

BRITISH WRESTLING ASSOCIATION
2010 Commonwealth Games Selection Procedure
(Updated 24th August 2010)

Introduction

The purpose of this document is to outline the selection process for the English Team attending the 2010 Commonwealth Games.

This policy will be circulated to current national performance team members, national performance coaches, club and regional coaches and the Council of the English Wrestling Association.

2010 Qualifying Process

The 2010 English Commonwealth Wrestling Team will be qualified in four stages:

1. Athletes wishing to be selected for the 2010 Commonwealth Games will compete at the 2010 English Senior Championships to be held in May 2010. Additionally athletes will also be required to compete in the British Closed Championships to be held in June 2010.
2. Any athlete unable to participate in either the English Senior Championships and / or the British Closed Championships due to illness or injury will be able to petition for a special wrestle-off if he or she has achieved a top six position in at least one FILA sanctioned tournament within the previous 12 months. Medical certification of illness or injury must be produced to the English Team Manager prior to Monday 21st June 2010. Any sanctioned 'wrestle –off' will take place on the 3rd or 4th July 2010.
3. The selection committee will meet during the week commencing Monday 5th July to select the England Commonwealth Games Team. The committee will consist of the England Team Manager, England Team Coach and the Chief Executive of the British Wrestling Association.
4. Announcement of those athletes selected to the England 2010 Commonwealth Games Team will be made during the week commencing Monday 5th July 2010 following ratification of the nominations by Commonwealth Games England (CGE). Selected athletes will be required to meet training and fitness obligations as specified by the England National Coach.

STAGE ONE

Where the outcome of the 2010 English Senior Championships and the British Closed Championships clearly identifies the top ranked eligible English wrestler, he/she will be considered for selection to the 2010 England Commonwealth Games Team. ***N.B. Such consideration does not guarantee selection, and the English Wrestling Association reserves the right to select only those wrestlers whose record suggests a possibility of achieving medal status at the 2010 Commonwealth Games***

To be considered, a wrestler must have achieved a top six position in at least one Senior FILA sanctioned tournaments within the previous twelve months before selection is made to the 2010 Commonwealth Games Team

Additional factors which may be considered by the selection panel include:

- consistency of performances and current rate of improvement
- past achievements at major events
- current weight and the ability to make the 'fighting' weight
- current level of physical fitness and current medical/injury status
- suitability as a team member (past behaviour)

STAGE TWO

Any wrestler who believes they deserve a wrestle-off due to illness or injury must apply in writing to the England Team Manager by Monday 21st June 2010.

Where such a request is made, the Selection committee (England Team Manager, England Team Coach and the Chief Executive of the British Wrestling Association) will be the final arbitrators in any decision on holding a wrestle-off in any weight category. The wrestle off will be over a maximum of three matches organised by the English Team Manager and according to FILA rules and will take place at the Wrestling Academy (Manchester) , on the 3rd or 4th July 2010. There will be a 1 kilo allowance.

STAGE THREE

The selection committee will meet during the week commencing Monday 5th July 2010 and athlete selection will be based on the following criteria:

The athlete was the top ranked English wrestler at a given weight class in the English Senior Championships and / or the British Closed Championships. The only weight classes that will be considered are:

Male weights - 55 Kg, 60 Kg, 66Kg, 74Kg, 84Kg, 96Kg, 120Kg

Female weights – 48kgs, 51kgs, 55kgs, 59kgs, 63kgs, 69kgs, 72kgs

The athlete must have achieved at least one top six placing in a FILA sanctioned tournament during the previous twelve months.

Announcement of those athletes selected to represent England in the 2010 Commonwealth Games will be made during the week commencing Monday 5th July 2010 In a joint announcement with Commonwealth Games England on a date to be mutually agreed.

