



Selection Appeals Policy

Effective 1 February 2025

1. Definitions and interpretation

1.1 Definitions

In this EA Selection Appeals Policy, the following words have the corresponding meaning:

Appeal means an appeal, however described, against non-selection to a Team for an Event.

Appeal Tribunal means a Tribunal convened in the NST Appeals Division for the purpose of hearing a 'Final Appeal' in accordance with cl. 5.3 of this Selection Appeals Policy.

Appellant means a person who has commenced a 'Selection Appeal' in the NST whether in the General Division (First-Instance Appeals) or the Appeals Division (Final Appeal).

Athlete means an athlete who nominates for selection to a Team.

AUD means Australian Dollars.

Business Day means a day other than a Saturday, Sunday or public holiday in Canberra, Australia.

CEO means the Chief Executive Officer of the referenced organisation.

Child means a person under the age of 18 years.

EA means Equestrian Australia Limited, the Governing body for Equestrianism in Australia.

Equestrian Expert means an expert tribunal witness with particular expertise in Equestrian, drawn from a pool of suitably qualified experts provided by EA, appointed under paragraph 68(1)(b) of the NST Act to provide assistance to the NST in the arbitration of a selection appeal by responding to specific questions posed by the NST relating to technical aspects of Equestrian.

Event means a sanctioned or other competition for which a EA Team is selected to compete.

Event Requirements means the requirements for an Event set out in documentation issued and amended by EA from time to time.

Hearing Tribunal means a Tribunal convened in the NST General Division for the purpose of hearing a 'First-Instance Appeal' in accordance with Part 5.2 this Selection Appeals Policy.

Interested Party has the meaning given in clause 4.4.

National Sports Tribunal means the Australian Government entity established by the National Sports Tribunal Act 2019, comprised of the General Division, the AntiDoping Division, and the Appeals Division.

NST means the National Sports Tribunal, and all of its three Divisions.

NST Legislation means the National Sports Tribunal Act 2019 (Cth) (NST Act) and all legislative and notifiable instruments made under the NST Act.

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 2021 as and in effect at the time of the commencement of a Selection Appeal.

Parties has the meaning given in clause 4.3.

Policy means this EA Selection Appeals Policy which documents the selection appeal process, as amended by EA from time to time.

Selection Appeal has the meaning given to that term in cl. 4.1.

Selection Ombudsman means the person or persons appointed by the High-Performance Committee under the Selection Policy.

Selected Athlete means any Athlete selected by EA to a Team for an Event and includes an Athlete selected as a reserve

Selection Criteria means the relevant parts of the Selection Policy or Policies which detail the selection criteria adopted by EA to the selection of Athletes to an EA Team to compete at a specific Event.

Selection Policy means the EA policy or policies that describes the general principles and Selection Criteria that apply to the selection of all EA Teams and Squads (including, without limitation, any annexures and the Event Requirements), as amended by EA from time to time.

Selectors means the panel of selectors under the Selection Policy.

Service charges mean the charges that may be payable to the NST to cover the cost of the arbitration under section 46 of the NST Act which may include the cost of services provided by an Equestrian Expert.

Squad means a National squad of athletes selected by EA from time to time for the purpose of talent identification and athlete development.

Team means an Australian Equestrian Team selected by EA to represent Australia at an Event.

1.2 Capitalised terms set out in this Agreement shall have the meanings set out in Schedule 3.

1.3 In this agreement:

- (a) a reference to **the sport of equestrianism** is a reference to equestrianism in all of its forms, variations and disciplines recognised by FEI and/or Equestrian Australia.
- (b) words importing the singular include the plural and vice versa.

