



**Triathlon Australia Appeal Process
2012 International Triathlon Union Age Group World Championships**

Long Distance	29 th July	Vitoria-Gasteiz, Spain
Duathlon	23 rd September	Nancy, France
Sprint Distance	18 th to 22 nd October	Auckland, New Zealand
Olympic Distance	18 th to 22 nd October	Auckland, New Zealand

A. INTERPRETATION

Athlete: means an athlete who registered for and competes in one or more event(s)

ITU: means the International Triathlon Union and is the official governing body for the Olympic sport of Triathlon Australia.

2012 ITU TWC or ITU DWC: means the International Triathlon Union World Triathlon Championships or International Triathlon Union World Duathlon Championships.

Selection Policy: means the provisions of Triathlon Australia's selection policy for the selection of the team.

Team: means the age group team selected according to the selection policy to represent Australia at the 2012 International Triathlon Union Triathlon World Championships or the 2012 International Triathlon Union Duathlon World Championships.

Team Management: means the person appointed by Triathlon Australia to the position of Team Manager for the 2012 ITU TWC or the 2012 ITU DWC age group team.

Triathlon Australia: means Triathlon Australia Limited ACN 007 356 907 an affiliated member of the International Triathlon Union.

CEO: means the person appointed to the position of Chief Executive Officer of Triathlon Australia by Triathlon Australia or their nominee.

TASAT: means the Triathlon Australia Selection Appeals Tribunal appointed by Triathlon Australia to hear and determine appeals under this selection policy.

TAAC: means the Triathlon Australia Age Group Committee appointed by Triathlon Australia to select the team under this selection policy.

B. APPEAL PROCESS

1. Right of Appeal

- (a) An eligible athlete who fails to be selected for the team pursuant to the process and criteria set out in the selection policy may appeal against omission from the team as set out in this document.
- (b) The sole grounds of any appeal are that:
 - i. The athlete's omission from the team was as result of a failure by the Triathlon Australia Selection Committee to properly apply the selection criteria set out in the selection policy;

or

- ii. There was no basis on which the selection decision could reasonably have been made.

For the avoidance of any doubt, an athlete's right of appeal is limited to procedural grounds and does not extend to an investigation of the merits of a particular selection decision.

- (c) Any appeal under this clause will proceed in accordance with the procedure set out below.

2. Notice of Appeal

- (a) Any eligible athlete wishing to appeal against his/her omission from the team must lodge a Notice of Appeal in writing in the form set out at Annexure 1 to this document. The completed document is to be received by the Chief Executive Officer of Triathlon Australia by 5:00pm on the **second clear day** following the announcement of the selection decision, which is the subject of the appeal.

The Notice of Appeal must set out the grounds upon which the appeal is made.

- (b) After lodging the Notice of Appeal as set out in subclause 2(a) above, the appellant (the athlete making the appeal) **must** file a summary of all the arguments and/or submissions that the athlete wishes to be considered in support of his/her appeal together with an outline of all the evidence that will be relied upon in support of those arguments and/or submissions. This document **must** be received by the Chief Executive Officer of Triathlon Australia by 5:00pm on the **fifth clear day** following the announcement of the selection decision which is the subject of the appeal.
- (c) The summary of arguments and submissions in support of the Athlete's appeal must be accompanied by an appeal fee of **\$150**.

- (d) The appellant can withdraw an appeal at any time.
- (e) The time limits for lodging the Notice of Appeal, summary of arguments and submissions and the appeal fee are mandatory, failure to comply with these time limits will, at the absolute discretion of the TASAT, result in the appeal being dismissed without consideration on the merits.

3. **Constitution of the Triathlon Australia Selection Appeals Tribunal**

- (a) The TASAT shall be constituted by any three persons available to hear the appeal, which must include the following:
 - (i) a person with a thorough knowledge of the sport and who preferably has had recent international competition experience in the sport;
 - (ii) another person of experience and skills suitable to the function of the TASAT; and
 - (iii) a barrister or solicitor who will chair the TASAT.
- (b) No member of the TASAT may be a party to or directly interested in the matter under consideration.

4. **Functions of the TASAT**

The TASAT has no power of selection or re-selection. The TASAT may review the matter(s) set out in the appeal and may (as appropriate) refer the matter back to TAAC for consideration.

5. **Hearing of the Appeal**

- (a) The TASAT shall, as soon as practical after receiving the appeal documents, investigate and consider the matter and determine whether:
 - (i) the matter should be dismissed because, in the opinion of the TASAT, there is no credible evidence, submission or argument upon which the TASAT could be satisfied that a ground of the appeal can be made out; **or**
 - (ii) the appeal should be the subject of a hearing as set below.
- (b) If the TASAT determines the matter should be dismissed under clause 5(a)(i) above that decision is final and the appeal has failed.

If the TASAT determines that the appeal should be dismissed without a hearing, the appellant's appeal fee of \$150 is forfeited to Triathlon Australia as the costs of the appeal.

If the TASAT determines the matter warrants a hearing, the TASAT will advise the appellant and set the date for such a hearing as soon as practicable and necessary having regard to the timing of selection and the proximity of relevant events.

(c) The TASAT must conduct any appeal hearing in accordance with clause 5(b) as follows:

- (i) it must observe the principles of natural justice;
- (ii) it is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;

it will conduct its hearings with as little formality and technicality and with as much expedition as the proper consideration of the matter permits;

- (iv) hearings may occur in such manner as the Chairman decides, including telephone or video conferencing;
 - (v) the appellant must establish one or more grounds of appeal to the reasonable satisfaction of the TASAT with full regard to the importance and gravity of the issue;
 - (vi) the parties to an appeal may be represented at a hearing but not by a barrister, solicitor or a legally trained person;
- (d) following consideration of all information that the TASAT considers relevant the TASAT shall arrive at a finding. A decision of the TASAT may be by a majority decision;
- (i) the TASAT shall notify the CEO of its finding as soon as practicable;
 - (ii) if the TASAT considers the ground(s) alleged by the appellant to be made out, it shall recommend that TAAC reconsider the selection of the relevant TEAM position;
 - (iii) where the TASAT considers that a ground of appeal has been made out, it may stipulate that all or part of the appeal fee be refunded to the appellant;
 - (iv) TAAC shall comply with any direction of the TASAT to reconsider the selection of the relevant TEAM position.
 - (v) any further selection decision of TAAC under the direction of the TASAT shall be final and binding, and no other further appeal shall be available to the appellant in respect of that selection.

Triathlon Australia Issued: July 1st 2011

Annexure 1 - Notice of Appeal

TRIATHLON AUSTRALIA

NOTICE OF APPEAL

To: Chief Executive Officer
Triathlon Australia
Level 3/20 Rodborough Road
FRENCHS FOREST NSW 2086

Tel: (02) 9972 7999
Fax: (02) 9972 7998
Email: info@triathlon.org.au

1. I, _____ advise that I wish to appeal my non-selection to Triathlon Australia's 2012 Age Group World Championships Team.

Please note the 2012 team which you had applied for:
Long Distance World Championships 29th July 2012
Duathlon World Championships 23rd September 2012.....
Sprint Distance World Championships 18th to 22nd October 2012.....
Olympic Distance World Championships 18th to 22nd October 2012.....

The grounds on which my appeal is based are as follows:

[Attach additional pages if necessary]

Dated this _____ day of _____ 2012

Signed:

□

Appellant