettors as a close friend but denied knowing any of the other seven bettors.

26. Later in the interview it was put to him that four of the bettors were Facebook friends of his. He accepted this.

27. He stated that he had a betting account with Bet 365, and he claimed that he had never bet on darts. This was shown to be incorrect when his Bet365 account was examined subsequently.

28. During this interview he was formally requested to provide his itemised 'phone billing and his bank statements for the investigation in compliance with DRA Rules.

29. McKinstry initially stated that it would take 28 days to obtain his itemised 'phone billing. When he was asked again to produce the billing it was apparent that he had not taken any steps to do so since 4 June 2020. On 13 July, the DRA gave McKinstry a deadline of 20 July 2020 to provide the itemised phone billing as requested on 1 June 2020.

30. On 15 July McKinstry forwarded an email from 02 which indicated that on 13 July he had asked for full data including third party data. He was told by the phone provider that this could not be provided without a court order. In response to an email from McKinstry's manager, the DRA explained that no third-party data was required, merely the itemised billing data relating to McKinstry.

31. On 9 August the case material was reviewed by the DRA and a decision made that McKinstry had a case to answer in relation to breaches of the DRA Rules. McKinstry was informed accordingly. Following further contact with McKinstry and his representatives, the DRA was informed that McKinstry wished to be re-interviewed as he had changed his position.

32. On 20 August, McKinstry was re-interviewed. In this interview he admitted that he had fixed the exact score outcome of the Evans Match, stating that he had requested one person to place a bet on his behalf on the outcome. He denied telling anyone else of his plan and stated that he had received no money as the bet had not been paid out. He continued to deny fixing any aspect of the Nijman Match. He stated that he had not been able to supply his 'phone billing despite making efforts to do so.
33. During this interview he was asked again if he knew either of the Dungannon Bettors. He stated that he knew the first Dungannon Bettor as someone who lived in the same village and a Facebook friend of his partner. He denied knowing the second Dungannon Bettor.
34. On 21 August 2020 a further request was made to McKinstry to provide his itemised 'phone billing by 17.00 on 25 August 2020.
35. On 24 August McKinstry sent an email via the PDPA stating that he knew the first Dungannon Bettor as a casual acquaintance and as a relative of a close friend and neighbour of his. He again denied knowing the second bettor but stated that this person was a Facebook friend of his partner from whom his partner had purchased something.
36. On 2 September McKinstry stated to the DRA that he was having trouble with O2 as they wanted proof that he was the user of the 'phone before they would provide him with the itemised billing. He was advised to seek assistance from the PDPA. He said that he had tried, but that the PDPA was not responding. It was noted from an email provided by McKinstry that the PDPA had in fact replied to him at 10.01 am on 2 September.

HEARING

37. McKinstry was given the opportunity at the hearing to address the allegations against him and ask questions of the DRA. He also answered questions put to him by Counsel and members of the Committee.
38. In relation to the first charge, McKinstry confirmed his guilty plea but stated that he wished to challenge the submission of the DRA in relation to the circumstances. He stated that he had

found out on the morning of the Evans Match that he had lost his job. This had caused him anxiety.

39. He stated that he had contacted one close associate of his and asked him to place a stake of £100 on him losing the Evans Match 0:5. The stake would be repaid to his associate from the winnings and the profit shared equally between him and his friend. He stated that he did know the odds on the bet. He stated that the following day his friend informed him that the betting company were refusing to pay out on the bet.

40. McKinstry again denied fixing the Nijman Match by deliberately trying not to make any 180 scores. It was put to him that the two suspicious bettors were connected to him and both lived within two kilometres of him. Whilst accepting that he knew the individuals, he denied giving them any information about the match.

41. He accepted that he had not provided his telephone billing to the investigation despite several requests from the DRA. He stated that the billing would only show contact with the person whom he asked to place the bet for him.

42. McKinstry explained that he had had regular contact with 02 in attempting to supply the billing but that this had not been successful. He was asked about an email to him from 02 dated 27 August 2020 that set out the steps he was required to take to receive his billing by 17 September 2020. He accepted that he had not done this.

DETERMINATION

43. The standard of proof applied by the Disciplinary Committee is that of the balance of probabilities. In reaching a decision the members of the Committee took into consideration the evidence set out in paragraph 5 (including the evidence given by McKinstry in his two interviews with the DRA) and evidence from McKinstry of emails, and by him in person at the hearing.

Charge One

44. The Committee records that McKinstry had admitted this Charge but notes that the DRA did not accept the basis of the plea that the only intended beneficiary of the match fixing and

betting was McKinstry or that the only person who was told of the match fixing was one of the Craigavon Bettors.

