



SWIM ENGLAND

NORTH WEST REGION

***Rules of North
Midlands Water Polo
and Amateur
Swimming
Association***

03 September 2020

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1. Name

- 1.1. The name of the Association shall be the North Midlands Water Polo and Amateur Swimming Association hereinafter called the Association.

2. Definition

- 2.1. The North Midlands Water Polo and Amateur Swimming Association area shall be:-
 - 2.1.1. The geographical area of North Staffordshire and Cheshire with defined boundaries as follows. Any Swimming club residing within the County of Staffordshire areas of Newcastle under Lyme, Staffordshire Moorlands or the unity authority of the City of Stoke on Trent together with swimming clubs residing in the areas of "Cheshire East" or "Cheshire West and Chester" local authority areas excluding clubs who reside within the Chester post codes districts CH64-CH66.
 - 2.1.2. Those clubs who are affiliated to the Welsh Amateur Swimming Association who have been granted dispensation by the Swim England North West Region and by the Welsh Amateur Swimming Association.

3. Aims

- 3.1. The Aims of the Association shall be to:-
 - 3.1.1. Carry out the aims and objectives of Swim England, Swim England North West Region and Cheshire County Water Polo and Swimming Association falling within the jurisdiction of the Association.
 - 3.1.2. Obey and enforce the laws, rules, regulations and rulings of Swim England, Swim England North West Region and the Cheshire County Water Polo and Swimming Association within its jurisdiction.
 - 3.1.3. Manage the aquatic disciplines throughout the Association.
 - 3.1.4. Promote and encourage the knowledge and the practice of the aquatic disciplines by means of championships and competitions.
 - 3.1.5. Develop the aquatic disciplines in all ways possible.
 - 3.1.6. Produce and implement policies to carry out other activities relevant to the Association.
 - 3.1.7. Raise public awareness of the sport and stimulate public opinion in favour of providing suitable accommodation and facilities.

4. Objectives

- 4.1. In the furtherance of the aims of the Association the following objectives shall be undertaken:-
 - 4.1.1. The Association 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.
 - 4.1.2. The Association shall implement the Swim England Equality policy (as may be amended from time to time).
 - 4.1.3. The Association will comply with the Data Protection Act 2018 as may be modified from time to time.
 - 4.1.4. All persons and organisations affiliated to the Association shall consent to be bound whilst engaged in any Association activity by the Laws, Rules, Regulations, Technical Rules and Policies of Swim England and shall be subject to all the constraints and privileges of Swim England Judicial Laws, Rules Regulations and procedures.
 - 4.1.5. All Swim England affiliated Clubs and organisations must adopt the Wavepower document as it may be modified from time to time.
 - 4.1.6. The Association shall in accordance with Swim England Laws and Regulations adopt the Swim England Child Safeguarding Policy and Procedures; 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.
 - 4.1.7. The Association shall implement the Swim England Equal Opportunities policy.

- 4.2 The business affairs of the Association shall at all times be conducted in accordance with the Constitutional Laws, Rules and Regulations, the Judicial Laws and Regulations and the Technical Rules of the disciplines as published from time to time by FINA and Swim England and in particular:-
- 4.2.1. All members of the Association shall be members of an organisation affiliated to the Association.
 - 4.2.2. All competing members shall be members of the Association and shall be members under their own rules of the organisation they represent.
 - 4.2.3. All competing members shall be eligible competitors as defined in Swim England Laws and Regulations.
 - 4.2.4. All competitors shall comply with the Championship conditions of the Association and of Swim England
 - 4.2.5 Members of the Association shall in accordance with Swim England laws and regulations comply with the Swim England child safeguarding procedures.
- 4.3. The Association shall promote and develop the aquatic disciplines as decided by the Association through the implementation of:-
- 4.3.1. An Association Development Plan.
 - 4.3.2. Partnership agreements with appropriate bodies, organisations, and external agencies.
- 4.4. By virtue of the affiliation of the Association to the Swim England, to Swim England North West Region, to the Cheshire County Water Polo and Swimming Association the Association and all members of the Association shall acknowledge that they are subject to the laws, rules regulations and constitutions of:-
- 4.4.1. Cheshire County Water Polo and Swimming Association
 - 4.4.2. Swim England North West Region.
 - 4.4.3. Swim England, to include the Swim England / Institute of Swimming Code of Ethics.
 - 4.4.4. The British Swimming Doping Control Rules and Protocols and the British Swimming Disciplinary Code.
 - 4.4.5. FINA the world governing body for the sport of swimming and all its disciplines, together with the Governing Body Rules.
- 4.5. In the event that there shall be a conflict between any rule or by-law of the Association and any Governing Body Rules then the relevant Governing Body Rules shall prevail.

5. Powers and Responsibilities of the Association

- 5.1. In relation to the organisations to which it is affiliated the Association shall:-
- 5.1.1 Manage the aquatic disciplines throughout the Association subject to their strategic direction
 - 5.1.2. Observe, obey and enforce the Laws and Regulations and the Judicial Laws and Regulations as well as the technical rules of the aquatic disciplines of FINA and the Swim England, Swim England North West Region and Cheshire County Water Polo and Swimming Association within its jurisdiction.
 - 5.1.3. Follow and implement the resolutions, decisions and rulings of the Swim England Council, Swim England Board, Executive Committees and Management Committees of Swim England, Swim England North West Region and Cheshire County Water Polo and Swimming Association as required and ensure they are followed within its jurisdiction.
 - 5.1.4. Be accountable to the members and to the organisations to which it is affiliated, as required for the proper discharge of its duties and functions.
 - 5.1.5. Produce, maintain and implement such plans based on strategic criteria set by them in such a form as they may from time to time require.
 - 5.1.6. Make available such information and reports as they may require, at a time and in a format specified by them.
 - 5.1.7. Elect the requisite number of delegates to the Council Meeting and any Special Council Meeting of the organisations and any other body, organisation, or association to which the Association is affiliated as required.
 - 5.1.8. Produce and issue as required Constitutional Rules for the operation and management of the Association and operate on the basis of an appropriate constitution which shall:-

- 5.1.8.1. Be issued and reviewed from time to time by Swim England and the Swim England North West Region.
- 5.1.8.2. Contain any mandatory provisions in respect of any parts of the governance and administration of the Association received from the governing bodies
- 5.1.8.3. Contain recommended provisions in respect of the other parts of the governance of and administration of the Association and any other matter appertaining to the Association received from the Swim England, Swim England North West Region and Cheshire County Water Polo and Swimming Association.