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- (c) headings are inserted for convenience only and do not affect the interpretation of this agreement, unless the context otherwise requires.
 - (d) words importing a gender include the other genders.
 - (e) if words or phrases are defined, their other grammatical forms have a corresponding meaning.
 - (f) A reference to a part, clause, schedule or party is a reference to a part, clause or schedule of, or a party to, this agreement.
 - (g) A reference to this agreement includes the recitals and any schedules or annexures, to this agreement.
 - (h) A reference to '\$' or 'dollars', "**AUD\$**" means Australian dollars and a reference to payment means payment in Australian dollars
 - (i) the meaning of general words is not limited by specific examples introduced by '**including**' or '**for example**', or similar expressions; and no provision of this agreement will be interpreted against a party just because that party prepared that provision.
 - (j) unless otherwise stated, any reference to date and time is a reference to that in Sydney, Australia.

2. OBJECTIVE OF THIS POLICY

- 2.1 This Policy sets out the Selection Appeal process to be applied in respect of the selection of all Equestrian Australia Teams and Squads.
- 2.2 This Policy read and applied with Selection Policy or Policies and the applicable Selection Criteria, forms the EA Selection Policy for any relevant Event for which EA selects a Team.
- 2.3 The EA 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 a Competition or in a National Team.
- 2.4 For completeness, EA notes that in respect of certain Events (for instance, the Olympics and Paralympics), EA does not select athletes or officials but rather nominates them to another entity (for example the Australian Olympic Committee or Paralympics Australia) that is responsible for the final selection of athletes for the Event.
- 2.5 For convenience, where no other Selection or Nomination Policy administered by a Third Party for such an Event as described in cl. 2.4 above applies, the EA Selection Policy for an Event will apply to the nomination process undertaken by EA for these Events as though the term 'selection' is interchangeable with the term 'nomination'.

3. APPLICATION

3.1 This Policy applies to:

- (a) Athletes;
- (b) EA

3.2 Athletes have a right of appeal against the following (except where a specific Selection Policy or this Policy excludes such a right):

- (a) a decision of the Selectors not to select the Athlete to a Team for an Event;

3.3 For clarity, Officials have no right of appeal against their selection/ appointment to a Team for an Event.

4. GENERAL RULES

4.1 A Non-Selected Athlete may appeal against their non-selection to a National Team for a Event (Selection Appeal) in accordance with the procedures set out in cl. 5 of this policy. For clarity, Athletes can only appeal their non-selection for a National Team that has been formally selected under the provisions of the relevant Selection.

4.2 In the event that two or more Selection Appeals are brought under this Selection Appeals Policy, and it appears to the NST that:

- (a) The Selection Appeals involve a common question, or
- (b) The relief claimed in them are in respect of, or arise out of, the same instance of selection; or
- (c) 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.

4.3 The Parties to a Selection Appeal will be:

- (a) The Appellant;
- (b) EA; and
- (c) Where the Selection Appeal is commenced in the Appeals Division of the NST in accordance with cl. 5.3 by an Interested Party, shall also include that interested Party.

4.4 An Interested Party to a Selection Appeal must be either:

- (a) a Selected Athlete for the Team which is the subject of the Selection Appeal;
- (b) A Non-Selected Athlete otherwise eligible for selection to the Team which is the subject of the Selection Appeal

