

# ASA ORGANISATIONAL POLICIES

## SWIMMING SECTION

### Appendix 1

#### TEAM SELECTION APPEALS PROCEDURE

The following procedures have been approved by the Sport Governing Board and shall be adopted by the ASA Office in the consideration of any appeal made by or on behalf of any athlete wishing to appeal by virtue of his or her non-nomination for (and any de-selection from) either an ASA Team or an Aquatic Team nominated by ASA (e.g. Commonwealth Games Team).

The right to appeal a selection decision must not be seen as an opportunity to dispute the opinion of the selector(s) where the selection procedure and selection criteria have been followed. In reaching their decision the selector(s) are acting as experts.

**An athlete seeking review of a selection or de-selection decision should be aware of the importance of the time limits contained within these Procedures. These time limits are designed with the intention of resolving issues as expeditiously as possible consistent with ensuring a fair and just outcome.**

#### Notice of Appeal

1. The athlete (which for this purpose includes the parents and/or coach of any athlete under the age of eighteen years) to be required to lodge an appeal in writing ("Notice of Appeal") setting out in full detail the basis upon which the athlete wishes to appeal against the decision of the relevant Selection Panel (or Team Manager in respect of a decision to de-select an athlete) (in either case "Selectors"). The Information Contact Form at the back of these Procedures shall also be completed. The Notice of Appeal shall, in particular, specify the provision(s) of the relevant Selection Policy which it is alleged have not been adhered to and the grounds upon which the Appeal is based set out in paragraphs 5.1 and 5.2 which should be as full as possible.

The Appeal must be made within **three** working days of the date that the selections for the Team were announced (or in the case of de-selection the date on which the decision to de-select was communicated to the athlete).

The Notice of Appeal should be forwarded to the office of the Director of Legal at **email – legal@swimming.org**

No fee is payable in respect of the Notice of Appeal.

Due to the nature of athlete selection, decisions are often taken close to the time of the event to which the selection relates. There is considerable potential for an appeal to affect an athlete who may be at risk of being deselected or otherwise adversely affected by the appeal ("a Third Party"). In which case, where relevant, paragraph 7.4 may apply.

#### Selectors

2. The ASA Director of Legal shall as soon as possible (and in any event not later than **three** working days following receipt of the Notice of Appeal) supply copies of the Notice of Appeal to all of the Selectors in order that they have the opportunity to review the original decision in light of the points made in the Notice of Appeal; Selectors will be advised to be on standby to receive a Notice of Appeal following

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non-nomination (non-selection).

The Selectors are required to advise the ASA Director of Legal in writing within **three** working days of the date of receipt by them of the Notice of Appeal whether the Selectors confirm or reverse their original decision on non-nomination (non-selection). The Selectors and/or the individual exercising decision making discretion, depending on the selection policy, shall provide written reasons for their decision, following consultation with the discipline specific management group, to the athlete in response to the Notice of Appeal.

3. The ASA Director of Legal will within **three** working days of the date of receipt by him of the determination of the Selectors advise the athlete in writing of the decision of the Selectors with regard to the Appeal.

### Leave to Appeal

4. Where the decision of the Selectors is to confirm their original decision the athlete may by notice in writing – via email - to be received by the ASA Director of Legal not later than **three** working days after the date of notification to the athlete of the decision of the Selectors apply for Leave to Appeal against the decision of the Selectors. Such application shall be accompanied by any additional relevant documentation or information which the athlete wishes to submit in support of his or her appeal together with a fee of **£500** (made payable to the Amateur Swimming Association) as a contribution towards administrative costs. This fee will be refunded to the Appellant if the Appeal is successful.

Upon receipt of an application for leave to Appeal the ASA Director of Legal shall refer matters to the Sport Resolutions (“SR”) who shall be asked to convene an Appeal Committee, (normally comprising of three persons) under the Chairmanship of a legally qualified person who may be a practicing Solicitor or Barrister. The Committee shall be selected from any SR’s Team Selection Appeal Panel, who will be on standby to undertake this role.

5. The Notice of Appeal (together with any further documents submitted by the athlete) shall be forwarded as soon as possible (and in any event not later than **five** working days from receipt by the Director of Legal of the application for Leave to Appeal) to the Chairman of the Appeals Committee, the identity of whom shall be notified to the Director of Legal by SR.

The Chairman shall be asked to determine in writing whether the athlete shall be granted permission to proceed with an Appeal before the Appeals Committee in any event not later than **three** working days from receipt of the application for Leave to Appeal. Leave to Appeal shall be granted only when the athlete shall have established a strong arguable case that, either:-

- 5.1 the Selection process was tainted by unreasonable bias or conflict of interest; or
- 5.2 the provisions of the relevant Selection Policies were not adhered to.