5.2. In relation to its management the Association shall:-

- 5.2.1. Have the power to expel a member when, in its opinion, it would not be in the interests of the Association for the organisation to remain a member.
- 5.2.2. Comply with the requirements and procedures of Swim England Judicial Laws and Regulations for handling internal disputes as the same may be revised from time to time
- 5.2.3. Pass any submission or complaint that is an alleged infringement of Swim England Laws and Regulations to the Swim England for consideration by the Swim England

5.3. In relation to its administration the Association shall:-

5.3.1. In relation to the strategic criteria set by the organisation to which it is affiliated:-

- 5.3.1.1. Determine the uses to which its funds are allocated
- 5.3.1.2. As required, set up and implement a Business Plan including a budget indicating the source of the required funding and how it will be spent.
- 5.3.1.3. As required, set up and implement a Development Plan.

5.3.2. Administer, as required, the operation and membership process and the collection and transfer, where applicable, of fees for the Association.

6. Affiliation and Membership

6.1. The total membership of the Association shall not normally be limited. If however the Council considers that there is good reason to impose any limit from time to time the Management Committee shall put forward appropriate proposals for consideration at an Annual or a Special meeting of the Council of the Association. The members of the Management Committee shall have the right to recommend to the Annual Council that limits should be placed on or removed from total membership, or any category of membership.

6.2. Application for membership can be made by:-

- 6.2.1. Any organisation affiliated to Swim England and to Swim England North West Region who have their headquarters within the County of Staffordshire areas of Newcastle under Lyme, Staffordshire Moorlands or the unity authority of the City of Stoke on Trent together with swimming clubs residing in the areas of "Cheshire East" or "Cheshire West and Chester" local authority areas excluding clubs who reside within the Chester post code districts CH64-CH66.
- 6.2.2. Those clubs who are affiliated to the Welsh Amateur Swimming Association who have been granted dispensation by the Welsh Amateur Swimming Association and the Swim England North West Region.
- 6.2.3. Associated organisations affiliated to Swim England North West Region whose headquarters are within the defined boundaries stated in 2.1.1 & 6.2.1.

6.3 Applications for Affiliation shall be:-

- 6.3.1 limited to one application per year
- 6.3.2 proposed by one affiliated organisation and seconded by a different affiliated organisation and provide such information as requested by the Association
- 6.3.3 considered and agreed or otherwise at a meeting of the Annual Council
- 6.3.4 circulated to all affiliated clubs and organisations by the Secretary not less than 21 days prior to the Annual Council meeting at which the application is to be considered
- 6.3.5 approved by a majority of two thirds of those present and voting.

- 6.4. The membership of the Association shall consist of:-
- 6.4.1. Organisations that are affiliated in accordance with Rule 6.2.
 - 6.4.2. Individual position holders consisting of, Life Members, Past Presidents, and Association Officers and other designated position holders, as decided, from time to time by the Annual Council, All holders of individual positions shall be members of an affiliated body, and shall not be less than eighteen years of age.
 - 6.4.3. Individuals granted temporary membership by the Swim England by virtue of their participation in a specific event organised by the Association in conjunction with an organisation under the provisions of the Swim England Regulations on temporary membership.
 - 6.4.4. Persons who have been granted individual membership of the Association, who are non-competitors. Such members shall be members of an affiliated club and hence of Swim England.
 - 6.4.5. Individuals who have been granted Honorary Membership of the Association. Such members shall be elected by the Annual Council for such a period of time as they think fit. Honorary Members shall be members of an affiliated club and hence of Swim England.
 - 6.4.6. Persons who have been granted Life Membership of the Association for outstanding or meritorious services rendered to the Association and elected at the Annual Council Meeting on a recommendation submitted by the Management Committee or by the Annual Council.
- 6.5. In its consideration of applications for membership, the Association shall not act in a discriminatory manner and in particular, shall adhere to the Equality Act 2010 (as may be amended). Accordingly, the Association shall not refuse an application for membership on the basis of a Protected Characteristic within the Act, such as discriminatory grounds, whether in relation to ethnic origin, age, sex, religion, disability, political persuasion or sexual orientation such as disability; gender or gender identity; pregnancy; race; religion or belief; or sexual orientation. Neither may refusal be made on the grounds of political persuasion.
- 6.6. The Association may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Association or the sport into disrepute, or, in the case of an organisation, being unable to achieve the entry standards as laid down and provided by the Association to the applicant for membership.
- 6.7. The Association shall be required to give reasons for the refusal of any application for membership. Any Organisation refused membership may seek a review of this decision before a Review Panel appointed by the Management Committee comprised of not less than three members, who may or may not be members of the Committee. The Review Panel shall wherever practicable include one independent member. The Organisation refused membership shall be entitled to make representations to the Review Panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding.
- 6.8. All membership shall be renewed on an annual basis through the process of reapplication not later than 30 September each year.

7. *Suspension and Resignation*

- 7.1. Any organisation not having paid its annual return of membership to the Swim England and suspended by Swim England shall not be allowed to take part in any activities of the Association for the period of the suspension by Swim England in accordance with Swim England Laws and Regulations.
- 7.2. Any organisation wishing to resign from membership of the Association shall give notice to that effect in writing or by electronic means before 16 September to the Secretary or it shall be held responsible for its Association affiliation fee for the current year.
- 7.3. Any affiliated organisation not having paid its liabilities to the Association by 01 February each year shall be deemed to have resigned from membership of the Association.
- 7.4. Where the membership of an organisation is terminated in accordance with Rule 7.3 the organisation shall be informed in writing or by electronic means that the organisation is no longer a member of the Association.

