RULES of ORCA Swimming Club Swimming Club ("the Club") as at May 2023

1. Name

1.1 The name of the Club shall be ORCA Swimming Club.

2. Objects

2.1 The objects of the Club shall be the teaching, development, and practice of swimming 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 Bolton, Central Lancashire, Manchester SWPA County Association and

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 Club Membership Officer (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. They may not attend General Meetings of the membership, nor 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 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 Swim England North West Limited 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 Chairman, Secretary, Treasurer & Membership Secretary (together "the Executive Officers of the Club") and not more than 10 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 and not being counted as part of the quorum.

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 Chairman 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 no less than 8 times per year 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 Chairman 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 Chairman (or the acting Chairman 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 Chairman. 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 5 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 Chairman may allow the matter (in so far as it relates to the absent person(s)) to proceed directly to vote, which shall be by secret ballot.

9. Annual General Meeting

9.1 The Annual General Meeting of the Club shall be held each year on a date in November. 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 Chairman'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 eight members entitled to vote at the Meeting.

11.3 The Chairman, or in the Chairman'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 Chairman shall have a casting or additional vote.

11.4 Only paid up members who in accordance with Rule 3.9.1 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 Chairman 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 cheque/online or other electronic means and sanctioned by one of the four named authorised individuals up to the value of £100.00 and sum over £100.00 shall be sanctioned by any two of the four named authorised individuals who shall be Chairperson, Secretary, Membership Secretary and Treasurer. 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 September and ending on 31 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 _____ 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

Swim England Judicial Regulations

Guidance Note

From February 2023, Swim England has updated its Judicial Regulations and procedures, in order to ensure that members and Clubs who are involved in disputes or who allege breaches of Swim England Regulations may resolve their disputes as easily and smoothly as possible.

This Guidance Note will provide Swim England members with an outline of the new Judicial Regulations. Swim England has further published additional Guidance Notes for those in specific roles as follows:

- Guidance Note: Judicial Regulations for Club Committees
- Guidance Note: Making a Judicial Complaint
- Guidance Note: Receiving a Judicial Complaint

This Guidance Note is intended to support, and should be read in conjunction with, the Swim England Judicial Regulations, contained within Regulations 100-106 of the Swim England Handbook 2023. It does not form a part of the Judicial Regulations and is not binding upon individuals. A digital copy of the Handbook may be found at https://www.swimming.org/swimengland/swim-england-handbook/.

Purpose and Structure

The primary objective of the Judicial Regulations is to ensure, as quickly as possible, a fair outcome following the submission of a Complaint in accordance with the Judicial Regulations.

The Judicial Regulations seek to achieve this purpose in two ways:

1. By providing a structure and procedure by which Clubs can resolve internal Club Complaints (Judicial Regulation 103).

2. By providing a structure and procedure for the handling of Judicial Complaints escalated to the Swim England Office of Judicial Administration (Judicial Regulations 104 and 105).

A flowchart describing the structure of the Judicial Regulations may be found within the Swim England Handbook and at the end of this Guidance Note.

Clubs are required to ensure that they have a fair and open disciplinary system for the handling of internal Club Complaints conforming with Judicial Regulation 103. A Club's failure to comply with Regulation 103 may result in a Judicial Complaint being made.

Personnel

Where a Judicial Complaint is made or an individual involved in a dispute has a query in relation to a Club or Judicial Complaint, the following may be involved with the handling of the matter:

- **Judicial Administrator**: The Swim England Director of Legal, who oversees the operation of the Office of Judicial Administration.

- **Judicial Office Manager**: The key point of contact for all parties to a Club or Judicial Complaint, and any individuals seeking to enquire about making a Complaint.

- **Judicial Commissioner:** An independent solicitor who reviews all Judicial Complaints to determine whether it may be allowed to proceed under the Judicial Regulations and makes orders regarding the procedure for such Complaints.

- **Dispute Resolution Panel:** A panel consisting of independent Swim England members who sit on mediations or hearings for Judicial Complaints.

