

## UK Sport Independent Appeals Rules and Procedure

(NGBs and Partner Organisations Appeals)

### Introduction

This document sets out the appeals process against UK Sport decisions. Anyone considering lodging an appeal should first consider UK Sport's complaint procedure to decide which process is more suitable. UK Sport will not consider an appeal and a complaint on the same matter.

Sport Resolutions UK ("SRUK") will manage the process for each appeal. The contact details for SRUK are:

Sport Resolutions (UK)

1 Salisbury Square

London

EC4Y 8AE

Tel: 020 7036 1966

Fax: 020 7936 2602

Email: [resolve@sportresolutions.co.uk](mailto:resolve@sportresolutions.co.uk)

### 1. Appealable Decisions

1.1. An appeal may not seek to reargue the merits of a decision itself only the integrity of the decision making process. Rules 1.1.1 to 1.1.3 below set out who can make an appeal and the types of decision that can be appealed:

- 1.1.1. an NGB, Partner Organisation or any other grant recipient can appeal against grant award decisions made by the UK Sport Board (including decisions arising from UK Sport's Annual Investment Review Process and quadrennial investment decisions) that apply to NGBs, Partner Organisations or any other grant recipient;
- 1.1.2. a decision by the UK Sport Board to reject a Lottery application to fund a major event or one major event bid over an opposing UK or Home Country bid;
- 1.1.3. a decision by UK Sport on a grant application, or other application which UK Sport has agreed can be referred to the Panel.

### 2. Notice of Appeal

2.1. The organisation or person who wishes to appeal ("Appellant") must submit a written request to SRUK within 20 Working Days of receiving notice of the decision that they wish to appeal.

2.2. The written request must contain:

- 2.2.1. the name and address of the Appellant (and any legal or other representative);
- 2.2.2. a brief statement describing the nature and circumstances of the decision against which the Appellant wishes to appeal or the nature of the application;

2.2.3. the Ground/s of Appeal. The Grounds of Appeal are set out in Schedule One to these Rules; and

2.2.4. further details of the decision being appealed (including copies of any documents that support your request)

together the "Notice of Appeal".

2.3. If a written request for an appeal is received outside of the 20 working day time limit, and there are extraneous circumstances for the delay, then SRUK may agree to waive the time limit. The Appellant must set out the reasons for the delay within the request for an appeal.

2.4. On receipt of the Notice of Appeal, SRUK will immediately send a copy to UK Sport which for the purposes of Rule 10.3 shall act as service.

### **3. Appointment of Appeals Panel**

3.1. SRUK will nominate and appoint an Independent Appeals Panel ("the Panel") within 10 working days of receiving the Notice of Appeal.

3.2. Unless the parties agree to the appointment of a sole arbitrator, or SRUK directs that a sole arbitrator may hear the appeal under Rule 3.6 below, the Panel will consist of three members, namely a legally qualified chair and two lay members ("the Panel Members").

3.3. The Chair will be drawn from a group of eight legally qualified individuals from an SRUK list.

3.4. Two lay Panel Members will be drawn from SRUK's Panel of Arbitrators Specialist List.

3.5. The Panel Members must confirm to SRUK that they are independent and are able to act impartially. None of the Panel Members shall be from or connected with the Appellant or UK Sport. None of the Panel Members shall at any time have been involved in any capacity with any aspect of the decision that is the subject of the appeal.

3.6. SRUK may direct or the parties may agree to a sole arbitrator acting as the Appeal Panel. Such sole arbitrator may be drawn from the group of eight legally qualified individuals from an SRUK list. Where a sole arbitrator is appointed to decide the Appeal all references to the "Chair" in these Appeal Rules shall mean the sole arbitrator unless the context means otherwise.

3.7. Either party has the right to challenge the independence and impartiality of any nominated Panel Member on good and evidenced grounds. If any party intends to challenge the nomination of a Panel Member that party shall, within 5 Working Days of notification by SRUK of the nomination, submit in writing to SRUK the reasons why that party is challenging the appointment of the nominee.