- 7.5 A member's resignation shall only take effect when agreed by the Management Committee and there are no outstanding financial commitments or disciplinary actions against the club or other organisation and this rule 7.5 has been complied with.

8. *Expulsion and Other Disciplinary Action*

- 8.1. If a complaint or dispute is received or made by the Association expressing dissatisfaction with the actions or behaviour of an individual person, member or organisation that involves an alleged breach of Swim England Laws, Rules or Regulations it shall be submitted to the Swim England for consideration under the Judicial Laws, Rules and Regulations of Swim England.
- 8.2. For a breach of its own rules the Association
- 8.2.1 Annual Council or Management Committee shall have the power to expel an individual member or affiliated organisation when, in its opinion, it would not be in the interests of the Association to retain the membership of the individual member or organisation. The Association in exercising this power shall comply with the provisions of Rule 8.4 and Rule 8.5 below.
- 8.2.2 The Officers or any other person to whom the Management Committee shall delegate this power may temporarily suspend or exclude a member from particular activities of the Association, when in their opinion; such action is in the interests of the Association. Where such action is taken the incident or matter will be dealt with in accordance with Rule 8.4 and Rule 8.5 below.
- 8.3. Upon expulsion the former member shall not be entitled to have any part of the annual membership fee or any other fees refunded and must return any Association trophy or trophies held forthwith.
- 8.4. In the case of an internal dispute the Association shall adopt and comply with the requirements and procedures of Swim England Judicial Rules and Regulations for handling Internal Disputes as the same may be revised from time to time.
- 8.5. A member may not be expelled or, subject to Rule 8.6 below, be made the subject of any other penalty unless the panel hearing the dispute shall by a two thirds majority vote in favour of the expulsion, or other penalty imposed upon the member.
- 8.6. The Officers of the Association, or any other person to whom the Management Committee shall delegate this power, may temporarily suspend or exclude a member from particular activities of the Association, when in their opinion, such action is in the interests of the Association. Where such action is taken the incident or matter will be dealt with in accordance with the appropriate Judicial Laws and Regulations
- 8.7. The Officials in charge of a particular event shall be responsible for the discipline at that event. If any further action is required this is to be referred to the Internal Disputes procedures as laid down in the Swim England Judicial Laws and Regulations.

9. *Finances*

- 9.1. The Association shall determine the uses to which its funds are allocated within the strategic criteria set by the Swim England, Swim England North West Region, Cheshire County Water Polo and Swimming Association and the Association.
- 9.2. The financial year of the Association shall be the period commencing on 01 August and ending on 31 July. Any change to the financial year shall require the approval of the Council.
- 9.3. The Annual Council shall as they see fit have the authority to decide the amount of the annual affiliation and membership fee due from each of the affiliated organisations, the competition fees and any other fees for the next operating year.
- 9.4. The annual affiliation fee for each affiliated organisation shall be due on joining the Association and thereafter on 01 February of each year.
- 9.5. All monies payable to the Association shall be received by the Treasurer and deposited in a bank account in the name of the Association. No sum shall be drawn from the account except by cheque or by electronic means or online and sanctioned by two of the three designated signatories as decided by the Council.

- 9.6. The income and property of the Association shall be applied only in furtherance of the aims and objectives of the Association and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Association or to an external agency.
- 9.7. The Treasurer shall record the financial transactions of the Association in such a manner as the Council think is appropriate.
- 9.8. The Management Committee shall have the power to set the level of payment of remuneration and expenses to any officer, member, employee or other such person for services rendered to the Association.

10. Governance

- 10.1. There shall be three levels of government of the Association
 - 10.1.1. The Annual Council
 - 10.1.2. The Management Committee
 - 10.1.3. The Individual Postholders
- 10.2. A person who is not a member of an organisation affiliated to the Association or less than 18 years of age shall not be permitted to be nominated, elected or appointed as a delegate, Council Member, Management Committee Member, Officer, Co-ordinator, Advisor or to any other position which carries the right to vote at any level of government of the Association.

11. Officers

- 11.1. The Officers of the Association shall be the President, Secretary, Treasurer and Age Group organiser.

12. Council

- 12.1. The Council of the Association shall consist of:-
 - 12.1.1. The President
 - 12.1.2. Life Members
 - 12.1.3.. The Secretary
 - 12.1.4. The Treasurer
 - 12.1.5. The Water Polo Secretary
 - 12.1.6. The Age Group Secretary/Organiser
 - 12.1.7. The Delegates of affiliated organisations.
- 12.2. Representation to Council
 - 12.2.1. Clubs, Each club affiliated to the Association shall be entitled to representation at Council by one delegate.
 - 12.2.2. Others, Any other affiliated organisation shall be entitled to representation at Council by one delegate.
 - 12.2.3 The Welfare Officer by invitation who shall not be a member of Council shall speak but not vote and shall report to the Annual Council on all aspects of welfare concerning members of the Association
- 12.3. Delegates
 - 12.3.1. A delegate shall be appointed by the organisation they represent but shall be not less than 18 years of age.
 - 12.3.2. The Secretary of the organisation, or other person authorised so to do, shall notify the Secretary of the Association that the delegate is a *bone fide* member of the organisation and has been duly appointed a delegate to any Meeting of the Council.
 - 12.3.3. A delegate shall be permitted one vote only irrespective of the number of organisations the person may represent at Council.
 - 12.3.4. Proxy voting shall not be allowed at any Meeting of the Council.

13. Responsibilities of Council

13.1. The Annual Council shall have responsibility to:-

- 13.1.1. Deal with any matters of governance according to the rules of the Association.
- 13.1.2. Oversee the work of the Council and to receive its reports and accounts.
- 13.1.3. Abide by the standing orders for its conduct.
- 13.1.4. Consider and decide on any proposed additions or alterations to, or deletions from the constitutional rules.
- 13.1.5. Keep full and accurate minutes of its meetings.

