

# SWIM ENGLAND NORTH WEST LIMITED

## MODEL CLUB CONSTITUTION FOR AN UNINCORPORATED CLUB March 2023

Please note: this document has been provided as a word version in order to permit Swim England affiliated Clubs to amend the provisions accordingly.

Those parts requiring the Club to insert information and/or make a choice as to the rule are indicated by red italic square brackets e.g.

*[insert] or [delete as appropriate]*

*[the wording of option one] \* OR \* [the wording of option two]*

**When drawing up the Club's constitution, please pay careful attention to the Guidance Notes**

# SWIM ENGLAND NORTH WEST LIMITED

## **RULES of Satellites of Macclesfield Swimming Club (“the Club”) as at [March 2023]**

### **1. Name**

1.1 The name of the Club shall be Satellites of Macclesfield hereinafter called the Club.

### **2. Objects**

2.1 The objects of the Club shall be the teaching, development and practice of swimming, para-swimming and masters for its members and shall, where appropriate, be to compete. In the furtherance of these objects:

2.1.1 The Club is committed to treating everyone equally within the context of its activity and with due respect to the differences of individuals. It shall not apply nor endorse unlawful or unjustified discrimination, and shall act in compliance with the protections afforded by the Equality Act 2010.

2.1.2 The Club shall implement the Swim England Equality Policy (as may be amended from time to time).

2.2 The Club shall be affiliated to Swim England North West Limited, and shall adopt and conform to the rules of Swim England North West Limited, and to such other bodies as the Club may determine from time to time.

2.3 The business and affairs of the Club shall at all times be conducted in accordance with the Articles, Regulations and Technical Rules of Swim England (“Swim England Regulations”) and in particular:

2.3.1 All competing members shall be eligible competitors as defined in Swim England Regulations.

2.3.2 The Club shall in accordance with Swim England Regulations adopt Swim England’s Child Safeguarding Policy and Procedures (“Wavepower”); and shall recognise that the welfare of children is everyone’s responsibility and that all children and young people have a right to have fun, be safe and be protected from harm.

2.3.3 Members of the Club shall in accordance with Swim England Regulations comply with Wavepower.

2.3.4 The Club will comply with the Data Protection Act 2018 as may be modified from time to time.

2.4 By virtue of the affiliation of the Club to Swim England North West Limited, the Club and all members of the Club acknowledge that they are subject to the regulations, rules and constitutions of:

2.4.1 The Cheshire County Water Polo and Swimming Association

2.4.2 Swim England North West Limited.

2.4.3 Swim England (to include the Code of Ethics).

2.4.4 British Swimming (in particular it’s Anti-Doping Rules and Judicial Code).

2.4.5 LEN, the European governing body for the sport of swimming in all its disciplines.

2.4.6 FINA, the world governing body for the sport of swimming in all its disciplines (hereinafter defined as the "Rules of the Governing Body").

2.5 In the event that there shall be any conflict between any rule or by-law of the Club and the Rules of the Governing Body then the relevant Rule of the Governing Body shall prevail.

### **3. Membership**

3.1 The total membership of the Club shall not normally be limited. If, however the Committee considers that there is a good reason to impose any limit from time to time then the Committee shall put forward appropriate proposals for consideration at a General Meeting of the Club. The members shall have the right to impose (and remove) from time to time any limits on total membership (or any category of membership) of the Club.

3.2 Club membership consists of four parts all or some of which may have annual fees. The four parts with applicable fees to be paid by the due date are Club, County, Region and Swim England membership.

3.3 All persons who assist in any way with the Club's activities shall become members of the Club and hence Swim England and the relevant Swim England membership fee shall be paid.

3.4 Paid individuals who are not members of the Club must be members of a body which accepts that its members are bound by Swim England's Code of Ethics, Swim England Regulations relating to Wavepower, those parts of the Judicial Regulations and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of Swim England shall be subject to all the constraints and privileges of the Judicial Regulations.

3.5 Any person who wishes to become a member of the Club must submit an application by the Club's stated process to the Membership Secretary (and in the case of a child under 18 years of age the application must be submitted by the applicant's parent or guardian). The Club application process should be able to view either online or via a paper format.

3.6 Admission to membership shall be determined by the Club's agreed process. In its consideration of applications for membership, the Club shall not act in a discriminatory manner and in particular, shall adhere to the Equality Act 2010 (as may be amended). Accordingly, (unless the Club chooses to restrict its membership to only people who share the same Protected Characteristic) the Club shall not refuse membership on the basis of a Protected Characteristic within the Equality Act 2010. Neither may refusal be made on the grounds of political persuasion.

