

MILFORD HAVEN SWIMMING SQUAD - DISCIPLINE AND COMPLAINTS PROCEDURES



Milford Haven Swimming Squad, subsequently referred to as the “Club” is affiliated to the Welsh Amateur Swimming Association and is administered under the Association’s Constitutional laws and the Club’s Constitution that is in force at the appropriate time.

The Welsh Amateur Swimming Association and all affiliated bodies and registered members and all committees shall be bound by the laws, regulations, codes and decisions of the Amateur Swimming Foundation of Great Britain (ASFGB) which are promulgated within the powers and functions conferred and devolved.

Introduction

This document is designed to assist the Club and its members in handling discipline, disputes and complaints. Within the introduction of the Code of Ethics and the increased risk of litigation, it is important that the internal disputes are handled correctly from the onset. Occasionally it is necessary to discipline swimmers for the minor incidents or misbehaviour and this can be done fairly by the Club Coach or the relevant responsible officer present. However, most clubs do from time to time have disputes between Committee members, parents and swimmers and these also can be resolved amicably between the individuals concerned.

Amateur Swimming Association Judicial Law 105/106 defines Protests and Complaints and it should first be decided whether the matter in question is a Protest or a Complaint.

A Club can deal with a “Protest” provided that it is in the Promoter of the Competition to which the “Protest” relates.

A Club cannot deal with a “Complaint”

However, it is often possible to resolve a “dispute” within the club without the matter becoming a formal “complaint”. If either party is dissatisfied with the decision reached within the internal Club dispute then they still have the option to make a formal Complaint to the Welsh Amateur Swimming Association.

Sometimes disputes may arise in a Club of a more serious nature and as they do not occur frequently the Club may be unsure of how to handle the matter. Therefore the dispute may become more serious with resource to the judicial procedures becoming necessary.

It must be noted that the Club only has the power to legislate from the breach of its own rules and can only suspend a swimmer/s from its own activities. The Club does not have the power to handle a dispute relating to another club.

The key principle to be followed is that the Club conforms to the law of the land in so much that an individual of an alleged offence is innocent until proven guilty and he/she must have reasonable opportunity to present defence and have his/her views heard. Therefore, the message when dealing with disputes is to ensure that:

1. All parties are treated fairly
2. The complainant has the opportunity to present the case
3. The accused has the opportunity to respond

The Club shall have the power to expel a member of the club. If the Club is in dispute with a paid employee, then the employment contract and employment law needs to be considered. Specialist level advice may be sought.

Responsibility of Management

The Club structure and method of operation requires that all individuals are accountable to the "PERSON IN CHARGE" of their particular activity.

The "PERSON IN CHARGE" reports to the Officers of the Club through the Management Committees.

All disciplinary/disputes matters will be dealt with in accordance with the Club Constitution that is in force at the appropriate time -

9) Disciplinary/Dispute matters

- a) Whenever any dispute may arise which involves the Club Manager or if any alleged breach by a Club Member may occur - the Club shall endeavour to resolve the dispute/breach as quickly, informally and as amicably as possible and in accordance with the Clubs relevant Code of Conduct. Where appropriate the Club Welfare Officer shall be involved and consulted from the outset.
- b) Subject to the said Code of Conduct - any need to discipline Club Members for minor incidents of misbehaviour or to resolve a dispute - can usually be done by the Coach/Team Manager. If this fails or cannot be resolved within a period of 7 days or if it is clearly necessary to discipline a Club Member - the Club shall follow its published Disciplinary Code, unless the disciplinary process/dispute resolution shall be conducted by Swim Wales.
- c) If any dispute shall be employee related, the parties shall be bound by the terms of the employee contract.
- d) Subject to the preceding clauses a) and b) - the following principles shall apply in the case of any dispute/disciplinary action which involves a Club Member;
 1. Any resolution of any dispute between the Club and a Club member and any disciplinary proceedings involving a Club Member shall be conducted by the Club unless Swim Wales may be involved in any appeal. The Club shall inform Swim Wales of any such dispute or disciplinary action immediately.
 2. It will always be in the interests of the Club and the particular Club Member to commence and conclude any dispute or disciplinary proceedings without delay.
 3. The Club shall commence and diligently follow its dispute/disciplinary procedures which are prescribed in its Disciplinary Code within period of 7 days after having received notice of its dispute or alleged breach. The Club shall make all reasonable endeavours to resolve any such dispute and to conclude any disciplinary proceedings within delay and within a period of 3 months after the dispute or alleged breach becomes known to the club.
 4. If any dispute resolution or disciplinary proceedings shall not be commenced and concluded within the above period - Swim Wales may at its discretion direct the Club to refer to the dispute/disciplinary proceedings to Swim Wales.
 5. If Swim Wales shall exercise its discretion under the previous Clause the Club shall refer the dispute/disciplinary proceedings to Swim Wales as soon as it is directed to do so. Swim Wales shall then conduct the dispute resolution or disciplinary proceedings in accordance with its Disciplinary Code.
 6. Any dispute between a Club Member and a Club Member of a different Club or between a Club Member and Swim Wales shall be referred by the Club to any dispute resolution shall be conducted by Swim Wales. The Club shall refer the dispute to Swim Wales as soon as it becomes aware of it. Swim Wales shall then conduct the dispute resolution process in accordance with its Disciplinary Code and shall make all

reasonable endeavours to commence and conclude the proceedings within the above period of 3 months.