13.2. At the Annual Council Meeting appoint from time to time:-

- 13.2.1. One independent financial examiner, as required, who shall not be a member of the Council or Management Committee or a member of the family of a member of the Council or Management Committee.
- 13.2.2. A delegate to the Swim England North West Region and to Cheshire County Water Polo and Swimming Association and any other organisation/position to which the Association is required to appoint a delegate/postholder.

13.3. At the Annual Council Meeting elect the following, each of whom shall be a member of an organisation affiliated to the Association and shall be not less than eighteen years of age:-

- 13.3.1. The President
- 13.3.2. Life Members
- 13.3.3. The Secretary
- 13.3.4. The Treasurer
- 13.3.5. The Age Group Secretary/Organiser
- 13.3.6. The Water Polo Secretary
- 13.3.7. Data Protection Officer
- 13.3.8. Not more than 8 Members of the Management Committee.

13.4. The Annual Council may:-

- 13.4.1. Discuss any matters that are relevant and pass resolutions and orders concerning them.
- 13.4.2. Appoint a special committee to consider and report upon any matter. The number of members of the committee and a quorum shall be determined by the Annual Council. The Officers of the Association shall be ex officio members of any such committee unless the Annual Council dictates otherwise.
- 13.4.3. On the recommendation of the Management Committee elect as a Life Member an individual whose services to the Association would justify such recognition.
- 13.4.4. At an Annual Council Meeting or at a Special Council Meeting, delegate the whole, or any part of its powers, to the Management Committee.

14. Annual and Special Meetings of the Council

14.1. Chairman

14.1.1. The Chairman at Annual Meeting and all Special meeting of the Council shall be the President if they are present. If the Chairman is absent, the Council shall elect a chairman from its members present.

14.1.2. The Chairman shall:-

- 14.1.2.1. Have unlimited authority upon any question of order.
- 14.1.2.2. Be, for the purpose of the Council meeting, the sole interpreter of the rules and regulations governing the Council.
- 14.1.2.3. Have a deliberative and a casting vote.

14.2. Secretary

14.2.1. The Secretary shall be responsible for providing each affiliated organisation and each member of council notice in writing or by electronic means:-

- 14.2.1.1. of the date time and place of the Annual Council Meeting or Special Council meeting, the closing date for the receipt of any resolutions, proposals or nominations to be considered there at not less than one month before the date of the meeting.
- 14.2.1.2. of the resolutions to be proposed, at least fourteen days before the date of the Annual Council Meeting or Special Council meeting.
- 14.2.1.3. in the case of the Annual Council Meeting a copy of the Annual Report, a list of the nominees for the Officers, and the Council Management Committee posts and a copy of the examined accounts not less than 14 days before the meeting.

14.2.2. The Secretary, or in the absence of the Secretary a member of, and selected by, the Management Committee shall take the minutes of the meeting.

14.3 Quorum

- 14.3.1 The quorum for the Annual meeting of Council shall be 8 members entitled to attend and vote at the meeting, which must contain not less than one Officer of the Association.
- 14.3.2 Having called the Annual Council Meeting it may only proceed to business if the correct quorum of members is present within 30 minutes of the published start time fixed for the meeting; otherwise, the meeting shall stand adjourned to the time and date falling one month after the date of the meeting or such other time and date as may be determined by the Chairman
- 14.3.3 Any adjourned meeting must be re-convened and business completed within two months of the adjournment
- 14.3.4 If a quorum is not present at the adjourned meeting then the adjourned meeting may proceed to business whatever the number of members present.
- 14.3.5 At the reconvened meeting the same agenda as published for the initial meeting shall be used

14.4. Motions

- 14.4.1. A proposal for consideration at a Special or Annual Meeting of the Council which does not embody a proposal to change a Constitutional Rule of the Association, may be submitted:-
 - 14.4.1.1. By the Council,
 - 14.4.1.2 By the Management Committee
 - 14.4.1.3. By any member of Council
 - 14.4.1.4. By any organisation affiliated to the Association.
- 14.4.2. All nominations for election at the Council, shall be made in writing or by electronic means to the Secretary not less than 28 days before the date of the meeting
- 14.4.3. In all cases where multiple nominations are received for the same office or for membership of the Council and it is necessary to hold a ballot, the Secretary shall call for a Curriculum Vita for each person involved in the ballot. The Curriculum Vitae shall be circulated with the papers for the Annual Council Meeting.
- 14.4.4. Nominations for election to the position of Life Member shall be made to the Annual Council Meeting by the Council or Management Committee.
- 14.4.5. Proposals and resolutions received in accordance with this section shall be submitted in writing or by electronic means to the Secretary not less than twenty eight days prior to the date of the Annual Council Meeting or any Special meeting of the Council.
- 14.4.6. Proposals and resolutions received in accordance with this section shall be sent to all organisations entitled to be represented at the Annual Council Meeting not less than fourteen days before the meeting of Council.
- 14.4.7. A motion of which due notice has not been given may not be discussed or voted upon unless sanctioned by the Chairman and two thirds of the members present and voting and provided it does not involve a change to the Constitutional Rules of the Association.
- 14.4.8. Approval of the Annual Report other than those items where due notice has been given to amend, add or reject, shall be proposed en block by the Chairman and put to the vote without debate.

14.5. Procedures at the Annual and Special Meetings of Council

- 14.5.1. All business for an Annual Council or of a Special Council Meeting shall be printed on the agenda and no other motion shall be discussed therein except:-
 - 14.5.1.1. To record the name of the Chairman of the meeting, if other than the President.
 - 14.5.1.2. To record the name of the Secretary of the meeting, if other than the Secretary.

- 14.5.1.3. For adjournment
- 14.5.1.4. For leave to withdraw a motion
- 14.5.1.5. For a vote of thanks
- 14.5.1.6. For persons other than Members of Council to withdraw

- 14.5.2. Every motion shall be proposed and seconded
- 14.5.3. Resolutions that emanate from the Council or Management Committee shall be proposed by a member of the Council or Management Committee. If the committee secretary is not a member of Council the proposal shall be made formally from the Chair and immediately afterwards the committee secretary, or a substitute, shall be allowed to speak in support of the resolution.
- 14.5.4. Any amendment shall be disposed of before another amendment is considered. The Chairman may accept, without notice, verbal amendments that do not affect substantially the nature of the proposal under discussion.
- 14.5.5. A proposal to change the Constitutional Rules of the Association shall be carried only if at least two thirds of those present and voting are in favour. All other proposals, including amendments to proposals whether to change a Constitutional Rule of the Association or otherwise, shall require a simple majority of those members present and voting.