3.7 The Club may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Club or the sport into disrepute, or, in the case of a swimmer, being unable to achieve the entry standards as laid down and provided by the Club to the applicant for membership. The Club shall be required to give reasons for the refusal of any application for membership. Any person refused membership may seek a review of this decision before a Review Panel. The procedures for the review shall be at the discretion of the Review Panel whose decision shall be final and binding.

3.8 Membership is not transferable. This includes the transfer of membership rights from a child under of 18 years of age to a parent or guardian.

3.9 The category of membership shall be decided in accordance with the following:

- 3.9.1 Junior members, who shall be less than 18 years of age, shall not be allowed to hold office or be elected to the committee however they may attend and speak but not vote at meetings of the committee by invitation of the committee. Members who are 16 or 17 years of age may attend and vote at General Meetings of the membership and may submit nominations, proposals or resolutions to a General Meeting.
- 3.9.2 Senior Members, who shall be not less than 18 years of age, shall be eligible to stand for election for office and for membership of the committee, to attend and vote at General Meetings of the membership and to submit nominations, proposals and resolutions to a General Meeting of the membership.
- 3.9.3 Honorary Members. The Annual General Meeting may elect any person as an Honorary member of the Club for such a period as it thinks fit and they shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a General Meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the Club. Such Honorary members must be included in the Club's annual return of members to Swim England.
- 3.9.4 Life Members. The Annual General Meeting may elect any person as a Life Member, on a recommendation made by the Committee in recognition of outstanding services rendered to the Club. Life members shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a General Meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the Club. Such Life members must be included in the Club's annual return of members to Swim England.

#### **4. Membership and Other Fees**

- 4.1 The annual membership fee and all other fees payable to the Club shall be determined from time to time by the Committee and the Committee shall in so doing make special provision for different classes of membership as it shall determine.
- 4.2 The annual Swim England, Region and County fees (if any) shall be due on joining the Club and thereafter on the 1st of January each year.
- 4.3 The Club shall inform all members of the fees payment structure and whether annual fees are paid in full or via an appointed scheme. Any member whose fees are unpaid by the date falling 30 days after the due date for payment may be suspended by the Committee from some or all Club activities from a date to be determined by the Committee and until such payment is made.
- 4.4 The Committee shall, from time to time, have the power to determine the Club annual membership and other fees. This shall include the power to make such a change in the fees as shall, where the Club pays the relevant affiliation fees to Swim England on behalf of members, be consequential upon a change of such fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next Annual General Meeting.

- 4.5 The Executive Officers or the Committee shall have the power in special circumstances to remit the whole or part of the Club fees, to address issues of social inclusion. The club may also make suitable arrangements for the required payment of Swim England, Regional and County fees (where applicable).

## **5. Resignation**

- 5.1 A member wishing to resign membership of the Club must give to the Club Secretary written notice of their resignation via post or electronic means.
- 5.2 A member whose fees are more than two months in arrears shall be deemed to have resigned from the Club and their membership terminated. Where membership has been terminated in this way the member shall be informed in writing either via post to the last known address or by electronic means.
- 5.3 A member who resigns from the Club or whose membership is terminated shall not be entitled to have any part of the annual Club, Swim England, Swim England North West Limited or County membership fee refunded and must immediately return any Club, County or external body's property.
- 5.4 The Swim England Membership Department and the relevant Swim England Region shall be informed by the Club should a member resign or have their membership terminated when still owing money or property to the Club.

## **6. Expulsion and Other Disciplinary Action**

- 6.1 The Committee shall have power to expel a member when, in its opinion, it would not be in the interests of the Club for the individual to remain a member. The Club in exercising this power shall comply with the provisions of Rules 6.3 and 6.4 below.
- 6.2 Upon expulsion the former member shall not be entitled to have any part of the annual Club membership fee refunded and must immediately return any Club, County or external body's property held.
- 6.3 The Club shall comply with the relevant Judicial Regulations for handling Internal Club Disputes as the same may be revised from time to time.
- 6.4 A member may not be expelled or (subject to Rule 6.5 below) be made the subject of any other penalty unless the panel hearing the complaint shall by a two-thirds majority vote in favour of the expulsion of (or other penalty imposed upon) the member.
- 6.5 The Officers of the Club (or any person to whom the Committee shall delegate this power) may temporarily suspend or exclude a member from particular training sessions and/or wider Club activities, when in their opinion or following, such action is in the interests of the Club. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Regulations.
- 6.6 Swim England shall have power to temporarily suspend members or suspend members for a specified term in accordance with Judicial Regulations and Child Safeguarding Regulations as the same may be revised from time to time.

## **7. Committee**

- 7.1 The Committee shall consist of the Chairperson, Secretary, Treasurer (together "the Executive Officers of the Club") and seven other elected members all of whom must be members of the Club. All Committee members must be not less than 18 years of age though the Committee may allow younger member(s) to attend their meetings by invitation of the Committee but without power to vote.

