

DOCUMENT:	TNSW / TACT Development Squad Appeal
REFERENCE:	2021/2022 TNSW / TACT Development Pathway

A. INTERPRETATION

CEO means the person appointed to the position of Chief Executive Officer of TNSW and / or TACT.

Squad means the athletes selected under this policy to join any program in the TNSW / TACT Development Pathway (Rest of State Talent Academy (ROSTA), Triathlon ACT Talent Academy (TACTA), TNSW/ TACT Emerging Talent Squad (ETS) and TNSW / TACT Under 23 Development Program (U23))

TNSW/TACT Selection Appeals Committee (SAC) means the TNSW / TACT Selection Appeals Committee appointed by TNSW / TACT to hear and determine appeals under this policy.

TNSW/TACT Selection Committee (SC) means the TNSW/TACT 2021/2022 Development Pathway Selection Committee

Triathlon NSW means Triathlon NSW Limited the State Sport Organisation for the sports of triathlon/ duathlon/ aquathlon and which is affiliated with Triathlon Australia.

Triathlon ACT means Triathlon ACT Limited the State Sport Organisation for the sports of triathlon/ duathlon/ aquathlon and which is affiliated with Triathlon Australia.

B. Appeals Process

1. Right of Appeal

- (a) An Eligible Athlete who fails to be selected for the Squad pursuant to the process and criteria set out in the relevant Selection Policy may appeal against omission from the Squad as set out in this document.
- (b) The sole grounds of any appeal are that:
 - i. The Athlete's omission from the Squad was as result of a failure by SC 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 Squad must lodge a Notice of Appeal in writing in the form set out at Annexure 1 to this document to be received by the CEO of TNSW or CEO of TACT by 5:00pm on the second clear day following the communication of non-selection, as set out in Section B.

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 their 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 5:00pm on the third clear day following communication of non-selection.

- (c) The summary of arguments and submissions in support of the Athlete's appeal must be accompanied by an appeal fee of \$100.
- (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 SAC, result in the appeal being dismissed without consideration on the merits.

3. **Composition of SAC**

- (a) The SAC shall be composed by any three persons available to hear the appeal, which must include the following:
 - (i) a person with a thorough knowledge of Triathlon;
 - (ii) another person of experience and skills suitable to the function of the SAC; and
 - (iii) a barrister, solicitor or individual with legal training who will chair the SAC.
- (b) No member of the TNSWSAC may be a party to or directly interested in the matter under consideration.

4. **Functions of the SAC**

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

5. **Hearing of the Appeal**

- (a) The SAC 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 SAC, there is no credible evidence, submission or argument upon which the SAC 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 SAC determines the matter should be dismissed under clause 5(a)(i) above that decision is final and the appeal has failed.

If the SAC determines that the appeal should be dismissed without a hearing, the appellant's appeal fee of \$100 is forfeited to TNSW/TACT as the costs of the appeal.

If the SAC determines the matter warrants a hearing, the SAC 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 SAC 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;

- (iii) 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 Chair decides, including telephone or video conferencing;
 - (v) the appellant must establish one or more grounds of appeal to the reasonable satisfaction of the TNSWSAC 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 person with legal training;
- (d) Following consideration of all information that the SAC considers relevant, the SAC shall arrive at a finding. A decision of the SAC may be by a majority decision;
- (i) the SAC shall notify the CEO or TNSW and TACT of its finding as soon as practicable;
 - (ii) if the SAC considers the ground(s) alleged by the appellant to be established it shall recommend that SAC reconsider the selection of the relevant Squad position;
 - (iii) where the SAC considers that a ground of appeal has been established, it may stipulate that all or part of the appeal fee be refunded to the appellant;
 - (iv) SAC shall comply with any direction of the SAC to reconsider the selection of the relevant Squad position.
 - (v) any further selection decision of SAC under the direction of the SAC shall be final and binding, and no other further appeal shall be available to the appellant in respect of that selection.

Triathlon NSW / Triathlon ACT Limited

TRIATHLON NEW SOUTH WALES / TRIATHLON ACT

NOTICE OF APPEAL

To: Chief Executive Officer
Triathlon New South Wales / Triathlon ACT
Email: adam.wicks@nsw.triathlon.org.au / director@act.triathlon.org.au

1. I _____ advise that I wish to appeal my non-selection to the 2021/ 2022 Development Program
The grounds on which my appeal is based are as follows:

[attach additional pages if necessary]

Dated this _____ day of _____ 2021

Signed:

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Appellant

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Parents/Guardian (if appellant U18)