



WATER POLO AUSTRALIA

Selection Appeals Policy

Version 2

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#	Review Date	Effective Date	Approved By	Changes
1	Feb 2021	26 Feb 2021	Board	Initial policy
2	Feb 2026	29 May 2026	Board	Update to new template, clarify costs and scope, align definitions.

Review frequency: Annually

1 Background

1.1 Purpose

This policy is made by Water Polo Australia Limited (“WPA”) under its constitution (“Constitution”) with the purpose of setting out the Selection Appeal process to be applied in respect of the selection of National Teams for Competitions. This Policy, read and applied with the relevant WPA Selection Policy and any applicable Competition Specific Selection Criteria, forms the WPA Selection Policy for any relevant Competition for which WPA selects a National Team.

1.2 Scope

1.2.1 This Policy applies to the Selection Appeal process for all National Teams for a Competition and applies to both Athletes and WPA.

1.2.2 Athletes have a right of appeal against their non-selection to a National Team for a Competition, except where a specific Selection Policy excludes such a right.

1.2.3 For clarity:

- (a) Athletes have no right of appeal against their non-selection to a team that is participating in a competition that is not a Competition;
- (b) Athletes have no right of appeal against their non-selection to a National Squad or a Preparation Program; and
- (c) officials, coaches and other staff have no right of appeal against their non-appointment to a particular position within a National Team, National Squad, Participation Programs, Competitions or any other events.

1.3 Costs

1.3.1 For transparency, Athlete’s should be aware that there are costs involved in bringing a Selection Appeal, including:

- (a) the \$250 WPA Application Fee;
- (b) any applicable NST Application Fee (which are, as at the date of this Policy, set out in rule 11 of the National Sports Tribunal Rule 2020); and
- (c) any Service Charges.

1.3.2 Under this Policy, it is agreed that these amounts must be initially funded by the Appellant (unless otherwise agreed by WPA at its discretion), other than the Service Charges which will generally be apportioned evenly between the Appellant and WPA per section 4.2.4 and 4.3.5. However, WPA will reimburse these amounts if the outcome of the dispute or appeal process results in the Appellant’s selection for the National Team for the Competition.

1.4 Nominations

1.4.1 For completeness, WPA notes that in respect of certain Competitions (for instance, the Olympics or the Commonwealth Games), WPA does not select Athletes, but rather nominates them to another entity (for example the Australian Olympic Committee, Paralympics Australia or Commonwealth Games Australia) that is responsible for the final selection of Athletes for the Competition.

1.4.2 For convenience, where no other Selection or Nomination Policy administered by a third party for such a Competition as described in section 1.4.1 above applies, this Policy will apply to the appeal of a decision in relation to the nomination process undertaken by WPA for these

Competitions as though the term 'selection' is interchangeable with the term 'nomination'.

2 Definitions

2.1 Defined Terms

The following words have the corresponding meaning in this Policy:

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

Appeal Tribunal means a Tribunal convened in the NST Appeals Division for the purpose of hearing a 'Final Appeal' in accordance with section 4.3 of this 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(s) refers to the eligible participant(s) who wish to be considered for selection into a National Squad or National Team from time to time.

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

CEO means the Chief Executive Officer of the referenced organisation.

Child means a person under the age of 18.

Competition means the Competitions referred to in the Selection Policies.

Competition Specific Selection Criteria means the relevant parts of the WPA Selection Policy or Policies which detail the selection criteria adopted by WPA to the selection of Athletes to a National Team to compete at a specific Competition (if any).

Final Appeals means an appeal to the Appeals Division of the NST under section 4.3.

Final Appellant means the Appellant to the Appeals Division under section 4.3.

First Instance Appeal means a first instance Selection Appeal under section 4.2.

Interested Party has the meaning given in section 3.3.2.

National Squad means any group of players selected to participate in a Preparation Program which will be defined for each campaign and will be the group of players, from which the National Team will be selected to participate in the Competition.

National Sports Tribunal or **NST** means the Australian Government entity established by the NST Act, comprised of the General Division, the Anti-Doping Division, and the Appeals Division.

National Team means any team selected by or with the approval of WPA to represent Australia in a Competition.

Non-Selected Athlete means any Athlete who is not selected by WPA to a National Team for a Competition.

NST Act means the National Sports Tribunal Act 2019 (Cth).

NST Application Fee means all application fees payable under section 37 of the NST Act in respect of the relevant application.

NST Legislation means the 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 Legislation (which include, as at the date of this Policy, the National Sports Tribunal Rule 2020 and the National Sports Tribunal (Practice and Procedure) Determination

2024) as and in effect at the time of the commencement of a Selection Appeal.

Preparation Program means the program relating to the preparation of a National Squad or National Team to compete in a Competition.

Selected Athlete means any Athlete selected by WPA to a National Team for a Competition.

Selection Appeal has the meaning given to that term in section 3.1.

Selection Policy means the WPA policy or policies that describes the general principles and specific selection criteria that apply to the selection of all National Teams, as amended by WPA from time to time.