- 7.2 In accordance with Wavepower the Committee shall appoint a member of the Club as the Welfare Officer who must be not less than 18 years of age, who should have an appropriate background and who is required to undertake appropriate training in accordance with Wavepower. The Welfare Officer shall not be related to or in a relationship with any one of the 'Executive Officers of the Club or the Club's Coaches or Teachers.
- 7.3 The Welfare Officer shall have a right to attend Committee meetings without the power to vote or to be counted as part of the quorum. Attendance at meetings will be for the purpose of sharing or addressing matters relating to Welfare.
- 7.4 The Executive Officers and Committee members shall be proposed seconded and elected at the Annual General Meeting each year and shall remain in office until their successors are elected at the next Annual General Meeting and take office when the Chairperson has closed the meeting. Any vacancy occurring by resignation or otherwise may be filled by the Committee. Retiring Executive Officers and members of the Committee shall be eligible for re-election at that Meeting.
- 7.5 Committee meetings shall be held monthly and the quorum of that meeting shall be 50% plus one of the numbers entitled to vote with at least one executive officer present. The Chairperson and the Secretary shall have discretion to call further meetings of the Committee if they consider it to be in the interests of the Club. The Secretary shall give all the members of the Committee not less than 14 days' notice of a meeting in writing or by electronic means. Decisions of the Committee shall be made by a simple majority (and in the event of equality of votes the Chairperson (or the acting Chairperson of that meeting) shall have a casting or additional vote.) The Secretary, or in their absence a member of the Committee, shall take minutes.
- 7.6 In the event that a quorum is not present within 30 minutes of the stated start time, a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the Chairperson. If a quorum is not present at the adjourned meeting then those Committee members attending may act for the purpose of calling a Special General Meeting of the members, to which the provisions as to minimum notice contained in Rule 10.2 shall not apply.
- 7.7 In addition to the members so elected the Committee may co-opt up to five further members of the Club who shall serve until the next Annual General Meeting. Co-opted members shall be entitled to vote at the meetings of the Committee and shall be counted in establishing whether a quorum is present.
- 7.8 The Committee may from time to time appoint such sub-committees and roles as they may consider necessary (and to remove (in whole or in part) or vary the terms of reference of such sub-committees) and may delegate to them such of the powers and duties of the Committee as the Committee may determine. All sub-committees shall periodically report their proceedings to the Committee and shall conduct their business in accordance with the directions of the Committee.
- 7.9 The Committee shall be responsible for the management of the Club and shall have the sole right of appointing and determining the terms and conditions of service of employees of the Club. The Committee shall have power to enter into contracts for the purposes of the Club on behalf of all the members of the Club. The Committee shall be responsible for ensuring that the Accounts of the Club for each financial year be examined by an independent examiner to be appointed by the members in a General Meeting.
- 7.10 The members of the Committee shall be entitled to an indemnity out of the assets of the Club for all expenses and other liabilities properly incurred by them in the management of the

affairs of the Club.

- 7.11 The Committee shall maintain a log of all Accidents/Incidents at Club related activities. Details of such shall be reported to the insurers in accordance with the Accident/Incident Notification guidelines. The Club shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed online form. A copy of entries should be kept for a period of six years or in respect of an injury to a child they should be kept for a period of six years after they attain 18 years of age.
- 7.12 The Committee shall retain all financial records relating to the Club and copies of minutes of all meetings for a minimum period of six years.

## **8. Ceremonial Positions and Honorary and Life Members**

- 8.1 The Annual General Meeting of the Club, if it thinks fit, may elect a President and Vice-Presidents. A President or Vice-President need not be a member of the Club on election but shall, ex officio, be made an honorary member of the Club and must be included in the Club's Annual Return of Members to Swim England.
- 8.2 The Committee may nominate any person as an honorary member of the Club for a specified period of time, or as a life member, and they shall be entitled to all the privileges of membership except that they shall not be entitled to vote at meetings and serve as Officers or on the Committee unless any such person shall also be a fee paying member of the Club in accordance with Rule 3.
- 8.3 Such honorary and life members must be elected at the Annual General Meeting, and be included in the Club's annual return as to membership. A Club may commit to paying all relevant Swim England and Club membership fees on behalf of the honorary or life member upon election at the Annual General Meeting.
- 8.4 Honorary and/or life memberships may only be removed at an Annual General Meeting of the Club, when it shall be properly proposed in accordance with these Rules.
- 8.5 A minimum of 21 days in advance of the Annual General Meeting, the Committee shall write to all holders of honorary and/or life membership effected by the above proposal drawing the proposal to their attention and inviting them to attend the Annual General Meeting. The reasons for the proposal shall be circulated with the agenda.
- 8.6 Where the affected holder or holders of the honorary and/or life membership do not attend or are unable to attend the Annual General Meeting, the Chairperson may allow the matter (in so far as it relates to the absent person(s)) to proceed directly to vote, which shall be by show of hands.

