

# PENTATHLON GB<sup>+</sup>

## PENTATHLON GB SELECTION APPEAL POLICY PARIS CYCLE

Version 3: February 2024

### 1. INTRODUCTION

- 1.1 This policy is binding on Pentathlon GB and on each Athlete seeking selection to any Pentathlon GB National Team ("the Parties").
- 1.2 This policy is not however applicable to membership of the World Class Programme and nomination to UK Sport for an Athlete Personal Award ("APA").
- 1.3 Selections will be made in accordance with the relevant published Pentathlon GB Team Selection Policy. Any one wishing to lodge an appeal under this procedure must be fully familiar with the detailed provisions of the Selection Policy.
- 1.4 The Selection Appeal Policy is an accelerated process to enable any challenge to be resolved fairly as quickly as reasonably possible. Due to the nature of the Modern Pentathlon season, selection decisions may have to be taken shortly before the events to which the selection relates take place.
- 1.5 This is the only avenue of appeal. It forms the entire agreement between each Athlete and Pentathlon GB as to how selection decisions may be challenged. The Parties agree to determine all disputes connected with or arising out of selection in accordance with this procedure and will not commence, continue or maintain any legal challenge to any decision or matter, before any court of law or other dispute resolution body. The Parties will treat all decisions under this procedure as final and binding upon them.
- 1.6 All references to days and hours shall exclude bank holidays and weekends.

### 2 HOW TO APPEAL

- 2.1 The time limit for making an appeal under this Appeals Policy does not begin until the Athlete affected by a decision is informed of the selection decision, which shall ordinarily be done by email, and which shall be assumed to have been received within 2 hours of the selection email having been sent.
- 2.2 Once the Athlete has been informed of the decision, the Athlete has 48 hours to submit a formal written appeal ('the Notice of Appeal') to Chief Executive CEO (trafford.wilson@pentathlongb.org) via email. If the Athlete fails to submit the Notice of Appeal within time, the Athlete has no right of Appeal under this procedure unless in exceptional circumstances the Appeal Panel in its absolute discretion rules otherwise. There is no further appeal against the exercise of that discretion.
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- 2.3 The Notice of Appeal must set out the ground of the appeal and include full details of the basis of the appeal including the precise manner in which the appellant alleges the selection policy has not been followed. The Notice of Appeal should be as full as possible in the circumstances as it will form the basis of the appeal. Guidance: a form of Notice of Appeal is provided by Pentathlon GB- this can either be found on the Pentathlon GB website here or athletes can email [performance@pentathlongb.org](mailto:performance@pentathlongb.org) to request a copy. Athletes should use this form when making an appeal.
- 2.4 Appeals will normally be conducted based on the written submissions and material presented by the appellant and the Selection Panel, without an oral hearing, the calling of witnesses or the giving of oral evidence.

### 3. GROUND OF APPEAL

- 3.1 The sole ground of appeal against the decision of any Selection Panel is that there has been a material failure to follow the applicable Selection Policy. This Appeals Policy 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.
- 3.2 For the avoidance of doubt, there are no appeals allowed against:
  - (a) the content of the relevant published Selection Policy; and/or
  - (b) the genuine exercise of the discretion of the Selection Panel, provided they follow the applicable criteria contained in the Selection Policy.

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## 4. APPEAL PANEL

- 4.1 The Appeal Panel will consist of 3 independent members to be nominated by the Chair of Pentathlon GB.
- 4.2 The Appeal Panel will not include anybody that was involved in any way in the original decision under the relevant Selection Policy. Members of the Appeal Panel must declare any actual or potential conflict of interest and disqualify themselves where the interest is material or could reasonably give rise to an impression of bias or unfairness.
- 4.3 The Appeal Panel shall include a Chair, who will be the Chair of Pentathlon GB or another individual appointed by the Chair of Pentathlon GB.
- 4.4 The Chair of the Appeal Panel may give directions on any matter concerning an appeal on behalf of the Appeal Panel.