14.6. Voting

- 14.6.1. Unless the Chairman directs otherwise, voting on all motions or amendments shall be by a show of hands.
- 14.6.2. In all cases where multiple nominations are received for the same office or membership of the Council Meeting and it is necessary to hold a secret ballot, the Secretary shall call for a Curriculum Vitae (CV) for each person in the ballot. The CV should be circulated with the papers for the meeting.
- 14.6.3. Each member present and entitled to vote, unless a secret ballot is required with the exception of the Chairman or acting Chairman for the meeting, shall have one vote and a simple majority shall pass any resolution. In the event of an equality of votes the Chairman, or the acting Chairman for that meeting, shall have deliberative and a casting vote.
- 14.6.4. Voting on elections which require a secret ballot the Chairman shall appoint two tellers to count the votes from persons present at the meeting who shall not be members of Council.
- 14.6.5. Completed voting papers shall be collected by the tellers as directed by the Chairman.
- 14.6.6. Voting on elections which require a secret ballot, any ballot paper containing more votes than the maximum number required or less votes than the minimum number of votes required shall be void.
- 14.6.7. The result of each ballot shall be announced by the Chairman during the meeting and the Chairman shall indicate the number of votes cast for each candidate and the number of spoiled ballot papers.
- 14.6.8. Any discrepancy or irregularity found after the conclusion of the meeting shall be dealt with by the Management Committee which may disqualify votes with the validity of which it is not satisfied. The revised result and the reasons for the disqualification of any vote shall be published and circulated to affiliated clubs.

14.7. Changes to Association Constitutional Rules

- 14.7.1. Any proposal to change a Constitutional Rule of the Association shall only be considered at the Annual Council Meeting or at a Special Council Meeting called for that purpose. The Council shall consider and decide only the principles and intention of the proposal. The Management Committee shall appoint a group of people to draft the wording of the changes to the Rules to implement the principles and intentions approved by Council. The Management Committee shall approve the changes to the Rules and submit them where necessary to the North West Region for its consideration and approval.
- 14.7.2. Any changes to the Constitutional Rules of the Association shall become effective upon approval by the North West Region Management Board or at a specific later date as determined by the Council.
- 14.7.3. A proposal to change a Constitutional Rule of the Association shall only be considered at a meeting of the Council or at a Special meeting of the Council if it has been:-
 - 14.7.3.1. Made by the Management Committee at a meeting before 31 July and appears in the minutes of that meeting.
 - 14.7.3.2. Made by a committee appointed by the Council or the Management Committee and appears in the minutes of that committee that has been approved by Management Committee before the 31 July.

- 14.7.3.3. Made by an organisation affiliated to the Association and has reached the Association Secretary by a date not less than twenty eight days prior to the Council meeting.
 - 14.7.3.4. Made as a matter of urgency, approved by the Council or Management Committee sent to the member organisations affiliated to the Association at least fourteen days before the Council Meeting and approved as a suitable matter for consideration by Council by at least two thirds of the delegates present and voting.
 - 14.7.3.5. Mandated by a change to Swim England or Swim England North West Region Law, Rule or Regulation.
 - 14.7.3.6. Included in a resolution or request for a Special Meeting of the Council.
 - 14.7.3.7. Referred to the Management Committee unless emanating from it. The Management Committee shall indicate its support or opposition and may propose amendments, which shall be included on the agenda of the Council Meeting.
 - 14.7.3.8. Included on the agenda of the Council Meeting.
- 14.7.4. Every proposal to change a Constitutional Rule of the Association and / or amend it shall be proposed and seconded separately and shall be open for discussion by any delegate with or without prior indication of intent.
 - 14.7.5. An amendment to any proposal to change a Constitutional Rule of the Association may be proposed by any member of Council, supported by another member as a seconder, and shall reach the Secretary of the Association not less than twenty eight days prior to the Council meeting.
 - 14.7.6. A schedule of all such amendments shall be sent to the organisations entitled to be represented at Council at least fourteen days prior to the date of the Council meeting at which they are to be considered.
 - 14.7.7. If any addition, alteration or deletion from either a Swim England Law or Regulation or a Rule of the Swim England North West Region causes an Association Rule to conflict with it, the Management Committee shall be authorised to change the Association Rule to conform to it. Any such changes shall be notified to the next Annual Council Meeting following the change of Rule.

14.8. Annual Meeting of Council

- 14.8.1. The Association shall have a scheduled meeting of the Council each year.
- 14.8.2. The Annual Council Meeting of the Association shall be held in the month of September.
- 14.8.3. The Management Committee shall fix the date, the time and the venue of the Annual Council Meeting, which shall be notified to affiliated organisations with the notice convening the meeting.
- 14.8.4. Only in the event of exceptional circumstances shall an Annual Council Meeting be postponed by the Management Committee once the date, time and venue has been fixed and advised to members. A postponed Annual Council Meeting shall be reconvened on a date within three month of the original date and a minimum of 7 days advance notice given to the members of the rescheduled date, time and venue. At the rescheduled meeting, the same agenda as originally issued shall be used.
- 14.8.5. If the meeting commences but is adjourned for want of time or for other good reasons the members present at the meeting will be notified there and then of the adjourned date if practicable. If not and the matter is adjourned for more than 14 days all members shall receive 7 days notice in writing or by electronic means of the adjourned meeting; otherwise only those who attend the original meeting will be notified of the date.
- 14.8.6. Any adjourned meeting must be re-convened and business completed within 2 months of the adjournment.
- 14.8.7. In any event no more than 20 months shall elapse between any two consecutive Annual Council Meetings.
- 14.8.8. The purpose of the Annual Council Meeting is to receive the following nominations:-
 - 14.8.8.1. for election to the Council and to the Management Committee.
 - 14.8.8.2. for election as an Officer of the Association.
- 14.8.9. The purpose of the Annual Council Meeting is to transact the following business:-
 - 14.8.9.1. To receive and comment on the Annual Report of the activities of the Association during the previous year as presented by the Association Officers and other post holders as decided by the Annual Council and Management Committee.

