



Tuesday
7th Dec 2021 via Zoom
14.00 (UK time)

ONLINE DISCUSSION

IN ASSOCIATION WITH **WINSTON & STRAWN** LLP

Covers two important subjects:

- **Review of the College Athletes in NCAA Scholarship Antitrust Class-Action Lawsuit**
- **Transgender Athlete Rights**

The sessions to be chaired by TV and radio sports presenter Jason Mohammad



SESSION DETAILS

Review of the College Athletes US Supreme Court judgment (the NCAA antitrust case)

The public debate over whether college athletes should be paid has been one of the central discussions in US sports for many years. When the college sports' governing body, the NCAA, started more than a century ago, the sports marketplace was vastly different. However, whilst deals for television rights, merchandising and match ticket income have brought huge windfalls to the \$14bn industry, the athletes themselves have historically missed out as they have been restricted by NCAA rules on amateurism. This has led to critics of the NCAA calling for reform over many years.

In 2020 a study released by the National Bureau of Economic Research found that the top NCAA Division 1 schools earn approximately \$8.5bn in annual revenue, with 58% percent of that revenue coming directly from men's football and men's basketball programs. Less than 7% of the revenue generated by those two sports go to its athletes in the form of scholarships and stipends for living expenses.

In June 2021, with a 9–0 unanimous decision, the Supreme Court upheld the lower court's decision that NCAA restrictions on "education-related benefits" for college athletes violated antitrust law.

- What are the implications of this decision for students and the wider sector?
- Can it lay a foundation of a more fair and competitive compensation system where players can also benefit financially from the revenues generated by the industry?
- More importantly, can this historic decision open the doors to further changes in other countries and/or competitions such as the major marathons and the Olympics? In the case of the latter, how will the decision affect the IOC's (now relaxed but still highly criticised) Rule 40?

In this session Jeffrey Kessler, Co-Executive Chair of Winston & Strawn LLP and the lead counsel representing athletes in the NCAA scholarship antitrust class-action lawsuit, will set out the issues and the findings, and will assess its relevance in other sports, countries and jurisdiction.

A Q&A session will take place following Jeffrey's presentation, which is due to last approximately 35 minutes.

Transgender Athlete Rights

The Tokyo Olympic Games was the first to host openly transgender athletes, with four athletes competing in the sports of weightlifting, skateboarding, cycling and football.

Whilst many hope that this milestone is a step forward in the normalisation of the inclusion of LGBT athletes at major sporting events, others have raised concerns over safety and fairness in women's sports.

Since 2020 several US states have banned transgender girls from participating in female sports at public schools. Supporters say such measures are aimed at protecting fairness in school sports by eliminating what they see as an inherent physical competitive advantage of transgender athletes playing on female teams. Human rights campaigners, however, have been quick to reflect their disappointment, leading to hundreds of student-athletes signing a letter that was sent to the NCAA, pressing the organisation to stop holding championship events in states that restrict or aim to restrict the participation and rights of transgender athletes.

Earlier this year the International Olympic Committee (IOC) acknowledged that its policy, which allowed trans women to compete in a female sporting team if their testosterone registers below a certain level, was no longer fit for purpose. In a very recent statement, the IOC announced that they have now removed testosterone limits for transgender or intersex athletes from their new guidelines leaving each sport to decide its own eligibility rules.

Separately, in October this year, a landmark report by the Sports Councils Equality Group in the UK concluded that trans women do have physical advantages, even allowing for reduced testosterone limits, but urged national governing bodies to find "innovative and creative ways to ensure nobody is left out" such as new formats and non-contact versions of team sports.

In this session our speakers David Grevemberg (Chief Innovation and Partnerships Officer at the Centre for Sport and Human Rights), Dr Emma Hilton (a developmental biologist at the University of Manchester), Dr Nicola Williams (a research scientist specialising in human biology and spokeswoman for Fair Play For Women), and Joanna Harper (a visiting fellow for transgender athletic performance at Loughborough University) will discuss these recent developments and will provide views on how, and on what basis, transgender athletes can fulfil their sporting ambitions.

SPEAKERS



Jason Mohammad @jasonmohammad
Presenter

Jason Mohammad is one of the most recognised broadcasters in the UK. His face and voice can be seen and heard daily across the BBC's networks on television, radio and podcasts.