## **9. Annual General Meeting**

- 9.1 The Annual General Meeting of the Club shall be held each year on a date in February. The date, time and venue for the Annual General Meeting shall be fixed by the Committee. In any event no more than 15 months shall elapse between any two consecutive Annual General Meetings.
- 9.2 For the purpose of participation in voting at an Annual General Meeting of the Club, all persons shall have been a member as at the membership deadline day which is the date of closure of nominations and submission of proposals.
- 9.3 The purpose of the Annual General Meeting is to transact the following business:
- 9.3.1 To receive the Chairperson's report of the activities of the Club during the previous year.

- 9.3.2 To receive and consider the accounts of the Club for the previous year and the report on the accounts of the independent examiner and the Treasurer's report as to the financial position of the Club.
  - 9.3.3 To remove and elect the independent examiner (who must not be a member of the Committee or a member of the family of a member of the Committee) or confirm that he/she remain in office.
  - 9.3.4 To elect the Executive Officers and other members of the Committee.
  - 9.3.5 To decide on the dissolution of existing honorary membership categories.
  - 9.3.6 To decide on any resolution which may be duly submitted in accordance with Rule 9.6.
  - 9.3.7 To elect or reaffirm the Custodians of the Club.
  - 9.3.8 To elect honorary and/or life members if required.
  - 9.3.9 To elect a President and Vice-President if required.
- 9.4 For the Annual General Meeting the Secretary shall be responsible for sending to each member at his/her last known postal or electronic address an agenda giving notice of the date, time and venue of the General Meeting no later than 28 days prior to the published date. The Notice of Meeting shall in addition wherever possible be displayed on the Club Notice Board of the club where one exists.
- 9.5 Nominations for election of members to any office or for membership of the Committee shall be made in writing or by electronic means by the proposer and seconder to the Secretary not later than 21 days prior to the published date of the meeting. Both proposer and seconder must be a fully paid member of the Club and of Swim England at the time of the nomination. The nominee shall be required to indicate in writing or by electronic means on the nomination form his/her willingness to stand for election.
- 9.6 Any member entitled to vote at a General Meeting shall be entitled to put any proposal for consideration at an Annual General Meeting provided the proposal in writing or by electronic means is received by Secretary not later than 21 days prior to the published date of the meeting.
- 9.7 No less than 14 days before the published meeting date, together with the resolutions to be proposed, a list of the nominees for the Committee posts and a copy of the examined accounts will be notified to all Club members.

## **10. Special General Meeting**

- 10.1 A Special General Meeting may be called at any time by the Committee at a committee meeting.
- 10.2 A Special General Meeting shall be called by the Committee and held within 28 days of receipt by the Secretary of a requisition in writing or by electronic means signed by not less than seven members entitled to vote at a General Meeting, stating the purposes for which the meeting is required and the resolutions proposed.
- 10.3 For the purpose of participation in voting at a Special General Meeting of the Club, all persons shall have been a member as at the membership deadline day which is the date that the requisition for the meeting was made by the Committee or the members.

10.4 In the case of a Special General Meeting the Secretary shall be responsible for sending to each member at his/her last known postal address or by electronic means an agenda giving notice of the date, time and venue no later than 21 days prior to the date agreed by the Committee following the requisition submitted and stating the purposes for which the meeting is required and the resolutions proposed.

## **11. Procedure at the Annual and Special General Meetings**

11.1 The Committee can decide to hold the Annual or Special General Meeting virtually, using such electronic and video technology as it sees fit.

11.2 The quorum for the Annual and Special General Meetings shall be seven members or if greater such number as represents one tenth in number of such members entitled to vote at the Meeting.

11.3 The Chairperson, or in the Chairperson's absence a member appointed by the Committee, shall take the chair. Each member present shall have one vote and resolutions shall be passed by a simple majority. In the event of an equality of votes the Chairperson shall have a casting or additional vote.

11.4 Only paid up members who in accordance with Rule 3.9.1 have reached their 16<sup>th</sup> birthday shall be entitled to be heard and to vote on all matters.

11.5 The Secretary, or in his/her absence a member of the Committee, shall take minutes at the Annual and Special General Meetings.

11.6 The Chairperson shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of the Rules of the Club.

## **12. Alteration of the Rules and Other Resolutions**

12.1 The Rules may be altered by resolution at an Annual or Special General Meeting provided that the resolution is carried by a majority of at least two-thirds of members present and entitled to vote at the General Meeting. No amendment(s) to the Rules shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by Swim England North West Limited.

