

Policy Title: APPEAL POLICY
Approved: March 3, 2013
Current version approved: March 3, 2013
Date of last review:

Policy No: FA003
Pages: 6 pages

DEFINITIONS

1. These terms will have these meanings in this Policy:

- a) "Appellant" – The party appealing a decision.
- b) "Days" – Days, irrespective of weekends or holidays.
- c) "Member" – All categories of membership defined in the Football Nova Scotia Bylaws, as well as any person affiliated with Football Nova Scotia via written agreement which provides access to this Policy.
- d) "Respondent" – The individual or body whose decision is being appealed.

PURPOSE

2. The purpose of this Policy is to enable disputes with Members to be dealt with fairly, expeditiously and affordably, within Football Nova Scotia and without recourse to external legal procedures.

SCOPE AND APPLICATION

3. Any Member who is in good standing with Football Nova Scotia will have the right to appeal a decision of the Football Nova Scotia Board of Directors, of any Committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board subject to the limits set out in this Policy.

4. This Policy will apply to decisions made by the Football Nova Scotia relating to eligibility, selection, conflict of interest, discipline, or membership.

5. This Policy will not apply to matters relating to:

- a) Issues of operational structure, staffing, employment or allocation of volunteer opportunities, appointments and the withdrawal or termination of those appointments;
- b) Issues of budgeting or budget implementation;
- c) Disputes over the rules of football or competition rules;
- d) Commercial matters;
- e) Matters relating to the substance, content and establishment of policies, procedures or criteria;
- f) Disputes arising within competitions which have their own appeal procedures; and
- g) Any decisions made under this Policy.

TIMELINES

6. The following timelines govern this policy. The Case Manager reserves the right to modify these timelines to accommodate the particular circumstances of any appeal:

- a) Notice of Appeal (Section 7): Notice of Appeal must be received by Football Nova Scotia within 7 days of the written announcement of the decision being appealed.
- b) Review by Appeals Committee (Section 13): 7 days from receipt of Notice of Appeal;
- c) Screening of appeal by the Case Manager (Section 16): 3 days from receipt of the Notice of Appeal.
- d) Appointment of the tribunal by the Case Manager (Section 18): 3 days from decision that the appeal may proceed to a hearing.
- e) Scheduling of hearing (Section 19): 7 days from the appointment of tribunal.
- f) Release of decision (Section 22): 7 days from the conclusion of the hearing.

NOTICE OF APPEAL

7. Within the appropriate timeline noted above, Members who wish to appeal a decision shall deliver a written Notice of Appeal which contains the following information:

- a) Name, address and status of the Appellant;
- b) Identity of the Respondent and any Affected Parties;
- c) Date the Appellant was advised of the decision being appealed;
- d) Copy of the decision being appealed, or description of decision if written document is not available;
- e) Grounds for appeal;
- f) Detailed reason(s) for the appeal;
- g) All evidence that supports the reasons and grounds for appeal;
- h) The remedy or remedies requested; and
- i) The administrative fee.

8. All appeals must be accompanied by a \$250 administrative fee. If the appeal is not heard for reason of not meeting the grounds set out in Section 10, or if the appeal is heard and is upheld, this fee will be returned to the Appellant. If the appeal is not upheld, the Appellant will be assessed this fee, as well as paying the cost of the Arbitrator/tribunal and the Case Manager.

9. Notices may be delivered in person to the Case Manager, or delivered by fax, courier, special delivery, or in person to the Football Nova Scotia Head Office.

GROUND FOR APPEAL

10. Not every decision may be appealed. Decisions may only be appealed on procedural grounds where it has been demonstrated that the Respondent did one or more of the following:

- a) Made a decision for which it did not have authority or jurisdiction as set out in governing documents;
- b) Failed to follow procedures as laid out in the bylaws or approved policies of Football Nova Scotia;
- 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 is unable to consider other views or that the decision was influenced by factors unrelated to the substance or merits of the decision;
- d) Failed to consider relevant information or taking into account irrelevant information in making the decision;
- e) Exercised its discretion for an improper purpose; and/or
- f) Made a decision that was grossly unreasonable.

11. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 10.

12. With respect to Grounds of Appeal (c) and (e) above, the Appellant must establish that he or she was prejudiced because of the matter complained of under that particular ground of appeal, or that the matter complained of had, or may reasonably have had, a material effect on the decision maker whose decision is under appeal.