The Cardiff-born TV presenter hosts BBC Football's results and debate show Final Score on BBC One, has anchored a number of Match of the Day 2 programmes and presented the BBC coverage pitch side at the finals of FIFA World Cup 2014 in Brazil and 2018 in Russia. Jason is also one of the presenters of BBC Sport's Olympic Games coverage - covering three summer games - in London, Rio and Tokyo. He was also a member of the 2014 Sochi Winter Olympic Games - hosting and reporting from numerous venues including the famous Russia v USA ice hockey match.

Jason is now one of the main presenters on one of the biggest music stations in the world - BBC Radio 2 - playing songs by the biggest stars. He's interviewed some huge names too including Al Pacino, Dame Shirley Bassey, Noel Gallagher and the TV legend that is Del Boy - Sir David Jason himself!

Equally at home talking about football, rugby union, music, television and movies - Jason is a fantastic public speaker and perfect for award ceremonies, corporate evenings and conferences. He has hosted events for the likes of Mercedes-Benz, Maserati, Celtic Manor, UEFA and HP.

A prolific documentary filmmaker - Jason has also made programmes in Mecca and Egypt. He recently spent time looking at poverty and diversity which caught the eye of many newspapers. Jason is passionate about equality and giving opportunities to young people from disadvantaged backgrounds. Jason sadly experienced racism and prejudice during the 1980s and speaks eloquently about his early years and upbringing in his speeches to conferences on diversity.

Session 01



Jeffrey Kessler @WinstonLaw
Co-Executive Chair, Winston & Strawn LLP

Jeffrey Kessler is Winston & Strawn's co-executive chairman and co-chair of the firm's Sports Law and Competition Law Practices. Mr. Kessler is one of the most prominent sports and anti-trust lawyers in the U.S. He is regularly engaged as lead counsel on complex, high-profile sports matters and has litigated some of the most famous sports cases in history. His clients include classes of college athletes in the Alston and House litigations asserting their antitrust rights against the National Collegiate Athletic Association, the NFL Players Association, the National Basketball Players Association, the Overwatch and Call of Duty E sports League, Endeavor, the North American Soccer League, the Major League Baseball Players Association, Relevent Sports Agency, and the members of the United States Women's National Soccer Team.

He has been named on Law360's 2021 list of Sports MVPs, named as Best Lawyers' New York City Sports Law "Lawyer of the Year" 2021, and included as one of Benchmark Litigation's 2022 Top 100 Trial Lawyers. Mr. Kessler has also been named by Street & Smith's SportsBusiness Journal as an Outside Counsel "Power Player," one of The 50 Most Influential People in the Sports Business, and one of the 75 people who have grown the NBA's business since it was established.

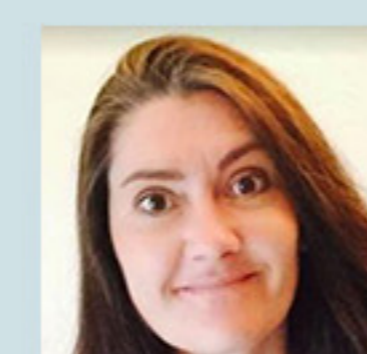
Session 02



Dr Emma Hilton @FondOfBeetles
Developmental Biologist, University of Manchester

Dr Emma Hilton is a developmental biologist at the University of Manchester, studying aspects of human genetic disease. She has published more than twenty manuscripts on developmental biology and genetics and was named Outstanding Young Investigator by the European Society of Human Genetics for her research. Her current programme covers development of the nerve-muscle unit in growing embryos and understanding what frog mucus can tell us about cystic fibrosis.

Emma has a special interest in fairness in female sports. She has written and presented on the evidence in relation to transwomen athletes and the rules on women's sports, including giving input to World Rugby's review of the evidence. She published the first academic review of muscle and strength changes in transwomen, and how those studies feed into sports rules on inclusion. She has written academic and media letters/opinions on the denial of biological sex as an important factor in aspects of our lives, and developed Project Nettie, a declaration on the basic science of sex by scientists.



Dr Nicola Williams @fairplaywomen
Spokesperson, Fair Play For Women

Dr Nicola Williams is a research scientist specialising in human biology. She has held a number of senior scientific positions within the pharmaceutical industry. She is now dedicated to her full-time role as campaign director and public spokeswoman for Fair Play For Women.

