

**AUSTRALIAN ATHLETICS  
SELECTION APPEALS PROCEDURE**

25 November 2024

Australian Athletics will use the services of the National Sports Tribunal (NST) as the appeal tribunal (Tribunal) for any appeals under this Selection Policy.

## **1 DEFINITIONS**

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In this Australian Athletics Selections Appeals Procedure, the following words have the corresponding meaning:

- 1.1 **AA** means Australian Athletics, the Governing body for athletics in Australia.
- 1.2 **Appeal** means an appeal, however described, against non-selection to a Team for an Event.
- 1.3 **Appeal Tribunal** means a Tribunal convened by the NST for the purpose of hearing an Appeal in accordance with of this Selection Appeals Procedure.
- 1.4 **Appellant** means a person who has commenced a 'Selection Appeal' in the NST.
- 1.5 **Athlete** means a registered athlete member of Australian Athletics
- 1.6 **Athlete Eligibility Criteria** means that part of the Selection Policy dealing with the eligibility of an Athlete to be considered for selection in a Team.
- 1.7 **AUD** means Australian Dollars.
- 1.8 **Business Day** means a day other than a Saturday, Sunday or public holiday in Melbourne, Australia.
- 1.9 **CEO** means the Chief Executive Officer of the referenced organisation.
- 1.10 **Child** means a person under the age of 18.
- 1.11 **Event** means a competition for which a representative team is selected to compete.
- 1.12 **Interested Party** means a selected athlete for the Team which is the subject of the Selection Appeal or Non-Selected Athlete otherwise eligible for selection to the Team which is the subject of the Selection Appeal.
- 1.13 **National Sports Tribunal** means the Australian Government entity established by the *National Sports Tribunal Act 2019* (Cth).
- 1.14 **Non-Selected Athlete** means any Athlete who is not selected by to a Team for an Event.
- 1.15 **NST** means the National Sports Tribunal.
- 1.16 **NST Legislation** means the National Sports Tribunal Act 2019 (Cth) (NST Act) and all legislative and notifiable instruments adopted under the NST Act.
- 1.17 **NST Procedure** means the process and procedure by which the NST operates, including as set out in the NST Act; the National Sports Tribunal Rule 2020; and the National Sports Tribunal Practice and Procedure Determination 2020 as and in effect at the time of the commencement of a Selection Appeal.



- 1.18 **Official** means any person selected or appointed under an Australian Athletics Selection Policy who is not an Athlete.
- 1.19 **Procedure** or **Selection Procedure** means this Selection Appeals Procedure.
- 1.20 **Selection Appeal** has the meaning given to that term in cl. 5.1
- 1.21 **Selected Athlete** means any Athlete selected by Australian Athletics to a Team for an Event.
- 1.22 **Selection Committee** means the committee of persons appointed by AA from time to time to consider and apply the Selection Policy and nominate Athletes to a Team.
- 1.23 **Selection Policy** means the Australian Athletics policy or policies that describes the general principles and specific selection criteria that apply to the selection of Athletes to Teams, as amended by AA from time to time, to which this Procedure is attached.
- 1.24 **Service Fee** means the costs and fees incurred by NST, including the fees of an NST member, which relate to the Selection Appeal.
- 1.25 **Team** means an Australian Athletics Team selected by AA to represent Australia at an Event.
- 1.26 **Written Notice** means notice in writing by letter, email or other written means of communication.

## 2 INTERPRETATION

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- 2.1 Unless the context otherwise requires, reference to:
  - 2.1.1 a clause is to a clause of this Procedure;
- 2.2 the singular includes the plural and the converse also applies.
- 2.3 If a person to whom this Procedure applies consists of more than one person, then this Procedure binds them jointly and severally.
- 2.4 A reference to time, day or date is to time, day or date in Melbourne, Australia.
- 2.5 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 2.6 Headings are for convenience only and do not form part of this Procedure or affect its interpretation.



