



# **COMMONWEALTH GAMES**

## **SELECTION APPEALS PROCEDURE**



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## Introduction

Whilst selection decisions are made in good faith, every athlete should feel able to appeal a selection decision. If you're unsure about why a decision has been made, your coach, parent/carer, or another trusted person may be able to give you some guidance. If you believe you have grounds to appeal the decision, this Appeals Procedure sets out what you need to do and what process will be followed.

The Bowls England Chief Executive shall have the power to adjust the timescales within this Appeals Procedure. If timescales are adjusted, this will be communicated to all interested parties at each relevant stage of the appeals process. If you believe the timescales should be adjusted please notify the Bowls England Chief Executive at the earliest opportunity, and/or communicate this in your written request for review (described in Stage 1 below).

If, for whatever reason, the Bowls England Chief Executive is not available, the Bowls England Head of Sport Development (or nominated representative of the Bowls England Chief Executive) will carry out the role of the Bowls England Chief Executive within this Appeals Procedure.

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Athletes should ensure that they have provided their preferred method of communication and relevant contact details to the Performance Director in advance of any selection decisions. If the Athlete is under eighteen (18) years of age, current and preferred contact details of their parent or legal guardian should also be provided.

If you wish to appeal a decision and would like some guidance, athletes are advised to seek support from their coach, parent/carer or other trusted person to help them navigate the process.

If an Athlete wishes to appeal against a decision taken as part of the Selection Policy then the following three stage process will apply:



## STAGE 1: REVIEW

1. Review
  - 1.1 A written request for a formal review is submitted, in the first instance, by the Athlete to the Bowls England Chief Executive who will carry out a review in consultation with the relevant Programme leads. This written request should outline the primary reason for the review and any supporting information – see Section 2.3 for details.
  - 1.2 This request must be submitted within 48 hours of the selection being formally announced to athletes in writing.
  - 1.3 Within 48 hours of the end of the period referenced in point 1.2 the Bowls England Chief Executive will advise in writing the outcome of the review and explain the decision reached. The Chief Executive will have the power to refer the selection decision back to the Nomination Panel.

## STAGE 2: APPEAL

2. Appeal
  - 2.1 If following the formal review the Athlete wishes to formally appeal the original selection, they must submit a written Notice of Appeal to the Bowls England Chief Executive within 48 hours of receipt of the outcome of the Stage 1 Review detailed in 1.3.
3. Notice of Appeal
  - 3.1 The Notice of Appeal must set out the grounds of the appeal and include full details of which ground(s) in 4.1 the appeal is based upon and the precise manner in which the ground(s) have been met. The Notice of Appeal should be as comprehensive as possible as it will form the basis of the remainder of this procedure.
4. Grounds of Appeal
  - 4.1 An Athlete shall only be entitled to appeal on (either individually or cumulative) the following grounds:
    - 4.1.1 The decision was not in accordance with the policy as published;
    - 4.1.2 The policy has been misapplied or applied on no good evidence and/or in circumstances where the application of the policy was unfair;
    - 4.1.3 The decision maker has shown bias or the appearance of bias or the selection has otherwise been demonstrably unfair; and/or
    - 4.1.4 Where the conclusion is one that no reasonable decision maker could have reached.



- 4.2 In setting out which of the grounds at 4.1 the Athlete appeals on, the Athlete may include a response to the outcome of the Stage 1 Review.
- 4.3 In order to ensure a timely and efficient appeals process only the grounds of appeal detailed in 4.1 will be permitted. The composition of the Selection Panel is not open to appeal unless 4.1.3 is being cited in The Notice of Appeal.

## 5. Appeal Panel

- 5.1 The Bowls England Chief Executive will convene a three person Appeal Panel as soon as practicable to determine the appeal made up of suitably independent and experienced members who have not been involved in the selection process so far. The Chief Executive will not sit on the Appeal Panel. The Athlete will be informed of the members of the Appeal Panel and given the opportunity to challenge the composition of the Appeal Panel to the Chief Executive.
- 5.2 The Bowls England Chief Executive shall contact the Performance Director to inform them of the Appeal, provide them with a copy of the Notice of Appeal and request that the Performance Director provide all information used in the selection process which they wish the Appeal Panel to consider within two working days of receipt of the request.
- 5.3 The Appeal Panel will ordinarily determine the appeal based on the written submissions of the Athlete and the Selection Panel without a hearing or the calling of witnesses or the giving of oral evidence. However the Appeal Panel will have the power to set its own processes and give directions including but not limited to, requesting further information, setting up a teleconference, determining if a hearing is required and if it is, establishing the date, time and place, and format to be followed in such a hearing. A hearing may be conducted virtually and the athlete may bring an advisor/supporter to the hearing. If the athlete is under 18, then they must be accompanied.
- 5.4 The Appeal Panel will seek to reach its conclusion within five working days of its appointment in accordance with 5.1, and will inform all interested parties in writing.
- 5.5 The Appeal Panel shall be entitled to:
  - a) rescind the selection decision and confirm the selection of the Athlete in circumstances where it is clear that the grounds of the Appeal have been upheld;
  - b) confirm the selection decision and reject the Appeal;
  - c) quash the selection decision and remit the matter back to the Selection Panel identifying the errors they have found in the conduct of the selection process and requesting that a new decision is made within one week.
- 5.6 The cost and resource of administering the Appeal Panel will fall to Bowls England.



