



BMC - GB Climbing 2022 Selection Appeals Process

The following procedures have been adopted by the British Mountaineering Council (the “BMC”) and GB Climbing in considering appeals made by or on behalf of any athlete wishing to appeal their non-nomination (or non-selection) for (and any de-selection from) the GB Climbing squads or teams (GB National Development, Senior Squad, GB Youth or Junior team, Senior Team) by the BMC/ GB Climbing selection panels (a “Selection Decision”). The BMC and GB Climbing are entitled to amend this procedure from time to time.

Anyone considering lodging an appeal should first consider the BMCs complaints procedure to decide which process is more suitable. The BMC will not consider an appeal and a complaint on the same matter.

An athlete considering an appeal of a Selection Decision should be aware of the importance of the time limits contained within these procedures. These limits are designed with the intention of resolving issues as quickly as possible whilst ensuring a fair and just outcome. All decisions made under this Appeals Process are final and binding and the parties will not bring any appeal or challenge to any matter under the jurisdiction of this policy, or any decision made under this policy, before any court of law or other dispute resolution body, including the Court of Arbitration for Sport.

1. Introduction and General

- 1.1. The right to appeal a Selection Decision must not be seen as an opportunity to dispute the opinion of the selector(s) where the selection procedure and selection criteria have been followed. An appeal may not seek to re-argue the merits of a Selection Decision itself.
- 1.2. In reaching their Selection Decision the selector(s) are acting as experts.
- 1.3. An athlete (which for the purposes of these procedures include the parent(s) or legal guardian and/or coach of any athlete under the age of eighteen years) to whom a Selection Decision applies directly can appeal against that Selection Decision in accordance with this procedure.
- 1.4. The BMC, the athlete, and any affected third party are under an obligation of confidentiality in respect of any appeal proceeding under this Appeals Process. Save as permitted herein, neither the BMC, the athlete, nor any affected third party will make any public statement or disclosure of any matter related to an appeal proceeding under this Appeals Process.

2. Grounds of Appeal

- 2.1. An appeal against a Selection Decision may only be brought on the grounds that:
 - 2.1.1. the procedures set out in the relevant selection policy were not followed; and/or
 - 2.1.2. the selection panel reached a decision on the basis of on an error of fact; and/or
 - 2.1.3. a selection panel member has shown bias or the appearance of bias.

3. Commencement of Appeal

- 3.1. The athlete who wishes to appeal (the “Appellant”) must submit a written request to the BMC/GB Climbing (the “Notice of Appeal”) within **five** working days (i.e. by 5pm on the fifth working day) of the date on which the Selection Decision was publicly announced.

The Notice of Appeal and any other communication under this Appeals Process should be forwarded to the BMC Governance Officer, appeals@thebmc.co.uk

No fee is payable in respect of the Notice of Appeal.

- 3.2. The Notice of Appeal must contain:
- 3.2.1. the name and address of the Appellant;
 - 3.2.2. the grounds of appeal;
 - 3.2.3. a brief statement describing the nature and circumstances of the Selection Decision against which the Appellant wishes to appeal, the basis on which the appeal is made, and the relief or remedy sought; and
 - 3.2.4. copies of any documents on which the Applicant seeks to rely in support of the appeal.
- 3.3. If a Notice of Appeal is received outside the **five** working day time limit, and there are extenuating circumstances for the delay, then the BMC may, in its absolute discretion, agree to waive the time limit. The Appellant must set out the reasons for the delay within the Notice of Appeal.

4. Review by Relevant Selectors

- 4.1. The BMC Governance Officer shall as soon as possible, and ordinarily within three working days following receipt of the Notice of Appeal, supply copies of the Notice of Appeal to the selector(s) responsible for the Selection Decision under appeal (the “Relevant Selectors”). The Relevant Selectors shall then review the original Selection Decision in light of the points made in the Notice of Appeal.
- 4.2. As soon as possible, and ordinarily within three working days of receipt of the Notice of Appeal by the Relevant Selectors, the Relevant Selectors shall inform the BMC Governance Officer in writing whether they confirm or reverse their original Selection Decision (the “Review Decision”). The Relevant Selectors shall provide written reasons for their Review Decision.
- 4.3. Within two working days of receipt of the Review Decision, the BMC Governance officer shall inform the Appellant in writing of the outcome of the Review Decision, including the Relevant Selectors’ written reasons.
- 4.4. For the avoidance of doubt, when undertaking their review of the relevant Selection Decision, the Relevant Selectors shall be entitled to address any matters raised in the Notice of Appeal.