4.5 EA shall determine the Interested Parties in its absolute discretion.

4.6 An Interested Party may lodge a Final Appeal in accordance with cl.5.3 but not a First Instance Appeal.

5. APPEAL PROCESS

5.1 Steps prior to Selection Appeal

- (a) An Athlete must not commence a Selection Appeal in the NST unless the provisions of this cl.5.1 have been complied with.
- (b) Before submitting written notice in accordance with cl.5.1(c), the Athlete must first have met and discussed the relevant decision with the Selection Ombudsman and attend a debrief with the EA High Performance Director regarding that decision (this can occur in person or by any means of communication). Failure to attend a debrief in accordance with this cl. 5.1(b) will preclude an Athlete from proceeding with an appeal under this policy. The Selection Ombudsman will promptly respond to notification of an Athlete's request for a discussion under this cl.5.1 and will provide a written report of their opinion on the grounds for an appeal to the EA High Performance Director. The report may at the discretion of the HPD be provided in full or in part to the Athlete. This report is otherwise confidential.
- (c) The Athlete must give written notice of his or her appeal to the EA High Performance Director within 48 hours of the announcement of the decision against which the appeal is made by signing and delivering to the EA High Performance Director a notice of the appeal in the form attached as Schedule 1 (Notice of Appeal Form). The Notice of Appeal Form must be accompanied by a non-refundable deposit to EA of \$500 (Notification Fee).
- (d) Within 48 hours of the Athlete providing the Notice of Appeal Form to the EA High Performance Director in accordance with cl. 5.1(c), the EA High Performance Director must provide the Athlete with a written statement of EA's reasons supporting the decision regarding the Athlete (Reasons for Decision). The Reasons for Decision should not exceed two pages in length.
- (e) Within 48 hours of the Athlete receiving the Reasons for Decision in accordance with cl. 5.1(d), the Athlete must provide the EA High Performance Director with the Athlete's grounds of appeal to support the appeal (Grounds of Appeal). The Grounds of Appeal should not exceed two pages in length.
- (f) Within 24 hours of the EA High Performance Director receiving the Grounds of Appeal in accordance with cl. 5.1(e), the EA Performance Director may provide the Athlete with a response to the Grounds of Appeal (Reply). The Reply should not exceed one page in length and should be limited to matters that are responsive to the Grounds of Appeal.

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- (g) Within 24 hours of the expiry of the time to provide the Reply in accordance with cl. 5.1(f), the Athlete must provide a written response to the EA High Performance Director which indicates whether the Athlete intends to proceed to a hearing of their Selection Appeal in accordance with cl. 5.2
 - (h) The Parties must use their best endeavours, acting in good faith, to resolve the dispute through communication in accordance with this cl. 5.1, made on a without prejudice basis and kept confidential between the Parties.
 - (i) For the avoidance of doubt, the Notice of Appeal Form, Reasons for Decision, Grounds of Appeal and any Reply may be submitted to the NST for the purposes of the First instance Appeal and or Final Appeal.
 - (j) For clarity, time periods referred to in cl. 5.1 may be extended by agreement of EA and the Athlete in advance

5.2 First Instance Appeal to the General Division of the NST

- a) A Selection Appeal must be heard in the General Division of NST in the first instance.
- b) A Non-Selected Athlete may bring a Selection Appeal to the General Division of the NST for hearing on one or more of the following grounds, which the Non-Selected Athlete (Appellant) bears the onus of making out:
 - (i) that the Selection Policy was not properly applied by EA with respect to the Appellant;
 - (ii) the Appellant was not afforded a reasonable opportunity by EA to satisfy the Selection Policy;
 - (iii) EA was affected by actual bias in making its decision; and
 - (iv) there was no material on which EA's decision could be reasonably based.
- c) A Non-Selected Athlete wishing to make an application for a Selection Appeal by the General Division of the NST must, within 24 hours of indicating to the EA Performance Director their intention to proceed to a hearing of their Selection Appeal under cl 5.1:
 - (i) 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; and
 - (ii) pay any filing or application fee required by the NST (First Instance Application Fee).

For clarity, unless agreed by EA and the 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 Athlete concerned.

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- d) Service Charges may also be payable to the NST, which will be negotiated as between the Parties and the NST at the Preliminary Conference and Determined by the NST CEO. Generally, Service Charges will be apportioned evenly between the Appellant and EA.
 - e) Where the NST upholds a First Instance Selection Appeal, any Notification Fee, First Instance Application Fee and Service Charge paid by the Appellant will be reimbursed by EA.

Selection Appeal Procedure

- f) A First-Instance Selection Appeal heard in the General Division of the NST will proceed in accordance with the NST Procedure including with respect to the specific procedural matters set out below, which apply to all EA First Instance Selection Appeals:
 - (i) An Equestrian Expert may be appointed by the NST CEO to assist the NST in the arbitration of the Selection Appeal in accordance with section 34 of the *National Sports Tribunal Practice and Procedure Determination 2021*.
 - (ii) 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.
 - (iii) The NST must provide written notice to the Parties of its **determination** as soon as reasonably practicable after the conclusion of the hearing (in most cases, within 24 hours of the conclusion of the hearing). The NST will provide the Parties with a **statement of the reasons** for its determination within 3 Business Days of notifying the Parties of its determination.
 - (iv) The determination of the NST is final and binding on the Parties and, subject only to an appeal to the Appeals Division of the NST pursuant to cl. 5.3, no party may institute proceedings in any other court or tribunal.
- g) The length of the Selection Appeal Procedure will vary depending on time available in accordance with the NST Procedure regarding expedited resolution of disputes (see also cl. 5.4).