- 14.8.9.2. The Annual Report shall include the reports of the Council, the Management Committee, the standing and technical subcommittee or other committee, as decided by the Annual Council and the Management Committee and responsible for the activities of the Association during the previous year.
- 14.8.9.3. To receive and consider, the accounts of the Association for the previous year, the report on the accounts by the independent Financial Examiner and the Treasurer's report as to the financial position of the Association.
- 14.8.9.4. To elect the President, Officers and other members of the Management Committee who shall retire from office at the Annual Council Meeting each year, but, shall be eligible for re-election.
- 14.8.9.5. To elect Life Members as required.
- 14.8.9.6. To appoint the independent Financial Examiner.
- 14.8.9.7. To appoint a delegate to the Swim England North West Region, Cheshire County Swimming Association and to other organisations to which the Association is affiliated, as required.
- 14.8.9.8. To decide on changes to the Constitutional Rules and on any other resolution that may be duly submitted in accordance with Rule 14.4.
- 14.8.9.9. To present Association awards as required.

15. *Special Meetings of Council*

15.1. A Special Meeting of Council shall be called at any time by:-

- 15.1.1. A resolution of the Council carried at any meeting of the Council.
- 15.1.2. An order of the Management Committee.
- 15.1.3. A requisition in writing or electronically, received by the Secretary, signed on behalf of not less than 6 different organisations. Each signatory to the request is required to be an officer of the organisation. The request shall state the purpose for which the meeting is required and any resolutions proposed.

15.2. The Secretary shall notify the membership of the arrangements for holding a Special Meeting of Council within twenty eight days of the receipt of a requisition to call the meeting.

15.3. Not less than twenty eight days notice of a Special meeting shall be given to all affiliated organisations. The notice shall specify the object of the meeting. The date, venue and time of such a meeting shall be at the discretion of the Officers of the Association

15.4. No business shall be discussed at such a meeting other than that prescribed by the Council, the Management Committee or that stated in the request for the meeting, as the case may be.

15.5. Quorum at Special Meeting of Council

15.5.1. The quorum for any Special Meeting of Council shall be 8 members entitled to attend and vote at the meeting, which must contain not less than one Officer of the Association.

15.5.2. Having called a Special Meeting of Council, it may only proceed to business if the correct quorum of members is present within 30 minutes after the time fixed for the meeting; otherwise the meeting if convened:-

- 15.5.2.1. At the direction of the Annual Council or the Management Committee shall be adjourned to the same time in the following month save that the adjourned meeting may proceed to business whatever the number of members present.
- 15.5.2.2 by requisition of the affiliated organisations shall be dissolved.

15.5.3 At the reconvened meeting the same agenda as published for the initial meeting shall be used

15.6 Adjourned Special Meeting of Council

15.6.1. If the meeting commences but is adjourned for want of time (or other good reason) the members present at the meeting will be notified there and then of the adjourned date if practicable. If not and the matter is adjourned for more than two months all members shall receive fourteen days notice in writing or electronically of the adjourned meeting; otherwise only those who attended the original meeting will be notified of the date.

- 15.6.2. Any dissolved or adjourned meeting must be re-convened and business completed within three months of the adjournment.
- 15.6.3. If a quorum is not present at the adjourned meeting then those Management Committee members attending may act for the purpose of calling a Special Meeting of Council, to which the provisions as to the minimum notice contained in Rule 14.7 and Rule 14.8 shall not apply.

16. Management Committee

16.1. Membership

16.1.1. The Management Committee shall comprise the following:-

- 16.1.1.1. The President
- 16.1.1.2. The Secretary
- 16.1.1.3. The Treasurer
- 16.1.1.4. The Water Polo Secretary
- 16.1.1.5. The Age Group Organiser/Secretary
- 16.1.1.6. 8 Delegates of affiliated clubs

- 16.1.2. All members of the Management Committee must be members of an affiliated organisation and must be not less than eighteen years of age.
- 16.1.3. The Management Committee members shall be proposed, seconded and elected by ballot at the Annual Council Meeting each year and shall remain in office until their successors are elected at the next Annual Council Meeting. Retiring members of the Management Committee shall be eligible for re-election.
- 16.1.4. The Management Committee may fill any vacancy occurring by resignation or by any other means.
- 16.1.5. In addition to the members so elected, the Management Committee may co-opt a maximum of 5 further members of the Association, who shall serve until the next Annual Council Meeting. Co-opted members shall not be entitled to vote at the meetings of the Management Committee and shall not be counted in establishing whether a quorum is present. Co-opted members shall be not less than eighteen years of age.
- 16.1.6. The Management Committee shall have authority to invite such other persons as deemed necessary for any specific purpose who may speak but not vote.
- 16.1.7. In the event of any member of the Management Committee with the exception of the President not attending 3 consecutive Management Committee meetings, it shall be considered equivalent to their resignation and the Management Committee shall proceed to fill the vacancy, unless the Management Committee are satisfied that such absence is unavoidable and have notice of same and shall not be counted as part of the quorum for the meeting.

16.2. Meetings

- 16.2.1. Meetings of the Management Committee shall be held not less than 6 times per year save where the Management Committee itself shall, by a simple majority, resolve not to meet but there shall be not less than 4 meetings of the Committee per year..
- 16.2.2. The President, Age Group Organiser or Secretary shall have discretion to call further meetings of the Management Committee if they consider it to be in the interests of the Association.
- 16.2.3. The Secretary shall give all members of the Management Committee not less than 10 days notice in writing or by electronic means of a Management Committee meeting.
- 16.2.4. The President, or in the absence of the President members present shall elect a Chairman from the members present.
- 16.2.5. Decisions of the Management Committee shall be made by a simple majority of the votes cast. Each member present, with the exception of the President, or the acting Chairman for that meeting, shall have one vote. In the event of equality of votes the President, or the acting Chairman for that meeting, shall have a casting vote.
- 16.2.6. The Secretary, or in the absence of the Secretary a member of the management committee shall take the minutes of the meeting.