3.8. Unless the challenged nominee withdraws or the other party agrees to the challenge, the proposed Chair of the Panel (unless it is the appointment of the Chair that is challenged in which case SRUK, acting through its Director, shall decide), shall decide on the challenge and request SRUK to nominate a replacement nominee. Any challenge will be determined by the other two members of the Panel alone. SRUK shall notify the parties accordingly.

3.9. In the absence of any challenge to the nominations proposed within 5 Working Days of notification, SRUK will appoint the Panel.

3.10. The Panel shall be constituted as an Arbitration Panel as governed by the Arbitration Act 1996 and subject to Rule 3.10 the seat of arbitration will be in London. The Appeal shall be conducted in accordance with the laws of England & Wales.

3.11. Hearings shall normally take place in London. However, should circumstances so warrant, and after consultation with all parties, the Chair may decide to hold a hearing at another place and issue the appropriate directions related to any hearing. The Chair shall take into account the individual needs and circumstances of the Appellant in deciding the location of the hearing. The Chair may also decide the location of the meeting or whether it can be held via telephone or video link.

#### **4. Conduct of Proceedings**

4.1. The Appeal Panel shall implement the Appeal Rules and make its decisions based on fairness and natural justice; ensure the Appeal Panel and its members are impartial and independent; not act as an advocate for either party; and ensure the parties are given a proper opportunity to present their case.

4.2. Once the Panel has been appointed, the following procedure applies:

4.2.1. The Appellant must file a Statement of Claim within 10 Working Days of notification that the Panel has been appointed. The Statement of Claim must fully set out:

4.2.1.1. any facts, law or rules on which the Appellant is relying;

4.2.1.2. the relevant ground(s) from Schedule One; and

4.2.1.3. the relief claimed.

4.2.2. The time limit to file a Statement of Claim shall be inclusive of the time limit of any objection to the appointment of a Panel Member.

4.2.3. UK Sport may, within 15 working days of receipt of the Statement of Claim, file a "Response". The Response must fully set out:

4.2.3.1. those facts, law or rules in the Statement of Claim that the Respondent admits or denies;

4.2.3.2. the grounds and any other facts, law or rules on which it relies.

4.2.4. If the Appellant wishes to file a reply to the Response ("the Reply"), they must do so within 15 Working Days of receipt of the Response.

4.3. The time limits set out in Rule 4.2 may be varied by agreement between the parties and the Chair of the Panel.

4.4. Each party must submit at the same time as filing the Statement of Claim, Response or Reply (as applicable) copies of all documents on which the party concerned relies unless the document has previously been submitted by any party.

4.5. The Panel may proceed with the Appeal and make the decision and/or recommendation even if the Respondent fails to serve a Response or if the Appellant fails to serve a Reply.

4.6. The Panel will normally consider the written submissions of each party and will decide the Appeal on the papers. However, the Panel may agree to hear evidence or legal or other submission in a specific case, where it believes that to be appropriate. If hearing is to be held then Rule 5 below will apply.

4.7. The Panel has absolute discretion to admit or refuse evidence submitted by any party whether or not that evidence was presented before the party making the decision that is the subject of the Appeal.

4.8. If the Panel considers it appropriate, the Panel may adjourn the proceedings for the purpose of considering new evidence.

## **5. Conduct of Hearings**

5.1. The Chair shall fix the date, time and place of any hearings for directions or for the Appeal and shall give the parties as much notice as practicable.

5.2. All hearings shall be in private and proceedings shall be confidential unless Panel and the parties agree otherwise.

5.3. The procedure followed at any hearing shall be at the discretion of the Chair, provided that the hearing is conducted in accordance with applicable rules on fairness and natural justice, with a reasonable opportunity for each party to present evidence (including the right to call and to question witnesses), address the Panel and present his, her or its case.