Selection Appeal Outcomes – Reconsideration and Redetermination

- h) The NST may uphold or dismiss a First Instance Selection Appeal.
- i) Subject to cl. 5.2(k), where the NST upholds a First-Instance 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 National Team for the Competition back to EA for reconsideration and redetermination.
- j) In reconsidering and determining the Appellant's non-selection or if required, any broader decision regarding selection of the National Team for the

Competition, EA must observe the principles of natural justice. Any decision made by EA regarding the Appellant's nomination after such referral, is final and binding on the Appellant, subject only to the Appellant commencing an appeal to the Appeals Division of the NST in accordance with cl. 5.3.

- k) Notwithstanding cl. 5.2(i) the NST may itself determine the issue of the Appellant's selection, or broader decision regarding selection of the National Team for the Competition where the NST determines that:
 - a. it would be impractical to refer the selection decision for redetermination to EA given the time available; or
- l) in making its original decision, EA 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 EA if the decision regarding the Appellant's non-selection was referred back to EA.
 - a. Prior to making a determination under cl. 5.2(k) the NST must advise the Parties that the NST intends to make such a determination and provide the Parties with a reasonable opportunity to make submissions in relation to the NST's proposed determination. The NST must give proper consideration to any submissions it receives pursuant to this cl. 5.2(l).

5.3 Final Appeal to the Appeals Division of the NST

- (a) Any second and final instance appeal (Final Appeal) must be heard by the Appeals Division of the NST.
- (b) A Final Appeal may be lodged either:
 - (i) after the determination of a First Instance Selection Appeal by the NST but before reconsideration and redetermination.
 - (ii) or after reconsideration and redetermination (whether redetermined by WPA or the NST).
- (c) A Final Appeal in respect of a decision or determination that is made by the NST in a First Instance Appeal may only be lodged by a party to the First Instance Selection Appeal.
- (d) Making an Application for a Final Appeal EA or an Athlete eligible to appeal a determination or decision of the General Division of the NST must, within 48 hours after the Final Appellant is notified of the relevant decision under cl 5.3 (b):
 - (i) 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 Final Appellant; and
 - (ii) provide a copy of the NST Application Form to the other Parties.
 - (iii) Pay any filing fee required by the NST.

For clarity, unless agreed by EA and the athlete whose selection is the subject of the appeal, an extension of time to make an application for a Final Appeal may be

granted by the NST under this clause only in extenuating circumstances outside the control of the Final Appellant concerned.

- (e) Service Charges may also be payable to the NST, which will be negotiated as between the Parties and the NST at the Preliminary Conference and Determined by the NST CEO. Generally, Service Charges will be apportioned evenly between the Final Appellant and WPA.
- (f) Where the outcome of the dispute or appeal process results in the Final Appellant's selection for the National Team for the Competition, any Application Fee and Service Charges will be reimbursed to the Final Appellant by WPA.

Final Selection Appeal Procedure

- (g) A Final Selection Appeal heard in the Appeals Division of the NST will proceed in accordance with the NST Procedure including with respect to the specific procedural matters set out below, which apply to all EA Final Selection Appeals:
 - (iii) An Equestrian Expert may be appointed by the NST CEO to assist the NST in the arbitration of the Selection Appeal in accordance with *section 34 of the National Sports Tribunal Practice and Procedure Determination 2021*.
 - (iv) 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.
 - (v) The NST must provide Written Notice to the Parties of its determination as soon as reasonably practicable after the conclusion of the hearing (in most cases, within 24 hours of the conclusion of the hearing). The NST will provide the Parties with a statement of the reasons for its determination within 3 Business Days of notifying the Parties of its determination.
- (h) The length of the Selection Appeal Procedure will vary depending on time available in accordance with the NST Procedure regarding expedited resolution of disputes (see also cl. 5.4).