STAGE FOUR

Any wrestler who is selected as a member of the 2010 Commonwealth Games Team will be required to adhere to an agreed preparation and training programme. The preparation and training programme will be produced by the England National Coach in consultation with the selected athlete and the England Team Manager. Failure to adhere to the programme will result in the selected nomination to Commonwealth Games England being withdrawn. Further, at any time a qualified wrestler may be required to demonstrate or prove fitness to compete by the English Team Manager.

Failure to do so will result in a withdrawal of nomination. In either case, another English wrestler who meets all selection criteria may be offered the place.

Furthermore, a qualified wrestler who is required to prove their fitness to compete may be subjected to any medical examination or physiological test that the English Wrestling Association regard as appropriate.

SELECTION APPEALS PROCEDURE

1 Introduction

1.1 This document sets out The British Wrestling Association (BWA) procedure for selection appeals from the Commonwealth Games selection and de-selection decisions (the Selection Appeals Procedure).

1.2 Any athlete wishing to lodge an appeal under this Selection Appeals Procedure must be fully familiar with the detailed provisions of the Selection Policy.

1.3 This is the only applicable appeals procedure and forms the entire agreement between each athlete and the British Wrestling Association as to how Commonwealth Team selection and de-selection decisions are to be challenged. The Parties agree to submit any dispute concerning any matter connected with or arising out of selection issues to binding arbitration as provided for by the provisions of this Selection Appeals Procedure. The Parties agree that they will not commence, continue or maintain any legal challenge to any matter falling under the jurisdiction of this Procedure, or any decision made under this Procedure, before any court of law or other dispute resolution body, including Sports Resolutions UK and the Court of Arbitration for Sport (CAS). The Parties will treat all decisions under this Selection Appeals Procedure as final and binding upon them.

1.4 The parties acknowledge that, due to time pressures, the procedures for selection and de-selection appeals need to vary slightly in their form and timing. Accordingly, the de-selection appeals procedure set out herein is an accelerated procedure so as to enable any challenge to be resolved as quickly as is reasonably possible, in order to minimise disruption to the selected team.

1.5 The Parties agree that this Selection Appeals Procedure supersedes and operates exclusively in relation to any other grievance or appeal procedure published by the BWA. The athlete shall not by virtue of his or her membership of the BWA have recourse to any other appeals or grievance or dispute resolution policy or procedure in respect of the selection decisions covered by this Procedure.

2. PARTIES

2.1 This Selection Appeals Procedure is binding on the BWA and on each athlete who is seeking selection to the England Team for the Commonwealth Games 2010.

3. HOW TO APPEAL

3.1 This Appeals Procedure is commenced when an athlete affected by a National Team selection or de-selection decision makes a formal written appeal (the Notice of Appeal) to the Chair of the BWA within two working days of the selection being announced on the BWA website (or if not announced on the website within two working days of the first announcement of the selection howsoever made). If the appealing athlete (the Appellant) fails to submit the Notice within the time limit set out in this Procedure he or she will have lost their right of Appeal under this Procedure, save in wholly exceptional circumstances which will be judged by the BWA in their absolute discretion.

3.2 The Notice of Appeal will set out the ground of the appeal and will include full details of the basis of the appeal including the precise manner in which the Appellant alleges that the selection criteria have not been followed. The Notice of Appeal should be as full as possible and will form the basis of the remainder of this Procedure.

3.3 An Appellant may only call witnesses in support of an appeal against a selection decision (as opposed to an appeal against a de-selection decision). If the Appellant believes that he or she may want to call witnesses in support of the appeal then the name(s) of those witnesses should be set out in the Notice of Appeal. The Appellant will be able to call witnesses not named on the Notice of Appeal at any subsequent hearing but it may help the Evaluation Committee (as defined below) to know whether witnesses are to be called or not.

3.4 In cases of an appeal against a selection decision (as opposed to an appeal against a de-selection decision), if the Evaluation Committee accepts that the matter should proceed to a full hearing, the Appellant will be able to raise arguments not contained in the Notice of Appeal provided that they relate directly to matters which are referred to in the Notice of Appeal. Athletes should be aware however that they may be prohibited from raising wholly new arguments at the hearing about any matter which was not referred to in the Notice of Appeal.

