



# WDGF Appeals Panel Policy

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## CONTENTS

OBJECTIVES OF THE CODE.....	2
DEFINITIONS .....	2
A. INTRODUCTION AND SCOPE.....	2
B. GROUNDS OF APPEAL .....	2
C. COMPOSITION OF THE APPEALS PANEL.....	2
D. REQUEST FOR APPEAL, ADVANCE ON COSTS .....	3
E. ADVANCE ON COSTS .....	4
F. WDGF AS RESPONDENT .....	4
G. CONVEYING A HEARING PANEL TO DETERMINE THE APPEAL .....	4
H. DECISION TO REMAIN IN EFFECT.....	4
I. ANSWER.....	5
J. HEARING.....	5
K. AWARD.....	6
L. FURTHER APPEAL.....	7

## **OBJECTIVES OF THE CODE**

The aim of this code (the “**Code**”) is to establish a process whereby a participant can appeal a decision made by the WDGf Tribunal.

## **DEFINITIONS**

“**WDGF**” means the World Deaf Golf Federation.

“**WDGF Event**” means any golf competition sanctioned by the WDGf including the World Deaf Golf Championships.

### **A. INTRODUCTION AND SCOPE**

1. The WDGf Appeals Panel shall hear appeals filed by a Participant that has been penalised by a decision of the WDGf Tribunal with the exception of any anti-doping related decisions which may be lodged exclusively to the Court of Arbitration for Sport (CAS).
2. Appeals against decisions of technical officials or WDGf chief referees made during a competition are dealt with in accordance with the Rules of Golf and are not subject to appeal to the WDGf Appeal’s panel.

### **B. GROUNDS OF APPEAL**

3. The grounds for an appeal shall only be one or more of the following:
  - (a) The WDGf Tribunal acted outside of its power and/or jurisdiction (i.e. acted ultra vires);
  - (b) Evidence which was not available or accessible prior to the WDGf Tribunal hearing became available after the decision, and such evidence is reasonably likely to have resulted in a significantly different decision and/or a different penalty by the WDGf Tribunal;
  - (c) In the case of a decision relating to misconduct, the penalty was either excessive or inappropriate.

### **C. COMPOSITION OF THE APPEALS PANEL**

4. The Appeals Panel Chairperson shall oversee the activities of the WDGf Appeals Panel.
5. Appeals to the WDGf Appeals Panel shall be heard by a panel of three (3) members acting as judges.
6. Members of the WDGf Appeals Panel shall be appointed by the Appeals Panel Chairperson, and, for each dispute hearing, the Appeals Panel Chairperson shall

decide a minimum of three people, unless the Chairperson of the WDGf Appeals Panel decides that the matter can be ruled upon by a single Appeal's Panel representative because it is of minor importance, not of a difficult nature, or requires an immediate decision.

7. If the Chairperson is not one of those nominated, the Appeals Panel Chairperson shall designate an alternate Chairperson for the hearing (Deputy Chairperson).
8. The Chairperson or presiding Deputy Chairperson is responsible for guiding the procedure of the hearing and for issuing the WDGf Appeals Panel directions on the dispute.
9. No member of the WDGf Tribunal Panel who adjudicated on a particular case shall be permitted to hear the appeal of the case in question.
10. In each case, the WDGf Appeals Panel representatives must be independent of the parties and must disclose immediately to the WDGf Appeals Panel Chairperson any circumstance likely to affect their independence.
11. The WDGf Appeals Panel will not include any person who has any actual or perceived conflict of interest or bias regarding the complaint/allegations.

#### **D. REQUEST FOR APPEAL, ADVANCE ON COSTS**

12. An appeal before the WDGf Appeals Panel is commenced by filing a valid Request for Appeal with the Head of the WDGf Integrity Unit within fourteen (14) days following the day of receipt by the appealing party of the decision being appealed against. Failure to file a timely appeal in accordance with this paragraph is deemed to be a waiver of the right to appeal. The appeal shall be accompanied by a copy of the decision appealed against.
13. To be valid, the Request for Appeal must be in English language and satisfy the formal requirements set out in this policy. Without prejudice thereto, the notice shall be signed by the person bringing the Appeal (who shall be referred to as the "**Appellant**") or his/her authorised representative, must be accompanied by a copy of the decision that is being appealed and must identify:
  - (a) The name, address and full contact details of the Appellant and/or their authorised representative;
  - (b) The part(s) of the Decision that is/are being appealed; and
  - (c) The grounds of the Appeal.
14. The Request for Appeal may be accompanied by an Appeal Brief setting out the arguments in support of the Appeal, and any supporting witness statements, expert reports, or other evidence relied upon, as well as copies of any legal authorities cited in the Notice of Appeal. Where a transcript or recording of the first instance hearing is available, it shall also be filed, either with the Notice of Appeal or as soon thereafter as it becomes available.

15. The Appeal will not proceed until the non-reimbursable handling fee of USD \$1,500 is received.
16. In the event that the Appellant fails to pay the handling fee, no date for a hearing will be fixed or a hearing date already fixed will be cancelled.
17. The Chairperson of the WDGf Appeals Panel may fix a final date for the payment of the non-reimbursable handling fee, failing which, the request for Appeal shall be deemed withdrawn.

**E. ADVANCE ON COSTS**

18. The WDGf Appeals Panel shall fix an advance on costs (and may adjust the same in the course of the proceedings) to be paid in equal shares by both parties (unless decided otherwise by the WDGf Appeals Panel Chairperson) into the WDGf Bank account; in fixing the amount an advance of costs the WDGf Appeals Panel shall take into account inter alia the monetary value of the dispute and the complexity of the case.
19. If a party fails to pay its share, the other party may substitute for it.
20. The WDGf Appeals Panel will not proceed with the Hearing until the full amount of the advance on costs is received.
21. The Chairperson of the Appeals Panel may fix a final date for the payment of an advance on costs failing which the Request for Appeal shall be deemed withdrawn.

