

Meeting of the Board of the Amateur Swimming Association (Swim England) Limited

14 December 2022, 10am

Zoom

Present:

Richard Hookway – RH (Chair)
Barry Saunders - BSa
Brian Havill - BH
Joan Wheeler – JW
Katie Walcott - KW
Ali Breadon – AB (*until Item 6*)
Lois Jarvis - LJ

Aysha Kidwai – AK
Raj Kumar – RK (*until Item 10*)
Jane Nickerson – JMN
Bernard Simkins – BSi
Caroline Green – CG
Neil Booth - NB

Officers in attendance:

Clare McAuslane (CMc) – Judicial Commissioner (Item 6 only)
George Wood (GW) – Sport Development Director (Item 10 only)
Emma Griffin (EG) – Marketing, Communications and Operations Director (Item 10 only)
Rob Henderson (RMH) – Senior Administration Officer

1. **Welcome and apologies**
 - 1.1 RH welcomed all to the meeting and outlined the Agenda.
 - 1.2 RH welcomed KW to the Board, giving a brief introduction and biography.
2. **Declarations of interest**
 - 2.1 BSa and BSi continue to be Regional Directors and may have conflict with regards to any business related to the Regions.
 - 2.2 With regards to item 6.2.1, BSi declared a working relationship with one individual named in the paper. RH decided there was no conflict of interest.
 - 2.3 There were no further declarations.
3. **Minutes of the board meeting of ASA (Swim England) Ltd – 14 September 2022**
 - 3.1 Approved as a true and accurate record.
4. **Actions arising from previous meetings – to note progress**
 - 4.1 Actions 1, 3, 4, 57, 61, 63, 65, 66 and 68 are now complete.
 - 4.2 Action 69 regarding Induction Meetings for KW is almost complete, with one meeting remaining.

4.3 Action 70 regarding the Committee schedule for 2023 continues to be worked on.

5. **Confirmation of decisions made by e-mail**

5.1 **Decision: The appointment of Katie Walcott as an Independent Director was confirmed by the Board. Unanimous decision.**

6. **Legal Update**

6.1 **Judicial Commissioner's Report**

6.1.1 CMc joined the meeting. LJ gave a brief introduction and established that CMc is an independent qualified solicitor who undertakes the role of Judicial Commissioner for Swim England and has attended to deliver her annual report.

6.1.2 The report was taken as read.

6.1.3 CMc clarified that there are now 29 complaints, up from 28. This is still lower than numbers in the pre-pandemic era. Cases in pre-determination have reduced from 4 to 3.

6.1.4 This year's position is much more positive than last year. The Office of Judicial Administration was effectively shut down for 8 months over COVID, which affected the number of cases being delayed into 2021.

6.1.5 It is noted that there was a notable increase in Water Polo complaints this year, predominantly relating to referee disrespect and inappropriate behaviour towards others underwater.

6.1.6 The Judicial Management Group (JMG) meeting held in October was unanimous that in-person mediation is better. This is the case for some arbitrations too, particularly where mediation has not yet occurred.

6.1.7 CMc would like more "Swim England Friends" recruited as it is a crucial part of in the process if we wish to avoid a formal complaint.

6.1.8 CMc stated that if a complaint overlaps with a Child Protection issue, it would be resolved by the Independent Child Safeguarding Officer (ICSO) before the Judicial Commissioner is involved.

6.1.9 It was confirmed that Swim England now have an appropriate amount of staff resource to deal with complaints to a good standard.

6.1.10 There was a request for the next report, that complaints be categorised based on exhibited behaviours and graphs provided. CMc confirmed that this was possible.

6.1.11 A comment was made regarding the perceived over-formality of the communication from the Judicial Commissioner to Clubs. It still seems quite formal.

6.1.12 CMc agreed the need to be clear whilst still quoting the rules, although sometimes legal language is unavoidable.

6.1.13 LJ commented that there will be a rollout of new training for panel members, Club Committees and Swim England Friends when the new regulations are approved.

6.1.14 A question was posed as to the outcome if somebody ignored the internal dispute process. On occasion, the internal dispute process is bypassed and progressed to a complaint. It was clarified that CMc will always look to resolve matters at the

Club level, although this is sometimes difficult due to the voluntary nature of Committees.

- 6.1.15 It was agreed to provide further categorisation based on lessons to be learned from different types of complaint.
- 6.1.16 RH stated an openness to any further observations and feedback from CMC regarding the process and regulations.
- 6.1.17 RH gave thanks on behalf of the Board for the Judicial Commissioner's efforts.

