

APPEALS

1.21

1. Orienteering Australia (OA or the Federation) is committed to encouraging policies and practices which enable its members to receive justice and to this end for them to pursue reasonable avenues of appeal against any adverse decisions. OA will encourage its affiliated State and Territory organisations to undertake a similar commitment.
2. Power. The Board shall have the power to refer written appeals against decisions by a Misconduct Tribunal, Selection Committee or Member Protection Tribunal to appropriate Appeals Committee.
3. Investigation. Where the Board receives a written appeal the decision of a Misconduct Tribunal, Selection Committee or Member Protection Tribunal to appropriate Appeals Committee it shall refer the appeal to the appropriate Appeals Committee.
4. **Misconduct Appeals.** The Misconduct Appeals Committee shall comprise the following three persons:
 - (a) The Chairperson shall be qualified for admission as a barrister or solicitor of the Supreme Court of a State or Territory of Australia appointed by the Board.
 - (b) One (1) person nominated by the Constituent Association of which the person against whom the complaint has been laid.
 - (c) One (1) other person not from the Constituent Association of which the person against whom the complaint has been laid nominated, by the Board.

The decision of the Misconduct Appeals Committee in respect of such matters shall be final, unless further dealt with under Conflict Resolution Policy [New] 1.20.

5.1 **Selection Appeals.** The Selection Appeals Committee shall comprise the following three persons:

- (a) The Chairperson, nominated by the Board
- (b) One (1) person who shall be qualified for admission as a barrister or solicitor of the Supreme Court of a State or Territory of Australia.
- (c) One (1) other person nominated by the OA Council (one of two people nominated at the Annual General Meeting).

5.2 Selection Appeals Committee members must have no relevant relationship with the Appellant, other team members, team management or team selectors.

5.3 Any Athlete ("Appellant") who wishes to appeal against a decision of a national team Selection Committee is to submit their appeal in writing to the Executive Officer, stating their wish to appeal a decision of a Selection Committee, within 48 hours of team announcement and shall lodge a \$100 appeal fee with Orienteering Australia.

5.4 The Appellant then has seven days in which to their state reasons, in writing, for appealing the decision (see Clause 5.5) with particular reference to the published criteria for selection.

5.5. The sole grounds for any appeal to an Selection Appeals Committee are that:

- (a) the applicable Selection Criteria have not been properly followed and/or implemented;
- (b) the Athlete was not afforded a reasonable opportunity by OA to satisfy the applicable nomination criteria; or
- (c) there was no material on which the Selection decision could reasonably be based.

5.6 All selected team members should be notified of team selection now being subject to appeal as soon as reasonably possible once the appellant has notified the Executive Officer Orienteering Australia of an intention to appeal.

5.7 The Executive Officer will form a Selection Appeals Committee to hear the Appeal.

5.8 The appeal is to be conducted within 14 days of the submission of the appellant's written appeal. The OA Board may grant an extension of the Appeal hearing to a maximum of 28 days if the Selection Appeals Committee indicates there are circumstances making the appeal impossible to resolve within 14 days.

5.9 The Selection Appeals Committee may ask for a written submission from a representative of the OA Selection Committee explaining its decision and any other members of OA they deem appropriate. In particular, any selected team member who

believes they may be adversely affected by the outcome of appeal shall have the right to make a submission to the Selection Appeals Committee within 7 days of being advised of the appeal under clause 5.6.

5.10 The overriding aim of selection is that the principles of natural justice are applied. The Selection Appeals Committee shall consider this when assessing the Appellant's case. The Selection Appeals Committee may arrive at three possible outcomes:

- (a) Recommend to the OA Board that the appeal be dismissed and deemed frivolous (i.e. had no chance of being upheld) and that the appeal fee (or part thereof) not be refunded to the appellant;
- (b) Recommend to the OA Board that the appeal be dismissed; or
- (c) Recommend to the OA Board that the appeal be upheld and the Selection Committee concerned be requested to reconsider the selection of the team and that the appeal fee be refunded to the appellant.

5.11 At the conclusion of this process the Selection Appeals Committee should provide a report outlining their reasons for dismissal or upholding of an appeal. A copy of this report should be provided to OA Board, relevant OA Selection Panel and Appellant. The Selection Appeals Committee should also create a public report which for the sake of transparency can be made available to the wider orienteering community and contains, as a minimum, a statement that the appeal was either dismissed on the basis of its not satisfying any grounds for appeal or that the appeal was upheld and the ground(s) for appeal on which it was upheld.

5.12 The OA Board will consider the recommendations of the report and uphold or dismiss the appeal. If upheld, then the OA Board will convene a new selection panel to reconsider the selection of the team. The new selection panel shall consist of not less than three members, and will not include any members of the original selection panel, unless the upholding of the appeal was not associated with the decision-making of that panel.

5.13 If the appeal is dismissed and the appellant is still dissatisfied with the outcome he/she has the right of appeal to the Court of Arbitration for Sport.

6. **Member Protection Appeals.** The Member Protection Appeals Committee shall comprise the following three persons:

- (a) The Chairperson shall be qualified for admission as a barrister or solicitor of the Supreme Court of a State or Territory of Australia appointed by the Board.
- (b) One (1) person nominated by the Constituent Association of the person lodging the appeal.
- (c) One (1) other person not from the Constituent Association of the person lodging the appeal, nominated by the Board.

The decision of the Member Protection Appeals Committee in respect of such matters shall be final, unless further dealt with under Conflict Resolution Policy [New] 1.20.

Adopted

December 2007

Effective from 2008 AGM of Orienteering Australia (23 March)