## 5. CONDUCT OF THE APPEAL

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- 5.1 As soon as reasonably practicable following the receipt of the Notice of Appeal, the CEO of Pentathlon GB shall contact the Chair of the Selection Panel to inform them of the Appeal, provide them with a copy of the Notice of Appeal, and request that they provide the necessary documentation from the relevant selection meeting within 48 hours of such initial contact.
- 5.2 The Appeal Panel shall consider whether an oral hearing of the appeal is possible and/or appropriate, and if so shall fix the time, day and place for the hearing, and give notice thereof as appropriate.
- 5.3 The Selection Panel and the Third Party (as defined below) are not entitled as of right to appear before or be heard by the Appeal Panel but may at the absolute discretion of the Appeal Panel be invited to provide information by telephone or to make representations in such manner and within such time as the Appeal Panel may direct.
- 5.4 If an Athlete has legal representation they should inform the Appeal Panel and other parties of the fact and details of such representation.
- 5.5 The Appeal Panel may dispense with any requirement in respect of notices, formal evidence and service of documents, or as to time, if and to the extent it is appropriate to do so to ensure a just and timely resolution of the matters raised by the Appeal.
- 5.6 The Appeal Panel may require the parties or any member of Pentathlon GB to attend at Pentathlon GB offices or anywhere else to give directions or for a substantive hearing (both of which may be by video link, telephone conference or otherwise as appropriate) and may communicate with the parties in any appropriate manner, including e-mail.
- 5.7 Where it appears to the Appeal Panel that the interests of an Athlete other than the Appellant ('the Third Party') may be materially affected by any decision it may invite the Third Party to comment on the circumstances giving rise to the Appeal and may provide the Third Party with copies of relevant documentation or information.
- 5.8 If the decision of the Appeal Panel may determine the rights of an affected Athlete (not just the Appellant) the Third Party may not raise again by way of a separate or further appeal matters which have already been decided.
- 5.9 The Appeal Panel will seek to reach its decision within 48 hours of receipt of the Notice of Appeal, and will inform all interested parties as soon as possible.
- 5.10 Until the Appeal is decided Pentathlon GB 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.

## 6. RESOLUTION OF THE APPEAL

- 6.1 The Appeal Panel shall have the power to:
  - (a) reject the Appeal (which decision will be final); or
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  - (b) resubmit the decision to the original Selection Panel, where, in the reasonable opinion of the Appeal Panel: (i) the Selection Policy has not been followed; and (ii) had it been followed the Appellant would necessarily have been selected. In such case the Selection Panel shall reconsider the matter afresh (which decision shall be final).
- 6.2 The decision of the Appeal Panel, including brief reasons for that decision, will normally be communicated to the Athlete and all other parties verbally on the same day as the Appeal Hearing, and will be confirmed in writing to the parties within 48 hours of the Appeal Hearing. If there are circumstances preventing an immediate decision, the Chair will explain the reasons for this and indicate the earliest date by which they expect a decision to be reached.

## 7. MINOR AND NON-CONSEQUENTIAL BREACHES OF THIS PROCEDURE

- 7.1. Save that the time limit for commencing this Procedure by the Appellant shall be strictly enforced no other deviation from any requirement of this Procedure shall of itself invalidate the Procedure or the decision of the Appeal Panel.

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## 8. CONFIDENTIALITY OF PROCEEDINGS AND PUBLICATION OF DECISION

- 9.1 Pentathlon GB, the Appellant and any Third Party are under an obligation of confidentiality in respect of appeal proceeding under this policy. Save as permitted under this policy 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 the process.
- 9.2 Pentathlon GB may 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 Pentathlon GB considers appropriate.

## 10. AMENDMENTS TO THIS PROCEDURE

- 10.1 Pentathlon GB will be entitled to amend this policy from time to time and such amendments will take effect from the first date of publication of the complete amended policy on the Pentathlon GB website.  
Note: Nomination of 3 Appeal Panel members is pending.