## 3 OBJECTIVE OF THIS PROCEDURE

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- 3.1 This Procedure sets out the Selection Appeal process to be applied in respect of the selection of the Team to which this Selection Policy applies.
- 3.2 This Procedure, read and applied with Selection Policy and the applicable Selection Criteria, forms the Selection Policy for any relevant Event for which AA selects a Team.
- 3.3 The AA Selection Policy exhaustively sets out the parameters, process and criteria (both eligibility and performance) that will be applied to determine the selection of individuals for an Event or in a Team generally.

## 4 APPLICATION

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- 4.1 This Procedure applies to:
  - 4.1.1 Athletes;
  - 4.1.2 AA.
- 4.2 Athletes have a right of appeal against their non-selection to a Team for an Event, except where the specific Selection Policy excludes such a right.



## 5 GENERAL RULES

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- 5.1 A Non-Selected Athlete may appeal against their non-selection to an AA Team for an Event (Selection Appeal) in accordance with the procedures set out below. For clarity, Athletes can only appeal their non-selection for an AA Team that has been formally selected under the provisions of the relevant Selection Policy and the athlete met all qualification requirements for the event.
- 5.2 In the event that two or more Selection Appeals are brought under this Selection Appeals Procedure and it appears to the NST that:
  - 5.2.1 the Selection Appeals involve a common question, or
  - 5.2.2 the relief claimed in them are in respect of, or arise out of, the same instance of selection; or
  - 5.2.3 there is some other reason for it being desirable to have the Selection Appeals consolidated, the Selection Appeals must, so far as practicable, be consolidated and heard together and the Athletes involved in the Selection Appeals must provide reasonable assistance to the NST to achieve this outcome.
- 5.3 The Parties to a Selection Appeal will be:
  - 5.3.1 The Appellant
  - 5.3.2 AA
  - 5.3.3 Any Interested Party.
- 5.4 An Interested Party to a Selection Appeal must be either:
  - 5.4.1 A Selected Athlete for the Team which is the subject of the Selection Appeal; or
  - 5.4.2 A Non-Selected Athlete otherwise eligible for selection to the Team which is the subject of the Selection Appeal
- 5.5 AA and the Appellant must identify and propose to the NST Athletes who may be Interested Parties. Athletes may also identify themselves to the NST as potential Interested Parties.
- 5.6 In the event that any doubt should arise as to the eligibility of a person as an Interested Party, AA shall determine the matter in its absolute discretion.
- 5.7 An Athlete identified as a potential Interested Party must, in order to participate in the Selection Appeal, indicate to the NST that they wish to be a Party to the Selection Appeal.
- 5.8 An Interested Party:
  - 5.8.1 must receive notice of the Selection Appeal from the NST;
  - 5.8.2 must be given the opportunity to make submissions in the Selection Appeal and give evidence;
  - 5.8.3 must receive a copy of the determination handed down by the NST; and will be bound by any such determination.
- 5.9 A person who receives notice from the NST of his or her identification as an Interested Party may decline to participate as an Interested Party at any time, in which case that person will automatically waive any rights afforded an Interested Party.

## 6 APPEAL PROCESS

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### 6.1 Steps prior to Selection Appeal