7. The Club's and Swim Wales' Disciplinary Codes shall include the Policies and the procedures which shall be followed in the case of any disciplinary action and how the process and any appeal shall be conducted. The Disciplinary Code shall also include provisions relating to the procedures and policies which shall relate to the resolution of any dispute involving a Club Member - and how any dispute resolution shall be conducted.
8. The relevant Disciplinary Code shall be made available to the particular Club Member at the earliest opportunity.
9. The particular Club Member shall be treated fairly and shall be given the opportunities to present his or her case and responses - and shall have the right to be accompanied by a suitable person to any hearing.
10. Every Club Member has a right to appeal to Swim Wales against any determination by the Club of any dispute and or any decision of the Club relating to disciplinary action involving the Club Member. Any such Appeal shall be conducted in accordance with the Swim Wales Rules.
11. The Management Committee or Swim Wales (as the case may be) shall ensure that all procedures which shall be followed shall be in accordance with the relevant Disciplinary Code.
12. The Club's and Swim Wales' powers in relation to any disciplinary action shall be at their discretion and may include a written warning - or suspension or expulsion of a member.

PROCEDURES TO BE FOLLOWED BY THE CLUB IN DIFFERING CIRCUMSTANCES

Complaints or Grievance by a Member, or the Members Parents/Guardian:

- a) Such a complaint or grievance shall be made to the Club Secretary not later than 7 days after the incident (or series of incidents) to which the complaint refers to. After this period, a complaint shall be dismissed by the Club without further consideration or appeal, unless good reason is shown why it could not have been brought within the period of the 7 days.
- b) The Club Secretary must receive full details of the complaint or grievance from the Member, or Members Parents/Guardian.
- c) The Club Secretary should immediately inform the Club Chairperson or Club Welfare Officer if unable to contact the Chairperson, of the complaint or grievance.
- d) The Chairperson should proceed in accordance with the "Internal Club Dispute Procedures"
- e) If the complaint or grievance is made regarding another member, the Club Secretary must inform the member whom the complaint is being made against as soon as possible after the receipt of the complaint, but not later than 7 days.

Club Discipline

- a) There are occasions when a problem arises in a Club, for example fighting between members in a training sessions, or a member(s) misbehaving or causing disruption in a training session, **where immediate action is required**. Examples of such action would be, temporary suspension or exclusion from a training session, or from wider club activities.
- b) Coaches and Officers are given the power to invoke a temporary suspension or exclusion, when in their opinion such action is in the interest of the Club and/or its members.
- c) In instances where temporary suspension or exclusion has been imposed, the Coach or the responsible Officer should report the incident (or series of incidents) within 7 days to the Club Secretary, or within 24 hours if the complaint arises from a Health & Safety, Child Protection Issue or injury, or to the Chairperson, if the Secretary was the Responsible Officer imposing the punishment.
- d) The Club should keep a register of offenders, stating details of the offence and of the punishment.

- e) **If the same member continues to offend, the Club Secretary should then treat it as a dispute between the Club and the Member and follow the Club procedures on Internal Dispute in an attempt to resolve the issue.**

Internal Club Disputes

It is assumed for the purpose of these procedures that the dispute is between the Club and one or more of its members. It is important that the same people in the Club do not become both the prosecutor and the judge, or the Defender and the Judge. If the Committee or its Officers are either the prosecutor or the 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.

a) Procedures

- On receipt of the dispute the Club Secretary should inform the Chairperson of any dispute received by the Club.
- If the dispute is connected to a Child Protection Issue, Health & Safety matter or relating to an injury then the Child Welfare Officer must be informed of the dispute within 24 hours.
- The Chairperson should ensure that every effort is made to resolve the matter by informal discussion but must ensure that the safety of the Club Members is not compromised in any way. If this fails the Chairperson 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 Disciplinary Committee to deal with the matter.

Disciplinary Committee

The Committee should consist of 3 person with one to act as Chairperson. A Secretary may also be needed. Those person must not be involved with the dispute and the Club may need to ask individuals from outside the Club to sit on the panel. The full Club Committee could hear the dispute, but given the number of people on a full committee, this could be seen to be intimidating and is usually preferable to have a smaller number of people to hear the disciplinary matter, hence the recommendation to set up a Disciplinary Committee of 3 persons.

