

August 2013

Appeals Policy

worldwheelchair.rugby

World Wheelchair Rugby Appeals Policy

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Policy number 010

GENERAL PROVISIONS

1. Policy Statement

1.1 WWR recognizes the right of any Member to appeal the decisions of WWR. This policy provides a process for resolving disputes that could arise from time to time from such decisions.

1.2 The purpose of this policy is to enable disputes with Members to be dealt with fairly, expeditiously and affordably within WWR, without recourse to formal legal or court-like proceedings.

2. Definitions

“Appeal Form”: A request submitted by the Appellant (See Appendix B).

“Appellant”: A Member appealing a decision of WWR.

“Days”: Total days, irrespective of weekends or holidays.

“Member”: All categories of WWR Members, and all individuals engaged in activities with WWR, including, but not limited to, athletes, coaches, officials, volunteers, administrators, and employees including contract personnel.

“Case Manager”: The person in charge of managing a specific appeal. This can be anybody who has no involvement with the decision being appealed.

“Panel”: An appeal panel established as provided by Section 8.

“Respondent”: The body, person or persons whose decision is being appealed.

“Working Days”: Total days, excluding weekends and holidays.

“Written Statement”: The response submitted by the Respondent (See Appendix C).

3. Scope of Appeal

3.1 Any Member affected by a decision of WWR Board of Directors, of any Committee of the Board of Directors, or of any body or individual with delegated authority to make a decision on behalf of WWR or its Board of Directors, will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 10.

3.2 Without limiting the scope of Section 3.1, this policy will not apply to decisions relating to:

a. Doping offences, which are dealt with under WWR Anti-Doping Rules.

b. The application during competition of the sport technical rules of WWR, as set out in the International Rules for the Sport of Wheelchair Rugby, which are dealt with under the in-game Decision Review Process.

c. Decisions regarding the award of a specific sport class as part of a classification process, which are dealt with under WWR Classification Manual.

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- d. Matters arising during events organized or sanctioned by entities other than WWR, which are dealt with under the policies of these other entities.
- e. Criminal offences for which the Appellant is seeking a criminal conviction.
- f. Commercial matters for which another appeal process already exists under the applicable law or contract.

4. Timing of Appeals

4.1 Members who wish to appeal a decision have 15 days from the date they received notice of the decision to submit an Appeal Form to WWR.

4.2 Any Member wishing to submit an Appeal Form after the 15 day period must provide a written request stating the reasons for an exemption to the requirement of Section 4.1.

4.3 The decision to allow or not the exemption as provided by Section 4.2 will be at the discretion of WWR Board.

5. Notice and Delivery

5.1 All notices, requests, and other communications required in this policy shall be in writing:

- a. by delivery in person,
- b. by courier service,
- c. by registered or certified mail, postage prepaid, or
- d. by electronic mail.

5.2 All notices, requests, and other communications to WWR shall be directed to:

WWR Office - office@worldwheelchair.rugby

World Wheelchair Rugby (WWR)

4 Park Square, Newton Chambers Road

Sheffield, S35 2PH, England

APPEAL PROCEDURES

6. Filing an Appeal

6.1 Members who wish to appeal a decision of WWR that affects them must apply to WWR to initiate the appeal process using the Appeal Form (Appendix B). The appeal process does not begin until such application is made.

6.2 The Appeal Form will state:

- a. The name of the Appellant.

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- b. The coordinates of the Appellant.
- c. The name of the Respondent.
- d. The decision being appealed.
- e. The grounds for the appeal.
- f. A summary of the evidence that supports these grounds.
- g. A list of the witnesses to be called at the hearing with a summary of the evidence to be provided by them.
- h. The remedy sought.
- i. Whether or not a representative will be present.
- j. A request for timing exemption under Section 4.2, when required.

6.3 Within five days of receiving the Appeal Form, WWR will appoint a Case Manager for the Appeal.

6.4 Upon appointment, the Case Manager will discuss the circumstances with the Appellant and, as soon as possible, will notify the Respondent in writing and forward a copy of the Appeal Form to the Respondent.

6.5 Before proceeding further, the Case Manager will ensure that the Appellant and the Respondent have attempted to resolve the dispute privately between themselves, by any means possible under the circumstances. If this attempt is not successful, the Case Manager must be informed within five days of receipt of the Appeal Form. It is expected that most issues will be resolved at this level.

6.6 If resolved privately then a communication must be made to the Case Manager from the Appellant and Respondent confirming the resolution. The matter will be considered resolved and no further appeal can be raised regards that matter.

7. Written Statement

7.1 If the attempt to resolve the dispute through discussion between the parties does not succeed, the Case Manager will request a Written Statement by the Respondent (see Appendix C) outlining the justification for the decision or the practice being appealed.