## **13. By-Laws**

13.1 The Committee shall have power to make, repeal and amend regulations and by-laws as they may from time to time consider necessary for the wellbeing of the Club. Such regulations, by-laws, repeals and amendments shall have effect until set aside by the Committee or at a General Meeting. The Committee shall have power to settle disputed points not otherwise provided for in this Constitution.

## **14. Finance**

14.1 All monies payable to the Club shall be received by the Treasurer and deposited in a bank account in the name of the Club.

14.2 No sum shall be drawn from that account except by the method agreed by the Committee which includes an authorisation from the Treasurer and Chairperson only. Any monies not required for immediate use may be invested as the Committee in its discretion think fit.

14.3 The income and property of the Club shall be applied only in furtherance of the objects of the

Club and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Club.

14.4 The Committee shall have power to authorise the payment of remuneration and expenses to any Officer, member or employee of the Club and to any other person or persons for services rendered to the Club.

14.5 The financial transactions of the Club shall be recorded by the Treasurer in such manner as the Committee thinks fit.

14.6 The financial year of the Club shall be the period commencing on 1<sup>st</sup> September and ending on 31<sup>st</sup> August. Any change to the financial year shall require the approval of the members in a General Meeting.

## **15. Borrowing**

15.1 The Committee may borrow money on behalf of the Club for the purposes of the Club from time to time at their own discretion up to such limits on borrowing as may be laid down from time to time by the General Meeting for the general upkeep of the Club or with the (prior) approval of a General Meeting for any other expenditure, additions or improvements.

15.2 When so borrowing the Committee shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sums or sums of money in such manner or on such terms and conditions as it thinks fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the Club.

15.3 The Committee shall have no power to pledge the personal liability of any member of the Club for the repayment of any sums so borrowed.

## **16. Property**

16.1 The property of the Club, other than cash at the bank, shall be vested in not less than two but not more than four Custodians who shall be members of the Club over 18 years of age. They shall deal with the property as directed by resolution of the Committee and entry in the minute book shall be conclusive evidence of such a resolution.

16.2 The Custodians shall be elected and reaffirmed at an Annual General Meeting of the Club each year and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.

16.3 The Custodians shall be entitled to an indemnity out of the property of the Club for all expenses and other liabilities properly incurred by them in the discharge of their duties.

## **17. Dissolution**

17.1 A resolution to dissolve the Club shall only be proposed at a General Meeting and shall be carried by a majority of at least three - quarters of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.

17.2 The dissolution shall take effect from the date specified in the resolution and the members of the Committee shall be responsible for the winding-up of the assets and liabilities of the Club.

17.3 Any assets remaining after the discharge of the debts and liabilities of the Club shall be given to a charity or charities (or other non-profit making organisation having objects similar to those of the Club for the furtherance of such objects) nominated by the last Committee.

## **18. Acknowledgement**

18.1 The Members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the members with each other and the Club.

- 18.2 This constitution must be readily available to all club members. This may be via posting on the Club website or shared with members annually at time of membership renewal.
- 18.3 The following statement **must** appear on Club membership renewal forms and is to be signed by the member. It must also be countersigned by the parent or a person having parental responsibility for the member, if under 18 years of age:

***“I acknowledge receipt of the rules of Satellites of Macclesfield Swimming Club and confirm my understanding and acceptance that such rules (as amended from time to time) shall govern my membership of the Club. I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.”***

**Data Protection Statement:**

It shall be a condition of affiliation or membership that all members shall be subject to and bound by any Swim England Rule, Regulation or Condition, in addition to complying with the Equality Policy, the Child Safeguarding Regulations and the Data Protection Act 2018 which may from time to time apply to them.

[Note: This consent needs to be provided by the parent for children under the age of 13 years. Anyone over the age of 13 years can provide consent for the use of data under the Data Protection Act 2018]

The Club will take the protection of the data that we hold about you as a member seriously and will do everything possible to ensure that data is collected, stored, processed, maintained, cleansed and retained in accordance with current and future UK data protection legislation.

Please read the full privacy notice carefully to see how ‘The Club’ will treat the personal information that you provide to us. We will take reasonable care to keep your information secure and to prevent any unauthorised access.

In addition to receiving general Club communications please let us know how else you would like to hear from us:

I would like to receive Information from the Club about specially selected products and services available from commercial sponsors and partners.

I am happy to receive communications via:

SMS  Post  email

When you become a member of or renew your membership of the Club you will automatically be registered as a member of Swim England. We will provide Swim England with your personal data which they will use it to enable access to an online portal. It is vital, therefore, that a valid email address is given, so that you can ensure that your data is correct and so that you can set your own privacy settings.