- **Appeals Panel:** A panel consisting of independent Swim England members to determine appeals against decisions made by the Judicial Commissioner or at hearings.

- **Swim England Friends:** A network of highly experienced Swim England members who provide advice to other members who have or are concerned about a Club Complaint or a Judicial Complaint.

Contacting the Office of Judicial Administration

The Office of Judicial Administration (the "OJA") may be contacted by email at judicial@swimming.org or by phone at 01509 640 764.

The Office of Judicial Administration must be contacted in order to obtain a copy of the Judicial Complaint Form if you wish to file a Judicial Complaint and all correspondence relating to a complaint should be directed to it. Any correspondence from the Judicial Commissioner, a Judicial Committee or the other party shall be sent via the Office of Judicial Administration.

The Office of Judicial Administration is unable to provide advice relating to a Club or Judicial Complaint, or any potential ones. It may, however, arrange for a Swim England Friend to contact you to discuss and provide advice on your concerns.

Club Complaints (Regulation 103)

A Club Complaint is any internal Club dispute between members of a Club concerning an alleged breach of the Club's rules.

A Club Complaint is not:

- a Complaint alleging that Swim England Regulations have been breached, which should instead be made as a Judicial Complaint; or

- a Complaint against a paid employee of the Club that does not allege that Swim England Regulations have been breached. Such a complaint should be dealt with under the terms of the employee's contract.

Making a Club Complaint

Any member of a Club may make a Club Complaint. Prior to doing so, the parties to the dispute should seek to resolve the matter informally, such as by having a discussion. If the matter cannot be so resolved, the Complainant may request a copy of the Club Complaint Form from the Chairperson of the Club.

The Club Complaint Form should be completed and returned to the Chairperson (or nominee) within seven days of receipt. Once returned, it will be forwarded to the Respondent within three days, who will have seven days to complete and return the form with their response to the complaint.

The Club Complaint Form includes an administrative section for the Club chair (or their nominee) to complete as the matter progresses. It is essential that this section is completed and a copy of the final form sent to the parties to the Club Complaint. If a Judicial Complaint is made following a Club Complaint, the completed form, documenting the Club's actions, will form a key piece of evidence for the Club.

Mediation

If both Parties express a willingness to have the Club Complaint mediated, the Chair of the Club shall appoint an independent person to act as mediator. The mediator will seek to arrange a meeting, either in person or on video call, within 14 days.

If an agreement is made at mediation, the mediator shall record the outcome and provide a copy to the Parties and the Club chair. If no agreement is reached, the mediator shall notify the Club chair that it has failed.

Mediation is a confidential process and, as such, the contents of the mediation meeting should not be discussed with anyone who did not participate, save for where a mediator provides the Chair with confirmation of a successful outcome.

Swim England strongly recommends that individuals consider mediation as a means to resolve a Club Complaint. While it is unlikely to result in both parties to the complaint obtaining their ideal outcomes, it can produce an outcome that both are satisfied with, whilst preserving and repairing the relationship between the parties. Mediation also provides the parties themselves with control over the outcome, which will be lost if the Club Complaint escalates to a hearing.

Club Complaint Hearing

If the Parties do not agree to mediation or mediation fails, the Judicial Regulations require that a Club Complaint Hearing takes place.

The Club shall appoint a panel of three independent members, including a Chairperson who will usually be proposed by the Region and two wing members, who may be members of the Club or, if this is not desirable, members of any other Swim England affiliated Club. Parties to a Club Complaint may object to any individual sitting on the Club Complaint Panel and such objections shall be considered and determined by the Club's chair (unless involved in the Club Complaint personally).

A hearing shall take place within 28 days of the panel's appointment. The procedure for the hearing shall be flexible and at the discretion of the panel. Each party will be limited to bringing a maximum of three witnesses unless the panel considers there to be compelling reasons for more to attend. The parties must obtain the consent from the panel for each witness to attend by providing the panel with a list of the witnesses in advance, explaining why they consider each witness' attendance necessary.