Service Charges means 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 a Water Polo Expert, or (if relevant) the costs of alternative dispute resolution processes under section 47 of the NST Act.

Tribunal means a Tribunal convened in the NST General Division for the purpose of hearing a 'First-Instance Appeal' in accordance with section 4.2 of this Policy.

Water Polo Expert means an expert tribunal witness with particular expertise in Water Polo, drawn from a pool of suitably qualified experts provided by WPA, 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 Water Polo.

WPA Application Fee means the fee specified in section 4.1.3.

Written Notice means notice in writing by letter, email or other written means of communication.

2.2 Terms defined in Constitution

Where a capitalised term is not defined in this Policy, but is defined in the Constitution, it has the meaning given in the Constitution.

3 General Rules

3.1 Right to Appeal

A Non-Selected Athlete may appeal against their non-selection to a National Team for a Competition (**Selection Appeal**) in accordance with the procedures set out in section 4 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 Policy.

3.2 Similar Selection Appeals

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

- (a) the Selection Appeals involve a common question;
- (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.

3.3 Parties to a Selection Appeal (First Instance and Final Appeals)

- 3.3.1 The Parties to a Selection Appeal will be:
- (a) the Appellant;
 - (b) WPA; and
 - (c) any Interested Party.
- 3.3.2 An Interested Party to a Selection Appeal must be either:
- (a) a Selected Athlete for the National Team which is the subject of the Selection Appeal;
or
 - (b) a Non-Selected Athlete otherwise eligible for selection to the National Team which is the subject of the Selection Appeal.
- 3.3.3 WPA and the Appellant must identify, and propose to the NST, the Athletes who may be Interested Parties. Athletes may also identify themselves to the NST as potential Interested Parties.
- 3.3.4 In the event that any doubt should arise as to the eligibility of a person as an Interested Party, WPA shall determine the matter in its absolute discretion.
- 3.3.5 An Athlete identified as a potential Interested Party must, in order to participate in the Selection Appeal, indicate to the NST that they wish to be a Party to the Selection Appeal.
- 3.3.6 In accordance with the NST Procedure an Interested Party:
- (a) must receive notice of the Selection Appeal from the NST;
 - (b) must be given the opportunity to make submissions in the Selection Appeal and give evidence;
 - (c) must receive a copy of the determination handed down by the NST; and
 - (d) will be bound by any such determination.
- 3.3.7 An Interested Party may lodge a Final Appeal in respect of a decision or determination that is made by the NST in a First Instance Appeal in which it has participated as an Interested Party.
- 3.3.8 For the avoidance of doubt, an Athlete identified as a potential Interested Party in a First Instance Appeal, but who does not participate in that First Instance Appeal will not be permitted to lodge a Final Appeal in respect of a decision or determination that is made by an NST in a First Instance Appeal.
- 3.3.9 A person who receives notice from the NST of their identification as an Interested Party may decline to participate as an Interested Party at any time, in which case that person will automatically waive any rights afforded an Interested Party, including the right to lodge a Final Appeal.

4 Appeal Process

4.1 Steps prior to Selection Appeal

- 4.1.1 A Non-Selected Athlete must not commence a Selection Appeal in the NST unless the provisions of this section 4.1 have been complied with.
- 4.1.2 Within 48 hours of the time that a Non-Selected Athlete receives notice of their non-selection, the Non-Selected Athlete must provide Written Notice to the CEO of WPA that the Non-Selected Athlete disputes their non-selection.

- 4.1.3 The Non-Selected Athlete must provide reasons to support their notice of dispute. The Written Notice must be accompanied by a \$250 application fee (**WPA Application Fee**, which will be refunded to the Athlete should the outcome of the dispute or appeal process result in their selection for the National Team for the Competition.
- 4.1.4 Within 48 hours of the Non-Selected Athlete providing Written Notice to the CEO of the WPA in accordance with section 4.1.2, the CEO of WPA must provide the Non-Selected Athlete with a written statement of the WPA's reasons supporting the non-selection of the Non-Selected Athlete.
- 4.1.5 Within 48 hours of a Non-Selected Athlete receiving WPA's written statement in accordance with section 4.1.4, the Non-Selected Athlete must provide a written response to the CEO of WPA which indicates whether the Non-Selected Athlete intends to proceed to a hearing of their Selection Appeal in accordance with section 4.2.
- 4.1.6 The Parties must use their best endeavours, acting in good faith, to resolve the dispute through communication in accordance with this section 4.1, made on a without prejudice basis and kept confidential between the Parties.
- 4.1.7 For the avoidance of doubt, any formal written notice (and reasons) or statement made by the CEO or the Non-Selected Athlete in accordance with section 4.1.2 to 4.1.5 may be submitted to the NST for the purposes of the First Instance Appeal and or Final Appeal.
- 4.1.8 For clarity, time periods referred to in section 4.1 may be extended by agreement of WPA and the Non-Selected Athlete in advance.