## Appendix 1 - CODE OF ETHICS

### Terms of Reference

The content of this Code of Ethics applies to all those involved within the sport of Swimming, Diving, Water Polo, Open Water Swimming and Synchronised Swimming. The Code of Ethics should be read in conjunction with the Codes of Conduct contained in 'Wavepower' (Child Safeguarding Policy and Procedures).

### Swim England Code of Ethics

All individuals within the Swim England aquatic disciplines will at all times:

- Respect the rights, dignity and worth of every person, be they adult or child, treating everyone equally within the context of the sport.
- Respect the spirit of the sport adhering to the rules and laws in and out of the pool, incorporating the concept of friendship and respect for others.
- Promote the positive aspects of the sport and never condone the use of inappropriate or abusive language, inappropriate relationships, bullying, harassment, discrimination or physical violence.
- Accept responsibility for their own behaviour and encourage and guide all Swim England members and parents of junior members to accept responsibility for their own behaviour and conduct.
- Ensure all concerns of a child safeguarding nature are referred in accordance with 'Wavepower' (Swim England Child Safeguarding Policy and Procedures).
- Conduct themselves in a manner that takes all reasonable measures to protect their own safety and the safety of others.
- Promote the reputation of the sport and never behave or encourage or condone others to behave in a manner that is liable to bring the sport into disrepute.
- Adhere to 'Wavepower' the Swim England Child Safeguarding Policy and Procedures.
- Adhere to the Swim England Anti-Doping Rules.
- Adhere to the Swim England Equity Policy.
- Adhere to the Swim England Laws and Regulations.
- Adhere to the Swim England Codes of Conduct.

## Appendix 2 - GUIDELINES FOR HANDLING INTERNAL CLUB DISPUTES

### 1. Introduction

The purpose of these notes is to give Clubs guidance in the handling of internal Club disputes. With the introduction of the Code of Ethics and the increased risk of litigation it is important that internal disputes are handled correctly from the outset. Whilst most Clubs do from time to time have disputes between Committee members, parents and swimmers these can usually be resolved amicably between the individuals concerned. Occasionally it is also necessary to discipline swimmers for minor incidents of misbehaviour and this can also be done fairly by the Coach/Team Manager.

Sometimes a more serious dispute arises in a Club and because such a situation does not occur frequently Clubs are unsure how to handle the matter. This can lead to the dispute becoming more serious with recourse to the judicial procedures becoming necessary.

These guidelines do not apply to paid employees of a Club. If a Club is in dispute with a paid employee then the employment contract and employment law needs to be considered. Specialist legal advice may have to be sought.

### 2. General Principles

Swim England Judicial Regulations define Protests and Complaints and it should first be decided whether the matter is a Protest or a Complaint. A Protest can be dealt with by a Club provided they are the Promoter of the Competition to which the Protest relates. A Complaint cannot be dealt with by a Club. However, it is often possible to resolve a dispute within a Club without the matter becoming a formal Complaint. If either party is dissatisfied with a decision reached in an internal Club dispute then they still have the option to make a formal Complaint to the Judicial Commissioner.

It must be noted that a Club only has the power to legislate for a breach of its own rules and can only suspend a swimmer from its own Club activities. A Club does not have the power to handle a dispute relating to a member of another club nor deal with an offence against Swim England Regulations.

The key principle to be followed is that Swim England Regulations conform to the law of the land in so much that an individual accused of an alleged offence is innocent until proven guilty and he/she must have reasonable opportunity to present a defence and have his/her views heard.

In these notes reference is made to the term 'dispute' to avoid confusion with the term 'Complaint' used in formal Swim England Judicial terms. The term Club could also refer to a League or County Association.

It is assumed for the purpose of these notes that the dispute is between the Club and one or more of its members. It is most important that the same people in the Club do not become both the prosecutor (and defender) and the judge. If the Committee or its officers are either the prosecutor or defender or involved in the dispute then they must find other members not connected with the matter to hear the evidence from both parties to the dispute.

There are occasions when a problem arises in a Club, for example fighting between members in a training session, where immediate action is required such as a temporary suspension or exclusion from a training session or from wider Club activities. Coaches and officers should always be given the power to invoke a temporary suspension. A report should then be made, immediately, to the Club officers who should follow the procedures in the relevant section of the rules.

### **3. Procedures**

On receipt of the dispute every effort should be made to resolve the matter by informal discussion. In difficult cases the Chairperson of the relevant Panel is empowered to appoint an independent arbitrator to assist in achieving a settlement. If this fails or it is clearly necessary to discipline a member, the Club should set up a panel to deal with the matter.