Upon completion of the Club Complaint Hearing, the Panel shall provide a copy of their decision to the parties and the chair of the Club within 14 days. If the panel finds that there has been a breach of Club rules, it may apply sanctions to a Club member within the Club's power (i.e. suspensions from training, competing or volunteering with the Club). If the panel believes that a breach of Swim England Regulations has taken place, the matter should be referred to the Office of Judicial Administration as a Judicial Complaint.

The outcome to a Club Complaint is binding upon the parties to it. However, a party to the Club Complaint may make a Judicial Complaint to the Office of Judicial Administration if:

1. they believe that the Club or panel did not comply with Judicial Regulation 103; or

2. they believe that a sanction imposed by a panel is disproportionate.

A Judicial Complaint may not be made by a party to a Club Complaint on the sole basis that a panel's decision was not in their favour.

Judicial Complaints (Regulation 104)

Making a Judicial Complaint

A Judicial Complaint may include:

1. a complaint alleging maladministration, misconduct or serious misconduct by a Club or individual;

2. a complaint arising from a water polo match following conduct which, in a referee or delegate's view, warrants a sanction more severe than a water polo automatic sanction;

3. a complaint alleging a breach of Swim England Regulations or the Code of Ethics;

4. a complaint arising out of a Club Complaint outcome (see above); or

5. a protest appeal.

An individual may make a Judicial Complaint by filing a completed Judicial Complaint Form with the Office of Judicial Administration. A copy of this form can be obtained from the same. When providing you a copy of the Judicial Complaint Form, the OJA may also offer to put you in contact with a Swim England Friend to provide advice on the specifics of your concern.

The Judicial Complaint Form contains advice for filling in the form. We strongly recommend that you read this prior to completing it.

A Judicial Complaint must be made within 30 days of the incident occurring. This may for instance include the date of the alleged breach of Swim England Regulations or the date that a Club Complaint outcome was distributed. A Judicial Complaint received late will not be allowed to proceed unless the Judicial Commissioner determines that it is in the best interest of the sport to allow it.

Judicial Complaints must usually be accompanied by a fee. Please see Judicial Regulation 100.8 for details.

Commissioner's Determination

Upon receipt of a Judicial Complaint, the Judicial Commissioner shall accept or reject the Complaint. If accepted, the Judicial Commissioner shall determine whether the complaint shall be decided by the Commissioner themselves or by a Judicial Committee.

If accepted, the Judicial Complaint Form shall be sent to the Respondent, along with a blank Judicial Response Form for completion within 21 days.

The Judicial Commissioner's determination may be appealed under Judicial Regulation 104.6.

Mediation

If both parties consent to mediation, the Judicial Commissioner may appoint a mediator to assist the parties in finding a resolution. The mediator, or Office of Judicial Administration on their behalf, will seek to arrange a meeting between the parties to seek a resolution.

If the mediator is able to assist the parties in coming to a satisfactory outcome, they shall record the outcome and provide a copy to each party and the Judicial Commissioner. If unsuccessful, the mediator shall notify the Commissioner, for a further Commissioner's Determination to be made.

Swim England strongly recommends that individuals consider mediation as a means to resolve a Judicial Complaint. While it is unlikely to result in both parties to the complaint obtaining their ideal outcomes, it can produce an outcome that both are satisfied with, whilst preserving and repairing the relationship between the parties. Mediation also provides the parties themselves with control over

the outcome, which will be lost if the Judicial Complaint is decided by the Commissioner or a Judicial Committee.

Statement of Complaint and Response

Whether a Judicial Complaint is to be determined by a Commissioner's Decision or a Judicial Committee, each party will be expected to provide the OJA with an electronic copy of its Statement of Complaint or Response. The Statement of Complaint must be filed within 14 days of the Complainant receiving a copy of the Response Form, and the Response must be filed within 14 days of the Respondent receiving a copy of the Statement of Complaint.

Both the Statement of Complaint and Response should contain the following information:

1. a full written submission explaining the facts and arguments that the party wishes to make;

2. a summary of the evidence on which the party will rely; and

3. copies of all the evidence on which the party will rely, including a maximum of three witness statements.