45. Following cross-examination at the Hearing the Committee did not believe that McKinstry was telling the truth as to when he had informed the one Craigavon Bettor and found him to be generally unreliable and (even on his own admissions at the Hearing) to have lied on various occasions from the start of the investigation through to the Hearing.
46. The Committee was of the view that McKinstry on the balance of probabilities had contacted the Craigavon Bettor in advance of the first bet being placed on the Evans match and that McKinstry had anticipated the Craigavon Bettor would be likely to gain from that information. It makes findings as such.
47. The Committee, however, made no findings on whether McKinstry had contacted others about the fix in advance of the Evans match although from the betting evidence it appears inescapable that someone had passed the information to others. This does not dilute the admission and acceptance of Charge One and both limbs (of which neither is expressed in name/detail specific terms) were found proven (1 and 1a).
48. The Committee did note that the provision of the telephone itemised billing records may have thrown further light on this Charge and assisted the Committee in its deliberations.

Charge Two

49. It was left to the Committee to determine, to the civil standard of proof, whether the bets placed by the Dungannon Bettors on the Nijman Match were placed as a result of McKinstry deciding to fix his performance and being responsible for this information being conveyed to the bettors either directly or indirectly.
50. Alternatively, the Committee had to consider whether it was more likely that McKinstry's failure to score any 180s in the match was unconnected to the bets placed on that outcome.
51. The Committee acknowledges that the relatively low volume of bets on the Nijman Match in comparison with Charge One, for instance, increased the importance of seeking other

corroborative evidence to support a conclusion. Whilst the betting evidence was of course highly relevant, the Committee also considered and applied weight to several factors that it considered relevant.

52. It is noted that McKinstry consistently denied any involvement in fixing the Nijman Match from his first interview and maintained this throughout the hearing.

53. The Dungannon Bettors opened their accounts on 30 April, this being the day that, by his own admission, McKinstry had decided to fix the result of the Evans Match and passed this information to an associate apparently unconnected with the Dungannon Bettors.

54. It is considered unlikely that this associate passed any information to the Dungannon Bettors in relation to either the Evans or Nijman matches, meaning that any information they may have received came from another source.

55. It was also noted that only two people in the world bet on this specific outcome in the Nijman Match, both living near McKinstry.

56. It was also considered that £100 appears a significant stake on such a specific outcome in a low-profile event.

57. It was also considered relevant that the first bets placed by the Dungannon Bettors having opened their accounts on 30 April were on McKinstry to score less than 1.5x 180s in the Evans match and these were successful. Again, the £100 stakes seemed significant for first time bettors on such a specific outcome. One of the bettors was also successful betting on McKinstry achieving the same outcome against Nijman on 30 April.

58. Both bettors made a series of other bets on 30 April all of which, although unsuccessful, were based on McKinstry performing poorly in his matches.

59. It is also noted that McKinstry initially denied knowing the Dungannon Bettors when their names were put to him but subsequently admitted a connection.

60. Taking these factors and the body of evidence submitted by the DRA and McKinstry during this process, the Committee was persuaded that, on a balance of probabilities, the charge against McKinstry in respect of the Nijman Match (Charge Two) was proven.

Charge Three

61. It was McKinstry's case that he had made efforts to provide his itemised billing and that his failure to do so was as a result of failings on the part of his phone provider. It is accepted by the Committee that McKinstry had been in contact with his phone provider and had made request for his billing.

62. It was also clear, however, that he had been informed clearly in writing and verbally by the provider, the DRA and the PDPA what he needed to do to obtain the billing. He had offered no plausible reason why he had not done this. No billing had been provided.

63. The Committee did not consider that McKinstry had provided a reasonable explanation to explain his failure to provide his phone billing to the investigation. It also considered that he had been given ample time and assistance to do so. The Committee was satisfied that McKinstry was told and understood the steps he needed to undertake to receive his billing and that he failed to do what was necessary.

64. Taking these factors and the body of evidence submitted by the DRA and McKinstry during this process, the Committee was persuaded that, on a balance of probabilities, the charge against McKinstry in respect of failing to co-operate with the DRA investigation by failing to provide his itemised phone billing (Charge Three) was proven.

65. McKinstry found to have breached 2.1 of the Dra Betting Rules (Charges 1 and 2) and 4.5 of the DRA Rules (Charge 3).

SUMMARY

66. Sanctions to be decided following written submissions invited from all parties. The Committee anticipated that no convened attendance will be required for a further Decision on Sanctions and Costs to be made to be communicated in due course following receipt of those submissions and consideration of them by the Committee.

Tim Ollerenshaw, Chair

Richard Gardner

David Jones

6 November 2020