6.2 **Regulations Review**

- 6.2.1 The Board were in agreement that the proposed regulations were not as easy to understand as they perhaps could be. A Board member commented that more plain English would be useful in the Regulations, to encourage those with complaints to bring them forward.
- 6.2.2 LJ clarified that a user guide will be issued alongside the document in order to help with visual representation and that a flowchart was appended to the regulations in order to help make the process easier to understand in outline.
- 6.2.3 The Judicial Regulations Review is the culmination of a number of years of work. External lawyers have been consulted on the content and these are a more accessible set of regulations than previously. A mandatory timescale is now included, as is the requirement for an internal disputes process initially.
- 6.2.4 The Judicial Management group have approved the new Regulations, LJ requested the Board to approve them.
- 6.2.5 Most other NGB's tend not to offer a member complaints function. If they do, then it can come at a cost to members. Swim England is a different NGB as it has individuals as members; in other sports, people are members of clubs, clubs are members of counties, counties are members of regions and regions are members of the NGB. The function is a great benefit to our members.
- 6.2.6 It was noted that the new Regulations will require Regions to play an active part in the process, owing to an inconsistent approach previously. The key thing is to get the child happy and back in the water as soon as possible.
- 6.2.7 RH suggested for the Board to take a vote on the Regulations as drafted, with a commitment from LJ to review the wording throughout 2023 as a part of continuous improvement.
- 6.2.8 **Decision: The new Judicial Regulations were approved by the Board. Unanimous decision.**
- 6.2.9 **Decision: The Board approved the ancillary changes to the Handbook that refer to the Judicial Regulations. Unanimous decision.**
- 6.3 **Safeguarding and Welfare update**
- 6.3.1 RH introduced the item. Safeguarding and welfare has been high profile in many sports in recent years. This has highlighted a number of sports with very significant deficiencies of policy, process, culture and capability.
- 6.3.2 Standards of behaviour and what is deemed acceptable evolves; what was appropriate ten or twenty years ago may not be acceptable now.

- 6.3.3 Swim England has had some serious cases and incidences, some ongoing and some where the outcome is challenged.
- 6.3.4 Sport England, had decided it was appropriate to review the handling of three cases in particular. The point is to look at the application of our policies and processes to ensure they were upheld to the proper standard.
- 6.3.5 The report was circulated by JMN. Sport England commissioned the report from Sport Resolutions, who appointed a qualified lawyer to review the aforementioned cases.
- 6.3.6 Sport England have acknowledged that the report was prior to the implementation of our staffing and procedural changes in this area, and that these have been necessary and positive. Notwithstanding these changes, there is more to do.
- 6.3.7 The Sport England Board have informed us that after reviewing the report, that they are deferring a funding decision until their March meeting. They will look at our response to the report in making their decision, including our plan of action moving forwards.
- 6.3.8 Sport England would wish to see evidence of real change and assurance that we will address the issues contained within the report.
- 6.3.9 JMN and RH have issued a response to the Sport England Board, stating that we are aware of the issues and wish to improve in this area. The Board accepts Sport England's position and noted that it is important that we are, and are seen to be, open, responsive and engaged
- 6.3.10 It is highly likely the report will become public, so the Board will need to understand how this may affect staff and key stakeholders. It was also noted that disclosure to our insurers is required.
- 6.3.11 We are clear that in our response to the report we will set a plan for the next three years, with some very specific actions in the first twelve months.
- 6.3.12 AB left the meeting.
- 6.3.13 Board members strongly recommended taking specialist external advice.
- 6.3.14 Thanks were given to the new Safeguarding and Welfare team for making significant improvements in a number of areas; their efforts and energy are welcomed.
- 6.3.15 RH gave further thanks to the Board, being encouraged by the insight and comments. RH offered the Board's counsel where necessary to the Executive Team of Swim England as our formal response to the report is drafted and plans developed.
- 6.3.16 **Decision: The Board approved the new Safeguarding & Welfare regulations. Unanimous decision.**
- 6.3.17 JMN updated that the Child Protection in Sport Unit (CPSU) audit has now been received. The outcome was "Conditionally Met", acknowledging the great improvements made since the previous audit, and wishing to work with us over the coming 6 months to see them embedded into the organisation.

7. **Chair's report**

7.1 RH gave a verbal report.

7.2 RH attended a number of Swimming meetings recently – in particular a Chairs' meeting including Karen Webb Moss. British Swimming's future strategic priorities were discussed. Karen is keen to understand the value of the shared brand and brand equity.