7.2 The Written Statement will contain:

- a. A summary of the evidence that supports the Respondent's case.
- b. The list of witnesses to be called at the hearing and the summary of the evidence to be provided by them.
- c. Whether or not a representative will be present.

7.3 The Written Statement shall be forwarded to the Case Manager within five working days from the date of receipt of the Case Manager's request, or such longer period as the Case Manager may specify.

7.4 The Case Manager must forward a copy of the Written Statement to the Appellant without delay after receipt.

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7.5 Should the Respondent fail to submit the Written Statement within the time-limit provided by Section 7.3, the Case Manager will initiate the establishment of the Panel without further delay and notify the parties of such.

8. Screening of Appeal

8.1 Within five working days of receiving the Appeal Form, the Case Manager will determine whether there are grounds for the appeal as set out in Section 10.

8.2 For the purposes of screening, the facts as alleged by the Appellant in the Appeal Form shall be presumed to be correct unless such facts are, to the knowledge of the Case Manager, clearly erroneous.

8.3 If the appeal is denied on the basis of insufficient grounds, the Appellant and the Respondent will be notified in writing without delay of this decision and its reasons.

8.4 If the Appellant believes the Case Manager has made an error in denying the right to appeal a decision, the matter may be referred to the Court of Arbitration for Sport.

9. Appeal Panel

9.1 Within ten days of having received the Appeal Form, the Case Manager will initiate the establishment of a Panel as follows:

a. The Panel will be comprised of three individuals.

b. The Panel will consist of one person nominated by the Appellant, one person nominated by the Respondent and a third person, who shall act as Chair of the Panel, nominated by the Appellant's and Respondent's nominees to the Panel, or, failing agreement by such nominees, appointed by the Case Manager.

c. Should the Respondent fail to submit the Written Statement, as provided by Section 7.5, the Panel will consist of one person nominated by the Appellant, one person nominated by the Case Manager (on behalf of the Respondent) and the third person, who shall act as chairperson of the Panel, nominated by the Appellant's and Respondent's nominees to the Panel, or failing agreement by such nominees, appointed by the Case Manager.

9.2 All three members of the Panel must be nominated respecting the following conditions:

a. They must have no significant relationship with the affected parties.

b. They must have no involvement with the decision being appealed.

c. They must be free from any actual or perceived bias or conflict of interest. Being the Appellant's or the Respondent's "peer" does not in itself constitute bias or conflict of interest.

9.3 As soon as they are nominated, the members of the Panel will be forwarded a copy of the Appeal Form and Written Statement.

10. Grounds for Appeal

10.1 An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the Respondent:

a. Making a decision for which it did not have authority or jurisdiction as set out in governing documents.

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- b. Failing to follow procedures as laid out in any of the Statutes, By-laws, Rules, Regulations, or Policies of WWR.
- c. Making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views or that the decision was made on the basis of, or significantly influenced by factors unrelated to the merits of the decision.
- d. Exercising its discretion for an improper purpose.
- e. Making a decision that was grossly unreasonable or unfair.

11. Preliminary Conference

11.1 Within seven days of receiving the Appeal Form and Written Statement, the Panel will hold a preliminary conference to consider preliminary issues, such as, but not limited to, the following:

- a. Date and location of the hearing.
- b. Timelines for exchange of documents.
- c. Format of the appeal (written or oral submissions or a combination of both).
- d. Clarification of issues in dispute.
- e. Clarification of evidence to be presented to the Panel.
- f. Order and procedure of hearing.
- g. Any procedural matter.
- h. Clarification of remedies sought.
- i. Any other matter that may assist in expediting the appeal proceedings.

11.2 The preliminary conference can be held by conference-call or in person, depending on the circumstances. This decision is at the sole discretion of the Chair and may not be appealed.

11.3 The participants in the preliminary conference shall be the Appellant, the Respondent, their representatives, if any, the Case Manager and the Panel.

11.4 The Chair and the Case Manager shall arrange the preliminary conference and its precise date and time in concert with the participants.

11.5 The Panel may delegate to the Chair the authority to deal with these preliminary matters.

11.6 The Case Manager shall act as secretary of the preliminary conference and shall confirm in writing to the Appellant and Respondent the appeal procedure established at this preliminary conference within two working days after the conclusion of such conference, and after having received the written confirmation approved by the Panel.

