



Triathlon England (TE)
Birmingham 2022 Commonwealth Games
Selection and Nomination Appeals Procedure

1. OVERVIEW

- 1.1. This document sets out Triathlon England’s Appeals Procedure where an athlete (“the Appellant Athlete”) wishes to appeal any selection decision taken in respect of the Birmingham 2022 Commonwealth Games.
- 1.2. At the Commonwealth Games TE have a limited ability to “substitute” athletes in/out of the selected team. Therefore, where the issue of substitution arises, due *deadlines set by the Commonwealth Games Federation and the accreditation process it is not possible to conduct appeals that relate* to a decision over which athlete to substitute into/out of the Commonwealth Games Team.
- 1.3. Any athlete seeking a review of a non-selection/nomination/de-selection decision should be aware of the time limits contained in the policy - which are designed with the intention of resolving issues in a timely, fair and transparent manner.
- 1.4. This Procedure is the only applicable appeals procedure and forms the entire agreement between each athlete wishing to be selected for the Commonwealth Games and TE (together, “the Parties”). The Parties agree not to commence, continue, or maintain any legal challenge to any matter covered by this policy before any court of law. The Parties will treat all decisions under this Procedure as final and binding upon them.
- 1.5. The Parties agree that this Procedure is to be treated as an arbitration procedure under Part 1 of the Arbitration Act 1996 (“the Act”) and the provisions of clause 1.4 above amount to a binding arbitration agreement for the purposes of section 6 of the Act. The seat of the Arbitration shall be England.
- 1.6. To assist an athlete and/or their Authorised Representative in determining their rights and what steps they need to take in relation to an appeal, it is recommended that they contact the British Athletes Commission (BAC) for advice. Details of how to contact the BAC can be found at www.britishathletes.org or by contacting support@britishathletes.org
- 1.7. This Procedure sets out two forms of appeal. There are ‘Internal Appeals’ and ‘SRUK Appeals’. In the case of nomination to Commonwealth Games teams, there will no Internal Appeals Process, and the appeal will proceed exclusively to Sport Resolutions UK in accordance with the provisions at 3 below. All other provisions of this Procedure will apply to Commonwealth Games appeals, including the requirements to prove at least one of the eligible grounds of appeal.

2. GROUNDS FOR APPEAL

- 2.1. An athlete may appeal against a selection/nomination decision relating to the Commonwealth Games, only on the grounds that:
- a. there has been a failure to follow the applicable Selection or Nomination Policy;
 - b. the selection/nomination panel (“the Panel”), or any member of it involved in making the relevant selection decision, lacked the required independence and has shown actual bias when making the decision;
 - c. the Panel reached a decision on the basis of an error of fact; OR
 - d. the decision is unreasonable and one that no reasonable decision maker could ever have reached. *Please note, athletes are advised that this ground cannot be used simply because an athlete believes the Panel made the wrong choice. The decision would need to be so unreasonable that no reasonable person/panel (acting reasonably) could have made it. It would not be sufficient to prove that the decision was merely unreasonable.*

If none of these grounds are met the appeal will be automatically dismissed.

- 2.2. An athlete does not have a right of appeal against any judgement or discretion exercised in the course of making decisions, or against the content of the applicable selection policy itself.

3. SRUK APPEAL

- 3.1. This Procedure applies to Commonwealth Games selection decisions only and is commenced when an athlete affected by a relevant selection decision makes a formal written Appeal (the 'Notice of Appeal') to 'Sport Resolutions (resolve@sportresolutions.com) UK' of 1 Salisbury Square, London EC4Y 8AE, in accordance with 3.2 below. A copy of the Notice of Appeal must also be filed at the same time with Triathlon England (at appeals@britishtriathlon.org). Sport Resolutions will appoint an Appeal Panel consisting of a single arbitrator in accordance with their Appeal Arbitration Rules. The Appeal shall be conducted under Sport Resolutions UK's Appeal Arbitration Rules, as amended by the provisions of this Procedure.
- 3.2. The Notice of Appeal must be received by Sport Resolutions within **48 hours** of the selection decision being communicated to the athlete and must contain the information required under the Sport Resolution Rules for the Statement of Appeal, no separate Statement of Appeal will be required or permitted.
- 3.3. TE's Reply to SRUK will be filed within 24 hours of receipt by TE of the Notice of Appeal.
- 3.4. Neither Party will be entitled to proceed under the 'Full Arbitration Procedure' of SRUK.
- 3.5. The Appeal Panel/Sole Arbitrator will seek to reach his or her decision within 3 days of receipt of the Notice of Appeal.
- 3.6. Where it appears to the Panel that the interests of any Third Party may be affected they will notify the Third Party of the Notice of Appeal, provide him/her with a copy of any appeal submissions (and any other relevant documents) and invite the Third Party to make any submissions within 24 hours of receiving the notification. SRUK will give the Appellant Athlete a copy of these submissions and a limited period of time to make any further submissions in response.

- 3.7. The SRUK Appeal Panel shall be entitled to:
- a. **dismiss** the appeal and confirm the original selection/nomination decision; OR
 - b. **uphold** the appeal and remit the matter back to the original selection/nomination panel, setting the errors they have identified in the conduct of the selection process, and requesting that a new decision is made within 24 hours.
- 3.8. Triathlon England will bear 75% of SRUK costs in the establishing and conducting of the SRUK Appeal Panel (unless the sole arbitrator orders otherwise). Triathlon England shall not be responsible for paying or contributing to the Appellant Athlete's professional charges for representation or otherwise or any personal costs involved (such as travel).