Where a Judicial Complaint is to be determined by a Judicial Committee, the Statement of Complaint and Response must also include a list of dates for which the party is unavailable. Swim England judicial hearings take precedence over all other swimming matters and, accordingly you may wish to explain why you are unavailable on the listed dates.

Where a Judicial Complaint is to be determined by a Judicial Committee, we also require that you send three paper copies of the Statement of Complaint or Response to the Swim England Office of Judicial Administration, Pavilion 3, SportPark, 3 Oakwood Drive, Loughborough University, LE11 3QF.

Judicial Hearing

Judicial Hearings shall be arranged by the Office of Judicial Administration and communicated to the Parties. Such hearings may be held in person, on video call, or on papers.

Three members of the Dispute Resolution Panel will be appointed to hear the Judicial Complaint, and the Chair of the Judicial Committee shall have discretion as to the procedure to be followed. Usually, the Complainant will be invited to state their case and bring in witnesses to provide additional evidence, followed by the Respondent. The Judicial Committee shall inform the parties of any witnesses they consider it necessary to hear from.

Judicial Committee Decision

Following a Judicial Hearing, the Judicial Committee shall prepare a decision, which shall be circulated to the parties to the Judicial Complaint and any other individual to which the Judicial Committee directs. The decision may not be distributed to any other individual without the permission of the Judicial Committee – to do so is a breach of the Swim England Regulations and a Judicial Complaint may be filed against you.

The Judicial Committee, if it sees fit, may issue sanctions including but not limited to:

1. a written warning;

2. a requirement to change current practices;

3. a requirement to change the rules of a Club;

4. quashing an automatic water polo sanction;

5. a suspension from participating in any or all Swim England activities; and/or

6. a financial penalty.

Appeals (Regulation 105)

There is a right of appeal to the Appeals Panel against:

1. a decision on a Judicial Complaint by a Judicial Committee;

2. a decision on a Judicial Complaint by the Judicial Commissioner;

3. an imposition of a water polo automatic sanction; and

4. a decision by the Lead Safeguarding Officer, other than a decision to impose a temporary suspension, pursuant to Swim England Safeguarding Regulations 241-246 (a "Safeguarding Decision").

An appeal made against a decision on a Judicial Complaint by a Judicial Committee or the Judicial Commissioner is limited to the following grounds:

1. the decision maker exceeded its power or acted without having the power to do so;

2. the decision maker failed to act in accordance with the rules of natural justice;

3. an error of law was made; or

4. the decision imposed a disproportionate financial penalty or suspension.

An appeal made against a Safeguarding Decision is limited to the following grounds:

1. the outcome reached was based on an error of fact or was unreasonable given the evidence upon which the Safeguarding Decision was made;

2. significant new evidence has become available since the Safeguarding Decision was made;

3. Safeguarding Regulations 241-246 were not adhered to; or

4. the Safeguarding Decision was irrational or exhibits an error of law on the record.

Disagreement with the findings of a Judicial Committee alone does not form grounds for an appeal.

Commencing an Appeal

An appeal may be made by sending a completed Appeal Form to the Office of Judicial Administration, along with the £200 fee. There is no fee payable for an appeal against an automatic water polo sanction.

An appeal must be filed within 14 days from the date of receipt of the decision being appealed. The Chair of the Appeals Panel may nonetheless allow a late appeal to proceed if it is in the interests of the sport to do so.

Procedure

The Chair of the Appeals Panel, or their nominee, shall upon receipt review the Appeal Form and determine whether an appeal may be allowed to proceed or not. If an appeal is not allowed to proceed, the Judicial Complaint is at an end.