- 6.1.1 A Non-Selected Athlete must not commence a Selection Appeal in the NST unless the provisions of this clause have been complied with.
- 6.1.2 Within 24 hours of the time that a Non-Selected Athlete receives notice of their non-selection, the Non-Selected Athlete must provide Written Notice to the CEO of AA (to [selectionappeal@athletics.org.au](mailto:selectionappeal@athletics.org.au)) that the Non-Selected Athlete disputes their non-selection.
- 6.1.3 The Non-Selected Athlete must provide reasons to support their notice of dispute.
- 6.1.4 If not already done so with the notification of the non-selection, within 24 hours of the Non-Selected Athlete providing Written Notice to the CEO of the AA, the CEO of AA or Delegate must provide the Non-Selected Athlete with a written statement of AA's reasons supporting the non-selection of the Non-Selected Athlete which may extend any earlier advice.
- 6.1.5 The parties must use their best endeavours, acting in good faith, to resolve the dispute through communication in accordance with this cl. 6, made on a without prejudice basis and kept confidential between the parties.
- 6.1.6 Within 24 hours of a Non-Selected Athlete receiving AA's initial or further written statement, the Non-Selected Athlete must provide a written response to the CEO of AA which indicates whether the Non-Selected Athlete intends to proceed to a hearing of their Selection Appeal. The appeal application must be accompanied by a cash or electronic funds transfer payment of \$A500. If the fee is not paid, the appeal will be deemed to have been withdrawn.
- 6.1.7 The Appellant can withdraw an appeal at any time.
- 6.1.8 For the avoidance of doubt, any formal written notice (and reasons) or statement made by AA or the Non-Selected Athlete may be submitted to the NST for the purposes of the Appeal.
- 6.1.9 For clarity, time periods may be extended by agreement of AA and the Non-Selected Athlete in advance.
- 6.1.10 A Non-Selected Athlete may bring a Selection Appeal on one or more of the following grounds, which the Non-Selected Athlete (Appellant) bears the onus of making out:
  - 6.1.10.1 a selected athlete whom the Appellant seeks to replace does not meet the Athlete Eligibility Criteria;
  - 6.1.10.2 the Appellant's omission from the Team was a result of a failure by the Selection Committee to properly apply the selection criteria set out in the Selection Policy;
  - 6.1.10.3 AA was affected by actual bias in making its decision to not select the Non-Selected Athlete;
  - 6.1.10.4 there were no grounds on which the selection decision could reasonably be based.



- 6.2 A Non-Selected Athlete wishing to make an application for a Selection Appeal by the NST must, within 24 hours of indicating to the CEO of AA their intention to proceed to a hearing of their Selection Appeal complete and lodge the required NST Application Form with the NST Registry in accordance with the NST Procedure, setting out the grounds of appeal relied on by the Non-Selected Athlete.
- 6.3 For clarity, unless agreed by AA and the Non-Selected Athlete, an extension of time to make an application for a Selection Appeal may be granted by the NST under this clause only in extenuating circumstances outside the control of the Non-Selected Athlete concerned.
- 6.4 Service Fees may also be payable to the NST, which will be negotiated as between the Parties and the NST at the preliminary conference, and/or determined by the NST CEO. Generally, Service Fees will be apportioned evenly between the Appellant and AA.

## **7 Selection Appeal Procedure**

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- 7.1 A Selection Appeal heard will proceed in accordance with the NST Procedure, except in so far as the NST Procedure is inconsistent with the procedural matters set out below:
  - 7.1.1 Where the NST considers it appropriate to do so and all the involved parties to the appeal agree, the NST may determine the appeal without a hearing.
  - 7.1.2 The NST must provide Written Notice to the parties of its determination as soon as reasonably practicable after the conclusion of the hearing and in any event not more than 24 hours of the conclusion of the hearing. The NST must provide the parties with a statement of the reasons for its determination within 3 Business Days of notifying the parties of its determination.

## **8 Selection Appeal Outcomes – Reconsideration and Redetermination**

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- 8.1 The NST may uphold or dismiss a Selection Appeal.
  - 8.1.1 Where the NST upholds a Selection Appeal overturning the original selection decision, the NST must refer any subsequent decision regarding the Appellant's non-selection or if required, any broader decision regarding selection of the Team for the Event back to AA for reconsideration and redetermination.
  - 8.1.2 In reconsidering and determining the Appellant's non-selection or if required, any broader decision regarding selection of the Team for the Event, AA must observe the principles of natural justice and shall comply with any direction of the Tribunal to reconsider the relevant selection decision. Any decision made by AA regarding the Appellant's selection after such referral shall be final and binding, and no further appeal shall be available to the Appellant in respect of that selection.



- 8.1.3 Notwithstanding above the NST may itself determine the issue of the Appellant's selection, or broader decision regarding selection of the Team for the Event where the NST determines that in making its original decision, AA had such disregard for proper application of the Selection Policy that a reasonable person would apprehend that it is unlikely that the Selection Policy would be applied properly by AA if the decision regarding the Appellant's non-selection was referred back to AA. This can only be applied where no other Athlete(s) is/are impacted and any decisions on impacted athletes is required by subject matter experts.
- 8.1.4 The determination handed down by the NST is final and binding on the parties.