

# GOLF NEW BRUNSWICK

## APPEAL POLICY AND PROCEDURE

### Purpose

1. This *Appeal Policy and Procedure* provides Participants with a fair and expedient appeal process.

### Scope and Application of this Policy

2. This Policy applies to all Participants.
3. Any Participant who is directly affected by a decision made by Golf NB shall have the right to appeal that decision provided that there are sufficient grounds for the appeal under the **Grounds for Appeal** section of this Policy.
4. This Policy **will apply** to decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Discipline
  - e) Membership
5. This Policy **will not apply** to decisions relating to:
  - a) Matters that are decided by and within the jurisdiction of the general membership of Golf NB including enactment and amendment of the By-Laws and election of Directors and Members of Governors Council.
  - b) Decisions made based on the Rules of Golf, Rules of Handicapping or the Rules of Amateur Status, each of which have their own appeal procedures that must be followed).
  - c) Enactment of and amendment to or repeal of competition rules (Golf NB Terms of Competition and any Local Rules).
  - d) Those decisions which are required of or imposed upon Golf NB by outside authorities or agencies (e.g. Sport NB, Coaching Association of NB, , World Anti-Doping Agency, Sport Dispute Resolution Centre, etc.).
  - e) Disciplinary matters arising during events organized by entities other than Golf NB, which are dealt with under the policies of these other entities (Code of Conduct for Players Policy and Code of Conduct for Parents and Spectators Policy).
  - f) Volunteer appointments and the withdrawal of those appointments by the Board of Directors and its appointed committees.
  - g) Matters of budgeting and budget implementation.
  - h) Matters of operational structure, employment and staffing.
  - i) Employment.
  - j) Infractions for doping offenses.
  - k) Commercial matters for which another appeals process exists under a contract or applicable law.
  - l) Decisions made under this Policy.

### Timing of Appeal

6. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit electronically, a written notice of their intent to appeal.

7. A Participant who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to permit an appeal beyond the seven (7) day period will be at the sole discretion of the Appeal Manager and may not be appealed.
8. An administrative fee of \$200 must be submitted with the notice to appeal. This administrative fee will be refunded if the appeal is successful.

### **Submitting an Appeal**

9. Appeals of decisions made by Golf NB or a Member Club can be submitted internally to be heard pursuant to the terms of the applicable organization's policy for appeals. If a Provincial Golf NB or Member Club does not have a policy for appeals, Golf Canada may hear appeals of decisions made by Provincial Golf Associations or Member Clubs.
10. Appeals of decisions made by Golf Canada can be submitted to Golf Canada to be heard pursuant to this Policy.
11. Decisions made pursuant to the [Discipline and Complaints Policy and Procedure](#) may be appealed to Golf Canada in accordance with the terms of this *Appeal Policy and Procedure*.
12. By agreement between the parties, this appeal process may be bypassed, and the appeal may be heard directly before the Sport Dispute Resolution Centre of Canada (SDRCC).
13. Except where an appeal proceeds before the SDRCC, Golf NB shall appoint an Appeal Manager and shall follow the process outlined in this *Appeal Policy and Procedure*.

### **Grounds for Appeal**

14. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make.
  - b) Failed to follow its own procedures (as set out in the Respondent's governing documents).
  - c) Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views).
  - d) Made a decision that was patently unreasonable.

## **Appeal Procedure**

### **Written notice**

1. To initiate an appeal, a written notice of intent to appeal must be submitted. The written notice must contain the following:
  - a) Contact information.
  - b) Name and contact information of the Respondent and any Affected Parties, when known to the Appellant.
  - c) Date the Appellant was advised of the decision being appealed.
  - d) A copy of the decision being appealed, or description of decision if a written document is not available.
  - e) Grounds for the appeal.
  - f) Detailed reasons for the appeal.
  - g) All evidence that supports these grounds.
  - h) Requested remedy or remedies.

- i) An administration fee of two hundred dollars (\$200), which will be refunded if the appeal is successful.

### **Screening of Appeal**

2. The parties may first attempt to resolve the appeal through the *Dispute Resolution Policy*.
3. Appeals resolved under the [Dispute Resolution Policy](#) will result in the administration fee being refunded to the Appellant.
4. Should the appeal not be resolved by using the [Dispute Resolution Policy](#), Golf NB will appoint an independent Appeal Manager (who must not be in a conflict of interest or have any direct relationship with the parties) who has the following responsibilities:
  - a) To determine if the appeal falls under the scope of this Policy.
  - b) To determine if the appeal was submitted in a timely manner.
  - c) To decide whether there are sufficient grounds for the appeal.
5. If the Appeal Manager denies the appeal based on insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
6. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeal Panel composed of three persons (who must not be in a conflict of interest or have any direct relationship with the parties) to hear the appeal. The Appeal Manager will appoint one of the Panel's members to serve as the Chair.
7. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage Golf NB. The Appeal Manager, in their sole discretion, may determine whether a party is an Affected Party.

### **Procedure for Appeal Hearing**

8. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
9. If a party chooses not to participate in the hearing, the hearing will proceed in any event.
10. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods.
11. The hearing will be governed by procedures that the Appeal Manager and the Panel deem appropriate in the circumstances. The following guidelines will apply to the hearing:
  - a) The hearing will be held within a timeline determined by the Appeal Manager.
  - b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
  - c) Copies of any written documents which any Party wishes to have the Panel consider will be provided to all Parties in advance of the hearing.
  - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense.
  - e) The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.

- f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate.
- g) If a decision in the appeal 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 an Affected Party to the appeal in question and will be bound by its outcome.
- h) The decision to uphold or reject the appeal will be by a majority vote of Panel members.

12. In fulfilling its duties, the Panel may obtain independent advice.

### **Appeal Decision**

13. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the **Grounds for Appeal** section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

14. The Panel shall issue its decision in writing within seven (7) days after the hearing's conclusion.

15. In making its decision, the Panel will have no greater authority than that of the original decision-maker.

The Panel may decide to:

- a) Reject the appeal and confirm the decision being appealed;
- b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision;  
or
- c) Uphold the appeal and vary the decision.

16. The Panel will also determine whether costs of the appeal, excluding legal fees and legal disbursements of any parties, will be assessed against any party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the parties, and the parties' respective financial resources.

17. The Panel's written decision, with explanations, will be distributed to all parties, the Appeal Manager, and Golf NB. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

### **Timelines**

18. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Appeal Manager and/or Panel may direct that these timelines be revised.

### **Confidentiality**

19. The appeals process is confidential and involves only the parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

### **Final and Binding**

20. No action or legal proceeding will be commenced against Golf Canada or Participants in respect of a dispute, unless Golf Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.