



Performance Nomination and Selection Appeals procedure

Approval

<i>Approved by (role)</i>	<i>Department Owner</i>	<i>Date</i>
Board	James Thomas	11/12/18

Document History

<i>Version</i>	<i>Summary of Changes</i>	<i>Document Status</i>	<i>Date</i>
v0.2	Draft following Standards Committee amendments	Draft	04/08/17
v1.0	Approved by the Board	Live	06/09/17
V2.0	Appeals Panel changed Amendments to 2 (scope), 3.1, 6.1, 7.3, 7.5 & 7.6	Live	11/12/18

1. Introduction & Purpose

- 1.1 This document sets out the British Gymnastics Nomination and Selection Appeals procedure for all international team selection decisions, allocation of APA awards and all decisions to nominate an athlete to the British Olympic Associations for selection to compete at an Olympic Games under the remit of the British Gymnastics Performance Department. It applies equally to such nomination decisions as if each reference to 'selection' was replaced with 'nomination' unless otherwise stated. This document will remain in place until superseded or amended by British Gymnastics from time to time. It is the Appeals Procedure referred to in all British Gymnastics Performance documents including the Athlete Agreement and governs all challenges to a selection decision by an athlete whether or not he/she has signed the Athlete Agreement, on the basis that it is a condition of membership that all British Gymnastics members abide by British Gymnastics policy and procedures
- 1.2 Selections will take place in accordance with the selection policy published annually, supplemented by any other published addenda for that particular year. For Olympic nominations a separate document will be circulated which addresses the specific issues involved. In either case, however, anyone wishing to lodge an appeal under this procedure must be fully familiar with the detailed provisions of the relevant 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 major events, decisions often need to be taken shortly before the events to which the selection relates. 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 is the only applicable appeals procedure and forms the entire agreement between each athlete and British Gymnastics (together "the Parties") as to how selection decisions are to be challenged. British Gymnastics agrees, and by virtue of their membership of 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 Selection Appeal 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.

- 1.5 The Parties agree that this Selection Appeal Procedure is to be treated as an arbitration procedure under Part 1 of the Arbitration Act 1996 ('the Act') and the provisions of clause 1.4 above amount to a binding arbitration agreement for the purposes of section 6 of the Act. The seat of the Arbitration shall be England.

2. Scope

- 2.1 This Selection Appeals Procedure applies to each athlete, who is seeking selection to any Great Britain Team selected by British Gymnastics (subject to eligibility).
- 2.2 Nominations for the Olympic Games are covered by this policy.
- 2.3 Selections for the Olympic Games are covered by the British Olympic Association Selection Policy. Any appeals to Olympic selections should be made to the British Olympic Association.

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 British Gymnastics Selection Appeals Panel: selectionappeals@british-gymnastics.org or their nominated alternate. 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 British Gymnastics 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 selection panel, provided they follow the selection criteria.

5. Communications and Notices

- 5.1 Due to the timescales involved, the British Gymnastics Selection 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 British Gymnastics Performance Managers for their relevant discipline 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 (including alternates) whose roles are set out in Schedule 1. In extenuating circumstances, the panel may invite an additional member from the list of alternates as 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 s/he shall be disqualified from sitting on the Appeal Panel and will be replaced by one of the alternates.

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 Chairman of the Selection Panel to inform him of the Appeal, provide him/her

with a copy of the Notice of Appeal and request that the Chairman provides any response which he wishes to make on behalf of the Selection Panel within 24 hours of this notification.

- 7.2 The Selection 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 to the British Gymnastics a deposit of £150 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, British 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/Selection panel and reject the Appeal.
- 8.2 The Appeal Panel may uphold the appeal and refer the matter back to the Nomination/Selection Panel identifying the errors they have identified in the conduct of the Nomination/Selection 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 Selection Panel.

9. Minor and Non-Consequential breaches of this procedure

- 9.1. Save that the time limit for commencing this Procedure by the Appellant shall be strictly enforced, where any party deviates from any requirement of this Procedure it 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.

10. Confidentiality of proceedings and publication of decision

- 10.1 British 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 British 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 British 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 British Gymnastics website.

Schedule 1 – Appeals Panel

Chair – Integrity Director: selectionappeals@british-gymnastics.org

Member - Executive Director, Sport

Alternates:

Head National Coach – Not related to the discipline of appeal

British Gymnastics Executive Directors

British Gymnastics Directors (not part of the Selection Approval Panel)