Dr Williams has an excellent working knowledge of the laws designed to protect women and the transgender community. As a professional scientist she also offers a critical and informed view of current research necessary for evidence-based policy development.

As the Director and spokeswoman for Fair Play For Women she appears regularly on both radio and television. She provides expert opinion on the sex-based rights of women, enabling a balanced and informed discussion in what has become a very sensitive and controversial topic of debate.

In early 2020 Dr Williams was invited by World Rugby to present the case for why women and girls need a female-only sex category to uphold fairness and safety.



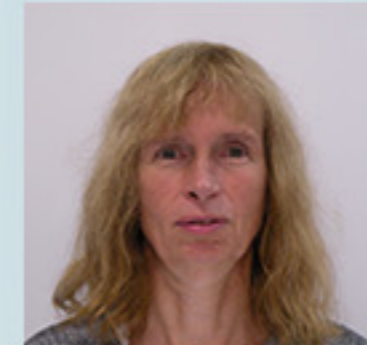
David Grevemberg @SportandRights
Chief Innovation and Partnerships Officer, CSHR

David Grevemberg is the Chief Innovation and Partnerships Officer, a critical role in expanding Centre for Sport and Human Rights (CSHR)'s drive to embed respect for human rights in sports organisations and events around the world. David works with the CSHR team to lead projects that drive positive change in sport, including education and training initiatives and overseeing development of major new initiatives.

David joined the Centre after 6 and a half years as Chief Executive of the Commonwealth Games Federation (CGF), the organisation responsible for the Commonwealth Games, Commonwealth Youth Games and many other initiatives that inspire Commonwealth athletes to drive the ambition and power of all Commonwealth citizens through sport.

Previously, David was Chief Executive of the Glasgow 2014 Commonwealth Games Organising Committee, with ultimate managerial responsibility for the organisation's successful preparation and staging of the Glasgow 2014 Commonwealth Games. He was the chief liaison with national and local government and many other stakeholders, and played a leadership role developing and innovating a variety of sport, commercial, cultural, community engagement, corporate social responsibility and legacy programmes.

Before that, David was the Executive Director of Sport and International Federation Relations at the International Paralympic Committee (IPC) headquartered in Bonn, Germany. A former competitive wrestler, during his career he has also served as a coach, athlete agent, team administrator, consultant and Board member.



Joanna Harper @lborouniversity
Visiting Fellow, Loughborough University

Joanna is a visiting fellow for transgender athletic performance at Loughborough University. In 2015 Joanna Harper published the first peer-reviewed article containing quantitative analysis of the athletic performance of transgender athletes with differing hormonal values. Since then she has collected subsequent retrospective data on transgender athletes and is currently engaged in a prospective analysis of two transgender athletes. She is the author of the Rowman and Littlefield book Sporting Gender: The History, Science and Stories of Transgender and Intersex Athletes. Harper has authored articles on gender diverse athletes in both peer-reviewed publications and in the Duke University Law Review.

Harper has served as an advisor on transgender and intersex athletes to multiple sporting federations including the IOC since 2015. In the fall of 2019 Harper relocated to Loughborough University where she is now engaged full-time in the study of transgender athletic performance.

WINSTON & STRAWN IS PROUD TO SUPPORT

Sport Resolutions Online Discussion

TUESDAY 7 DECEMBER 2021

Winston has one of the premier sports law practices in the world. Our exceptional knowledge comes from decades of experience representing sports industry clients on the most prominent matters.

SESSION 1

Review of the College Athletes U.S. Supreme Court judgment (the NCAA antitrust case)

SESSION 2

Transgender Athlete Rights

KEY AREAS

- Sports disputes
- Athlete welfare and safeguarding
- Contract negotiations
- Collective bargaining agreements
- Doping allegations
- Sponsorships and promotions
- Funding
- Brand potential and intellectual property rights
- Sports-related financial transactions and stadium financings

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AGENDA

🕒 14.00 - 14.10

Welcome by Jason Mohammad

🕒 14.10 - 15.05

Review of the College Athletes US Supreme Court Judgment

☕ 15.05 - 15.15

Coffee break

🕒 15.15 - 16.35

Transgender Athlete Rights

🕒 16.35 - 16.40

Closing remarks

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SAVE THE DATE

Sport Resolutions Annual Conference

Setting the Pace in Debating Integrity



*Thursday 5th
May 2022*



*Royal Leonardo Hotel St Paul's,
London*

Further details will be released in due course