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**Sports Tribunal dismisses appeal by fencer against not being selected for Commonwealth Fencing Championships**

The Sports Tribunal has dismissed an appeal by Garth Shillito against a decision of Fencing New Zealand (FNZ) to not select him for the New Zealand Men's Open Sabre Team to attend the Commonwealth Fencing Championships 2010.

The Sports Tribunal heard the matter urgently on the night of 31 August and issued its decision the next day. The Tribunal has now released its full reasons for the decision.

Mr Shillito appealed FNZ's decision not to select him on various grounds including that the selection process had not been properly followed and the applicable selection criteria in the FNZ selection policy had not been correctly applied. He pointed to his New Zealand ranking of third (based on points earned in various competitions) as justifying his place in the team. He also complained that not all of the selected team had competed in all the competitions identified as counting towards selection, and that one member of the team was resident in Australia and his selection in the team was based on results in Australian competitions.

FNZ accepted there were deficiencies in the ranking system and these skewed the results and led to Mr Shillito getting a higher number of points and ranking than the standard and number of competitions he competed in warranted. The FNZ policy requires not just consideration of rankings and results but also a prediction of athlete performance by the selectors. They also considered that the performance and potential for the Commonwealth championships of the Australian resident fencer justified his inclusion in the team. Results for that fencer in Australia could be taken into account. Further the Policy clearly indicated an intended assessment of relativity between fencers.

The Tribunal decided it could not conclude that there was a failure by FNZ to follow the selection policy or to apply the relevant selection criteria. Although rankings and results in some specified tournaments were the primary selection criteria, they were not exclusive in determining relative performance of the fencers, and prediction of potential performance in the championships was also to be considered. It was a matter for the selectors what weighting they placed on the various competitions and results, including the Australian ones which the selectors were able to consider in this case. The Tribunal would have to identify clear errors in selection process before it would intervene. The Tribunal considered there was no obvious failure by the selectors but rather a judgment call on relative performance.

However, the Tribunal considered Mr Shillito had properly brought his appeal, exposed some matters wanting in FNZ selection policy and raised proper questions about its application. In particular Mr Shillito questioned whether his age in itself had counted against him. It could not of itself do so as an element of policy and overall the Tribunal considered this was not the reason for non-selection. The Tribunal made some comments about what a clear selection policy should contain.

The decision in this case will be made available for download from the website of the Sports Tribunal ([www.sportstribunal.org.nz](http://www.sportstribunal.org.nz)). See *Garth Shillito v Fencing New Zealand* (ST 13/10). Copies of the decision can also be obtained directly from Brent Ellis, Registrar, Sports Tribunal of New Zealand (telephone: 0800 55 66 80; e-mail: [info@sportstribunal.org.nz](mailto:info@sportstribunal.org.nz)).