4. GROUND OF APPEAL

4.1 The sole ground of appeal against the decision of any selection panel (a Selection Panel) will be that there has been a failure to follow the Selection Policy. This Selection Appeals Procedure is only provided on this limited ground and must not be seen as an opportunity to dispute the opinion of the Selection Panel where they have followed the proper procedure. In reaching their decision the Selection Panel are acting as experts and the athletes agree that in so doing the Selection Panel will exercise judgment and discretion which are not of themselves capable of challenge.

4.2 There are no appeals allowed against the content of the Selection Policy and therefore against the actions of the Selection Panel, provided that they follow the Selection Policy.

5. INITIAL CONSIDERATION AND THE EVALUATION PROCEDURE

5.1 Where an Appellant is making an appeal against a selection decision (as opposed to an appeal against a de-selection decision), upon receiving a Notice of Appeal, the BWA Chair will within three working days acknowledge receipt to the Appellant and arrange for an initial judgment on the validity of the grounds of appeal to be made by a panel consisting of either himself or the General Secretary of the

BWA], together with two other Executive Board Members of the BWA (the Evaluation Committee).

5.2 Where an Appellant is making an appeal against a de-selection decision, upon receiving a Notice of Appeal, the BWA Chair will within three working days acknowledge receipt to the Appellant and forward copies of the Notice of Appeal to the members of an independent Selections Appeals Panel (the Appeals Panel). In such cases, the Evaluation Procedure is by-passed. The Appeals Panel will convene a hearing within 3 working days of receipt of the Notice of Appeal and thereafter will follow the procedure set out at clauses 7 and 8 below.

5.3 The Evaluation Committee will determine whether the Notice of Appeal is valid and whether the Appellant's complaint should be heard by the Appeals Panel, having regard to the following matters:

- (a) whether the Notice of Appeal been served in time;
- (b) whether the Notice of Appeal is based on the applicable ground of appeal set out at section 4 above;
- (c) whether the Notice of Appeal discloses a prima facie case that the appeal could succeed;
- (d) whether the case raised by the Notice of Appeal 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 Selection Panel; and
- (e) whether the matter has been substantively decided by a previous Selection Appeals Panel in which the Appellant was a Third Party (as defined under this Selection Appeals Procedure).

In determining these issues the Evaluation Committee is to give the benefit of any doubt to the athlete.

5.4 In determining whether to transfer the case onto the Appeals Panel, the Evaluation Committee is not judging whether or not the Appellant's appeal should or would succeed, only that he or she has raised a proper case that could succeed. The Evaluation Committee is entitled to consider such matters as appear to it to be relevant including (but not limited to) their assessment of the truth or accuracy of any facts relied on by the athlete.

5.5 The Evaluation Committee must bear in mind that they have not at this stage heard live evidence from the athlete or any witness he or she may wish to call and that it is likely to be only in exceptional circumstances that they are able to conclude that no case is disclosed by the Notice of Appeal.

5.6 Subject to its powers under 5.7 below, if the matters listed at 5.3 (a), (b) and (c) are answered in the affirmative by the Evaluation Committee and the matters listed at 5.3 (d) and (e) are answered in the negative by the Evaluation Committee, the Evaluation Committee shall confirm that the athlete's appeal should be forwarded to the Appeals Panel (as constituted in accordance with section 6).

5.7 The Evaluation Committee shall be entitled to conclude that the Appellant's complaint is clearly valid in that there has been a clear breach of the Selection Policy and that the relevant selection panel should reconsider their failure to select the athlete based on the finding of the Evaluation Committee. In such a case, the Evaluation Committee will notify the Appellant and the relevant Selection Panel of its

decision and that Selection Panel will then be obliged to reconsider the matter without delay and will be bound to take into consideration any comments of the Evaluation Committee.

