105. Complaints

105.1. A 'Complaint' is an expression of dissatisfaction with the actions, behaviour or practice, within Swim England's jurisdiction, of any person.

105.2. A Complaint may be made by any person within the jurisdiction of Swim England ('the Complainant'), including Swim England itself.

105.3. A Complaint may be made against any person within the jurisdiction of Swim England ('the Respondent'), except the following:

105.3.1. Swim England.

105.3.2. Any person acting in a judicial role provided for within these Judicial Regulations.

105.3.3. Any person acting in a safeguarding role provided for within the Safeguarding Regulations.

105.3.4. An Investigator acting in an investigation role provided for within Regulation 101.

105.3.5. The Disciplinary Officer.

105.3.6. An employee of Swim England, where the Complaint relates to any action taken in the course of their employment.

105.4. An employee of a Club may not be the Respondent to a Complaint until any disciplinary process under their contract of employment has ended.

105.5. A Complaint by any Complainant under these Judicial Regulations must allege:

105.5.1. A breach of the rules of any Club, body or organisation;

105.5.2. Misconduct;

105.5.3. Serious misconduct, being an action, behaviour or practice of misconduct liable to bring the sport into disrepute;

105.5.4. Maladministration;

105.5.5. A breach of the Swim England Regulations or Swim England's policies; or,

105.5.6. A breach of the Swim England Code of Ethics.

105.6. In addition to Regulation 105.5, where Swim England is the Complainant, it may bring a safeguarding concern as a Complaint. There shall be no time limit for Swim England bringing a safeguarding concern as a Complaint.

105.7. Decisions on selection of teams may not be the subject of a Complaint, save where it is alleged that the decision was based on misconduct (for example, discrimination).

106. Commencing a Complaint

106.1. A Complaint may either be made to a Club ('Club Complaint') or to the Judicial Manager ('Judicial Complaint').

106.2. The following Complaints must be made to the Judicial Manager:

106.2.1. Serious misconduct, being the action, behaviour or practice of misconduct liable to bring the sport into disrepute; or

106.2.2. A breach of the Swim England Regulations, including any breach of the Regulations relating to a Club Complaint.

106.2.3. A safeguarding concern brought by Swim England.

106.2.4. A Complaint not wholly within the jurisdiction of one Club.

106.3. All other Complaints must be made to the Club that the Complainant is a member of.

106.4. If a Club or the Judicial Manager receives a Complaint seeking to raise a safeguarding concern from someone other than Swim England, they must refer the matter to the Lead Safeguarding Officer to address it as a safeguarding concern. Only Swim England may raise a Complaint in respect of a safeguarding concern.

106.5. The Judicial Manager may direct that a Club Complaint progress as a Judicial Complaint, or a Judicial Complaint as a Club Complaint, at any time. The Judicial Manager may direct any matter be addressed under the Swim England Complaints Policy.

106.6. Swim England may receive an expression of concern from any person. If they receive such an expression of concern they may refer the matter to the Lead Safeguarding Officer, the Disciplinary Officer, or any other person as they consider appropriate.

107. Club Complaints

107.1. General

107.1.1. The power to regulate the proceedings of a Club Complaint may be used by:

a. The Club chairperson (or another appointed committee member if they are not impartial), until the Club Complaint Panel is appointed.

b. Once appointed, the chair of the Club Complaint Panel.

107.1.2. Such powers to regulate the proceedings includes referring the matter to the Judicial Manager to use their power under Regulation 106.5.

107.1.3. Such powers to regulate the proceedings includes staying proceedings and referring the matter to the Lead Safeguarding Officer where a safeguarding concern arises.

107.1.4. The parties are encouraged to resolve Club Complaints by informal means or alternative dispute resolution. Where both parties consent to this approach, the power to regulate proceedings shall be used to pause or extend the time limits.

107.1.5. Where a Club Complaint identifies the Club chairperson as Respondent, or where the Club chairperson is not impartial, another member of the committee of the Club shall act for the Club chairperson for the Complaint.

107.1.6. Affiliated Regions and County Associations shall assist Clubs in operating Regulation 107.

107.2. Commencing a Club Complaint

107.2.1. A Club Complaint must be made by the Complainant to the Club chairperson within **28 days** of the event being complained about ('the Club Complaint Form').

107.2.2. The Club chairperson will give the Club Complaint Form to the Respondent within **7 days** of receipt.

107.2.3. Within **28 days** of receipt of the Club Complaint Form, the Respondent must provide a reply to the Club Complaint to the Club chairperson ('the Club Complaint Reply').

107.2.4. The Club chairperson will provide the Club Complaint Reply to the Complainant within **7 days** of receipt.

107.3. Forming a Club Complaint Panel

107.3.1. A Club has the power to create Club Complaint Panels to determine Club Complaints.

107.3.2. Within **28 days** of the Club chairperson's receipt of the Club Complaint Reply (or the expiry of the deadline to submit that Form), the Club chairperson shall appoint a Club Complaint Panel. The Club Complaint Panel must appoint one of its members as the chair.

107.3.3. A Club Complaint Panel must be formed of three members drawn from membership of that Club or any other Club affiliated with Swim England, including its County and Region.

107.3.4. A person appointed to the Club Complaint Panel must be impartial.

107.3.5. The Club chairperson must inform the Complainant and Respondent of the membership of the Club Complaint Panel within **7 days** of appointment.

107.4. Directions prior to the Club Complaint hearing

107.4.1. Within 21 days of the appointment of the Club Complaint Panel, the chair of the Club Complaint Panel shall take the following steps:

a. Notify the parties when the hearing will be held. The hearing must not be fewer than 14 days after the date of notification, unless the Complainant and Respondent agree otherwise, or more than 56 days after the date of notification.

b. Issue directions.

c. Order that the matter be heard by written submissions only, if both parties agree.

d. Summarily dismiss any Club Complaint that has no real prospect of success.

107.4.2. If the Club Complaint is summarily dismissed, written reasons must be given. This shall be a decision that can be appealed under Regulation 110.

107.4.3. At any time prior to a hearing the chair of the Club Complaint Panel may issue directions.

107.5. Club Complaint hearings

107.5.1. The hearing shall take place in private. This may be departed from under Regulation 104.5.9.

107.5.2. If the Complainant does not attend the hearing the Club Complaint Panel may make any order, including dismissing the Club Complaint.

107.5.3. If the Respondent does not attend the hearing the Club Complaint Panel may proceed in the absence of that party.

107.6. Club Complaint Decision

107.6.1. Within **28 days** of the hearing the Club Complaint Panel must issue a written decision ('the Club Complaint Decision).

107.6.2. The Club Complaint Decision may:

a. Dismiss the Club Complaint.

b. Find the Club Complaint proven.

c. Apply a Sanction under Regulation 111 limited to matters falling within the scope of the Club's jurisdiction over the Respondent.

d. Where appropriate, refer the matter to the Judicial Manager under Regulation 106.5.

e. Combine and/or use multiple of each of the above provisions.

107.6.3. A copy of the Club Complaint Decision must be provided to the Club chairperson, parties to the Club Complaint, and Swim England to retain confidentially.

107.6.4. Within **14 days** of the Club Complaint Decision being made, the Complainant or Respondent may appeal under Regulation 110.