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#### The Chairman may:-

- i. refuse to grant permission to proceed with an Appeal Hearing because insufficient grounds are identified. The decision of the Selectors shall stand and the athlete shall be notified accordingly.
- ii. decide that he or she is sufficiently well informed in which event he or she may decide not to hold a hearing and to render a decision immediately.
- iii. grant permission for the appeal to proceed to the full Appeal Committee in accordance with the procedures set out below.

*The above procedure is designed to prevent unmeritorious appeals being made and to save unnecessary costs, time and other expenses being incurred.*

#### Granting of Leave to Appeal

6. Following receipt of the determination of the Chairman that an appeal may proceed the Director of Legal shall as soon as possible (and in any event within **two** working days of the date of receipt of the Chairman's determination) notify the athlete of the SR Team Selection Appeals Panel Members from who the Appeal Committee will be composed together with accompanying curriculum vitae. Any objections to the composition of the Appeal Committee shall be notified to the Head of Legal setting out the reasons for such objection no later than **three** working days from the date of receipt of the notice of the composition of the Appeal Committee.

In determining the composition of the Appeal Committee ASA undertakes to ensure that the Appeal will be conducted fairly and impartially. The decision by the Director of Legal on the composition of the Appeal Committee under this Rule shall be final.

7. Within **seven** working days from the date of receipt by ASA of the determination of the Chairman that the appeal may proceed the Chairman of the Appeal Committee shall give such directions (to both the athlete and ASA) as are appropriate for consideration of the matter, in particular.
  - 7.1 the date and place at which the Appeal Committee will meet to determine the Appeal, provided that the Appeal shall not be heard later than **twenty one** days from the date of the determination of the Chairman that the appeal may proceed;
  - 7.2 whether the Appeal will proceed by way of written submissions or an oral hearing; and
  - 7.3 whether the parties should be required to submit statements of their evidence and/or written submissions prior to the hearing and, if so, a timetable for doing so and the procedure for exchanging such statements and written submissions.
  - 7.4 where it appears that the interests of a Third Party may be affected by any decision of the Appeal Committee, the Appeal Committee may invite the Third Party to make submissions in response to the Notice of Appeal and any additional documents submitted.

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(The decision of the Appeal Committee will determine the rights of the affected athletes and therefore the Third Party athlete will be prohibited from appealing matters which have already been decided upon by the Appeal Committee).

8. The Appeal Committee shall consider the Appeal based on the grounds set out in 5.1 and/or 5.2.
9. The Appeal Committee shall meet on the date fixed by the Chairman and shall render a decision no later than **two** working days after the hearing of the Appeal and inform the athlete and British Swimming of its decision together with written reasons for its decision. The decision of the Appeal Committee shall be final and binding
10. **Powers of the Appeal Committee**
  - 10.1 The Appeal Committee may at its sole discretion disregard any failure by a party to adhere to these Procedures and may give such further directions as may be appropriate.
  - 10.2 Prior to and at the Appeal, the Chairman may give such directions whether or not made at the request of the parties, for the proper conduct of the Appeal as he or she deems may be reasonably necessary for the fair conduct of the Appeal, including procedural changes. Both parties are expected to comply with the directions issued by the Appeal Committee. If a party objects to a direction issued by the Appeal Committee, such objection should be circulated to all parties and the Appeal Committee. The Appeal Committee shall determine the point and once determined it shall be final. The parties are expected to comply with this and all determinations made by the Appeal Committee. If one party or both parties fail to appear at the hearing or comply with the Chairman's directions or other communications issued by the Chairman, the Appeal Committee may still proceed.
  - 10.3 The Appeal Committee has the power at its discretion to make an order for the costs of the Appeal to be paid, in such proportions as the Appeal Committee may decide, by any of the parties to the Appeal. The costs may include any room hire, travel and other expenses incurred in attending any hearing but nothing shall be included on account of professional charges for representation or otherwise.
  - 10.4 The decision is taken by a majority or, in the absence of a majority, by the Chairman of the Appeal Committee.

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### ASA TEAM SELECTION APPEALS INFORMATION CONTACT FORM

Please complete all relevant sections in BLOCK CAPITALS. Where an answer is not applicable, please indicate "N/A".

#### **1. Your Details**

Name

Email Address

Address

Postcode

Telephone no

Fax no

Discipline

#### **2. Representative's Details**

Is a representative acting on your behalf? If so, please give his or her details.

Name of Representative

Email address

Address

Postcode

Telephone no

Fax no

Should this address be used for service of the decision and any requests for further information?

YES / NO

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#### **Athlete**

Name (Block Capitals)

Signed

Dated

Age

#### **Signed by Parent / Guardian / Coach if the athlete is under the age of 18**

Name (Block Capitals)

Signed

Dated

This application together with the Notice of Appeal should be sent to:

Email – [legal@swimming.org](mailto:legal@swimming.org)

Director of Legal  
SportPark  
3 Oakwood Drive  
Loughborough  
Leicestershire  
LE11 3QF