5. Continuation of Appeal

- 5.1. Where the decision of the Relevant Selectors is to confirm their original Selection Decision, the Appellant may, within three working days of receipt of the Review Decision in accordance with Section 4.4 above, submit a Further Notice of Appeal to the BMC Governance Officer and the Executive Director of Sport Resolutions (a trading name of The Sports Dispute Resolution Panel Ltd – Company No. 3351039) for resolution in accordance with the Arbitration Rules of Sport Resolutions (as reviewed in October 2020 and save as modified herein) (the “SR Rules”), which rules (save as modified herein) are deemed to be incorporated by reference into this document. The appeal shall be governed by the Arbitration Act 1996

and the decision of the sole arbitrator shall be final and binding on all concerned. The appeal shall be determined by way of review.

- 5.2. Any such Further Notice of Appeal shall be limited to the grounds of appeal set out in Section 2 above.
- 5.3. The SR Rules shall be modified as follows:
 - 5.3.1. The Executive Director of Sport Resolutions shall, as soon as possible and ordinarily within five working days of receipt of the Further Notice of Appeal (as required by the SR Rule 2.3), appoint a member of the Sport Resolutions Legal Arbitrator Panel as the sole arbitrator. Any challenge to the appointment of the Sole Arbitrator under SR Rule 6.6 must be made within three days of the Appellant receiving notice of his or her appointment.
 - 5.3.2. Within three working days of the appointment of the Sole Arbitrator (or, if a challenge to their appointment is made, within three working days of the resolution of that challenge), the Appellant shall submit to Sport Resolutions and serve on the BMC Governance Officer a Statement of Appeal containing or accompanied by the material set out in SR Rule 2.5.
 - 5.3.3. As soon as possible following receipt of the Statement of Appeal and ordinarily within five working days of receipt of the Statement of Appeal, the Sole Arbitrator shall determine whether the appeal has any real prospect of success. The Sole Arbitrator's decision and brief written reasons shall be communicated to the parties via Sport Resolutions.
 - 5.3.4. If the Sole Arbitrator decides that the appeal has no real prospect of success (which shall include the scenario where the Sole Arbitrator considers that the case raised by the Appellant is so trivial or technical that, even if proved correct, there is no realistic prospect that the matter complained of would have had an effect on the decision of the Relevant Selectors), the appeal shall be dismissed. In these circumstances, the Appellant shall be liable for the costs of the arbitration (as defined in SR Rule 13.1).
 - 5.3.5. If the Sole Arbitrator decides that the appeal does have a real prospect of success, the appeal shall continue in accordance with the SR Rules (save that the BMC's reply for the purposes of SR Rule 2.6 shall be due within five working days of receipt of the Sole Arbitrator's decision under Section 5.2.3 above).
 - 5.3.6. The Sole Arbitrator shall proceed in an expedited manner for the purposes of SR Rule 8.1 and shall ordinarily issue appropriate directions within five working days of receipt of the BMC's reply submissions.
 - 5.3.7. Where, in the discretion of the Sole Arbitrator, it appears that the interests of a third party may be affected by any of their decisions, the Sole Arbitrator may invite the third party to make submissions as the Sole Arbitrator considers appropriate. For the avoidance of doubt, the decision of the Sole Arbitrator will determine the rights of the third party athlete and there will be no right of further appeal for the third party athlete.
 - 5.3.8. The parties shall be responsible for their own legal and other costs of the appeal. The Sole Arbitrator shall have the power to order that the costs of the arbitration (as defined in SR Rule 13.1, and not including the parties' legal costs) shall be paid in such proportions as the Sole Arbitrator may, in their sole discretion, decide.