



THE KENDO ASSOCIATION OF HONG KONG, CHINA GUIDELINES AND PROCEDURES ON APPEALS

Objective: To provide an independent, fair and timely mechanism for hearing and determining appeals against decisions of the Company, consistent with article 35D of Part B of the Articles of Association (“AOA”), and to give effect to the appeals policy required by article 35D(5) of the AOA.

This document applies to all Executive Committee Members, Senate Members, members of any committee or sub-committee of the Executive Committee, and to staff, coaches, referees, athletes and members of the Kendo Association of Hong Kong, China Limited (“HKKA”), irrespective of the terms on which they are engaged (including short-term, part-time or voluntary capacities), and to every other person taking part in HKKA's business, activities, competitions, matches or events. It also applies to any other person whose rights, status or eligibility are affected by a decision of the Company that is appealable under article 35D of the AOA.

Relationship with this document: This document is the appeals policy referred to in article 35D(5) of the AOA. It stands separately from, and should be read together with, the HKKA Guidelines and Procedures on Handling of Complaints (which governs how a complaint under article 81 of the AOA is made, received and determined) and the HKKA Appeal Panel Terms of Reference (which governs the composition and administration of the Appeal Panel). Where this document and the Appeal Panel Terms of Reference address the same matter, the Terms of Reference govern the composition of the Appeal Panel and this document governs the appeal process.

1. Definitions

“Appeal Panel” means the panel established by the Executive Committee under article 35D(1) of the AOA.

“Appellant” means a person who lodges an appeal under this document.

“Relevant Decision” means a decision of the Company against which an appeal may be brought under section 2 below.

“Selection Appeal” means an appeal against a decision relating to the selection of athletes or the Hong Kong Team, as described in section 2.1(b) below.

Other capitalised terms used in this document (including “Relevant Person”, “Executive Committee” and “Member”) have the meanings given to them in the AOA. Terms relating to complaints (including “complainant” and “complainee”) have the meanings given to them in the HKKA Guidelines and Procedures on Handling of Complaints.

2. Right of Appeal and Appealable Decisions

- 2.1 Subject to the applicable time limit and this document, an appeal may be brought to the Appeal Panel against any decision of the Company affecting the rights, status or eligibility of any person, including (without limitation) a decision relating to:
 - (a) the rejection of an application for membership, or the suspension, striking out or termination of membership;
 - (b) the selection or non-selection of athletes, including for the Hong Kong Team;

- (c) the selection, appointment, registration or removal of coaches, referees and examiners; and
 - (d) any determination made, or disciplinary or other action taken, under article 8, article 8A, or article 81 of Part B of the AOA (including under the HKKA Guidelines and Procedures on Handling of Complaints or the HKKA Guidelines and Procedures on Prevention of Sexual Harassment, Bullying and Abuse, the HKKA Guidelines and Procedures on Equal Opportunities, the HKKA Guidelines and Procedures on Child Safeguarding, the HKKA Guidelines and Procedures on handling of Social Media, or the HKKA Guidelines and Procedures on Anti-Doping).
- 2.2 No appeal shall lie against the assessment of technical or sporting merit, including the assessment of a candidate in any examination for the award of a grade or dan, or the decision of a referee in the course of a match. This does not prevent an appeal on the ground that the applicable procedures, criteria or eligibility requirements were not observed.

3. Grounds of Appeal

- 3.1 An appeal may be brought on one or more of the following grounds:
- (a) the applicable procedures, criteria or eligibility requirements were not observed;
 - (b) the decision was made on the basis of a material error of fact;
 - (c) the decision was affected by bias, or by a failure to afford the person concerned a reasonable opportunity to be heard;
 - (d) new material evidence has become available that could not reasonably have been obtained before the decision was made and that could materially have affected the decision; or
 - (e) the sanction or other action taken was, in all the circumstances, manifestly excessive or manifestly inadequate.

An appeal is not a re-hearing of the original matter on its merits at large. Save where the ground of appeal in section 3.1(d) above applies, the Appeal Panel will not admit evidence that could reasonably have been put before the body that made the Relevant Decision.

4. Lodging an Appeal

- 4.1 An appeal must be lodged in writing to the Executive Committee, using the form at Appendix I, within the following time limit:

Nature of the Relevant Decision	Time limit for lodging an appeal	Reason
Any Relevant Decision other than a Selection Appeal (including membership decisions and outcomes under the HKKA Guidelines and Procedures on Handling of Complaints)	14 calendar days from the date of written notification of the Relevant Decision	Standard period allowing the appellant a fair opportunity to prepare an appeal

Nature of the Relevant Decision	Time limit for lodging an appeal	Reason
Selection Appeal (selection or non-selection of athletes or the Hong Kong Team)	3 working days from the date of announcement of the selection result	Selection decisions are time-sensitive given the proximity of competitions and related travel and accreditation deadlines

4.2 The Executive Committee may, on written request made before the time limit expires and for good cause shown, extend the time limit for lodging an appeal other than a Selection Appeal. The time limit for a Selection Appeal will not ordinarily be extended, given the operational constraints described above.