Final Appeal Outcomes – Reconsideration and Redetermination

- (i) The NST may uphold or dismiss a Final Selection Appeal.
- (j) Subject to cl. 5.3(l) where the NST upholds a Final Selection Appeal overturning the determination of the NST in the first instance Selection Appeal, or the substituted decision of EA, the NST must refer any subsequent decision regarding selection of the National Team for the Competition back to the EA for reconsideration and redetermination.
- (k) In reconsidering and determining any subsequent decision regarding selection of the National Team for the Competition, EA must observe the principles of natural justice. Any subsequent decision made by EA regarding the selection of the National Team for the Competition after such referral, is final and binding.
- (l) Notwithstanding cl. 5.3(j), the NST may itself determine the issue of the Final Appellant's selection where the NST determines that:

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- (i) it would be impractical to refer the redetermination back to EA given the time available; or
 - (ii) in making its substituted decision, EA had such disregard for proper application of the Selection Policy Part A and/or Part B that a reasonable person would apprehend that it is unlikely that the Selection Policy Part A and/or Part B would be applied properly by EA if the decision regarding the Appellant's non- selection was referred to EA.
- (m) Prior to making a determination under cl. 5.2(l) the NST must advise the Parties that the NST intends to make such a determination and provide the Parties with a reasonable opportunity to make submissions in relation to the NST's proposed determination. The NST must give proper consideration to any submissions it receives pursuant to this cl. 5.2(m).
- (n) The determination handed down by the Appeal Panel with respect to an Appeal is final and binding on the Parties

5.4 Where an application to deal with a dispute requires expedition

- (a) If, on receiving an application for arbitration of a Selection Appeal, the NST CEO is satisfied that it is necessary to deal with the application expeditiously, the NST CEO is to convene a preliminary conference (if appropriate) and then immediately appoint one or more NST members to deal with the dispute.
- (b) The NST CEO and the appointed NST member(s) are to take all steps necessary to deal with the dispute as expeditiously as the case requires. This may include, but is not limited to, waiving compliance with any provision of the NST (Practice and Procedure) Determination 2020 that a party to the dispute would otherwise have to comply with.

Equestrian Australia
Notice of Appeal Form

Instructions

1. This form should be used by an Athlete (Appellant) who wishes to appeal a decision of the kind referred to in clause 4 of the EA Selection Appeals Policy to the National Sport Tribunal
2. An Appellant may only pursue a hearing of their appeal if the Appellant before submitting this form has met and discussed the relevant decision with the Selection Ombudsman and has attended a debrief with the High Performance Director regarding the Selection decision (whether in person or by any other means of communication, this form must be completed and signed by the Appellant.
3. Once completed and signed, this form must be provided to the High Performance Director of Equestrian Australia within 48 hours of the announcement of the decision against which the Appeal is made.
4. This form will only be accepted if the Appellant pays the sum of \$500 to EA and that sum is received within 72 hours of the announcement of the decision against which the Appeal is made. This fee is non-refundable.

1. Athlete details

Name:	
Address:	
Phone:	
Email:	

2. Appeal Grounds

Appellant to 'tick' which grounds of appeal he or she will rely on in bringing the appeal. The sole grounds for any appeal to the NST are that:

	Ground of Appeal	EA Selection Appeals Policy Ref.	
a)	The Selection Policy was not properly applied with respect to the Appellant		
b)	The Appellant was not afforded a reasonable opportunity by EA to satisfy the selection Policy		
c)	EA was affected by actual bias in making its decision		
d)	There was no material on which EA's decision could be reasonably based		

3. Payment details of Equestrian Australia

Name:	
Address:	
Phone:	
Email:	

Signed by the Appellant

Date