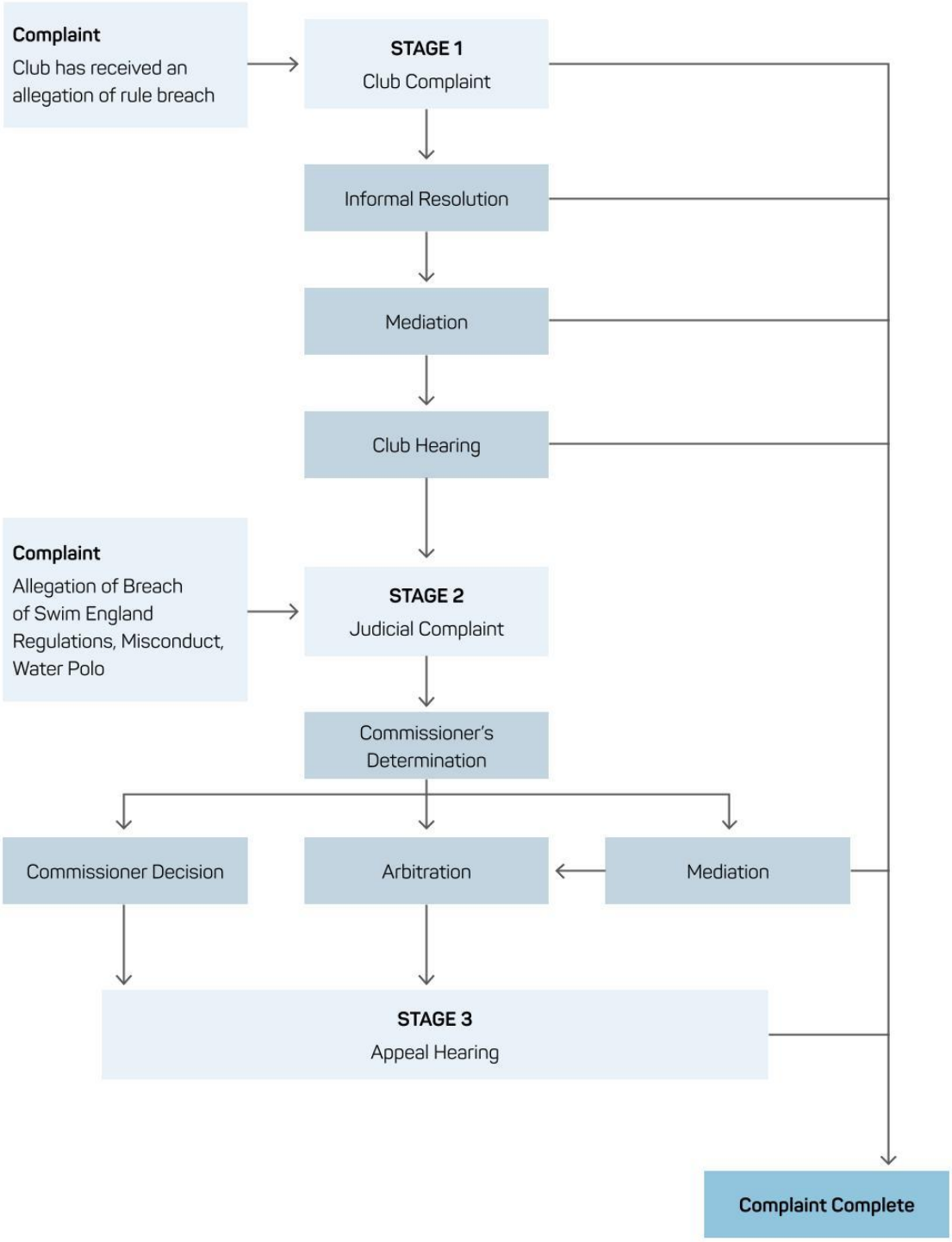
If an appeal is allowed to proceed, the other party to the decision being appealed shall be informed and a hearing arranged. The procedure for an appeal, including provision of statements and evidence, is largely similar to that of a Judicial Hearing and may be found in Judicial Regulations 105.5-105.8.

An Appeal Committee hearing an appeal has the power to:

1. quash any decision and substitute its own decision;

2. quash any penalty and/or substitute its own penalty; or

3. make any such order as it thinks right and just.

A decision on appeal is final and not subject to further appeal. Accordingly, once an appeal decision has been made, subject to enforcement of any sanctions, the matter will be at an end.

Flowchart for the Judicial Regulations