

British Canoeing Competition Selection Appeals Procedure

Guidance Notes:

Whilst selection decisions are made in good faith, every athlete should be able to appeal a selection decision if there are grounds to do so (see paragraph 4 below). If you're unsure about why a decision has been made, your coach, parent/carer or another trusted person may be able to give you some advice. If you subsequently believe you have grounds to appeal the decision, this Appeals Procedure sets out how you can do this and what process will be followed.

If you wish to appeal a decision and would like some guidance you are advised to seek support from your coach, parent/carer or other trusted person to help you. If you're considering appealing a decision relating to an Olympic or Paralympic discipline, you can also contact the British Canoeing Performance Wellbeing Coach or a British Canoeing Athlete Representative for advice (contact details on the British Canoeing website). UK Sport funded World Class Programme athletes also have access to the British Elite Athletes Association (BEAA) – formerly the British Athletes Commission (BAC) – who can offer procedural advice as well as more general welfare support which can extend to facilitating pro bono legal advice, if appropriate. The BEAA seeks to be balanced, responsible and honest in its advice to athletes and where it genuinely believes there are no or very limited grounds for appeal, it will advise the athlete appropriately. The BEAA can be contacted at support@britisheliteathletes.org.

1. CONTEXT AND OVERVIEW

- 1.1 This Selection Appeals Procedure ("**the Procedure**") is referenced in all selection policies published by British Canoeing and applies to international team selection decisions for major international competitions (such as World Championships) and all decisions to nominate an athlete to the British team at the Olympic or Paralympic Games. The Procedure applies equally to such Olympic or Paralympic nomination decisions as if each reference to the "selection" was replaced with "nomination" unless otherwise stated in the prevailing policy.
- 1.2 Selection will take place in accordance with the applicable selection policies as published from time to time on the British Canoeing website (www.britishcanoeing.org.uk). In this Procedure all policies are referred to as the "**Selection Policy**". Any athlete ("**the Athlete**") wishing to lodge an appeal under this Procedure must be fully familiar with the detailed provisions of the Selection Policy for the relevant competition.
- 1.3 This Procedure is intended to be extremely accelerated in nature to enable any appeal to be resolved as quickly as is reasonably possible. Due to the nature of selection for major events, decisions often need to be taken close to the time of the event to which the selection relates. There is considerable potential for impact on athlete preparation related to the outcome of the appeal, both with regard to the Athlete, as well as any athlete who is at risk of being deselected or otherwise adversely affected by the appeal.
- 1.4 Accordingly, the aim of this Procedure is to return a decision on appeal as soon as possible after the original selection decision has been announced. The key stages of the appeal process are as follows:

Selection Decision Announced

↓ 2 working days

Deadline to submit Notice of Appeal

↓ within 8 working days

Appeal Decision / Final Selection Outcome

- 1.5 The British Canoeing Director of Governance shall have the power to adjust the timescales within this Procedure. If timescales are adjusted, this will be communicated to all interested parties at each relevant stage of the appeals process. If the Athlete believes the timescales should be adjusted they should notify the Director of Governance at the earliest opportunity and/or communicate this within the Notice of Appeal.

2. BINDING AGREEMENT

Guidance Note: given the short timescales and the need for certainty for the benefit of all athletes and the selected team, this section 2 explains that this Procedure is the only opportunity for you, as an athlete, to challenge a selection decision. Due to the time constraints, there is no further right of appeal to other bodies or courts. It is important if you are going to challenge the selection decision that you make all your arguments.

- 2.1 This Procedure is the only applicable appeals procedure and forms the entire agreement between each Athlete and British Canoeing (referred to as "**the Parties**") as to how selection decisions are to be challenged. The Parties agree to submit any dispute, concerning any matter connected with or arising out of selection issues, to binding arbitration in accordance with the provisions of this Procedure.
- 2.2 The Parties agree that they will not commence, continue or maintain any legal challenge to any matter falling under the jurisdiction of this Procedure, or any decision made under this Procedure, before any court of law or other dispute resolution body. The Parties will treat all decisions under this Procedure as final and binding upon them.
- 2.3 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 2.1 above amount to a binding arbitration agreement for the purposes of section 6 of the Act. The seat of the Arbitration shall be England.

3. NOTICE OF APPEAL

- 3.1 If an Athlete wishes to appeal a selection decision, they must submit a written Notice of Appeal, which shall be sent to the British Canoeing Director of Governance. The Notice of Appeal must be received within 2 working days of the announcement of the selection.
- 3.2 Failure to submit the Notice of Appeal on time will result in no further action being taken and the Athlete shall lose the right of appeal. The Director of Governance may, at their absolute discretion, decide to admit a Notice of Appeal received after the deadline in exceptional circumstances. It shall be the responsibility of the Athlete to prove the exceptional circumstances.
- 3.3 The Notice of Appeal must set out the grounds of the appeal and include full details of which ground(s) in paragraph 4 the appeal is based upon and the precise manner in which the ground(s) have been met. The Notice of Appeal should be as comprehensive as possible and include any documents or written evidence upon which the Athlete relies, as it will form the basis of the remainder of this Procedure.

