



## Elite, Elite U23 and Elite Junior Tri NZ World Championships Selection Appeals Policy

This Selection/Non-Selection Appeals Policy (**Policy**) sets out the procedures that must be followed for any appeal against a decision by the Selectors regarding an Athlete's Selection or non-Selection into Elite, Elite U23 and Elite Junior World Championships.

This policy **excludes Mixed Relay Team Appeals**. The 2019 Elite Mixed Team Relay Appeals Policy is found in Schedule 3 of the 2019 Mixed Team Relay Selection Policy.

Any Athlete who is eligible for consideration under the specific terms of the respective Elite, Elite U23 and Elite Junior Selection Policies may appeal against their Selection or non-Selection in accordance with the procedures set out below:

1. A Selection Appeal may be made on any one or more of the following grounds:
  - (a) The Selection Policy was not properly followed and/or implemented;
  - (b) The Athlete was not afforded a reasonable opportunity to satisfy the Selection Policy;
  - (c) The Selection decision was affected by bias;
  - (d) There was no material on which the Selection decision could be reasonably based, or the Selection decision could not be reasonably based on the material available.
  
2. The procedure for a Selection Appeal shall then be as follows:
  - (a) An Athlete wishing to appeal must give written notice of appeal ("Notice of Appeal") to the Tri NZ CEO within 48 hours of being notified of the Selectors' decision, stating:
    - (i) Full name and contact details;
    - (ii) Tri NZ membership (TRIBE) number;
    - (iii) The Selection or non-Selection they are appealing against
    - (iv) The grounds of Selection Appeal, with reference to those listed in clause 1, above;
    - (v) A brief explanation of their case on those grounds and of how they meet the Selection Policy (further evidence to be called during the procedure below).



- (b) The Notice of Appeal must be accompanied by a deposit of \$100 which is to be paid into a nominated Tri NZ bank account, fully refundable if the Selection Appeal is successful.
  - (c) Within 48 hours of receipt of Notice of Appeal, the Tri NZ CEO shall:
    - (i) Acknowledge receipt of the Selection Appeal with the Athlete;
    - (ii) Advise the Selectors' that a Selection Appeal has been received;
    - (iii) Make arrangements for the Tri NZ Ombudsman to process and hear the Appeal.
3. The role and powers of the Tri NZ Ombudsman are as follows:
- (a) The Tri NZ Ombudsman is tasked with examining whether the Selectors' correctly applied the Selection Policy in relation to the grounds of Selection Appeal. Hence, they will:
    - (i) Review the Selection process in person, by telephone or by videotelephony as soon as possible and in any event no later than 10 days after the date the Notice of Appeal is received by the Tri NZ CEO; and
    - (ii) Conduct any hearing on a confidential and without prejudice basis - in particular, the content of any matters discussed during such hearing may not be used by either party in respect of any further selection/Selection matters; and
    - (iii) Hear the views and position of both the Athlete and the Selectors prior to making a decision.
    - (iv) The Athlete and the Selectors may elect to have legal or other representation for the purposes of any hearing. The parties may call such evidence as they think fit.
    - (v) The Ombudsman will be provided with the support of a Tri NZ Executive to assist with administration, independent of any of the Selectors.
  - (b) Following review of Selection Appeal, the Tri NZ Ombudsman may:
    - (i) Make recommendation to the Tri NZ Board for changes it may wish to consider to the decision of the Selectors, within the broader context of governing rules and claims of other athletes; or



- (ii) Refer the case back to the Selectors for reconsideration on the grounds of fresh evidence which could have materially affected the decision making of the Selectors; or
- (iii) Dismiss the Selection Appeal.

(c) Following the Tri NZ Ombudsman's review:

- (i) The Tri NZ Board will adopt as the outcome of the Selection Appeal the Ombudsman's decision, as described in clause 3.2, above.
- (ii) In the event that the Athlete wishes to have the decision of the Tri NZ Ombudsman reviewed then the Athlete must file an Application for Appeal with the Sports Tribunal of New Zealand (Sports Tribunal) and serve a copy of such Application for Selection Appeal upon the Tri NZ CEO within 5 days of the date of being notified of the Tri NZ Ombudsman's decision. A copy of such Application for Selection Appeal to the Sports Tribunal shall at the same time be served upon the Secretary General of the NZOC.
- (iii) Such Selection Appeals shall be determined by the Sports Tribunal in accordance with its Rules.
- (iv) Any party to any decision of the Sports Tribunal under this Policy may appeal such decision to the Court of Arbitration of Sport (CAS) in accordance with its rules.
- (v) The decision of CAS will be final and binding on the parties.
- (vi) No party to a Selection Appeal may institute or maintain proceedings in any Court or Tribunal other than as specified in this Agreement.