## STAGE 3: REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION SERVICE (TRIBUNAL)

### 6. Tribunal

- 6.1 If following the Appeal the Athlete wishes to invoke the final stage of appeal, then a written Notice of Appeal to Tribunal must be submitted by them to the Bowls England Chief Executive within 48 hours of receiving the outcome of the Appeal in writing.
- 6.2 **Notice of Appeal to Tribunal**  
The Notice of Appeal to Tribunal will set out the grounds of the appeal and will include full details of which ground(s) in 6.3 the appeal is based on, and the precise manner in which the ground(s) have been met. The Notice of Appeal to Tribunal should be as comprehensive as possible as it will form the basis of any final appeal.
- 6.3 **Grounds of Appeal to Tribunal**
  - 6.3.1 An Athlete shall only be entitled to appeal to Tribunal on (either individually or cumulative) the following grounds:
    - 6.3.1.1 The decision of the Appeal Panel was not in accordance with the Selection Policy as published;
    - 6.3.1.2 The Appeal Panel decision was misapplied or applied on no good evidence and/or in circumstances where the decision was unfair;
    - 6.3.1.3 The Appeal Panel has shown bias or the appearance of bias or the selection has otherwise been demonstrably unfair; and/or
    - 6.3.1.4 The Appeal Panel made a decision that no reasonable decision maker could have reached
- 6.4 Tribunal shall consist of one arbitrator appointed in accordance with the following process. [Alternative Dispute Resolution Services](#) shall, as soon as is practicable, propose to the parties the name(s) of potential arbitrators who are available to determine the matter within five working days. The parties shall seek to agree on one, whom they shall nominate to be appointed by Alternative Dispute Resolution Services. The appointed arbitrator shall constitute a valid Tribunal. If the parties fail to agree, Alternative Dispute Resolution Services shall appoint the arbitrator.
- 6.5 The Bowls England Chief Executive shall contact the Appeal Panel upon receipt of the Notice of Appeal to Tribunal, provide Appeal Panel with a copy of the Notice of Appeal to Tribunal and request that they provide any additional information they wish the Tribunal to consider within 48 hours.
- 6.6 The Tribunal will determine the appeal based on the written submissions of the Athlete and the Appeal Panel without a hearing or the calling of



witnesses or the giving of oral evidence. The Tribunal will have the power to set its own processes and may give directions, such as request for further information or set up a teleconference. The athlete may bring an advisor/supporter to the hearing. If the athlete is under 18, then they must be accompanied.

- 6.7 The Tribunal will seek to reach its conclusion within five working days of its appointment in accordance with 6.4 and will inform all interested parties in writing.
- 6.8 The Tribunal shall be entitled to either reject or confirm the Appeal Panel decision and;
  - 6.8.1 if appropriate confirm the selection decision;
  - 6.8.2 if appropriate rescind the selection decision and confirm the selection of the Athlete in circumstances where it is clear that the grounds of the Appeal to Tribunal have been upheld; or
  - 6.8.3 if appropriate quash the selection decision and remit the matter back to the Selection Panel identifying the errors they have found in the conduct of the selection process and requesting that a new decision is made within 5 working days.

The decision of the Tribunal will be communicated to the athlete and Performance Director by the Chief Executive.

## **FINAL AND BINDING**

- 7.1 This is an accelerated process to enable any appeals to be resolved as quickly as is reasonably possible.
- 7.2 The aim of this process is to return a decision on appeal in a timely manner. Failure to adhere to the time limits set out in this process may result in the Athlete losing their right of appeal under this procedure, save in exceptional circumstances which will be judged by the Bowls England Chief Executive in their absolute discretion.
- 7.3 This appeals process is intended to be conclusive and therefore any Athlete who enters into this appeal process accepts that the decision of the Tribunal will be final and binding.
- 7.4 Each appeal will be considered on its own merits.

## **CONFIDENTIALITY OF PROCEEDINGS AND PUBLICATION OF DECISION**

- 8.1 Unless the parties mutually agree to waive the right, both parties are under an obligation of confidentiality in respect of any appeal process except for reasonable disclosure to family members and/or a trusted advisor in the case of Athletes. Save as permitted under this Appeals process none of these parties will make any public statement or disclosure



of the contents of any correspondence by any of the parties during the course of this process.

- 8.2 Bowls England shall be entitled to publish the outcome of the Appeal 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 implications upon selection.