4.3 An appeal must include:

- (a) a written notice of appeal identifying the Relevant Decision and the ground(s) of appeal relied on;
- (b) a statement of the facts and reasons supporting the appeal;
- (c) any new evidence relied on under section 3.1(d) above, and the contact details of any witness(es);
- (d) any document supporting the appellant's eligibility to appeal (e.g. proof of the date of notification of the Relevant Decision); and
- (e) the appeal fee referred to in section 5 below, or a request for a fee discount under section 5.4.

5. Appeal Fee

- 5.1 An appellant must pay an administrative fee of HK\$1,500 when lodging an appeal. The fee covers the administrative cost of processing the appeal (including the constitution and administration of the Appeal Panel) and is non-refundable, including where the appeal succeeds.
- 5.2 No appeal will be treated as validly lodged until the fee (or discounted fee under section 5.4 below) has been paid, save that the Executive Committee may, in its discretion, accept an appeal conditionally and require payment within a short additional period where the time limit under section 4 above would otherwise be missed.
- 5.3 The Executive Committee may waive the fee, in whole or in part, where non-payment resulted from the HKKA's own administrative error.
- 5.4 An appellant who is a recipient of Comprehensive Social Security Assistance (CSSA) at the time of lodging the appeal is entitled to a 50% discount on the appeal fee, on production of documentary proof of CSSA recipient status current within the preceding 3 months. The Executive Committee may recognise an equivalent, objectively verifiable public indicator of financial hardship on a case-by-case basis, but CSSA recipient status is the standard threshold for this purpose.

6. Initial Eligibility Check by the Executive Committee

Nature of this check. On receiving an appeal, the Executive Committee only checks whether the appeal is properly constituted, namely whether it was lodged within time, discloses a ground of appeal

recognised under section 3 above, and includes the information required under section 4 above. This is analogous to a court deciding whether to grant leave to appeal, or whether an appeal has been properly filed: the Executive Committee does not, at this stage, consider or express any view on whether the appeal is likely to succeed, and must not use this check to screen out an appeal on its merits.

Stage	General track	Selection Appeal track
Executive Committee to complete the eligibility check and notify the appellant in writing of the outcome	Within 5 working days of receipt of the appeal	Within 2 working days of receipt of the appeal
If accepted, Executive Committee to constitute the Appeal Panel (in accordance with the HKKA Appeal Panel Terms of Reference) and refer the appeal to it	Within a further 7 working days	Within a further 3 working days

If the Executive Committee decides that an appeal is not properly constituted, it shall notify the appellant in writing of that decision and the reasons for it. That decision is final; there is no further appeal against it, but nothing in this section prevents the appellant from lodging a fresh appeal that cures the defect identified, if it is still possible to do so within the applicable time limit (as extended under section 4.2 above, if applicable).

Any Executive Committee Member who took part in making the Relevant Decision, or who otherwise has an actual or potential conflict of interest in the appeal, shall declare that interest and shall not take part in, and shall absent himself or herself from, the eligibility check under this section, consistent with articles 35C and 40B of the AOA.

7. Constitution and Independence of the Appeal Panel

7.1 The composition, appointment, quorum and voting of the Appeal Panel are governed by the HKKA Appeal Panel Terms of Reference, which give effect to article 35D(3) and (4) of the AOA. In summary, and without limiting the Terms of Reference:

- (a) more than half of the members of the Appeal Panel, including its chairperson, must have had no involvement in the Relevant Decision and must have no interest in the matter; and
- (b) for an appeal against a determination or action under article 8, article 8A or article 81 of the AOA, no person who took part in making the Relevant Decision (including in giving any approval of the Senate under article 47 of the AOA) may sit on the Appeal Panel for that appeal.

7.2 The Appeal Panel acts independently of the Executive Committee in hearing and determining an appeal, and no Executive Committee Member may improperly seek to influence its deliberations or decision.

8. Conduct of the Appeal

8.1 The Appeal Panel shall provide the appellant with the documents it considers relevant to the appeal (subject to section 11 below), and shall give the appellant a reasonable

opportunity to be heard, whether in person, in writing, or by electronic means, as the Appeal Panel considers appropriate to the nature and complexity of the appeal.

- 8.2 The Appeal Panel shall use its best endeavours to determine a general-track appeal within 30 calendar days, and a Selection Appeal within 5 working days, of its constitution, and shall keep the appellant informed in writing if this is not practicable.
- 8.3 The Appeal Panel may seek external assistance or advice (including legal, medical, technical or sporting advice) where it considers this necessary to determine the appeal fairly.

