



Commonwealth Games Nomination and Selection Appeals Procedure

1. Introduction & Purpose

- 1.1 This document sets out the English Gymnastics Nomination and Selection Appeals procedure for all decisions to nominate an athlete to Commonwealth Games England for selection to compete at a Commonwealth Games. The procedure applies equally to selection and nomination decisions except where specifically stated otherwise. This document will remain in place until superseded or amended by English Gymnastics from time to time. It is the Appeals Procedure referred to in the Commonwealth Games selection policies and governs all challenges to a selection decision by an athlete.
- 1.2 Selections will take place in accordance with the Commonwealth Games selection policies published. Anyone wishing to lodge an appeal under this procedure must be fully familiar with the detailed provisions of the relevant Commonwealth Games Selection Policy.
- 1.3 This is intended to be an accelerated procedure to enable any challenge to be resolved as quickly as is reasonably possible. Due to the nature of selection for the Commonwealth Games, decisions often need to be taken shortly before the event. Furthermore, there is a considerable potential for 'knock on' to athlete preparation related to the outcome of the appeal. Accordingly, the aim of this procedure is to return a decision on appeal with 3-5 working days.
- 1.4 This appeals procedure forms the entire agreement between each athlete and English Gymnastics (together "the Parties") as to how Commonwealth Games selection decisions are to be challenged. English Gymnastics agrees, and by virtue of their MOU with British Gymnastics, parties to any dispute concerning any matter connected with or arising out of selection issues agree to submit such dispute

to binding arbitration in accordance with the provisions of this Commonwealth Games Selection Appeals Procedure. 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 Selection Appeals Procedure, before any court of law or other dispute resolution body. The Parties will treat all decisions under this Selection Appeals Procedure as final and binding upon them.

2. Scope

- 2.1 This Selection Appeals Procedure applies to each athlete, who is seeking selection to any England Commonwealth Games Team selected by English Gymnastics (subject to eligibility).

Procedures

3. How to Appeal

- 3.1 This Appeals Procedure is commenced when an athlete directly affected by a nomination/selection decision makes a formal written appeal (the 'Notice of Appeal') to the Chair of the Appeals Panel: selectionappeals@british-gymnastics.org or their nominated alternate and pays the £150 deposit to the EGA (see section 7.3). This must be done within 48 hours of the selection being announced or communicated to the athlete whichever is later. If the athlete fails to submit the Notice within the time limit set out in this Procedure he or she will have lost their right of Appeal under this Procedure, save in wholly exceptional circumstances which will be judged by the Appeal Panel in their absolute discretion.
- 3.2 The Notice of Appeal will set out the grounds of the appeal and will include full details of the basis of the appeal including the precise manner in which the Appellant alleges the selection criteria have not been followed. The Notice of Appeal should be as full as possible as it will form the basis of the remainder of this procedure. Appeals will normally be conducted based on the written submissions of the appellant and the relevant Commonwealth Games Selection Panel, without a hearing or the calling of witnesses or the giving of oral evidence.

4. Grounds for Appeal

- 4.1 The sole ground of appeal against the decision of any selection panel will be that there has been a failure to follow the selection criteria/policy for the specified event or squad/programme. This Selection Appeals Procedure is provided on this limited ground only and must not be seen as an opportunity to dispute the opinion of the selection panel where they have followed the proper procedure. In reaching their decision the selection panel are acting as experts and athletes agree that in so doing the panel will exercise judgment and discretion which are not in themselves capable of challenge.
- 4.2 There are no appeals allowed against the content of the published selection criteria and therefore against the actions of the approval panel, provided they follow the selection criteria.

5. Communications and Notices

- 5.1 Due to the timescales involved, the Commonwealth Games Approval Panel will use any reasonable method of communicating with athletes, and athletes must be aware of this and keep a constant review of these communication channels to receive the selection decision. Athletes are advised that they should inform the England Performance Pathway Manager of a preferred method of communication and provide email/ telephone etc.
- 5.2 Any Notice of Appeal must be sent by email to the Chair of the Appeals Panel as set out in Schedule 1.

