

Annexes to the Model Club Constitution

Annex One: Example Rules of Debate – ASA Council Meeting

Annex Two: Swim England Code of Ethics

Annex Three: Guidelines for handling internal club disputes

Important Note

It is important to check that there have not been any subsequent changes or re-issues to the documents reproduced or referenced below (or indeed, in the Model Constitution/Guidance Notes too).

You are therefore advised to check the Swim England website (as a minimum) as this should show any subsequent revisions or re-issues. This is particularly important where there are rules, regulations policies or codes as these are often revisited and updated from time to time.

In addition, please be especially careful if you only have a photocopy of extracts from a document, as something important may be missing or you might read something out of context.

For any further assistance please contact your Region.

Annex 1 – Example Rules of Debate

1. A motion of amendment which has been proposed and seconded and submitted in accordance with Amateur Swimming Association Law shall be discussed subject to Paragraph 15 below. The Chairman may, at his discretion allow amendments from a member of Council at the meeting provided it does not materially affect the substance of the matter under discussion.
2. A member when seconding a motion or amendment may, if he then states his intention to do, reserve his speech until a later period of the debate.
3. A member will stand when speaking at a meeting of the Council and will address the Chairman. If two or more members rise, the Chairman will decide the order in which they shall speak.
4. A member will direct his speech to the question under discussion, to an explanation, or to a point of order.
5. Wherever the wording of a motion reasonably permits, an amendment shall either delete words and/or add others but such omissions or insertions must not have the effect of introducing a new proposal into, or rendering negative the motion before the Council.
6. If an amendment is lost, other amendments may be moved on the original motion.
7. If an amendment is carried, the motion, as amended, will replace the original motion and become the motion on which any further amendments may be made.
8. A further amendment may not be moved until the Council has disposed of the amendment previously moved.
9. A member may only speak once on any motion or amendment, except:
 - 9.1 Where he has reserved the right to speak under paragraph 2 above
 - 9.2 In the exercise of the right of reply under Paragraph 17 below
 - 9.3 On a point of order
 - 9.4 By way of explanation under Paragraph 11 below
 - 9.5 To move any of the resolutions mentioned in Paragraph 10 below
 - 9.6 When invited to do so by the Chairman
10. A member can, after another member has finished speaking move without comment:
 - 10.1 "That the question be now put"
 - 10.2 "That the debate be now adjourned"
 - 10.3 That Council proceed to the next business"
 - 10.4 "That the Council now adjourn"

If the motion is seconded and the Chairman agrees that the matter needs no further discussion, he will give the mover of the original motion a right of reply. The procedural motion will then be voted on.

If it is carried, as the case may be

- (i) The question before the meeting shall be put to the vote
- (ii) The subject of the debate shall not be further discussed at that meeting
- (iii) The subject of the debate shall be considered to be disposed of, or,
- (iv) The meeting shall stand adjourned

11. A member may rise on a point of order or in personal explanation. A point of personal explanation shall be confined to some material part of a former speech by the member concerned at the same meeting, which may have been misunderstood.

A point of order shall only relate to an alleged breach of a Standing Order or of an Amateur Swimming Association Law. The member shall specify the Standing Order or Amateur Swimming Association Law and the way in which he considers it to have been broken.

A member so rising shall be entitled to be heard but no member shall be entitled to interrupt the speech of any other member.

12. The Chairman may close the discussion when he considers the subject has been sufficiently debated. The Chairman may, at his discretion, sum up the debate before putting a motion or amendment. If the debate involves questions of a legal, technical or administrative nature, the Chairman may request the Chief Executive or any other person to advise the Council.
13. The ruling of the Chairman on a point of order, on a point of personal explanation, or an amendment, shall be final and not open to discussion.
14. Whenever the Chairman speaks or rises during a debate, a member then speaking or standing shall resume his seat and the Council shall be silent.
15. A motion or amendment may be withdrawn by the mover with the agreement of the seconder and of the Council, which shall be signified without discussion. Unless this permission is refused, a member cannot speak on the motion after the mover has asked permission to withdraw it.
16. When a motion is under debate, no other motion (which in this context includes an amendment) shall be moved except the following:
- (i) To amend the motion
 - (ii) To postpone consideration of the motion
 - (iii) To adjourn the meeting
 - (iv) To adjourn the debate
 - (v) To proceed to the next business
 - (vi) That the question be now put

Right of Reply

17. The proposer of a motion shall have the right of reply at the close of the debate immediately before the motion is put to the vote or before the motion "That the Council proceed to the next business", or "That the Council now adjourn" is put. If amendments are proposed he shall be entitled to reply at the close of the debate on each amendment.

