

Swim Ireland Swimming Team Nomination/Selection Appeals Procedure for the 2021 Olympic Games (Tokyo)

The following appeals procedure applies in respect of any appeal made by an athlete where:

- (i) they have not been nominated for selection to the Irish team (“Irish Team”) for swimming by the National Selection Panel for the 2021 Olympic Games, or;
- (ii) they have been de-selected from the Irish Team either as a nominated athlete by the National Selection Panel or as a selected athlete to the Irish Team for swimming by the Olympic Federation of Ireland (OFI) for the 2021 Olympic Games

In the case of an athlete who has not been nominated for selection, the appeal must be exercised within the timelines below and prior to the selection of athletes by the OFI. In the case an athlete who has been de-selected, the appeal must be exercised within the timelines below.

Nomination Appeal - Limitation of Appeal

Any appeal is limited to grounds of:

- (a) bias, and/or
- (b) the Nomination Policy document was not adhered to

Nomination Appeal - Notice of Appeal

1. The Appeal must be delivered within **seven days** from the completion of the relevant Nomination Stage outlined within the Nomination Policy, from which the National Selection Panel have made nominations to the OFI for selection for the Team Ireland swimming team or;
 - a. In the case of a de-selected member, the Appeal must be delivered within **three days** of the communication to the athlete of the de-selection decision.
2. The Appellant must lodge a Notice of Appeal (pages 4-8) setting out one or both of the limited grounds of appeal together with any supporting documentation.
3. The Notice of Appeal must be emailed to the Swim Ireland Performance Office at performance@swimireland.ie and copied to the Swim Ireland Chief Executive Officer (CEO) at ceo@swimireland.ie.
4. An administrative fee of €100.00 must be paid with the Notice of Appeal either electronically to Swim Ireland Bank Account (IBAN IE03AIBK93251559772048 and BIC AIBKIE2D) or by cheque made payable to ‘Swim Ireland’. This fee will be refunded to the Appellant if the Appeal is successful

Nomination Appeal - Leave to Appeal

5. The Swim Ireland Performance Manager shall supply copies of the Notice of Appeal to the Swim Ireland Complaints & Disciplinary Officer within **one day** of receipt of the Notice of Appeal
6. The Performance Manager and the Complaints & Disciplinary Officer shall review the Notice of Appeal and any attached documents in order to determine whether leave to appeal should be granted to the Appellant
7. The Performance Manager and the Complaints & Disciplinary Officer shall have regard to:
 - (a) whether the Notice of Appeal was served in time and;
 - (b) whether an eligible ground of appeal has been raised in the Notice of Appealin determining whether leave to appeal should be granted
8. If the Performance Manager and the Complaints & Disciplinary Officer determine that an Appellant has or has not met the criteria for leave to appeal, then they shall communicate their decision to grant or refuse leave to appeal to the Appellant and to the CEO of Swim Ireland within **two days** of receipt of the Notice of Appeal
9. Within **three days** of receipt of a decision to grant leave to appeal from the Performance Manager and the Complaints & Disciplinary Officer, the CEO shall:
 - (a) appoint an ad hoc Appeal Committee, (three persons, two of whom shall be independent of Swim Ireland)
 - (b) deliver to that Appeal Committee and the Appellant the appeal documents and
 - (c) notify the Appellant of the composition of the Appeal Committee

10. The Appellant shall raise any objection to the composition of the Appeal Committee, setting out the reasons for such objection within **two days** of receipt of the notice of the composition. If there is any objection to the composition of the Appeal Committee, the Appeal Committee shall have the right to determine if the objection is upheld or not. If there is any possibility of a perception of bias or actual bias then that member of the Appeal Committee should stand aside. If the objection is upheld, then the CEO shall appoint new person(s) to the Appeals Committee
11. The appeal hearing shall take place within **five days** of receipt by the CEO of the decision to grant leave to appeal. The Appeal Committee shall have discretion to extend this timeline for the appeal hearing where it deems fit
12. Within **two days** of the Appeal Committee being appointed (and not be objected to), the Chair appointed by the Appeal Committee shall deliver notification of the hearing to the Appellant and to the Performance Manager including, where appropriate, the following details: -
 - i. the time, date and venue of the hearing, with at least **three days'** notice of the hearing;
 - ii. all documents received by the Appeal Committee;
 - iii. an outline of their rights at the hearing which includes the following rights: legal representation, to produce additional documents, to deliver submissions, to examine and cross examine witnesses (including expert witnesses); to make statements;
 - iv. each party attending the appeal hearing shall deliver to the Appeal Committee notice of all witnesses and legal representatives and where appropriate, provide copies all witness statements and written submissions within **two days** of the scheduled appeal hearing;
 - v. where it appears that the interests of a Third Party may be affected by any decision of the Appeals Committee, the Appeals Committee may invite the Third Party to make submissions and produce additional documents and make submissions
13. The decision of the Appeal Committee, which is by majority, is limited to determining whether either or both of the grounds for appeal have been substantiated
14. The Appeal Committee shall e-mail a written reasoned decision to the parties attending the hearing within **two days** of the appeal hearing
15. The decision of the Appeal Committee shall be binding on the parties attending the appeal hearing and any affected third party who is a member of Swim Ireland, subject to a right to challenge such decision before the Sports Dispute Solutions Ireland (SDSI) Olympic Tribunal in accordance with the SDSI arbitration rules and procedures
16. Any arbitral challenge to the decision of the Appeals Committee must be commenced within **five days** of receipt by the Appellant of the decision of the Appeals Committee

