

There are doubts about the legality of England Athletics Compliance plans for athlete Registration.

Background. When EA introduced its scheme to make clubs register all active members it relied on meeting organisers to monitor participating athletes. Track and field leagues' secretaries declined to undertake this task due to the increased work load. In its latest proposals EA is putting the onus back on clubs to collect and forward the registration fees (£10 per head) for all members who compete at least once a year in any UKA permitted road or track event. Following an investigation by Kingston and Polytechnic AC ABAC has reason to believe this imposition is not lawful and here is why.

Workers and Volunteers. At the beginning of October 2013 the Legal Department of the Royal Yachting Association (RYA) produced a document which looked at the role of workers (employees) and volunteers and attempted to de-lineate between the two. Crucial to this debate is the "National Minimum wage Act 1998. The RYA concluded that volunteers have to be restricted in their relationship with a club or Sport NGB otherwise they will be deemed workers and must be paid according to the 1998 Act.

A number of defining conditions are listed. Crucial to the EA Compliance policy debate is the following extract from the RYA document.

"If the person is to be treated as a volunteer, ensure there is no obligation on the volunteer personally to serve the club or Governing body in any capacity."

What does EA say about volunteers? In its Articles of Association EA sets guidelines for its relationship with volunteers.

Section 43 (a) states. "co-ordinate the activities and interests of the voluntary sector within the sport of athletics in order to further all disciplines of the sport of athletics in England."

Section 43 (c) states "take a leadership role within the volunteer sector of the sport of athletics and co-ordinate interaction between volunteer and professional groups to further the interest of the sport of athletics in England."

Nowhere do the Articles state that volunteers shall carry out the work of the Association.

Athlete Membership. Scottish Athletics has for a number of years operated a scheme whereby athletes individually register with them and pay membership fees directly to the Governing body. The savings in workload for individual Club Membership and Financial Secretaries are clearly enormous.

England Athletics on the other hand has promised such a scheme for years but have been tardy in its implementation. The minutes of the EA September 2013 Board Meeting state "Athlete registration Portal –changes for the membership secretaries portal have been positively received. **However the athlete registration portal is still not available.**"

Conclusions. In Fact File 18 ABAC demonstrated that EA would have problems in increasing revenue from its membership particularly if they increased the annual athlete fee to £20. Their failure to get support for increased fees has meant that for 2014 the level of £10 per athlete has been retained with the result that a deficit of £269,000 has been predicted for the current year (Aug 2013 EA Board Minutes). It is in this context that Clubs are being back charged and invoiced for those of their unregistered members who competed in UKA permitted races during 2013.

ABAC Comments.

Clubs will no doubt resist the attempts to provide fees to EA for unregistered athletes. Many may well consider how much time and effort it takes to collect individual fees and if pressed could counter charge EA for the time and other costs so incurred.

A major problem for EA going forward is that under 17 year old competitors can compete in events in the name of their school not club. Such performances would not be as a club athlete but as a school based one. Indeed any person in full time education can enter events in the name of the appropriate institution and avoid club affiliation fees altogether.

So however EA tries to increase registration income it will be uneconomic at best and unworkable at worst. It will spend more on the chase than the extra income it will receive. Threatening clubs and Networks with sanctions will also prove self defeating. It is time for EA to think again.