5.4. Hearings may still proceed if any of the parties, their witnesses or experts fail to appear and the Panel may make a decision.

5.5. Each party is permitted to have assistance or representation by persons of their choice and, if oral evidence (witness or expert evidence, for example) is heard, it must only be heard in the presence of the other party or their assistant/representative who shall be given a fair opportunity to question any witness.

5.6. If an Appellant fails to attend a hearing, whether in person or by video link, internet or telephone, on the date and time so fixed then UK Sport may apply to the Panel to make a decision in the absence of the Appellant.

5.7. Where the Panel decides that a hearing should be held, it shall not take place at the offices of UK Sport whose decision is the subject of the Appeal.

## **6. Witnesses**

6.1. Where the Panel has decided that a hearing is to be held, the parties must notify the Panel and other parties as soon as practicable and within any time limits set by the Panel of the identity of any witnesses they wish to call. If the Panel requires it, each party shall disclose in the form of a signed witness statement the subject matter and content of the evidence on which each witness will be relying at the hearing and how that evidence relates to the points at issue.

6.2. Where the Panel has decided that a hearing is to be held, the parties are responsible for the availability and costs of the witnesses to be called. With the agreement of the parties, the Panel may exempt a witness from appearing at the hearing if the latter has previously filed a signed witness statement. The Panel may also limit or disallow the appearance of any witness on grounds of irrelevance.

## **7. Experts**

7.1. The Panel may, provided it has notified the parties who shall have the right to object to such costs being incurred, appoint one or more experts to submit a written report to the Panel on specific issues and may require a party to give such an expert any information which the Panel considers relevant or to produce, or to provide access to, any documents, goods or property which the Panel considers relevant for inspection by the expert. The costs of the expert shall be borne by the parties in equal shares.

7.2. The Panel may (unless the parties shall otherwise agree) direct an expert witness to give evidence either before a hearing in the form of a written report and/or at the hearing in the form of an oral report, and may also require an expert witness to attend a hearing so

that the Panel or the parties may question him or her, and the parties may present other expert witnesses in order to testify on the points at issue.

## **8. Decisions**

8.1. In coming to a decision, the Panel will only consider the integrity of the decision-making process used by UK Sport and will not hear appeals that seek to reargue the merits of the decision being appealed against. When making its decision the Panel will decide whether or not the Appellant has succeeded in establishing one of the relevant grounds of appeal set out at SCHEDULE 1 – GROUNDS OF APPEAL.

8.2. The Panel will aim to make a decision within 15 Working Days of:

8.2.1. receipt of the Reply; or

8.2.2. the deadline for receipt of the Reply, whichever is the later.

8.3. Where a hearing has taken place, the Panel will make a decision within 15 Working Days of the date of the hearing.

8.4. The Panel shall decide on any issue by a majority. No Panel Member may abstain from reaching a decision. The Panel shall not reveal to any party whether any such decision finally made was agreed by the Panel Members unanimously or by majority.

8.5. The Panel does not have the authority to make funding decisions on behalf of UK Sport or to reimburse funding that had been reduced or withdrawn by UK Sport.

8.6. Where the Panel find that one of the Grounds has been made out (that the decision-making process has not been followed correctly), they will set aside the decision being appealed against and the decision will be remitted back to UK Sport.

8.7. Any decision made by the Panel shall be in writing and shall be dated and signed by the Panel, and shall unless otherwise agreed by the parties be accompanied by the reasons on which it is based.

8.8. Decisions of the Panel are final and binding on the parties.

8.9. SRUK will issue the Panel's written decision, which is confidential, to the parties.

8.10. Without prejudice to Rules 5.2 and 8.9 UK Sport may, with the prior written consent of the Appellant, at the end of the proceedings publish any report or press release including (but not limited to):

8.10.1. the details of the proceedings under these Rules (including any facts alleged in support);

8.10.2. any topics of inquiry that the Panel raised, and

8.10.3. the decision made.

