

Internal disputes

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 their contract of employment.
- 150.5** 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.
- 150.6** 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.

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 chair 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 21 days, the club committee shall within a further 14 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.
- 151.4** If a dispute cannot be resolved fairly and amicably between the parties concerned, and does not include a breach of Swim England Regulations, it may be dealt with under the relevant provisions of Regulation 281 which deal with club rights and responsibilities.

152. Procedure before a hearing

- 152.1** The panel members shall appoint one of their number to act as the Chair 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 Chair of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least 14 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.

153. Procedure at a hearing

153.1 The procedure shall be flexible and it shall be the responsibility of the Chair 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 their case. The Chair 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.

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 Chair 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.

155. Considerations regarding children

155.1 Any person under the age of 18 (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 Chair 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 Chair 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 14 or under shall normally be expected to attend a hearing to give evidence in person. Their 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 they wish to, and the Chair 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 Chair on any of the considerations above, the Chair 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 their accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for a child to give their 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 Chair shall inform the parent of the panel's findings and decisions and shall discuss whether they or the parent shall inform the child.

Note: Further guidance is available on the clubs and members section of the Swim England Website.