5.8 If the Evaluation Committee answers in the negative to any of the matters set out at 5.3 (a), (b) or (c) or in the affirmative to 5.3 (d) or (e), the Notice of Appeal will be dismissed and no further action will be taken by BWA, the relevant team or the applicable Selection Panel. The Appellant will accept this decision as final and binding on him or her.

5.9 The decision of the Evaluation Committee, and where the Evaluation Committee does not remit the matter to the Appeals Panel the reasons for their decision, will be provided in writing to the Appellant and to the relevant selection panel as soon as possible and preferably no later than ten working days after the receipt of the Notice of Appeal.

6. APPEALS PANEL

6.1 The Appeals Panel will consist of three people selected by the Chair or the Secretary of the BWA (as appropriate) in accordance with the following provisions of this section 6 [and 2 alternative members whose names and contact details will be published on the BWA website from time to time].

6.2 The Appeals Panel will be chaired by an independent barrister or solicitor of at least seven years post qualification experience and two other people, only one of which shall be an officer or employee of the BWA. The remaining place shall be filled by a person who appears to the Chair of the BWA to be suitably qualified and capable of making an independent assessment of the matters in dispute.

6.3 The Appeals Panel will not include anybody that was involved in any way in the original selection procedure, or any person related to or otherwise connected to them or the Appellant, nor any person who sat on the Evaluation Committee.

6.4 In the event that any member of the Appeals Panel has any involvement with or is related to an Appellant or any athlete who might be affected by the outcome of the Appeal, or is in any other way placed in a position of conflicting interests in respect of any appeal, he shall be disqualified from sitting on the Appeals Panel and will be replaced by one of the alternative members.

7. NOTIFICATION OF THE APPEAL HEARING AND RIGHT OF ATTENDANCE

7.1 As soon as reasonably practicable, and preferably within seven working days of the decision of the Evaluation Committee, the Appeals Panel shall convene a hearing (the Appeal Hearing). The Chair of the BWA shall notify the Appellant of the time, date and place of the Appeal Hearing, and shall also notify the members of the relevant selection panel, and any other athlete who reasonably might be affected by a decision (a Third Party) to allow the Appeal, of the fact that an Appeals Panel has been convened. These people will be given a copy of the Notice of Appeal and a note of the time, date and place of the Appeal Hearing.

7.2 The Selection Panel and the Third Party will be entitled to appear before the Appeals Panel and will be given equal rights of representation as the Appellant.

7.3 The Appellant will be asked to pay to the BWA a deposit of £150 and will be informed of the possible costs consequences should his or her appeal be rejected.

7.4 Until the appeal is decided, the BWA will refrain from publishing any further details in relation to the selection which is the subject of the appeal, although the existing details will remain where originally published before the Notice of Appeal was received. The BWA will be entitled to continue with the preparation of the selected team and will be under no obligation to support the preparation or training of the Appellant.

7.5 Any Third Party should understand that in the interest of fairness and efficiency it is likely that the Appeals Panel will be asked to consider the competing merits of arguments put forward by two or more athletes (including any Third Parties) on the question of the true construction or implementation of the Selection Policy. In such a situation, it is likely that the final decision of the Appeals Panel will determine the rights of all the affected athletes (including those of the Third Party) and any Third Party will be prohibited from raising again, by way of a separate or further appeal, matters which have already been decided upon by the Appeals Panel. The Third Party agrees that this rule will apply to him or her in respect of any complaint they may have which but for the rule would fall to be determined under this Procedure]

8. APPEAL HEARING

8.1 The Appeals Panel will be entitled to conduct the Appeal Hearing in such a way as they think fit, including based solely on written submissions if all Parties agree.

8.2 Any party to the Appeal Hearing will be entitled to be represented and such representative may be legally qualified.

8.3 The final decision of the Appeals Panel, including brief reasons for that decision, will normally be communicated to the Appellant and all other parties verbally on the same day as the Appeal Hearing, and will be confirmed in writing to the Parties within 3 working days of the Appeal Hearing. If there are circumstances preventing an immediate decision, the chairperson of the Appeals Panel will explain the reasons and indicate the earliest date by which he or she expects a decision to be reached.