The panel should consist of three persons, one to act as Chairperson. A Secretary may also be needed. The panel will need to consist of people not involved in the dispute and the Club may want to ask individuals from outside the Club to sit on the panel. The full Club Committee could of course hear the dispute but given the number of people on a Committee this could be seen as intimidating and it is usually preferable to have a smaller number of people to hear a disciplinary matter, hence the recommendation to set up a panel of three persons.

The Chairperson must notify both parties of the date, time and place of the hearing and the names of the panel members. Both parties need to be given copies of all the papers and every effort should be made to hold the hearing within 14 days of the receipt of the dispute.

If either party is under 18 years of age they must be advised of their right to be accompanied by a parent (or other person with a parental responsibility for them) or coach to help them present their case.

Both parties should be allowed to bring witnesses.

The hearing should be as informal as possible but needs to be controlled. Points to note:

- (a) The complainant will present evidence first and the accused will have the right of reply.
- (b) Both parties to the dispute are able to call witnesses, the complainant going first and each party should be allowed to question the other party's witnesses.
- (c) Witnesses must wait outside the hearing room until they are called. After questioning they may wait in the hearing room, taking no further part in the proceedings.
- (d) The Chairperson or Secretary will make notes of the hearing and the panel will make every effort to announce their decision verbally to all the parties without delay followed by written confirmation to reach all parties within five days.

### **4. Powers of the Clubs**

The powers of Clubs regarding the disciplinary action they can apply must not exceed those in Swim England Judicial Regulations which can result in full suspension from Club activities for whatever period the panel shall decide or in expulsion. The panel if it wishes can impose a lesser penalty such as a written or verbal reprimand.

If either party to the dispute is dissatisfied with the outcome they are still entitled to make a Complaint to the Judicial Commissioner at Swim England Head Office, Loughborough.

### **5. Further Information**

Additional guidance can be obtained from the Judicial Regulations in the Swim England Handbook.

### **6. Conclusions**

The key message when dealing with disputes is to ensure:

- (a) All parties are treated fairly.

- (b) The complainant has the opportunity to present the case.
- (c) The accused has the opportunity to respond.

## Appendix 3 - INTERNAL CLUB DISPUTES

### 1. CLUB RIGHTS and RESPONSIBILITIES

The rights and responsibilities of a Club in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in Swim England Regulation 281 which specifies:

#### Regulation 281: Club discipline and internal dispute procedures

- 281.1** For a breach of its own rules, but subject to Swim England Regulations 150 and 151, an affiliated Club or body may:
- 281.1.1** Apply sanctions to a member relating to activities wholly within its own jurisdiction up to and including suspension from any or all of them.
  - 281.1.2** Expel a member, provided that before doing so it informs the member of the alleged offence and gives him a reasonable opportunity to defend himself against the charge. If the alleged offence is also a breach of Swim England Regulations the Club or body shall not deal with it but may make a complaint under the Judicial Regulations.
- 281.2** A Club or body may expel from membership and/or refuse to renew the membership of any member who has been suspended according to Regulation 109 or Regulation 241 provided that any such expulsion or initial refusal shall not be lawful after the twelve months immediately following the end of the suspension.
- 281.3** Each Club shall include in its rules provisions specifying the procedures to be carried out to handle internal Club disputes which shall include compliance with Swim England Judicial Regulations.
- 281.4** Any such provisions shall comply with the Swim England Recommended Club Constitution and the accompanying Guidance Notes.

### 2. COMPLAINT TO SWIM ENGLAND

Any dispute that involves an allegation of a breach of Swim England Regulations must be submitted to Swim England and dealt with as a complaint under the condition of Swim England Regulations 150.4 and 281.1.2.

Judicial Regulation 102 deals with the circumstance of a complaint made to Swim England. It provides the necessary explanation that defines a complaint, the grounds on which a complaint can be made, who can make a complaint and the procedure to be used.

#### Judicial Regulation 102: Complaints

- 102.1** A complaint is a formal expression of dissatisfaction with the actions or behaviour of any person, including an individual or a Club, or other body, or organisation or with alleged unfair practice in connection with the sport. Decisions of a Club, body, organisation, association, County Association or Region on selection of teams may not be the subject of a complaint.

### 3. INTERNAL DISPUTES

When a dispute arises between two or more members of the same Club, body or organisation it must be handled using the Internal Disputes procedure specified in the Club Constitutional Rules and Judicial Regulations 150 to 155.