Nomination Appeal - Powers of the Appeal Committee

17. The Appeal Committee shall have the flexibility to conduct the hearing in any manner it deems fit, subject to the hearing being conducted fairly
18. The Appeal Committee may, at its sole discretion, disregard any failure by a party to adhere to these Procedures and may give such further directions as may be appropriate
19. If any party fails to appear at the hearing or comply with the Chair's direction or other communication issued by the Chair, the Appeals Committee may proceed in the absence of that party
20. The Appeal Committee shall either uphold or reject the appeal. The Appeal Committee cannot replace the decision of the National Selection Panel. Where the appeal is upheld, then the Appeal Committee shall remit the matter back to the National Selection Panel with directions
21. Each party shall be responsible for their own costs and expenses, including legal costs for the appeal hearing. The Appeal Committee has no power to make an award of legal costs against a party. The Appeal Committee has the power to order a party to pay for the costs of the appeal hearing, such as room hire, travel, catering, legal assessor and other expenses incurred because of the hearing

Selection Appeal

22. Any Nominated Athlete may appeal against their selection or non-selection by the OFI to the SDSI Olympic Tribunal. This appeal to the OFI selection decision shall only be available to Nominated Athletes on the following grounds:

- (i) That the selection decision was affected by actual bias;
- (ii) There was no basis upon which the OFI's decision could be reasonably made

23. The procedure for a Selection Appeal shall be as follows:

- i Within 48 hours of receiving the OFI's notice of their non-selection, the Athlete must file and serve (on the respective CEOs of the OFI and Swim Ireland) a Notice of Appeal with the SDSI Olympic Tribunal setting out clearly the grounds upon which they dispute their non-selection.
- ii Thereafter the SDSI Procedural Rules shall apply.
- iii Any party to a Selection Appeal decision of the SDSI Olympic Tribunal may appeal such a decision to the Court of Arbitration for Sport (CAS) in accordance with its rules.
- iv Throughout any Selection Appeals process, the Parties must use their best endeavours, acting in good faith, to resolve the dispute through communication and any communications made for the purposes this process may be made on a without prejudice basis and kept confidential between the parties.

SCHEDULE

NOTICE OF APPEAL

1. DETAILS OF THE PERSON / ORGANISATION APPEALING (the “Appellant”)

Name of Appellant

Date of Birth (if individual)

Over 18 (if individual)

Address

Email

Phone

Discipline

Name of Barrister/Solicitor or other representative of Appellant (if applicable)

2. PARENT/LEGAL GUARDIAN’S DETAILS (if Appellant is under 18):

Name(s)

Address

Email

Phone

3. DETAILS OF RESPONDENT (if other than Swim Ireland)

Name of Respondent(s): (Individual or Organisation against whom the Appeal is filed):

Address

Email

Phone

4. INTERESTED PARTIES

Are there any other persons or organisations who or which may be directly affected by, or who has a sufficiently close interest in your selection?

Name

Address

Email

Phone

5. DETAILS OF SELECTION DECISION BEING CHALLENGED:

Date of selection decision (If date notified of selection decision is different, please state)

Person(s)/Organisation responsible for selection

Name of parties selected

Details (including date, venue and name) of the next event that the selected team is attending and/or participating in:

6. GROUNDS OF APPEAL:

Please state whether your appeal is based on:

- (a) bias, and/or
- (b) the Selection Policy document was not adhered to

Provide a summary of the nature of this appeal.

Please provide details of outcome and/or relief sought

Please provide details of any documents relied on (explaining the relevance of any document relied upon).

- 1.
- 2.
- 3.
- 4.
- 5.

Please provide the names of witnesses (if any).

7. URGENT APPEAL

Are there grounds for showing that this appeal should be heard as a matter of urgency?

Yes No

If yes, please provide reasons justifying this.

Signed:

If signatory is someone other than the Appellant, please outline signatory's relationship with the Appellant)

Date:

CHECKLIST

1. Is this document completed, dated and signed?
2. Have you attached documents you are relying upon?
Have you confirmed if your appeal is on the grounds of (a) bias, and/or (b) the Nomination?
Policy document was not adhered to?
3. Have you either attached a cheque for €100.00 made payable to 'Swim Ireland' or transferred €100.00 to the Swim Ireland bank account (IBAN: IE03AIBK93251559772048 and BIC: AIBKIE2D)?
4. Have you sent this form by email only to the Performance Office at **email – performance@swimireland.ie** and copied to the CEO at **ceo@swimireland.ie**?