

An analysis of the DCMS Select Committee Report: ‘Combating doping in sport’ - Part 3 - ‘UK Athletics’ and ‘Criminalisation of doping in sports’



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In this, the third and final part of our series on the *DCMS Select Committee Report on “Combating doping in Sport”*, Sports Shorts looks at the Report’s findings in relation to performance versus health considerations, record-keeping inadequacies, problems arising from under-funding, and the proposal that doping be made criminalised.

The Nike Oregon Project

The third section of the Report begins by considering treatments received by Sir Mo Farah at the Nike Oregon Project (“**NOP**”), an initiative aimed at elite athletes and founded in 2001 by Alberto Salazar, Farah’s former coach.

Specifically, the Report discusses the concerns raised by former UK Athletics medical officer Dr John Rogers after he visited a British Athletics training camp organised by NOP. In evidence submitted by Rogers, he draws attention to the side-

effects of three treatments in particular that were used on Farah at NOP, namely: nasal calcitonin; vitamin D supplementation; and iron supplementation.

Rogers told the Committee that nasal calcitonin *“affected calcium metabolism”* and in Farah’s case *“there was a background medical issue that could have been affected”*.^[1] As for the vitamin D supplementation, his concern stemmed from the particularly high dosage, which can apparently cause high blood calcium levels, whilst the iron supplementation could have gastrointestinal side-effects.

Apparently, *“Alberto Salazar explained to Dr Rogers that he had recommended the calcitonin and the vitamin D supplement to prevent stress fractures, that high dosages of vitamin D would help increase testosterone levels, and that iron supplements would help in high altitudes”*.^[2] In other words, Salazar prescribed the supplements to improve Farah’s performance.

The Report also discusses evidence received in connection with the administering of L-carnitine to Farah before the 2014 London Marathon by Dr Robin Chakraverty, former Chief Medical Officer at UK Athletics. L-carnitine is a non-essential amino-acid-like compound that assists in energy production. Although not a prohibited substance, there are strict rules around its use; athletes are permitted to take 50ml every six hours, according to the Report. Chakraverty says he injected 2.7 grams and on only one occasion. The Report comments:

“While L-carnitine might be on the list of legal supplements, there is a question over why an athlete should be taking a supplement to enhance their own advantage, rather than working on their own athletic prowess.”^[3]

This at once seems a strikingly naïve question to ask in the current context.

Record-keeping

The Report goes on to consider shortcomings when it comes to record-keeping, including in the context of the L-carnitine given to Farah in 2014. Chakraverty apparently failed to make a record of the injection, of which the Report is highly critical, drawing comparisons to the Team Sky issues discussed in [Part 2](#).

Underfunding of UKAD

According to the findings of the Report, UK Anti-Doping (**“UKAD”**) is *“severely unfunded”* and under-resourced. The Chief Executive of UKAD, Nicole Sapstead, told the Committee that *“with a larger budget, UKAD would be in a position to test more comprehensively”*.^[4] Part of the problem, according to Sapstead, is that *“doping strategies are increasingly sophisticated and require up-to-date—and often expensive—scientific and investigatory resources”*.

The Report finds that due to a lack of resources and the demands placed upon it, UKAD has to prioritise and as a consequence it takes a responsive rather than a strategic approach. Whilst its skills and expertise are not in doubt, its capacity is reportedly lacking.

Currently, UKAD's funding comes mainly from grant-in-aid funding from the Department of Digital, Culture Media and Sport, with some from the sports that use its services. However, according to the Report, the level of support across sports varies significantly, with smaller sports giving a considerably higher percentage of their income than larger ones.

In this regard, a strategy that is discussed and praised in the Report would see sports contributing a fixed percentage of their income from sponsorship overall to fund anti-doping bodies. In other words, were the wealthier sports to pull their weight, so to speak, it would significantly ease the issue of funding.

Of course, it is the use of any funding that is of critical importance. Sapstead makes this very point as part of evidence submitted to the Committee; she is reported as saying that *"putting increased funding into broad anti-doping programmes would not necessarily solve the problem" sport needed to be meaningful, targeted and based on intelligence*".^[5]

Section 4 - Criminalisation of doping in sport

The final section of the report considers calls for doping to be made a criminal offence, on the premise that doping entails defrauding other athletes and governing bodies.

The Report indicates that a number of leading bodies and organisations are against criminalisation insofar as athletes are concerned but in favour of criminalising those who facilitate it through supplying and trafficking.

The World Anti-Doping Agency's ("**WADA**") position is that doping should not be made a criminal offence for athletes, on the grounds that:

"the sanction process for athletes, which includes a right of appeal to the Court of Arbitration for Sport (CAS), is a settled process, accepted by all governments of the world, and further that the sanctions for a doping violation by an athlete, which now includes a longer, four-year period of ineligibility, have been globally accepted by sport and government. As such, the Agency does not believe that doping should be made a criminal offence for athletes".^[6]

WADA has however lent its support to the creation of offences to penalise those responsible for trafficking and distributing banned substances.

Similarly, the Advisory Council on the Misuse of Drugs advocates that criminal prosecution should be limited to illicit steroid dealers, suppliers, manufacturers and traffickers who profit from this trade.

UKAD too is of the view that criminalisation is not the best course of action. Lord Coe expressed to the Committee his reservations, which arose from his view that *"it was always complicated to combine criminal and civil processes and sanctions, as this led to arguments about which took primacy"*.^[7]

Putting aside arguments as to the effectiveness of criminalisation in the current context, for a host of reasons, it is difficult to envisage the introduction of criminal

offences for doping in sports. To begin with, for good reason, any interference with liberty must be convincingly justified. What is more, as mentioned above, sports have governing bodies and structures in place to punish dopers – it is not clear that criminalising doping would act as a more effective deterrent nor is it necessarily the case that criminal punishment is a proportionate response to doping.

The Report concludes that it would not be effective to subject doping athletes to criminal procedures, advocating longer bans as likely to be more of a disincentive. However, the Committee regards as a different matter the supply and promotion of unnecessary medical procedures, and says the Government should give serious consideration to criminalising the supply of drugs. It also says a lifetime ban from representing the UK for a first time offence seems excessive.

Conclusion

The title of the Report is a little misleading and it was always ambitious to report properly on the issue of doping in sport.

Instead, the Report has focussed on three pieces of evidence relating to some of the biggest names in UK Sport namely:

1. When Lord Coe first knew about allegations of widespread doping by Russian athletes;
2. What was in the Team Sky ‘jiff bag’; and
3. Poor record keeping by medical professionals in sport.

When one considers the Report in detail, one can’t help but feel that the DCMS Committee has been distracted by the high profile nature of the above allegations and paid less attention to more wide reaching issues, such as the underfunding of UKAD or the criminalisation of doping in sport.

There is no doubt that the issue of TUEs is divisive and all medical professionals should keep accurate records, especially when it comes to the country’s leading athletes, but these issues are already well known in the world of sport and the DCMS Committee offers no solution to the problem other than suggesting a complete ban on TUEs. This is made without any real consideration as to the consequences this would have.

In the circumstances, the Report as a whole feels like a missed opportunity.

[1] §113

[2] §114

[3] §117

[4] §127

[5] §128

[6] §142

[7] §141

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