

BETWEEN

ELENOA LILO

Appellant

AND

BOXING NEW ZEALAND

Respondent

AND

NEW ZEALAND OLYMPIC COMMITTEE

Interested Party

**MINUTE RE CHALLENGE TO PANEL MEMBER
22 JUNE 2026**

Decision

On the papers

Parties

Elenoa Lilo, Appellant
L'Tanya Lilo (support person and sister) for Appellant
Josh Wharehinga (President, Boxing NZ) for Respondent
Sam Watt (selector, Boxing NZ) for Respondent
Tara Pryor for NZOC (Interested Party)

Chair

John Macdonald

Registrar

Luke Macris

INTRODUCTION

1. Elenoa Lilo (the Appellant) filed an urgent appeal against the decision of Boxing New Zealand (the Respondent and Boxing NZ) not to nominate her for selection by the New Zealand Olympic Committee (NZOC) to the 2026 Glasgow Commonwealth Games in the Women's 75kg boxing division.

BACKGROUND

2. A hearing for this proceeding took place on 13 June 2026 and the appeal determined by a Tribunal panel of Warwick Smith (Acting Chair), Andrea Twaddle, and Pippa Hayward.
3. In the lead up to the hearing, the parties were notified by email on 10 June 2026 of the panel composition and their right to challenge the appointment of a panel member. A challenge to a panel member could be made where there are grounds for potential conflicts of interest in accordance with the IBA Guidelines on Conflicts of Interest in International Arbitration.
4. On that same day Ms Pryor, for the NZOC, raised a perceived conflict concern in relation to Ms Hayward given her employed role as General Manager of the Netball New Zealand Players' Association and the Athletes' Federation.
5. Ms Hayward was given an opportunity to comment on the challenge and provided the following response:

My personal view is that there is no conflict - perceived or otherwise. My job does not have any bearing on my ability to be able to professionally hear this appeal as part of the panel. I also have no connection, in my job, with boxing.

She signed the Tribunal's Impartiality/Conflict declaration that evening, confirming that she did not believe she held a conflict of interest.

6. The parties were offered the opportunity to make submissions in light of Ms Hayward's comment.
7. Ms Pryor submitted that Ms Hayward's advocacy-based role raises perceived independence concerns where:
 - a. a panel member's professional role involves advocating for a class of individuals (e.g. athletes) whose interests are directly affected by the outcome; or
 - b. a panel member, in their professional capacity, engages in negotiation or representation on matters of a similar nature to those under appeal, even where this is not with the specific parties involved.

8. Boxing NZ supported the concerns raised by NZOC but provided no further substantive arguments themselves.
9. Neither NZOC nor Boxing NZ raised any direct connection between Ms Hayward and the sport of boxing or the circumstances of the proceeding.
10. Ms Lilo had no objection to Ms Hayward being on the panel.
11. Given the urgency of the matter, I issued my decision with brief reasons by email on 11 June 2026 and indicated that I would issue a Minute with full reasoning at the same time as any full decision of the panel itself was released.
12. This Minute substantially repeats the email decision and provides only limited, but important, further reasoning.

TEST UNDER THE IBA GUIDELINES

13. I have considered the responses of the parties in relation to the challenge of Ms Hayward in light of the IBA Guidelines on Conflicts of Interest in International Arbitration (IBA Guidelines).¹ I have considered the General Standards, in particular 2(c) and 2(d), and the practical guidance provided at Part II (Practical Application of the General Standards) at pages 14-19 of the IBA Guidelines.
14. Ms Hayward has confirmed her own impartiality and independence (the subjective test). Her confirmation was provided both in her comments in response to the challenge and in signing the Tribunal's Impartiality/Conflict declaration.
15. I must therefore determine whether a reasonable third person with knowledge of the relevant details concerning Ms Hayward would have justifiable doubts as to her impartiality or independence (the objective test).

DECISION AND REASONS

16. I have determined that there is not a sufficient connection between Ms Hayward's employment and/or personal interests to the circumstances of this proceeding.
17. Yet in the circumstances of this proceeding, Ms Hayward has no connection to Boxing NZ or Ms Lilo. She is an experienced lawyer with years of advocacy-based training, appearing on behalf of a range of parties. I can find no analogous examples, and the challenging parties offered none themselves, that require recusal in the IBA Guidelines.