## **9. Costs**

9.1. The cost and resource of administering the Panel will generally fall to UK Sport. If an oral hearing is granted the cost would be borne by UK Sport against whom the appeal has been made. UK Sport may request an order for reimbursement of the costs of the Appeal. The Panel may make orders in relation to the costs of the parties in the Appeal.

9.2. Subject to any order made by the Panel under Rule 9.1 above, UK Sport will not reimburse the Appellant for their costs, or reimburse any representative, witnesses or assistant for their costs in dealing with the Appeal.

#### **10. General Rules**

10.1. The parties shall communicate through SRUK. The Chair of the Panel may direct that communication can take place directly between the parties with copies of all correspondence and documents to be sent at the same time to the Panel and SRUK.

10.2. All communications shall be delivered or sent by first class post, fax or email to the parties at the addresses notified to SRUK.

10.3. Deemed date for service of documents:

If sent by first class post, the notice or other communication shall be deemed to have been given on the "Working Day" following the day it is sent. If transmitted by facsimile or email before 5pm (UK GMT) on a Working Day, the notice of communication shall be deemed to have been given on that Working Day. If transmitted on a non-Working Day, at or after 5pm (UK GMT) on a Working Day, the notice or other communication shall be deemed to have been given on the next Working Day.

10.4. A party's last-known residence or place of business shall be a valid address for the purpose of any notice or other communication unless notification of a change to such address has been communicated to all parties and to SRUK.

10.5. For the purpose of calculating a period of time under the Rules, such period shall begin to run on the day following the day when a notice or other communication is given. Non-Working Days occurring during the period are not included in calculating the running of that period.

10.6. If a party proceeds with an Appeal in spite of the fact that a provision of, or requirement under these Rules has not been complied with, without promptly stating its objection, that party has waived its right to object.

10.7. If any Panel Member, after appointment to the Panel dies, refuses, or in the opinion of the Chair becomes unable or unfit to act, the Chair shall request SRUK to appoint another Panel Member to the Panel in his/her place. If the Chair, after appointment to the Panel dies, refuses or in the opinion of the parties and the Director of SRUK becomes unable or unfit to act, SRUK shall appoint a replacement Chair.

10.8. If in the opinion of the majority of the Panel, one Panel Member refuses or fails to comply with the Rules or any applicable law relating to the Appeal, or the making of the decision and/or any award, having been given a reasonable opportunity to do so, the other Panel Members may apply to the Director of SRUK for his/her removal and the Director of SRUK shall determine in his absolute discretion whether to appoint a replacement.

10.9. These Rules shall be governed by the laws of England and Wales.

**14 June 2016**

## **SCHEDULE 1 – GROUNDS OF APPEAL**

1. Under Rules 1.1.1, 1.1.2 and 1.1.3, only the following will be legitimate grounds for appeal:
  - a. that the decision-making body misunderstood or failed properly to take into account relevant information; or
  - b. that the procedure for making an application was not fairly or reasonably applied; or
  - c. that the reasons given in the decision not to make the requested grant do not correspond to the criteria published according to which applications are to be considered.
2. An appeal may not seek to reargue the merits of the decision itself, only (in accordance with the foregoing grounds) the integrity of the decision-making process.

## **SCHEDULE 2 – DEFINITIONS**

“NGB” means national governing body of a sport in the UK or Home Country as applicable.

“Partner Organisations” means organisations such as British Athletics Commission; Sports Coach UK; Home Country Sports Institutes (this list is not exclusive) and other stakeholders funded by UK Sport who deliver services to the elite sport system in the UK.

“UK National Anti-Doping Policy” means the document dated 14 December 2009 that sets out the anti-doping policy framework, the policy objectives and requirements in the field of doping in sport of the UK Government and the Devolved Administrations in the UK which the NGBs have confirmed their acceptance and ongoing compliance with under the Funding Agreement, as amended from time to time.

“Working Day” means any day other than Saturday, Sunday or any public holiday in England.