

# **Cycling New Zealand Selection Regulations**

## **Schedule 6 – Selection Appeals**

---

### **1. Background**

1.1. This schedule forms part of the Cycling New Zealand Selection Regulations and outlines the specifics in relation to appeals for the non-selection to a Cycling New Zealand Team.

### **2. Grounds for Appeal**

2.1. A rider (the Appellant) may lodge an appeal against a decision of his or her non-selection to a Cycling New Zealand Team in accordance with clause 5.1 (Process) (“Decision”) on one or more of the following grounds (but no other grounds):

- 2.1.1. The Cycling New Zealand Selection Regulation has not been properly followed and/or implemented;
- 2.1.2. The Appellant was not afforded a reasonable opportunity to satisfy the requirements in the Cycling New Zealand Selection Regulation;
- 2.1.3. The Decision not to select the rider was affected by actual bias; and/or
- 2.1.4. There was no material on which the selection Decision could reasonably be based.

### **3. Selection Ombudsman**

3.1. The Cycling New Zealand Board, on advice from the Chief Executive and High Performance Director, shall appoint a Selection Ombudsman.

3.2. The role of the Selection Ombudsman is to:

- 3.2.1. Audit the selection process and ensure the Selectors undertake their duties in line with the Cycling New Zealand Selection Regulations;
- 3.2.2. Hear and rule on any appeal from riders against the Decision of the relevant Selection Panel in line with the process outlined in clause 5 of this schedule.

3.3. The powers of the Selection Ombudsman are as follows:

- 3.3.1. To such extent as may be possible attend and observe the running of any Selection Trial conducted in line with the Selection Regulations;
- 3.3.2. Be privy to discussions and decisions of any Selection Panel;
- 3.3.3. Where appropriate make comment on the conduct of Selection process and Selection Regulations;
- 3.3.4. Hear and determine appeal by an Appellant;
- 3.3.5. Following the determination of any appeal make such recommendations as may be appropriate to the Board;

- 3.3.6. Report on the conduct of the Selection process and Selection Regulations to the Board.

#### **4. Selection Appeal Process**

4.1. Any appeal must be made as follows:

- 4.1.1. The Appellant must notify the Cycling New Zealand Chief Executive in writing of his or her wish to appeal the Decision within 48 hours from the date the Decision of the Cycling New Zealand Team for which the rider was seeking selection, was notified to the Appellant, or the date the relevant Cycling New Zealand Team was publicly announced (whichever is the earlier);
- 4.1.2. On receipt of such notice the Chief Executive shall, as soon as practicable, convene a confidential and “without prejudice” meeting between the Chief Executive (or his/her nominee), as many members of the relevant Selection Panel as are available, the Appellant, and the Appellant’s authorised representative (if any). The purpose of this meeting is to allow Cycling New Zealand to explain the Decision and see whether the matter can be resolved by agreement;
- 4.1.3. If the appeal is unresolved after the meeting referred to in clause 4.1.2, the Appellant may maintain his or her appeal by;
  - 4.1.3.1. Informing the Chief Executive in writing of his or her intention to maintain the appeal within 48 hours of the conclusion of the meeting described in clause 4.1.2. or within a longer period of time agreed to in writing as the Chief Executive may determine;
  - 4.1.3.2. Within 72 hours of informing the Chief Executive of his or her intention to maintain the appeal, the Appellant must submit in writing to the Chief Executive the Appellant’s grounds of appeal including any appropriate evidence. The Chief Executive shall immediately make available to the relevant Selection Panel, a copy or copies of the Appellant’s grounds of appeal including any evidence submitted by the Appellant.
  - 4.1.3.3. Within 48 hours of the Chief Executive making the Appellant’s grounds of the appeal available to the relevant Selection Panel in accordance with clause 4.1.3.2, the Selection Panel must submit in writing to the CEO a response to the Appellant’s grounds for appeal.
  - 4.1.3.4. The Chief Executive will then refer the Appellant’s ground for appeals including any evidence submitted by the Appellant and the relevant Selection Panel’s written response to the Selection Ombudsman.
  - 4.1.3.5. The Selection Ombudsman will conduct an Appeal Hearing in accordance with clause 5 and consistent with the powers of the Selection Ombudsman as set out in clause 3.3.

4.1.4. If at the conclusion of the Appeal Hearing the Appellant remains dissatisfied, the Appellant may file an application for appeal with the Sports Tribunal of New Zealand (Sports Tribunal). Thereafter the appeal shall be determined in accordance with the Rules of the Sports Tribunal (see [www.sports-tribunal.org.nz](http://www.sports-tribunal.org.nz)).

4.1.5. The decision of the Sports Tribunal shall be binding on the parties, and subject to any right of review and/or appeal as set out in the Rules of the Sports Tribunal, no party to the appeal may institute or maintain proceedings in any Court or other Tribunal.

## **5. Appeal Hearing**

5.1. Upon receiving the Appellant's written ground for appeals including any evidence submitted by the Appellant and the relevant Selection Panel's written response, the Selection Ombudsman shall call an Appeal Hearing at the earliest convenient time for the Appellant and relevant Selection Panel.

5.2. The Selection Ombudsman can seek further information or clarification from the Appellant and/or relevant Selection Panel, and/or other parties as the Selection Ombudsman deems relevant.

5.3. If the Selection Ombudsman is of the view that the outcome of the appeal may affect the interests of any person or persons in addition to the Appellant, the Selection Ombudsman may, as far as practicable, provide notice to such other person or persons and that person or persons may appear at the Appeal Hearing and/or make written submissions to the Selection Ombudsman.

5.4. The Appeal Hearing can be conducted in such a manner and place as the Selection Ombudsman decides, including in person, by telephone or by video conferencing.

5.5. The Selection Ombudsman will give his or her decision on any appeal as soon as practicable after the Appeal Hearing and will provide the Chief Executive, the Appellant and other parties to the appeal with a written statement of the reasons for their decision.

5.6. The Selection Ombudsman may in the case of any successful appeal refer the matter back to the relevant Selection Panel and seek their reconsideration in accordance with the Selection Regulations. However the Selection Ombudsman may himself/herself determine the issue which is the subject of the appeal where:

5.6.1. it is determined that:

5.6.1.1. It would, in the view of the Selection Ombudsman, be impracticable to refer the question back to the relevant Selection Panel in the time available in which entries to the event must be submitted by Cycling New Zealand or other applicable party; or

5.6.1.2. There has been such a disregard of the Selection Regulations by or on behalf of the relevant Selection Panel that the Selection Ombudsman could reasonably conclude this it is unlikely that the Selection Regulations will be properly followed and/or implemented; and

5.6.2. Prior to making the determination in clause 5.6.1, the Selection Ombudsman has advised the parties and all persons whose interests may be affected by the outcome of the appeal of:

5.6.2.1. The possibility of the Selection Ombudsman making such a determination; and

5.6.2.2. That the Selection Ombudsman may himself/herself conclusively determine the issue of selection; and all parties are permitted the opportunity to make submissions and give evidence in respect thereof.

## **6. Limits on Appeals**

6.1. The appeal process described in clause 5.1 only applies to selection appeals. It does not apply to:

6.1.1. Any appeal made under any general provisions set out in the Constitution or Regulations of Cycling New Zealand; or

6.1.2. Any appeal against any selection decision which is not made by Cycling New Zealand (such as an appeal against a decision of the New Zealand Olympic Committee Incorporated).