**F. WDGf AS RESPONDENT**

22. In all Appeals to the WDGf Appeals Panel, the WDGf shall be the Respondent to the Appeal.

**G. CONVENING A HEARING PANEL TO DETERMINE THE APPEAL**

23. The Head of the WDGf Integrity Unit will forward a copy of the Request for Appeal and accompanying documents to the WDGf Appeals Panel Chairperson, with a request that he convenes a Hearing Panel to hear and determine the Appeal.

**H. DECISION TO REMAIN IN EFFECT**

24. Unless the WDGf Appeals Panel Chairperson orders otherwise, the Decision being appealed shall remain in full force and effect pending determination of the Appeal.

**I. ANSWER**

25. Within 20 days of receipt of the Request for Appeal and accompanying documents unless the parties agree to an alternate schedule, the WDGf shall file with the WDGf Appeals Panel and serve on the Appellant an answer containing its defence to the Appeal (including any claim of lack of jurisdiction). The answer may be accompanied by any supporting witness statements, expert reports, or other evidence relied upon, as well as copies of any legal authorities cited in the answer.
26. Unless the parties agree otherwise or the WDGf Appeals Panel Chairperson orders otherwise for good cause shown, the parties shall not be permitted to supplement their written arguments or evidence with further written submissions after submission of the Request for Appeal and accompanying documents (in the case of the Appellant) or the answer and accompanying documents (in the case of the WDGf).

**J. HEARING**

27. The WDGf Appeals Panel Chairperson shall determine when (as soon as practicable), where and how the hearing will be conducted (in person, by telephone, by video conference, or through consultation in a written form) and will inform the Appellant that the hearing will take place.
28. The notice will outline:
  - (a) that the person(s) has a right to have its appeal heard in a hearing;
  - (b) the date, time and venue of the Appeal hearing;
  - (c) that a reasonable number of witnesses (as agreed by the Chairperson) may attend the Appeal hearing to support the position of the Appellant;
  - (d) that a reasonable number of witnesses (as agreed by the Chairperson) may attend the Appeal hearing to support the position of the Respondent.;
  - (e) that the person(s) has the right to be represented by legal counsel and the right to an interpreter;
  - (f) that if the respondent is a minor, s/he should have a parent or guardian present;
  - (g) that new evidence should not be presented unless there is good cause for why it was not available for the original proceeding; and
  - (h) that the appealing party shall not communicate directly or take up direct contact with the members of the panel on matters relating to an appeal.
29. Witnesses must, in the discretion of the Chairperson, be capable of supplying probative testimony to relevant facts.

30. Declarations from witnesses not available to attend and from character witnesses may also be provided to the hearing, provided that all such written declarations must be made under oath, signed by the witness, and officially notarized.
31. The working language of the WDGf Appeals Panel shall be English.
32. Save where the Chairperson orders otherwise, the following procedures shall be followed at the hearing:
  - (a) The Appellant shall address the WDGf Appeals Panel, summarising his/her case on Appeal;
  - (b) The WDGf shall address the WDGf Appeals Panel, summarising its case;
  - (c) Any evidence shall be presented by the Appellant or the WDGf. Any documentary or other evidence relied on by a party must be properly authenticated upon presentation to the WDGf Appeals Panel.
  - (d) The IGF shall make closing statements;
  - (e) The Appellant shall make closing statements.
33. If the WDGf Appeals Panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the Appeals Panel Chairperson may deny further involvement of that person in the hearing.

#### **K. AWARD**

34. The WDGf Appeals Panel hearing the Appeal shall rule on the Appeal by simple majority.
35. All members must take part in the deliberations of the Appeals Panel and no member of the WDGf Appeals Panel may abstain.
36. The award shall be rendered within four (4) weeks following the date of the Hearing.
37. The WDGf Appeals Panel shall have the power to:
  - (a) Dismiss the appeal;
  - (b) Exercise any power that the body against whose Decision the Appeal was made could have exercised, whether the effect is to increase or decrease any award, order or sanction originally imposed;
  - (c) Remit the matter for a new hearing;
  - (d) Determine whether and to what extent the Appellant is to be reimbursed for the costs advanced by it, or whether and to what extent the Appellant is to pay an amount of costs in addition to the advance fixed;

- (e) Determine the final amount of the costs of arbitration and which party shall bear those costs and in which proportion. The costs shall include the administrative and other costs of the Appeals Panel and the fees and costs of the judges. In addition, as a general rule, the award shall grant the prevailing party a contribution towards its reasonable legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When deciding on the arbitration costs and on the parties' reasonable legal fees and expenses, the WDGf Appeals Panel shall primarily take into account the relief(s) granted compared with the relief(s) sought and, secondarily, the conduct and the financial resources of the parties;
  - (f) Make such further or other order as it considers appropriate either generally or for purpose of giving effect to its Decision.
38. The WDGf Appeals Panel shall publish a written statement of its Decision on the WDGf website which is also provided to the respondent.

#### **L. FURTHER APPEAL**

39. A further appeal against the decision by the WDGf Appeals Panel can only be lodged with the Court of Arbitration for Sport (**CAS**) in Lausanne, Switzerland.
40. The CAS shall act as an arbitration tribunal and there shall be no right to appeal to any other jurisdictional body.
41. The time for filing an appeal to CAS shall be twenty-one days (21) from the date of receipt of the decision by the appealing party.