



## **Appeal Policy & Procedures**

**Reviewed: December 2008**

## **APPEAL POLICY**

### ***PURPOSE***

1.1 The purpose of this appeals procedure is to enable disputes with members and participants to be dealt with fairly, expeditiously and affordably, within British Orienteering, without recourse to external legal procedures.

### ***DEFINITIONS***

2.1 These terms will have these meanings in this procedure:

- (a) *Days* - will mean total days, counting weekends or holidays;
- (b) *Member* - refers to all categories of members of British Orienteering, as well as to all individuals engaged in activities with or employed by British Orienteering, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel);
- (c) *Appellant* - refers to the Member appealing a decision; and
- (d) *Respondent* - refers to the body whose decision is being appealed

### ***SCOPE OF APPEAL***

3.1 Any Member of British Orienteering who is affected by a decision of the Board, of any Committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5.1 of this Policy.

3.2 Appeals against selection decisions for international events may be considered from athletes; such appeals may well need to be considered on a tighter timescale than other appeals. In such cases the procedures established will continue to operate but within the timescales indicated in brackets [ ].

3.3 This policy will not apply to decisions relating to:

- (a) Matters of employment;
- (b) Infractions for doping offences, which are dealt with pursuant to the *Anti-Doping Regulations*.
- (c) The competition rules of orienteering which are dealt with under British Orienteering's Rules & Guidelines.
- (d) Discipline matters arising during events sanctioned by entities other than British Orienteering, which are dealt with pursuant to the by-laws, policies or procedures of those other entities; and
- (e) Any decisions made under Sections 4.2 and 6.2 of this policy.

## ***TIMING OF APPEAL***

4.1 Members who wish to appeal a decision will have 21 days from the date on which the decision is made public [3 days from first announcement of the selection in the case of international selection appeals], to submit in writing notice of the intention to appeal, grounds for the appeal and a summary of the evidence that supports these grounds, to the Chair of the Appeal Committee (hereafter referred to as "Official").

4.2 Any party wishing to initiate an appeal beyond the 21 day [3 day for international selection appeals] period must provide a written request stating reasons for an exemption to the requirement of Section 4.1. The decision to allow, or not allow an appeal outside the 21 day [3 day for international selection appeals] period will be at the sole discretion of the Official, and may not be appealed.

## ***GROUND FOR APPEAL***

5.1 Not every decision may be appealed. Decisions may only be appealed, and appeals may be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:

- (a) Making a decision for which it did not have authority or jurisdiction as set out in British Orienteering's governing documents;
- (b) Failing to follow procedures as laid out in the approved policies of British Orienteering;
- (c) Making a decision that was influenced by bias; or
- (d) Failing to take into account when making the decision information that has bearing on the decision and is in the public domain.

## ***SCREENING OF APPEAL***

6.1 Within 14 days [2 working days for international selection appeals] of receiving the notice and grounds of an appeal, the Official will determine whether there are appropriate grounds for the appeal to proceed as set out in Section 5.1. In the absence of the Official, a designate will perform this function.

6.2 If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the discretion of the Official, or designate, and may not be appealed.

## ***APPEALS PANEL***

7.1 If the Official, or designate, is satisfied that there are sufficient grounds for an appeal, within 21 days [3 days for international selections appeals] of having received the original notice of appeal the Official will establish an Appeals Panel (thereafter referred to as the "Panel") as follows:

- (a) The Panel will comprise three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being

appealed, and will be free from any other actual or perceived bias or conflict;  
and

- (b) The Official may designate one of the Panel members to serve as Chairman of the Panel. In the event the Official does not designate a Chairman, the members of the Panel will select from themselves a Chairman.

### ***PRELIMINARY CONFERENCE***

8.1 The Panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- (a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
- (b) Timelines for exchange of documents;
- (c) Clarification of issues in dispute;
- (d) Clarification of evidence to be presented to the Panel; order and procedure of hearing;
- (e) Location of hearing, where the hearing is an oral hearing;
- (f) Identification of witnesses; and
- (g) Any other procedural matter that may assist in expediting the appeal proceedings.

8.2 The Panel may delegate to its Chairman the authority to deal with these preliminary matters on behalf of the Panel.

### ***PROCEDURE FOR THE HEARING***

9.1 Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

- (a) The hearing will be held within 60 days of the Panel's appointment [5 days for international selections];
- (b) The Appellant and Respondent will be given 10 days [3 days for international selection appeal] written notice of the date, time and place of the hearing;
- (c) A quorum will be all three Panel members. Decisions will be by majority vote, where the Chairman carries a vote;
- (d) If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome;

- (e) Any of the parties may be accompanied by a representative or advisor, including a legal advisor; and
- (f) The Panel may direct that any other person participate in the appeal.

The Panel may conduct the appeal by means of a telephone conference.

### ***PROCEDURE FOR DOCUMENTARY APPEAL***

10.1 Where the Panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

- (a) All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument; and
- (b) The applicable principles and timelines set out in Section 8.2 are respected.

### ***APPEAL DECISION***

11.1 Within 14 days of concluding the appeal [3 days in the case of international selection appeals], the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

- (a) To reject the appeal and confirm the decision being appealed; or
- (b) To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- (c) To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality;
- (c-1) In the case of an international selection appeal, to reject or uphold the appeal on an interim basis (in which case, reasons for the decision shall be given), which decision shall be binding until a full appeal is held at a later date after the event for which the selection applies has been held, provided the appellant still wishes the appeal to be heard.
- (d) To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all; and
- (e) To return the appeal fee.

11.2 A copy of this decision will be provided to each of the parties and to the Official.

11.3 In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision with reasons is rendered within the timelines specified in Section 11.1.

## ***TIMELINES***

12.1 If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such that the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

## ***LOCATION***

13.1 The appeal will take place in the location designated by the Official, unless the Panel decides the appeal is to be held by way of telephone conference, or unless, at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

## ***FINAL AND BINDING DECISION***

14.1 The decision of the Panel will be final and binding on the parties and on all members of British Orienteering, subject only to an appeal to Sport Resolution<sup>1</sup>.

14.2 The appeal fee as determined annually by the Board of British Orienteering shall accompany an appeal. The said fee must be received within the 21 days as set out in Section 4.1 [3 days for international selection appeals].

---

<sup>1</sup> [Sport Resolutions](#) is the independent dispute resolution service for sport in the United Kingdom, offering [arbitration](#), [mediation](#), tribunal appointments and administration services. Sport Resolutions is the independent provider of the [National Anti-Doping Panel](#) and Tribunal Service for sport in the United Kingdom.