6. Appeal Panel

- 6.1 The Appeal Panel will consist of 2 people whose roles are set out in Schedule 1.
- 6.2 In the event that any member of the Appeals Panel has any direct connection or involvement with or is related to an Appellant or any athlete who might be affected by the outcome of the Appeal, or is in any other way placed in a position of conflicting interests in respect of any appeal/he/she shall be disqualified from sitting on the Appeal Panel and will be replaced by an agreed alternate.

7. Conduct of the Appeal

- 7.1 As soon as reasonably practicable following the receipt of the Notice of Appeal the Appeal Panel shall contact the Chair of the Nomination Panel to inform them of the Appeal, provide him/her with a copy of the Notice of Appeal and request that the Chair provides any response which he/she wishes to make on behalf of the Approval Panel within 24 hours of this notification.
- 7.2 The Approval Panel and any Third Party (see para 7.5 below) will not be entitled to appear before the Appeal Panel but may at the discretion of the Appeal Panel be invited to provide information by telephone or in writing. No party will be entitled to separate representation (including legal representation).
- 7.3 The Appellant will be required to pay a deposit of £150 to English Gymnastics as the appeal is lodged as a contribution to the administrative costs of holding the appeal, which will normally be refunded to the Appellant if the appeal is successful (this must be done at the time of submitting the formal written appeal i.e. within 48 hours of the selection being announced or communicated to the athlete whichever is later).
- 7.4 Until the appeal is decided, English Gymnastics will refrain from publishing any further details in relation to the selection which is the subject of the appeal, although the existing details will remain where originally published before the Notice of Appeal was received.
- 7.5 Where it appears to the Appeal Panel that the interests of some other athlete (other than the Appellant, referred to as the 'Third Party') may be directly affected by any decision of the Appeal Panel, they will invite the Third Party to comment on the merits of the appeal and will provide the Third Party with copies of all relevant documentation as soon as possible, but in any event within 48 hours. In such a situation it is likely that the decision of the Appeal Panel will determine the rights of all the affected athletes (not just the Appellant) and therefore the Third Party will be prohibited from raising again by way of a separate or further appeal matters which have already been decided upon.
- 7.6 The Appeal Panel will seek to reach its conclusion within 48hrs of receipt of the Notice and will inform all interested parties in writing before the selection is published.

8. Remedies

- 8.1 The Appeal Panel shall be entitled to confirm the decision of the Nomination/Approval panel and reject the appeal.
- 8.2 The Appeal Panel may uphold the appeal and refer the matter back to the Nomination/Approval Panel identifying the errors they have identified in the conduct of the Nomination/Approval process and request that a new selection meeting is convened within one week to undertake the selection process again for that particular Appellant.
- 8.3 The Appeal Panel, if it upholds the appeal, may not substitute its own decision for that of the Approval Panel.

9. Minor and Non-Consequential breaches of this procedure

- 9.1. The time limit for commencing this Procedure by the Appellant shall be strictly enforced.

10. Confidentiality of proceedings and publication of decision

- 10.1 English Gymnastics, the Appellant and any Third Party are under an obligation of confidentiality in respect of any appeal proceeding under this Procedure. Save as permitted under this Selection Appeals Procedure none of these Parties will make any public statement or disclosure of the contents of the Notice, or any other matter referred to by any of the parties during the course of these Proceedings.
- 10.2 English Gymnastics will be entitled to publish the decision of the Appeal Panel where it upholds the appeal (or any element of it) 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 position as to selection.

11. Changes and amendments to this procedure

- 11.1 English Gymnastics will be entitled to amend this procedure from time to time and such amendments will take effect from the first date of publication of the complete amended procedure on the English Gymnastics website.

Schedule 1 – Appeals Panel

Chair – British Gymnastics Integrity Director (or nominated representative):

selectionappeals@british-gymnastics.org

Member – Vice Chair English Gymnastics Association (or nominated representative)