4.2 First Instance Appeal to the General Division of the NST

- 4.2.1 A Selection Appeal must be heard in the General Division of NST in the first instance.
- 4.2.2 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:
 - (a) that the Selection Policy was not properly applied by WPA with respect to the Non-Selected Athlete;
 - (b) the Non-Selected Athlete was not afforded a reasonable opportunity by WPA to satisfy the Selection Policy;
 - (c) WPA was affected by actual bias in making its decision to not select the Non-Selected Athlete; and
 - (d) there was no material on which WPA's decision could be reasonably based.

Making an Application for a Selection Appeal

- 4.2.3 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 CEO of WPA their intention to proceed to a hearing of their Selection Appeal under section 4.1:
 - (a) 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
 - (b) pay in full any NST Application Fee.

For clarity, unless agreed by WPA and the Non-Selected Athlete, an extension of time to make an application for a Selection Appeal may be granted by the NST under this section only in extenuating circumstances outside the control of the Non-Selected Athlete concerned.

- 4.2.4 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 WPA.
- 4.2.5 Where the outcome of the dispute or appeal process results in the Appellant's selection for the National Team for the Competition, any NST Application Fee and Service Charges paid by the Appellant will be reimbursed to the Appellant by WPA.

Selection Appeal Procedure

- 4.2.6 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 First Instance Appeals:
- (a) A Water Polo 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 2024.
 - (b) 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.
 - (c) 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.
- 4.2.7 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 section 4.3, no party may institute proceedings in any other court or tribunal.
- 4.2.8 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 section 4.4).

Selection Appeal Outcomes – Reconsideration and Redetermination

- 4.2.9 The NST may uphold or dismiss a First Instance Appeal.
- 4.2.10 Subject to section 4.2.12, 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 WPA for reconsideration and redetermination.
- 4.2.11 In reconsidering and determining the Appellant's non-selection or if required, any broader decision regarding selection of the National Team for the Competition, WPA must observe the principles of natural justice. Any decision made by WPA regarding the Appellant's selection 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 section 4.3.
- 4.2.12 Notwithstanding section 4.2.10, 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 WPA given the time available; or
 - (b) in making its original decision, WPA 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 WPA if the decision regarding the

Appellant's non-selection was referred back to WPA.

- 4.2.13 Prior to making a determination under section 4.2.12, 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 section 4.2.13.

4.3 Final Appeal to the Appeals Division of the NST

- 4.3.1 Any second and final instance appeal (**Final Appeal**) must be heard by the Appeals Division of the NST.
- 4.3.2 A Final Appeal may be lodged either:
- (a) after the determination of a First Instance Appeal by the NST but before reconsideration and redetermination; or
 - (b) after reconsideration and redetermination (whether re-determined by WPA or the NST).
- 4.3.3 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 Appeal.

Making an Application for a Final Appeal

- 4.3.4 WPA 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 section 4.3.2:
- (a) 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
 - (b) provide a copy of the NST Application Form to the other Parties; and
 - (c) pay in full any NST Application Fee.

For clarity, unless agreed by WPA 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 section only in extenuating circumstances outside the control of the Final Appellant concerned.

- 4.3.5 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.
- 4.3.6 Where the outcome of the dispute or appeal process results in the Final Appellant's selection for the National Team for the Competition, any NST Application Fee and Service Charges paid by the Final Appellant will be reimbursed to the Final Appellant by WPA.

Final Selection Appeal Procedure

- 4.3.7 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 Final Selection Appeals:
- (a) A Water Polo 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 2024.
 - (b) 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.

- (c) 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.

4.3.8 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 section 4.4).

Final Appeal Outcomes – Reconsideration and Redetermination

4.3.9 The NST may uphold or dismiss a Final Appeal.

4.3.10 Subject to section 4.3.12, where the NST upholds a Final Appeal overturning the determination of the NST in the First Instance Appeal, or the substituted decision of WPA, the NST must refer any subsequent decision regarding selection of the National Team for the Competition back to the WPA for reconsideration and redetermination.

4.3.11 In reconsidering and determining any subsequent decision regarding selection of the National Team for the Competition, WPA must observe the principles of natural justice. Any subsequent decision made by WPA regarding the selection of the National Team for the Competition after such referral, is final and binding.

4.3.12 Notwithstanding section 4.3.10, the NST may itself determine the issue of the Final Appellant's selection where the NST determines that:

- (a) it would be impractical to refer the redetermination back to WPA given the time available; or
- (b) in making its substituted decision, WPA 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 WPA if the decision regarding the Appellant's non-selection was referred back to WPA.

4.3.13 Prior to making a determination under section 4.3.12, 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 section 4.3.13.

4.3.14 The determination handed down by the Appeal Tribunal with respect to an Appeal is final and binding on the Parties

4.4 Where an application to deal with a dispute requires expedition

4.4.1 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.

4.4.2 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 National Sports Tribunal (Practice and Procedure) Determination 2024 that a party to the dispute would otherwise have to comply with.