16.3. Quorum

- 16.3.1. The quorum for a Management Committee meeting shall be not less than a simple majority of the members allowed to attend and vote to include not less than one Officer.
- 16.3.2. In the event that a quorum is not present within 30 minutes of the published starting time, the meeting shall stand adjourned but shall normally be reconvened on a date within one month of the original date or in exceptional circumstances on a date and time as may be determined by

the Chairman and a minimum of seven days advance notice given to the members of the rescheduled date, time and venue. 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 membership,

16.3.3 At the reconvened meeting the same agenda as published for the initial meeting shall be used

16.4. Powers and Responsibilities

16.4.1. The responsibilities of the Management Committee shall include but not be limited to:-

- 16.4.1.1. Determine the strategies of the Association within the overall policies and plans agreed by the Council and published by Swim England, Swim England North West Region and Cheshire County Swimming Association.
- 16.4.1.2. Carry out any other specific duty given to it by the Council.
- 16.4.1.3. Have day to day management of the affairs of the Association including but not being limited to, the oversight of the production of any plans of the Association for the approval of Council and for submission to Swim England, to Swim England North West Region and to the Cheshire County Association as required, together with their implementation, monitoring and evaluation.
- 16.4.1.4. At the first meeting following the Annual Council meeting may appoint any officers, officials, co-ordinators and members of the Standing and other committees, not elected by the Council
- 16.4.1.5. Monitor and evaluate the work of the Standing and other committees and any other person appointed to a specific task within the Association, including the production of full and accurate minutes of their meetings and reports of their activities.
- 16.4.1.6. Maintain appropriate channels of communication with the organisations affiliated to it.

16.4.2. The Management Committee shall:-

- 16.4.2.1. Determine any question arising as to the correct interpretation of any of these rules, or any other question not herein provided for.
- 16.4.2.2. Set the affiliation fee in line with the budget.
- 16.4.2.3. Determine who shall be the authorised signatories of the accounts of the Association.
- 16.4.2.4. Ensure that full and accurate minutes of its meetings are kept.
- 16.4.2.5. From time to time as required appoint
 - 16.4.2.5.1 Association Co-ordinators, each of whom shall be a member of a club affiliated to the Association and shall be not less than eighteen years of age.
 - 16.4.2.5.2. A Welfare Officer who shall:-
 - 16.4.2.5.2.1. be not less than 18 years of age
 - 16.4.2.5.2.2 have an appropriate background and who is required to undertake appropriate training in accordance with Swim England Child Safeguarding courses
 - 16.4.2.5.2.3. have a right to attend meetings of the Management Committee without the power to vote and shall not be counted in determining if a quorum is present.
 - 16.4.2.5.2.4. not be an Officer, Management Committee member, an Association Co-ordinator, a Team Manager or a member of the family of an officer Management Committee member, Co-ordinator or Team Manager.
 - 16.4.2.5.2.5. report to the Management Committee on all aspects of welfare concerning members of the Association.
- 16.4.2.6. Have the power to authorise the payment of remuneration, expenses or grants for services to the Association received from any:-
 - 16.4.2.9.1. Officer, Committee member, Co-ordinator or official of the Association.
 - 16.4.2.9.2. Other person or persons as decided by the Management Committee or the Annual Council.
 - 16.4.2.9.3. External agents as part of a partnership agreement.
- 16.4.2.7.. Draw up and implement with immediate effect a change of the Constitutional Rules of the Association if they are in conflict with any addition, alteration to, or deletion

from, a Swim England Law or Regulation, a Rule of Swim England North West Region or the Cheshire County Swimming Association.

16.4.2.8. Determine the terms of reference of any sub-committee or working group.

16.4.2.9. Be accountable to the Council of the Association and report to it at such times and in such a form as it may require.

16.5. The Management Committee may:-

16.5.1. Contract and set up partnership agreements with outside agencies in support and furtherance of the aims and objectives of the Association.

16.5.2. Discharge, by a two thirds majority of those present and voting for any breach of, and under the provisions of, Swim England Code of Conduct for Volunteers, any volunteer person(s) from any elected or appointed office or position and replace them.

16.6. The Management Committee shall be governed by the following standing orders:-

16.6.1. The Chairman shall have unlimited authority upon every question of order at each meeting of the Management Committee and for the purpose of any meeting shall be the sole interpreter of the rules governing the meeting

16.6.2. The minutes of the previous meeting as circulated shall be considered as the first substantive item on the agenda.

16.6.3. The reports of officers or other individuals shall not be considered unless they have been circulated with the agenda, unless the Chairman and the members of the Management Committee agree by a two thirds majority that it will not prejudice the good governance of the Association to do so.

16.6.4. Every motion shall be proposed and seconded.

16.6.5. Any amendment shall be disposed of before another amendment is considered. The Chairman may accept, without notice, verbal amendments that do not affect substantially the nature of a proposal under discussion.

16.6.6. All proposals, including amendments to proposals shall require a simple majority of those members present and voting unless otherwise specified in these rules.

16.6.7. Unless the Chairman decides otherwise, voting on all motions or amendments shall be by a show of hands.

16.6.8. Meetings of Management Committee shall not be open to the public.

16.6.9. The minutes of the Management Committee shall be circulated to each member of the Management Committee only.

16.6.10. The members of Management Committee shall be indemnified by the members of the Association against all liabilities properly incurred by them in the management of the affairs of the Association.

17. *Independent Financial Examiner*

17.1. One or more independent Financial Examiner(s) shall be appointed at the Annual Council Meeting, who shall not be a member of the Management Committee nor related to any member of the Management Committee. The Independent Financial Examiner shall examine the annual statement of the accounts and the balance sheet and shall certify the same before they are circulated to affiliated members.