- The Club Chairperson should notify both parties of the date, time and place of the hearing and the names of the Disciplinary Committee Members.
- Both parties should be given copies of all the papers and every effort should be made to hear the dispute within 14 days of the receipt of the dispute.
- If either party is aged 18 years or less then they must be advised of their right to be accompanied by a parent (or other person with parental responsibility for them) or Coach to help them present their case. It is advisable but not mandatory, the disciplinary Committee does not hear any charge against a member of the Club aged 18 years or less unless a parent or Guardian is present. Any other Club Member aged 18 years or above against which a disciplinary charge has been made shall have the right to have one other member of the club present with them at the hearing, and such additional members shall have the right to speak.
- Both parties should be allowed to bring witnesses.
- The hearing should be as informal as possible but needs to be controlled. Points to note:
 - The complainant should present evidence first and the accused should have the right to reply.
 - Both parties should be able to call witnesses. The Complainant going first and each party being allowed to question the other party's witnesses.
 - Witnesses should wait outside the hearing room until called. After questioning they should remain in the hearing room without taking any further part in the hearing.

- The Chairperson or Secretary should make notes of the hearing, and the Disciplinary Committee should make every effort to announce their decision verbally to all parties without delay, followed by written confirmation to each party within 7 days
- The Committee may take any one or more of the following decisions in relation to the dispute. The Committee shall have power to:
 - Require compensation for damage
 - Verbal warning
 - Given written warning
 - Suspend
 - Expel

Appeals as a result of Disciplinary Action

- Any member found guilty by the Disciplinary Committee shall have the right to appeal to the Management Committee of the Club within 21 days of receiving notice of the decision of the Disciplinary Committee.
- The Management Committee shall, within 7 days of receiving such notice, set up an Appeals Committee, which shall consist of 3 members who are independent of the Disciplinary Committee and shall be chaired by a representative of the area applicable to the Club (West Wales ASA).
- Any member, whose appeal is not upheld, the right of appeal to the Welsh Amateur Swimming Association (WASA), in accordance with the Associations appeals procedure; by giving notice to WASA within 14 days of receiving in writing the decision of the Appeal Committee.
- The Club Secretary will be required to supply, within 14 days of being notified, all relevant papers and evidence.
- Pending the hearing of an appeal, the sentence imposed by the Disciplinary Committee shall be suspended.

Unacceptable Behaviour

In the event of any incident involving “unacceptable behaviour” the dispute report must outline:

- the reasons why such action was instigated
- the events immediately preceding the incident
- the actions taken during the incident
- the events immediately following the incident
- the names of all involved in the incident
- the names of all witnesses to the incident

These documents form the basis of any subsequent investigation and will be used in the event of any disciplinary proceedings arising from the incident.

Behaviour becomes “unacceptable” which it is considered “offensive” to others. This includes, but is not limited to, the following:

- Theft
- Wilful destruction to property
- Acts of vandalism
- Abuse of alcohol and/or drugs
- Bullying
- Offensive language
- Aggressive/violent acts

- Threatening behaviour
- Failure to comply with instructions/directions
- Failure to comply with the Club Constitution
- Failure to comply with the Club Discipline Code
- Failure to comply with Swim Wales Discipline Codes
- Failure to comply with official teaching/coaching does of conduct
- All breaches of safety practices
- Bringing the club into disrepute
- Binging the Sport of Swimming into Disrepute

WARNING! Failure to comply with the safety requirements and/or unacceptable behaviour could mean expulsion from the club.

Matters not otherwise provided for

If the person or persons investigating a complaint or grievance, in accordance with these procedures, finds that a particular matter is not otherwise provided for, he/she will take such action as consistent with these procedures.

Swim Wales “Y Plant” Code of Conduct Policies

The Child Welfare Office shall ensure that all Members, Members Parents, Swimming Coaches and teachers, Committee Members, Officials and Volunteers shall be annually provided with a copy of the appropriate “Y Plant” Code of Conduct and be asked to read, sign and return those relevant copies to the Club so that they may be referred to during any internal disputes. (See Appendices)

Updating

The Club will receive and update the “Club Disciplinary and Complaints Procedures” document as and when required by new circumstances, Pool Operator Requirements or changes to the current Welsh Amateur Swimming Association requirements. The Club is committed to continually update policies and procedures in line with National Guidelines.

This document was drawn up having full regard to the Clubs Current Constitution, Swim Wales Model Discipline Policy and Swim Wales Child Protection Policies (Y Plant).

June 2015

APPENDICIES

1. “Y Plant” Code of Conduct for Athletes from Aquatic Disciplines
2. “Y Plant” Code of Conduct for Parents
3. “Y Plant” Code of Conduct for Swimming Coaches and Teachers
4. “Y Plant” Code of Conduct for Committee Members, Officials and Volunteers