4. GROUNDS OF APPEAL

- 4.1 An Athlete shall only be entitled to appeal on one or more of the following grounds:
 - 4.1.1 there has been a failure to follow the Selection Policy as published;
 - 4.1.2 the Selection Panel has reached a decision on the basis of an error of fact;
 - 4.1.3 the Selection Panel (or any member of the panel) has shown actual bias when making the decision; and/or

- 4.1.4 the decision is one that no reasonable decision maker could ever have reached.
- 4.2 In order to ensure a timely and efficient appeals process only the grounds of appeal detailed in 4.1 will be permitted. The composition of the Selection Panel is not open to appeal unless 4.1.3 is being cited in the Notice of Appeal.
- 4.3 The right to appeal a selection decision is provided on these limited grounds only and must not be seen as an opportunity to dispute the opinion of the selection panel where they have followed the proper procedure and selection criteria as stated in the Selection Policy. In reaching their decision the Selection Panel are acting as experts and athletes agree that in so doing the Selection Panel exercises judgment and discretion which are not in themselves capable of challenge. Athletes should therefore consider carefully whether any of the grounds of appeal at clause 4.1 exists before submitting a Notice of Appeal.
- 4.4 There are no appeals allowed against the content of the published Selection Policy or, subject to grounds 4.1.3, against the actions of the Selection Panel, provided they follow the selection criteria published.

5. APPEAL PANEL

- 5.1 Upon receipt of the Notice of Appeal, the Director of Governance or their designee shall:
- 5.1.1 contact the Selection Panel to inform them of the Appeal, provide them with a copy of the Notice of Appeal and request that the Selection Panel provide any information used in the selection process which they wish the Appeal Panel to consider within 3 working days of receipt of the request; and
 - 5.1.2 convene an Appeal Panel, which shall consist of 3 people, who shall be selected from British Canoeing's independent Disciplinary and Appeal Panel Register, the details of which are further set out in the Schedule. Confirmation of the Appeal Panel will be disclosed to the Athlete following the receipt of the Notice of Appeal. No person who has been involved in the selection process shall be a member of the Appeal Panel.
- 5.2 The Athlete shall have the opportunity to challenge the composition of the Appeal Panel by submitting written objections within 1 working day of being informed of the Appeal Panel. British Canoeing shall review the objection, consider the issues raised and decide in its absolute discretion whether it is appropriate to alter the composition of the Appeal Panel.
- 5.3 Once appointed, the Appeal Panel will ordinarily determine the appeal based on the written submissions of the Athlete, and the Selection Panel without a hearing or the calling of witnesses or the giving of oral evidence. However the Appeal Panel will have the power to set its own processes and give directions including requesting further information from the Athlete, Selection Panel or any other relevant party, setting up a video or telephone conference, determining if a hearing is required and if it is, establishing the date, time and place, and format to be followed in such a hearing.
- 5.4 The Appeal Panel will seek to reach its decision within 5 working days of its appointment in accordance with 5.1.2 and will inform all interested parties in writing.

6. REMEDIES

- 6.1 The Appeal Panel shall be entitled to;
- 6.1.1 reject the Appeal and confirm the selection decision.
 - 6.1.2 only where the grounds set out in paragraphs 4.1.3 and 4.1.4 have been upheld, rescind the selection decision and confirm the selection of the Athlete.

- 6.1.3 where the grounds in 4.1.1 or 4.1.2 have been upheld, quash the selection decision and remit the matter back to the Selection Panel identifying the errors they have found in the conduct of the selection process and requesting that a new decision is made within one week (or such shorter time as the Appeal Panel deem is reasonable in all the circumstances).
- 6.2 The cost and resource of administering the Appeal Panel will generally fall to British Canoeing unless the Appeal Panel directs otherwise.

7. MINOR AND NON-CONSEQUENTIAL BREACHES OF THIS PROCEDURE

A deviation from any requirement of this Procedure shall not invalidate the Procedure or the decision of the Appeal Panel unless there is a clear and significant risk that the deviation has affected the decision of the Appeal Panel. This shall not apply to the time limit for the Athlete to submit its formal appeal under paragraph 3 of this Procedure.

8. CONFIDENTIALITY OF PROCEEDINGS AND PUBLICATION OF DECISION

- 8.1 Unless the Parties mutually agree to waive the right, all Parties are under an obligation of confidentiality in respect of this Procedure except for reasonable disclosure to family members and/or a trusted advisor in the case of athletes. Save as permitted under this Procedure none of the Parties will make any public statement or disclosure of the contents of any correspondence concerning any of the Parties during the course of any appeal heard under this Procedure.
- 8.2 British Canoeing shall be entitled to publish the outcome of the Appeal in such manner and to such extent as is necessary to inform all properly interested and affected parties of the status of the selection decision previously published and the resulting implications upon selection.

9. CHANGES AND AMENDMENTS TO THIS PROCEDURES

British Canoeing shall be entitled to amend this Procedure from time to time. Amendments shall take effect from the first date of publication of the updated Procedure on the British Canoeing website. British Canoeing welcomes comments about this Procedure or feedback on the process. These should be sent to:

Director of Governance
Email: nancy.squires@britishcanoeing.org.uk
British Canoeing
Adbolton Lane
Holme Pierrepont
Nottingham
NG12 2LU

Schedule

Appeal Panel

The Appeal Panel shall be formed as follows:

Chair:

A legally qualified Chair shall be selected from British Canoeing's Disciplinary and Appeal Panel Register.

Second and Third Panel Members:

The second and third members shall be independent persons selected from British Canoeing's Disciplinary and Appeal Panel Register (a current list is available here: [Policies & Procedures \(britishcanoeing.org.uk\)](https://britishcanoeing.org.uk/policies-procedures)).

If members of the Disciplinary and Appeal Panel Register are not available British Canoeing shall have the discretion to appoint from outside this Register.