## **Judicial Regulation 150: General**

- 150.1** The primary objective of the Regulations in this section is to set out ways by which a just outcome of an internal dispute between the members of a Club, organisation, association or body may be secured as expeditiously as possible.
- 150.2** An 'internal Club dispute' is a dispute involving an alleged breach of the Club's rules, between two or more Club members, any or none of whom may be an officer of the Club, or one or more Club members and one or more employees of the Club (the "parties").
- 150.3** Any dispute which involves an allegation that there has been a breach of Swim England Regulations by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.
- 150.4** If the dispute involves an allegation against a paid employee of the Club the issue must be dealt with under the terms of his contract of employment.
- 150.5** A failure by a Club or any of the parties to comply with Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.
- 150.6** Organisations, associations or bodies affiliated to Swim England shall conform with such parts of Regulations 150 to 155 inclusive as may reasonably be applied to them, in all respects as if they were a Club.

## **Judicial Regulation 151: Sequence of steps to deal with a dispute**

- 151.1** The parties shall use any reasonable means to settle the issues between them informally and amicably.
- 151.2** If such a resolution cannot be achieved, the dispute shall be referred to the Chairperson of the Club committee or, if he is a party to the dispute, to another officer of the Club who is not a party who within seven days of the reference shall appoint an independent person to act as a mediator between the parties. The mediator may be a member of the Club or a member of another Club affiliated to Swim England.
- 151.3** If the mediator is unable to bring about a satisfactory settlement within twenty one days, the Club committee shall within a further fourteen days appoint a panel (the 'panel') to determine the dispute.
- 151.3.1** The panel shall consist of three persons who have not been involved in the dispute, either from the members of the Club or, if this is not possible or desirable, from the members of any other Club affiliated to Swim England.
- 151.3.2** The parties shall be given the opportunity to object to any of the members of the panel at least seven days before the scheduled date of any hearing. The Club committee shall consider any such objections, decide whether they are justified and act accordingly.

## **Judicial Regulation 152: Procedure before a hearing**

- 152.1** The panel members shall appoint one of their numbers to act as the Chairperson and either appoint another of their number, or alternatively appoint an additional person without any other powers, to act as the clerk of the hearing.

- 152.2** The Chairperson of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least fourteen days in advance of the date set. The notified date shall not be changed unless one or more of the parties has a compelling reason for not being able to attend on the notified day or time.

#### **Judicial Regulation 153: Procedure at a hearing**

- 153.1** The procedure shall be flexible and it shall be the responsibility of the Chairperson of the panel to ensure the orderly and effective conduct of the hearing.
- 153.2** The panel shall not be bound by the judicial rules of the courts of England and Wales governing procedure or the admissibility of evidence provided that the hearing is conducted in a fair and orderly manner and that each party is given a reasonable opportunity to give and call evidence, address the panel and present his case. The Chairperson shall have the discretion to limit the number of witnesses that would otherwise have been called.
- 153.3** Witnesses shall normally be provided with an area outside the hearing room and not take any part in the hearing other than giving evidence and responding to questions.
- 153.4** The parties shall be informed of their right to make a complaint under Regulation 102 if they are dissatisfied with the conduct of the hearing or the grounds upon which the decision was made or if they consider any sanction imposed to be disproportionate.

#### **Judicial Regulation 154: Procedure after a hearing**

- 154.1** The panel shall come to a decision as soon as reasonably practicable after the hearing and if possible announce its findings and decisions orally to the parties.
- 154.2** Notwithstanding anything in Regulation 154.1 the Chairperson shall notify the parties and, if the Club was not a party to the dispute, the Club secretary in writing of its findings and decisions within five days of the hearing.

#### **Judicial Regulation 155: Considerations regarding children**

- 155.1** Any person under the age of eighteen (a 'child') who is a party to a dispute or who has been called as a witness shall normally be accompanied by a parent, a person with parental responsibility or a suitable adult. The Chairperson shall have the sole discretion as to whether a child is permitted to present or defend a case or be questioned as a witness and may order that the child be assisted or represented by an adult.
- 155.2** The Chairperson shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:
- 155.2.1** No child aged fourteen or under shall normally be expected to attend a hearing to give evidence in person. His/her evidence shall normally be given as a written statement with the assistance of a Club welfare officer or other person acceptable to the child and parent. Questions and responses may be relayed by a panel member. If the child appears distressed the panel shall rely only on the written evidence.
- 155.2.2** A child over the age of fourteen shall only attend a hearing as a party to the dispute or to give evidence in person provided he wishes to, and the Chairperson has consulted with the parent and child and is satisfied that they both understand the nature of the hearing and what will happen and that the child is competent to attend.

**155.2.3** If there is a disagreement between parent and/or child and the Chairperson on any of the considerations above, the Chairperson shall consider requesting advice from the Independent Child Protection Officer via the Swim England Legal Department.

**155.3** During the hearing, a child who is expected to give evidence in person and his accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for him to give his evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.

**155.4** After the hearing the Chairperson shall inform the parent of the panel's findings and decisions and shall discuss whether he or the parent shall inform the child.