APPEALS COMMITTEE REVIEW

13. Before any appeal proceeds, the dispute will be referred first to the Football Nova Scotia Appeals Committee for review. This referral and review will be done within seven (7) days, with the objective of resolving the dispute at an early stage.

14. Should the review by the Appeals Committee not resolve the dispute, Football Nova Scotia will appoint a Case Manager to oversee management and administration of an appeal under this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner.

SCREENING OF APPEAL

15. Once appointed, the Case Manager has a responsibility to:

- a) Receive appeals;
- b) Determine if appeals lie within the jurisdiction of this Policy;
- c) Determine if appeals are brought in a timely manner;
- d) Determine if appeals are brought on permissible grounds;

- e) Appoint the tribunal to hear appeals;
- f) Determine the format of the appeal hearing;
- g) Coordinate all administrative and procedural aspects of the appeal;
- h) Provide administrative assistance and logistical support to the Tribunal as required; and
- i) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

16. Within the appropriate timelines (refer to Section 6), the Case Manager will review the Notice of Appeal and decide whether:

- a) The appeal falls under the jurisdiction of this Policy;
- b) The appeal has been made in a timely manner; and
- c) The appeal has been brought on permitted ground.

17. If the Case Manager is not satisfied that the appeal lies within the jurisdiction of this Policy, is timely, or is brought on a permitted ground, the parties will be notified of this decision in writing, stating reasons, and the appeal will be considered concluded. If the Case Manager is satisfied that there are sufficient grounds for an appeal, then a hearing will take place. This decision is at the sole discretion of the Case Manager and may not be appealed.

TRIBUNAL

18. Within the appropriate timelines (refer to Section 6), the Case Manager will appoint a Tribunal consisting of a single Adjudicator to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Tribunal of three persons may be appointed to hear and decide a case. In this event, the Case Manager will appoint one of the Tribunal's members to serve as the Chair.

PROCEDURE FOR THE HEARING

19. Within the appropriate timelines (refer to Section 6), the Case manager will schedule and determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods.

20. The hearing will be governed by the procedures that the Case Manager and the tribunal deem appropriate in the circumstances, provided that:

- a) The hearing will be held within the appropriate timeline;
- b) The parties will be given appropriate notice of the day, time and place of the hearing;
- c) Copies of any written documents which the parties wish to have the tribunal consider will be provided to all parties in advance of the hearing in accordance with the appropriate timeline;
- d) Either party may be accompanied by a representative or adviser, including legal counsel;
- e) The tribunal may request information disclosure from the parties;

- f) The tribunal may request that any other individual participate and give evidence at the hearing;
- 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 a party to the appeal in question (an Affected Party), with the right to present evidence and the right to cross examination where allowed, and will be bound by its outcome;
- h) The hearing will be conducted in the official language of choice of the Appellant;
- i) In the situation where the hearing is conducted by a tribunal consisting of three persons, a quorum will be all three persons and decisions will be by majority vote;
- j) The Tribunal 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.

21. For reasons of expediency, geographic imperative or cost efficiency, the Tribunal may conduct the appeal by means of a telephone or video conference.

APPEAL DECISION

22. At the conclusion of the hearing, the tribunal will, within the appropriate timeline (refer to Section 6), issue a written decision with reasons. The Tribunal will have no greater authority than that of the original decision-maker. The Tribunal may decide:

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

23. The decision of the Tribunal will be considered a matter of public record. A copy of this decision will be provided to the parties and to the Executive Director of Football Nova Scotia. Where time is of the essence, the Tribunal may issue a verbal decision or a summary written decision, with reasons to follow provided the written decision with reasons is rendered with the appropriate timeline.

24. The decision of the Tribunal will be final and binding upon the parties and upon all members of Football Nova Scotia.

CONFIDENTIALITY

25. The appeal process is confidential involving only the parties, the Case Manager and the tribunal.

Once initiated and until a written decision is released, none of the parties or the tribunal will disclose confidential information relating to the appeal to any person not involved in the proceedings.

REVIEW AND APPROVAL

26. This policy will be reviewed bi-annually in even numbered year.

27. This policy was approved by the Football Nova Scotia Board of Directors on the 3rd day of March, 2013 .