9. Outcome of the Appeal

Table of guidance: outcomes available to the Appeal Panel

Outcome	Description	Effect
Confirm	The Appeal Panel agrees with the Relevant Decision and the ground(s) of appeal are not made out.	The Relevant Decision stands unchanged.
Vary	The Appeal Panel agrees that the Relevant Decision should stand in principle but that the sanction, action or outcome should be modified (e.g. reduced, increased within the range available to the original decision-maker, or made subject to conditions).	The Relevant Decision is modified as directed by the Appeal Panel.
Reverse	The Appeal Panel finds that the ground(s) of appeal are made out and that the Relevant Decision should not stand, and that the Appeal Panel is able to determine the correct outcome itself.	The Relevant Decision is set aside and is replaced with the Appeal Panel's own new decision.
Remit	The Appeal Panel finds that the decision-making body erred (for example, through a procedural failure or a failure to consider relevant information), but that the Appeal Panel lacks either the factual expertise to determine the correct outcome itself, or the lawful discretion to substitute its own decision for that of the original decision-maker. For example, in a Selection Appeal, the Appeal Panel may find that the selection panel erred by failing to consider certain match scores; correcting that error could alter rankings, or produce tied scores, across multiple athletes, so the selection must be reworked in full by the selection panel applying its own methodology, a task that may lie beyond the Appeal Panel's expertise and purview.	The matter is reconsidered by the body that made the Relevant Decision, applying any directions given by the Appeal Panel as to the error identified and how it is to be corrected.

- 9.1 The decision of the Appeal Panel is final and binding on the Company and the appellant. Unless the Appeal Panel otherwise directs, the Relevant Decision remains in effect pending determination of the appeal.
- 9.2 All parties to the appeal shall be notified of the outcome in writing, with brief reasons, as soon as reasonably practicable after the decision is made.

10. Records and Reporting

- 10.1 The Appeal Panel shall keep proper records of every appeal received, the proceedings taken and the decision made, and shall report to the Executive Committee on the appeals it determines, without prejudice to the confidentiality of the proceedings.
- 10.2 Personal data relating to an appeal shall not be kept for longer than is necessary to fulfil the purpose for which it was collected, and in any event for no longer than 7 years from the conclusion of the appeal, in accordance with the retention table in the HKKA Guidelines and Procedures on Personal Data Privacy Protection, after which it shall be deleted or anonymised, unless a longer period is required by an applicable statutory or regulatory requirement.

11. Confidentiality

The Appeal Panel shall treat the appeal proceedings and its deliberations as confidential, and information relating to an appeal shall only be disclosed to persons who need to know it for the purpose of determining the appeal, reporting to the Executive Committee, or complying with a legal requirement.

12. Relationship with the Complaints Policy

This document governs the appeal stage only. The making, receipt, investigation and determination of a complaint, including the Executive Committee's vote on whether a breach is sufficiently serious under article 81(4) and (5) of the AOA, are governed by the HKKA Guidelines and Procedures on Handling of Complaints.

Any personal data collected, used or retained in connection with this document shall be handled in accordance with the HKKA Guidelines and Procedures on Personal Data Privacy Protection. Where personal data is collected directly from an individual using a form referred to in this document, the individual shall be provided with a Personal Information Collection Statement consistent with Appendix II to the HKKA Guidelines and Procedures on Personal Data Privacy Protection.

13. Enquiries

The Kendo Association of Hong Kong, China

Address: Room 1029, Olympic House, 1 Stadium Path, So Kon Po, Hong Kong

Tel: +852 2504 8445

E-mail: hkkasse@hongkongkendo.com

APPENDIX I: NOTICE OF APPEAL FORM

< Confidential >

The Kendo Association of Hong Kong, China: Notice of Appeal

Name of appellant:	
Contact number / email:	
Relevant Decision appealed against (attach a copy of the notification, if available):	
Date of notification / announcement of the Relevant Decision:	
Ground(s) of appeal relied on (see section 3 of the HKKA Guidelines and Procedures on Appeals):	
Statement of facts and reasons (continue on a separate page if required):	
New evidence relied on (if any) and contact details of witness(es):	
Appeal fee enclosed: ☐ HK\$1,500 ☐ HK\$750 (CSSA recipient; proof attached)	

Personal data notice: The personal data provided on this form will be used only for the purpose of processing this appeal and will be handled in accordance with the HKKA Guidelines and Procedures on Personal Data Privacy Protection. Provision of your contact details is mandatory; without them the HKKA will not be able to process your appeal.

Signature of appellant: _____ Date: _____