¹ A copy of which is available at: <https://www.ibanet.org/document?id=Guidelines-on-Conflicts-of-Interest-in-International-Arbitration-2024>

18. In undertaking analysis of the IBA Guidelines, I considered the examples provided in the Non-waivable Red List, the Waivable Red List, the Orange List, and the Green List. I acknowledge that the examples provided in those lists are non-exhaustive, though they do provide guidance on those “specific situations that, depending on the facts of a given case, give rise to justifiable doubts as to the arbitrator’s impartiality and independence”.²
19. The Non-waivable Red List “includes situations deriving from the overriding principle that no person can be their own judge” and “acceptance of such a situation cannot cure the conflict”³ so recusal is required. Ms Hayward clearly does not have a direct financial, personal, controlling or advisory connection to one of the parties as contemplated by the examples in the Non-waivable Red List. Accordingly, these scenarios do not apply to Ms Hayward.
20. Likewise, the Waivable Red List equally contemplates scenarios in which there is a close and direct relationship between the arbitrator and the dispute, direct or indirect interest in the dispute, or a relationship with the parties or counsel.⁴ That Ms Hayward’s employer advocates for athletes generally does not provide a sufficient connection to the dispute. Neither Ms Hayward nor Netball New Zealand Players’ Association or the Athletes’ Federation have anything to gain in Ms Lilo being successful (or otherwise) in her appeal.
21. The Orange List sets out situations in which recusal may be appropriate depending on the circumstances, noting however that certain scenarios can be resolved by disclosure to the parties. Once again, even under these examples they contemplate the arbitrator having some direct connection to the parties. For example, that the arbitrator had previously provided advice to the parties, acted against, or acted as an arbitrator involving one of the parties.⁵
22. Finally, the Green List⁶ sets out those situations where a reasonable third person would not have any justifiable doubts and therefore recusal is not required.
23. Importantly, the NZ Athletes’ Federation is a representative body for their member associations of NZ Cricket Players Association, NZ Hockey Players Association, NZ Rugby Players Association, NZ Netball Players’ Association, and NZ Professional Footballers’ Association. It represents athletes/members from those associations but

² Refer page 14 of the IBA Guidelines.

³ Refer page 16 of the IBA Guidelines.

⁴ Where recusal is mandatory, unless the parties agree to the appointment.

⁵ Refer clauses 3.1.1, 3.1.2 and 3.1.5 at page 17 of the IBA Guidelines.

⁶ Refer page 19 of the IBA Guidelines.

is not a general advocacy-group that any athlete/person could join. Suffice to say, were one of those member association sports involved in this appeal, then Ms Hayward would not have been appointed to a panel as she would have been required to recuse herself.

24. It is worth noting that if Ms Pryor's argument were to be accepted, it would significantly expand the ability to challenge Tribunal panel members for reasons well beyond those contemplated by the IBA Guidelines. Indeed, the purpose of having a pool of Tribunal members is so that the Tribunal can draw on a range of skills, expertise and perspectives when determining sporting disputes (such as legal, medical, sport organisations, athletes, coaches/selectors, and anti-doping). It would mean that Tribunal members in any role at a sport organisation (e.g. as a Board member, employee, or contractor of a national sport organisation or HPSNZ) would also have to recuse themselves from any case involving a sport organisation. That is plainly not intended as Tribunal members are required to have substantial experience in sport under the *Sports Tribunal Act 2006*.⁷
25. In my view, Ms Hayward's situation sits within the Green List or, at worst, the lower end of the Orange List – being a situation that may require disclosure but not recusal. The Tribunal disclosed her current and former employment history to the parties by virtue of the links provided to the parties to her biography on the Tribunal's website.
26. I do not believe a reasonable third person, having knowledge of the relevant details about Ms Hayward's expertise, skills and employment history, would have justifiable doubts as to her impartiality or independence. There is nothing to suggest that she is unable to bring an open and impartial mind to this proceeding.
27. Accordingly, I **directed** that Ms Hayward would remain on the panel for the proceeding.

Dated: 22 June 2026



John Macdonald
Chair

⁷ Refer s33 of the *Sports Tribunal Act 2006*.