17.2. The Financial examiner shall, if appropriate, present a report to the Annual Council Meeting on the Financial affairs of the Association and may make recommendations for further action.

18. *Trophies*

18.1. All trophies belonging to the Association shall be perpetual.

18.2. The winner of an individual championship trophy and the winners of a championship team trophy shall give a guarantee of safe keeping and return to the Championship Secretary.

19 *Competitions Representing the Association*

19.1. Any person selected to represent the Association who does not attend shall not be eligible to take part in any other event of the Association until a satisfactory explanation has been accepted by the Management Committee

20. *Championship Conditions*

20.1. The championship conditions for all the Association events shall not be considered part of the Constitutional Rules for the purpose of these rules. The championship and competition conditions will be considered by the Management Committee which shall have full power to approve any changes.

21. *Interpretation of Rules*

21.1. In the event of any question arising as to the correct interpretation of the Constitution or the Rules of the Association or any other question not herein provided for, such question shall be referred to the Management Committee whose decision shall be final.

22. *Dissolution*

22.1. A resolution to dissolve the Association shall only be considered at a Council Meeting and shall be carried by a majority of at least three quarters of the members present and eligible to vote.

22.2. The dissolution shall have effect from the date of the resolution and members of the Management Committee shall be responsible for the winding up of the assets and liabilities of the Association.

23.3. Any assets remaining after the discharge of the debts and liabilities of the Association shall be given to a charity or charities or other non profit making organisation having aims and objectives similar to those of the Association for the furtherance of such aims and objectives as determined by the last Management Committee.

23. *Appendix A*

CODE OF ETHICS

Swim England has revised its Code of Ethics. The previous version (Code of Ethics 2010) has now been superseded by the version below. The changes came into force by publishing on the Swim England website in the ASA handbook 2016.

The new Code of Ethics is a general “umbrella” code and is supplemented by other documents, including the Swim England Codes of Conduct for the following:

Swimmers;
Parents;
Coaches and teachers; and
Committee members, officials and volunteers who work directly with children.

These Codes of Conduct can be found in Wavepower 2020/2023 under section 2. All documents referred to in the Code of Ethics are readily available on the Swim England website. (Please note that Swim England adopts the anti doping rules of British Swimming; this document is also available on the website

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 SE 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 (SE 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 SE Child Safeguarding Policy and Procedures.
- Adhere to the SE Anti-Doping Rules.
- Adhere to the SE Equity Policy.
- Adhere to the SE Laws and Regulations.
- Adhere to the SE Codes of Conduct.

24. Appendix B

GUIDELINES FOR HANDLING INTERNAL DISPUTES

1 Introduction

The purpose of these notes is to give organisations 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 organisations 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 members for minor incidents of misbehaviour and this can also be done fairly by the Coach/Team Manager.

Sometimes a more serious dispute arises in an organisation and because such a situation does not occur frequently organisations 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 or an organisation. If a Club or organisation 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

A.S.A. 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 an Organisation provided they are the Promoter of the Competition to which the Protest relates. A Complaint cannot be dealt with by a Club or an organisation. However, it is often possible to resolve a dispute within an organisation without the matter becoming a formal Complaint. If either party is dissatisfied with a decision reached in an internal dispute then they still have the option to make a formal Complaint to the Swim England Judicial Administrator.

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

The key principle to be followed is that Swim England laws and 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 organisation and one or more of its members. It is most important that the same people in the organisation do not become both the prosecutor (or 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 an organisation, 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 Chairman 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 Chairman. A Secretary may also be needed. The panel will need to consist of people not involved in the dispute and the organisation may want to ask individuals from outside the organisation to sit on the panel. The full organisation 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 Chairman 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 Chairman 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 Organisation

The powers of organisations regarding the disciplinary action they can apply must not exceed those in Swim England Judicial Laws which can result in full suspension from all 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 Administrator at Swim England Head Office, Loughborough.

5 Further Information

Additional guidance can be obtained from the Swim England Handbook Judicial Regulations. The Sports Council have also issued a booklet "Getting it Right" a Guide to Sports Ethics and Disciplinary Procedures.

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; and
- (c) The accused has the opportunity to respond.

SWIM ENGLAND LAWS and REGULATIONS

INTERNAL DISPUTES

1 AFFILIATED BODY RIGHTS and RESPONSIBILITIES

The rights and responsibilities of a club or affiliated body in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in Swim England Law 281 which specifies:-

SWIM ENGLAND Regulation 281 Club and affiliated body discipline and internal dispute procedures

281.1 For a breach of its own rules, 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 Law or Regulations the club or body shall not deal with it but may make a complaint under the Judicial Laws and Regulations.

281.2 A club or affiliated 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.

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 Law must be submitted to the Swim England and dealt with as a complaint under the condition of Swim England Regulation 150.4 and Swim England Regulation 281.1.2. Swim England 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.

SWIM ENGLAND 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.

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 the following Swim England Judicial Regulations 150 to 155.

SWIM ENGLAND 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 If a dispute cannot be resolved fairly and amicably between the parties concerned, and does not involve a breach of Swim England Law, it may be dealt with under the relevant provisions of Regulation 281 which deal with club rights and responsibilities.
- 150.4 Any dispute which involves an allegation that there has been a breach of Swim England Law by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.
- 150.5 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.
- 150.6 A failure by a club or any of the parties to comply with these Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.
- 150.7 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.

SWIM ENGLAND 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 chairman 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.

SWIM ENGLAND Judicial Regulation 152 Procedure before a hearing

- 152.1 The panel members shall appoint one of their numbers to act as the Chairman 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 Chairman 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.

SWIM ENGLAND Judicial Regulation 153 Procedure at a hearing

- 153.1 The procedure shall be flexible and it shall be the responsibility of the Chairman 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 Chairman 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.

SWIM ENGLAND 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 Chairman 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.

SWIM ENGLAND 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 Chairman 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 Chairman 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 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 Chairman 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 Chairman on any of the considerations above, the Chairman 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 Chairman shall inform the parent of the panel's findings and decisions and shall discuss whether he or the parent shall inform the child.