



BRITISH SWIMMING FUNDING APPEAL REVIEW PROCEDURE

The following procedures have been adopted by the British Swimming Managing Board in consideration of any Appeal made by or on behalf of any athlete wishing to Appeal against the Recommendation to UK Sport in relation to his or her removal from (or non-renewal) of funding from a World Class Programme (“the Recommendation”). The Chairman of the Appeal Panel will make a determination upon progressing an appeal if one or more of the following are met:

- i. The Recommendation was tainted by unreasonably bias or conflict of interest; or
- ii. The provisions of the relevant published funding criteria were not adhered to.

An athlete seeking review of the Recommendation to UK Sport 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 Funding Recommendation. The Notice of Appeal should be accompanied by any relevant supporting documents. The Appeal must be made within **five** working days of the date on which the Recommendation was communicated to the athlete.

The Notice of Appeal should be forwarded to the Head of Legal Affairs at SportPark, 3 Oakwood Drive, Loughborough, Leicestershire, LE11 3QF or email – legal@swimming.org

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

2. The Head of Legal Affairs 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 the relevant National Performance Director (“NPD”) or Programme Lead (“PL”) in order that the NPD/PL has the opportunity to review the original Recommendation in light of the points made in the Notice of Appeal. The NPD/PL is required to advise the Head of Legal Affairs in writing within **five** working days of the date of receipt of the Notice of Appeal whether the NPD/PL confirms or reverses the original Recommendation.

3. The Head of Legal Affairs will as soon as possible (and in any event not later than **three** working days of the date of receipt by him of the Recommendation of the NPD/PL) advise the athlete in writing of the Recommendation.

Leave to Appeal

4. Where the decision of the NPD/PL is to confirm the original Recommendation, the athlete may by notice in writing to be received by the Head of Legal Affairs not later than **five** working days after the date of notification to the athlete of the confirmation of the Recommendation apply for Leave to Appeal against the decision of the NPD/PL.
5. Upon receipt of an application for Leave to Appeal the Head of Legal Affairs shall refer matters to Sports Resolutions (“SR”) who shall be asked to appoint a Chairman who shall normally be a legally qualified person who may be a practicing solicitor or Barrister.

The Chairman shall be asked to determine in writing whether the athlete shall be granted permission to proceed with an Appeal before the Appeals Panel not later than five 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 Recommendation was tainted by unreasonable bias or conflict of interest; or
- 5.2 the provisions of the relevant published funding criteria were not adhered to.

The Chairman may:-

- i. refuse to grant permission to proceed with an Appeal because insufficient grounds are identified. The decision of the NPD/PL 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 Panel in accordance with the procedures set out below.

The above 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 Head of Legal Affairs shall as soon as possible (and in any event within **three working days** of the date of receipt of the Chairman's determination) notify the athlete of the members of Appeal Panel.

The British Swimming Managing Board, with power to delegate if considered appropriate, shall appoint one Independent Member of the British Swimming Management Board and one National Representative of the British Swimming Management Board and together with the Chairman (appointed by SR) will form the Appeal Panel.

The athlete and the NPD/PL shall be notified of the composition of the Appeal Panel with accompanying Curriculum Vitae's and the athlete and the NPD/PL shall have the right to object to its composition.

Any objections to the composition of the Appeal Panel shall be notified to the Head of Legal Affairs setting out the reasons for such an objection no later than **three** working days from the date of receipt of the notice of composition of the Appeal Panel.

The decision by the Head of Legal Affairs on the composition of the Appeal Panel under this Rule shall be final.

The Head of Legal Affairs shall as soon as possible (and in any event not later than **three** working days following confirmation of the composition of the Appeal Panel) supply copies of the Notice of Appeal and the reviewed Recommendation of the NPD/PL to the Appeal Panel.

7. The Chairman of the Appeal Panel shall give such directions, (to both the athlete and the NPD/PL) in regard to the Appeal (which shall normally be considered in **15 (fifteen)** working days from the date of the Chairman confirming that leave to Appeal has been granted), as are appropriate for consideration of the matter, in particular:-

- 7.1 whether the Appeal will proceed by way of written submissions or an oral hearing;
- 7.2 if an oral hearing, the date, time and place at which the Appeal Panel will meet to determine the Appeal; 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.

8. The Appeal Panel shall consider the Appeal based on the grounds set out in 5.1 and / or 5.2.
9. The Appeal Panel shall, no later than **five** working days after the Appeal Panel convene, inform the athlete and the NPD/PL of its decision together with written reasons for its decision through the Head of Legal Affairs. The decision of the Appeal Panel shall be final.

Powers of the Appeal Panel

10. 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 appropriated.
11. Once appointed 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 changes to the Procedure. Both parties are expected to comply with the directions issued by the Appeal Panel. If a party objects to a direction issued by the Appeal Panel, such objection should be circulated to all parties as well as the Appeal Panel. The Appeal Panel will 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 Panel. 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 Panel may still proceed.
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, 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.
13. There shall be no further right of Appeal to the decision provided by the Appeal Panel constituted in accordance with this Procedure.