



SURFING
ENGLAND

APPEALS PROCEDURE

This document sets out the Surfing England Appeals Procedure for all appeals by athletes in respect to Surfing England decisions to select athletes for Team England.

Surfing England Appeals Procedure

1. Introduction

Surfing England is the National Governing Body (**NGB**) for surfing and this document sets out Surfing England's Appeals Procedure for all appeals by athletes in respect of the NGB decisions to select athletes to the English Team (a **selection decision**).

2. Parties and Arbitration Agreement

2.1 This Selection Appeals Procedure is binding on the NGB and on each athlete who is seeking selection to any English team selected by the NGB.

2.2 The Selection Appeals Procedure forms the entire agreement between each athlete and the NGB (together the **Parties**) as to how selection decisions are to be challenged. The Parties agree:

- (a) to submit any dispute concerning any matter connected with or arising out of the selection process to binding arbitration in accordance with the provisions of this Procedure;
- (b) not to commence, continue or maintain any legal challenge to any matter falling under the jurisdiction of the Selection Appeals Panel before any court of law or dispute resolution body without first following this Procedure;
- (c) to treat decisions properly made under this Selection Appeals Procedure as final and binding;
- (d) this Procedure is an arbitration procedure for the purposes of Part 1 of the Arbitration Act 1996 (the **Act**) and the provisions of this clause 2 amount to a binding arbitration agreement for the purposes of section 6 of the Act. The seat of the arbitration shall be England.

3. Grounds of Appeal

3.1 A athlete may appeal against a selection decision only on the grounds that:

- (a) there has been a failure to apply the applicable selection criteria; and/or
- (b) there has been a failure to adhere to the procedure set out in the applicable Selection Policy.

3.2 The athlete does not have a right of appeal against any judgment or discretion exercised in the course of making a selection decision, or against the content of the applicable selection criteria.

4. How to Appeal

4.1 This Appeals Procedure is commenced when an athlete affected by a selection decision, or the athlete's authorised representative, submits a formal written appeal (the **Notice of Appeal**) to the Chief Executive of Surfing England at The Yard, Caen Street, Braunton, Devon, EX33 1AA

4.2 The Notice of Appeal must be received by the NGB within 72 hours of the selection decision being announced or communicated to the athlete, whichever is later.

4.3 If the athlete fails to submit the Notice of Appeal within the time limit set out in this Appeals Process he or she will have lost their right of appeal.

4.4 The Notice of Appeal must set out full details of the athlete's ground(s) of appeal and include:

- (a) details of the decision which the athlete is appealing;
- (b) details of the ground(s) of appeal upon which the athlete relies, including the precise manner in which the athlete alleges that the selection criteria have not been applied or in which the procedure set out in the applicable Selection Policy has not been followed; and
- (c) any documents or written evidence upon which the athlete relies in support of his or her appeal. These documents must be relevant specifically to the athlete's grounds of appeal.

4.5 The Notice of Appeal must be accompanied by a deposit of £500.00, payable to Surfing England Limited, as a contribution towards the administrative costs of processing the Appeal.

5. The Appeal Panel

5.1 The Appeal Panel shall be convened by Sport Resolutions and will normally consist of three persons including a Chair who shall be a legally qualified person.

5.2 In the event that any member of the Appeal Panel has any involvement with, or is related to an appellant or any athlete who might be affected by the outcome of the Appeal, or had any involvement with the selection decision under appeal, or is in any way placed in a position of conflicting interests in respect of the appeal, he or she shall be disqualified from sitting on the Appeal Panel and will be replaced by an independent alternate who shall be selected by Sports Resolutions.

6. Conduct of the Appeal

6.1 Upon receipt of the Notice of Appeal the Legal Director will notify as soon as possible Sport Resolutions (company number 03351039) and provide Sport Resolutions with a copy of the Notice of Appeal. Sport Resolutions will then as soon as reasonably practicable notify the NGB and the appellant of the members of the Appeal Panel.

6.2 A athlete or the NGB may object to the composition of the Appeal Panel by notifying Sport Resolutions of the objection and setting out the reasons for such an objection (the **Objection**) no later than two days from the date of the notice of the composition of the Appeal Panel.

6.3 Sport Resolutions shall within three days from the date of the receipt of an objection, notify the athlete and the NGB that either:

(a) the composition of the Appeal Panel has been changed and provide details of the new Appeal Panel; or

(b) the composition of the Appeal Panel has not changed and give reasons why it has not accepted the Objection.

The decision of Sport Resolutions on the composition of the Appeal Panel under this Rule shall be final.

6.4 The Chair of the Appeal Panel will convene a hearing to take place as soon as practical, and in any event within five working days of receipt of the Notice of Appeal by the NGB, at which the Appeal Panel will consider the Notice of Appeal.

6.5 The Chair of the Appeal Panel shall consider whether the interests of any athlete(s) other than the Appellant (the **Interested Party** or **Interested Parties**) may be affected by the selection decision under consideration and may direct that such Interested Party/ Interested Parties are joined to the Appeal. Where any Interested Parties are so joined, the Appeal Panel will determine the rights of the Interested Parties and they shall be prohibited from raising matters already ruled upon as separate or further appeals.

6.6 The Chair of the Appeal Panel shall give such directions as are appropriate for consideration of the matter, in particular:

(a) the date and place at which the Appeal Panel shall meet to determine the Appeal;

(b) whether the Appeal will proceed by way of written submission or an oral hearing; and

(c) whether the parties and Interested 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.

6.7 The Appeal Panel will consider the grounds set out in the Notice of Appeal and establish to their reasonable satisfaction whether or not there has been a failure to apply the applicable selection criteria and/or that there has been a failure to adhere to the procedure set out in the applicable Selection Policy.

6.8 The Appeal Panel shall be entitled to:

(a) confirm the selection decision under appeal and reject the Appeal; or

(b) allow the Appeal and quash the selection decision under appeal and remit the matter back to the original decision maker identifying the errors they have identified in the conduct of the selection process and requesting that a new decision is made within 48 hours.

6.9 The decision of the Appeal Panel shall be reached by majority vote.

6.10 Sport Resolutions will inform all parties in writing and by telephone (or such other method of communication as the Appeal Panel shall decide) about the Appeal Panel's decision to either uphold or reject the Appeal within 24 hours of the hearing.

6.11 If the appeal is allowed, the deposit will be refunded in full to the athlete.

6.12 The Appeal Panel 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 Panel may decide. The costs may include any room hire, travel and other expenses incurred in establishing the Appeal Panel but nothing shall be included on account of a party's professional charges for representation or otherwise.

7. Minor and Non-Consequential breaches of this Procedure

7.1 Save that the time limit for lodging an appeal by the athlete shall be strictly enforced, where any party deviates from any requirement of this Appeal Procedure, it shall not invalidate the Appeal 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.

8. Confidentiality

8.1 The athlete, the NGB and any third party are under an obligation of confidentiality in respect of any appeal proceeding under this Procedure. Save as permitted under this Appeals Procedure, none of these Parties will make any public statement or disclosure of the contents of the Notice on any other matter referred to by any of the parties during the course of these proceedings.

8.2 The NGB shall be entitled to publish the decision of the Appeal Panel in such manner and to such extent as is necessary to inform all properly interested and elected parties of the status of the selection.

9. Changes and Amendments to this Procedure

9.1 The NGB will be entitled to amend the Procedure from time to time and such amendments will take effect from the first date of publication of the complete amended Procedure on the NGB website, www.surfingengland.org