12. Procedure for the Appeal

12.1 The Panel shall govern the hearing by such procedures as it deems appropriate, provided that the following directives be applied:

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- a. The appeal shall be heard as quickly as reasonably possible, having regard to the nature of the appeal, and the circumstances of the case.
- b. All three members of the Panel shall hear the appeal, but a majority in favour of the same result shall be sufficient to effect a decision.
- c. Each party shall have the right to be represented at the hearing.
- d. Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all parties, within the time limits established during the preliminary conference or by the Panel.
- e. The appeal may proceed on the basis of written submissions and documentation if all parties to the appeal consent.
- f. If the decision of the Panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome.
- g. The Panel may direct that any other person or party participate in the appeal.
- h. For sake of expediency and cost reduction, a hearing either by way of written submissions, via telephone conference or video conference is to be preferred with such safeguards as the Panel considers necessary to protect the interests of the parties.
- i. Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of or by copy to the other parties.

13. Procedure for Documentary Appeal

13.1. Where the Panel has determined that the appeal will be held by way of written submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

- a. All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument.
- b. The applicable principles set out in Section 12 are respected.

14. Evidence that may be Considered

14.1. As a general rule, the Panel will only consider evidence that was before the original decision-maker. At its discretion, the Panel may hear new material evidence that was not available at the time of the original decision.

14.2. Unless a party can prove that he could not possibly have been aware of a certain fact or argument at the time of the submission of his Appeal Form or Written Statement, no additional information or argument will be accepted from the Appellant or Respondent by the Panel after the preliminary conference, other than that provided orally by witnesses at the hearing.

14.3. The Panel will determine if an additional element of proof should be admitted or rejected where the preliminary conference has taken place;

14.4. If a party believes the Panel has made an error in admitting or rejecting an additional element of proof as provided by Section 14.3, the matter may be referred to the Court of Arbitration for Sport.

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15. Appeal Decision

15.1 Within ten working days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

- a. To reject the appeal and confirm the decision being appealed.
- b. To uphold the appeal and refer the matter back to the initial decision-maker for a new decision.
- c. To uphold the appeal and vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality.
- d. To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all. When granting such costs, the Panel shall take into account the outcome of the proceedings, the conduct of the parties and their respective financial resources.

15.2 A copy of this decision will be provided to each of the parties and to the Case Manager.

15.3 In extraordinary circumstances, the Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided that the written decision with reasons is rendered within the timelines specified in Section 15.1.

16. Modification of Timelines

16.1 If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such that the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

17. Final Appeals

17.1 All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this policy.

17.2 Any final decision made by the Panel that may lead to irreversible consequences for one of the parties may be submitted by way of application to the Court of Arbitration for Sport:

Court of Arbitration for Sport

Château de Béthusy , Avenue de Beaumont 2, CH-1012 Lausanne, Switzerland

E-Mail: info@tas-cas.org

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Appendix A – Timelines

Step	Section	Days from the previous step	Days since knowledge of the disputed decision
Disputed Decision			1
Filing of Appeal Form	4.1	15	16
Appointment of Case Manager	6.3	5	21
Discussion between the parties	6.5	5	26
Written statement of the Respondent	7.3	5	31
Screening of Appeal	8.1	5	36
Establishment of Panel	9.1	10	46
Preliminary Conference	11.1	7	53
Written confirmation of decisions taken during the Preliminary Conference	11.6	2	55
Hearing	12	Decided during Preliminary Conference	Unspecified
Decision	15.1	10	Unspecified

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Appendix B – Appeal Form

Date: _____

Appellant

Name: _____

Address: _____

Telephone Numbers: _____ (Home)
_____ (Work)
_____ (Other)
_____ (Fax)

E-Mail address: _____

Representative

(Complete only if you will be represented.)

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Name: _____

Address: _____

Telephone Numbers: _____

(Home)

(Work)

(Other)

(Fax)

E-Mail address: _____

Decision

What decision of WWR do you wish to appeal?

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When was the decision made?

Why do you think the decision is wrong or unfair?

Respondent

Who made the decision?

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Name: _____

Coordinates: _____

Summary of evidence:

(You may add additional witnesses if required.)

Remedy

What action or decision do you want WWR to take or make to correct the situation?

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Request for Exemption

If the decision you are appealing was made more than 15 days ago, please provide your reasons for requesting an exemption to the timeline for appeals as provided by WWR's Appeal Policy (Section 4.2).

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Appendix C – Written Statement

Date: _____

Respondent

Name: _____

Address: _____

Telephone Numbers: _____ (Home)

_____ (Work)

_____ (Other)

_____ (Fax)

E-Mail address: _____

Representative

(Complete only if you will be represented.)

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Name: _____

Address: _____

Telephone Numbers: _____ (Home)

_____ (Work)

_____ (Other)

_____ (Fax)

E-Mail address: _____

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(You may add additional pages if required.)

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Witnesses

Please provide a list of witnesses you would like to have testify at the hearing, including their coordinates and a summary of evidence to be provided by each of them.

Witness 1:

Name: _____

Coordinates: _____

Summary of evidence:

(You may add additional witnesses if required.)