8.4 The Appeal Panel will be entitled but not obliged to award costs against either the Appellant or, in exceptional cases only, the BWA. In deciding whether to award costs, the Appeals Panel will have regard to the success or failure of the Appellant and the conduct of the Parties. Costs will be restricted to the reasonable professional fees of any legal advisor engaged by either Party including the professional fees (if any) of the chairperson of the Appeals Panel, reasonable expenses of the Appeals Panel members, and any costs associated with hiring a suitable venue for the Appeal Hearing. The BWA will act reasonably in seeking to keep all these costs to a minimum. The Appeals Panel may in its discretion order the refund of the deposit paid by the Appellant.

9. REMEDIES

9.1 The Appeals Panel will be entitled to rescind the decision of the Selection Panel and confirm the selection of the Appellant only in clear cases where the Selection Policy has not been followed and it is plain that, had the Selection Policy been followed, the Appellant would have been selected.

9.2 The Appeals Panel shall be entitled to confirm the decision of the Selection Panel and reject the Appeal.

9.3 The Appeals Panel may also quash the selection decision and remit the matter back to the Selection Panel identifying the errors they have identified in the conduct of the selection process.

10. COMMUNICATIONS AND NOTICES

10.1 The England Commonwealth Games Selection Panel will use any reasonable method of communicating selection and de-selection decisions to the athletes. This will include oral announcements to groups of athletes, telephone calls, email or fax and athletes must be aware of this and keep a constant review of these communication channels to receive the selection decision. Athletes are advised that they should ensure that they have provided their preferred method of communication and relevant contact details to a member of the Selection Panel in advance of any selection decision.

10.2 Any Notice of Appeal must be sent by registered post or fax to:

The Chair of the BWA
12 Westwood Lane
CHESTERFIELD
Derbyshire
S43 1PA

11. MINOR AND NON-CONSEQUENTIAL BREACHES OF THIS PROCEDURE

11.1 Save that the time limit for commencing this Procedure by the Appellant shall be strictly enforced, where any Party deviates from any requirement of this Procedure it shall not invalidate the Procedure or the decision of the Appeals Panel, unless there is a clear and significant risk that the deviation has affected the decision of the Appeals Panel.

12. CONFIDENTIALITY OF PROCEEDINGS AND PUBLICATION OF DECISION

12.1 The BWA, the Appellant and any Third Party are under an obligation of confidentiality in respect of any appeal under this Procedure. Save as permitted under this Selection Appeals Procedure, none of these Parties will make any public statement or disclosure of the contents of the Notice of Appeal, or any other matter referred to by any of the Parties during the course of an appeal.

12.2 The BWA will be entitled to publish the decision of the Appeal Panel where it upholds the appeal (or any element of it) in such manner and to such extent as is necessary to inform all properly interested and affected parties of the status of the selection decision previously published and the resulting position as to selection.

13. AMENDMENTS TO THIS PROCEDURE

13.1 The BWA will be entitled to amend this Procedure from time to time and such amendments will take effect from the first date of publication of the complete amended procedure on the BWA website.

14. AMENDMENTS

14.1 Amendment to the English Wrestling Team selection procedure 24 August 2010

Having considered all the facts in relation to selection for the 120kg weight class at their meeting on 17th July 2010, the selection committee is unable to decide the top-ranked wrestler.

Therefore, in line with clause 13.1 above, this Selection Procedure is being amended to provide for a wrestle-off for the 120kg weight class to decide the top-ranked wrestler for this particular weight class.

The wrestle-off will take place on Tuesday 24 Aug 2010.

Shaun Morley
England Wrestling Team Manager

Amendment 14.1 ratified by Commonwealth Games England (24 August 2010) and published on British Wrestling website (24 August 2010)