The mover of an amendment shall not have the right of reply in the debate on the amendment. However, if the amendment is carried and becomes the substantive motion he shall have the right of reply in the event of any amendment being moved.

A member exercising a right of reply shall only answer previous speakers and shall not introduce new matters. The Chairman's ruling on this shall be final. After every reply to which this Standing Order refers, a decision shall be taken without further discussion subject to the provision contained in the Rules of Debate.

Disorderly Conduct

18. If a member, in the opinion of the Chairman, behaves irregularly, improperly, or offensively or intentionally disrupts the business of Council, the Chairman may request the immediate discontinuance of this behaviour. If the member continues to misbehave, the Chairman shall ask the member to leave the room for the remainder of the meeting.

If the member does not then leave, the Chairman or any member may move "That the member named leave the room and be excluded during the remainder of the meeting". If the motion is seconded, it shall be put and determined without discussion.

If carried the Chairman shall then order the removal of the offending member from the room. Whether he retires upon request or is removed, he shall be excluded from the remainder of the meeting.

The ruling of the Chairman relating to disorderly conduct, or on any consequent motion, and any other requirements or instructions of the Chairman to ensure the orderly debate and proper conduct of the Council's business, shall be accepted without discussion by the members.

If misconduct is continued or there is a general disturbance making orderly business impossible, the Chairman shall adjourn the meeting for as long as he thinks necessary.

Business of an Objectionable Nature

19. If the Chairman considers any matter to be objectionable or undesirable he may, either before or after it is brought forward, put to the vote a motion that it be not heard. No discussion shall be entered into on the Chairman's proposal. If carried, the matter shall be considered as disposed of.
20. Any happening or matter occurring which these rules do not encompass shall be decided upon by the Chairman whose decision shall be binding on Council.

Annex 2 – Code of Ethics

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

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

All documents referred to in the Code of Ethics are available on the Swim England website. Please note Swim England adheres to the British Swimming Anti-Doping Rules, these are available on the British swimming website.

Code of Ethics

All individuals within the 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's 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.

Adhere to the British Swimming Anti-Doping Rules.

Adhere to the Swim England Equity Policy.

Adhere to Swim England Regulations.

Adhere to the Swim England Codes of Conduct contained in Wavepower.

Annex 3

GUIDELINES FOR HANDLING INTERNAL CLUB DISPUTES

1. Introduction

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

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

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

2. General Principles

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

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

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

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

It is assumed for the purpose of these notes that the dispute is between the Club and one or more of its members. It is most important that the same people in the Club do not become both the prosecutor (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 a Club, for example fighting between members in a training session, where immediate action is required such as a temporary suspension or exclusion from a training session or from wider club activities. Coaches and officers should always be given the power to invoke a temporary suspension. A report should then be made, immediately, to the Club officers who should follow the procedures in the relevant section of the rules.

3. Procedures

On receipt of the dispute every effort should be made to resolve the matter by informal discussion. In difficult cases the 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 Club may want to ask individuals from outside the Club to sit on the panel. The full Club Committee could of course hear the dispute but given the number of people on a Committee this could be seen as intimidating and it is usually preferable to have a smaller number of people to hear a disciplinary matter, hence the recommendation to set up a panel of three persons.

The 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 Clubs

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

If either party to the dispute is dissatisfied with the outcome they are still entitled to make a Complaint to the Judicial Administrator at the Office of Judicial Administration.

5. Further Information

Additional guidance can be obtained from the Swim England Handbook or a Swim England Friend, see the website for further details:

<http://www.swimming.org/members/how-to-resolve-issues-with-your-club/>

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.