7.3 The British Swimming CEO search continues, they hope to have an appointment by the end of January.

8. **CEO's report**

8.1 The report was taken as read and is provided for information only. JMN welcomed questions from the Board.

8.2 The Governance Code for Counties, is being developed. The Board requested to see it prior to publication and Claire Coleman / Helen Weeks will be made aware of the request.

8.3 Commercially, there are now five warm leads with involvement from a number of Board members. We may know the outcome of the two smaller ones in the near future, two more are tied in with British Swimming and are thus more complex, one is a larger piece of work.

9. **CFO's report**

9.0.1 The report was taken as read.

9.0.2 The accounts are in a very good financial position. Losses were suffered due to COVID in 2020, but there was a period of time in 2021 where income returned and expenditure didn't. As a result, a significant profit was made.

9.0.3 Swim England's income has stayed broadly flat over the past few years. With inflation now at 10%, this is a more significant issue than previously, BWH emphasised that 2024 was a potential concern.

9.1 **Statutory accounts for old unincorporated ASA**

9.1.1 Half of the old unincorporated ASA's asset (SportPark) has been sold to Swim England, half the asset has been sold to the University. The final step required is to close down the old incorporated ASA entity.

9.1.2 **Decision: The Board approved the formal closing of the old unincorporated ASA. Unanimous decision.**

9.2 **September Management Accounts**

9.2.1 Swim England had a very strong first six months of the year, having benefitted from a COVID catch up period. This has levelled off since.

9.3 **2022 full year forecast**

9.3.1 In 2022 the reserves position has changed as a profit will be made. The fixed assets have gone down by £2m but cash is up by £2m. Free reserves are therefore higher. Going into 2023, the reserves are in a far better position than in the past.

9.4 **2023 budget**

9.4.1 Our income is not budgeted to increase in line with inflation so will go down in real terms. A small loss is projected for the 2023 year. This assumes Sport England grant at current levels which is not certain.

9.4.2 It also does not account for any increase in expenditure in order to implement the new Strategy. There will be a need to either cut expenditure elsewhere or to increase the loss.

9.4.3 It was agreed by the Board that reserve funding may be utilised to enable the critical work in the area of Safeguarding and Welfare.

9.4.4 The board also noted the need for a clear Commercial Strategy to help to underpin and diversify income. Jon Glenn and Becky Cox are scoping this, with work due to commence after the Christmas break.

9.4.5 Overall the budget is judged to be well balanced.

9.4.6 RH summarised that given the uncertainty in the current financial environment that the budget be approved, but to recognise it as a living budget, so Swim England can be flexible to the needs of our organisation and its members.

9.4.7 RH thanked BWH for his work.

9.4.8 **Decision: The Board approved the 2023 budget. Unanimous decision.**

9.5 **Date of AGM**

9.5.1 The date for the Swim England AGM was confirmed as Monday 15 May 2023, 7.30pm.

10. **Swim England Strategy Review**

10.1 GW and EG joined the meeting.

10.2 **Action: RM to circulate the presentation given alongside the Minutes.**

10.3 The presentation set out what had happened since the Board last reviewed the Strategy. The vision and mission have been updated.

10.4 The Strategic priorities remain the same. Under “Capability” there is a stronger focus on EDI work. Under “People”, safeguarding and welfare has been prioritised. “Water” now focuses on two priorities.

10.5 The intention is to work across the first 1,000 days to bring the Strategy to life. This will be at a National and Local level, with different plans for each. It will include lobbying and influencing.

10.6 The focus in the first year for each area is as follows:

- Capability; continue [England] Swims and further develop.
- Water; establish / start influencing local networks regarding facilities.
- Governance; implementing the Safeguarding and Welfare action plan.

10.7 With regards to [England] Swims, there will be a national second stage piece of research on how we co-create with diverse ethnic communities.

10.8 Resource will be focused on where it is needed most; mapping the most impact but also looking to work with specific groups.

10.9 A graph was shared concerning where Swim England staff resource is focused with regards to each pillar of the new strategy.

- 10.10 The next steps will be to prioritise what we will stop doing and how Business as Usual (BAU) fits; to develop the Commercial Strategy; considering how we evolve staff focus; and cross-organisational planning and budget allocation.
- 10.11 It was agreed to align the mission and vision to both refer to the sport as “Aquatics”. This is partly for consistency, partly in light of FINA changing its name to World Aquatics.
- 10.12 JMN gave thanks to GW and EG for their work – in particular, Sport England like how aligned the Swim England Strategy will be with theirs. RH echoed these sentiments.
- 10.13 RK left the meeting.
- 10.14 **Decision: The Board approved the new 2023 – 2033 Strategy. Unanimous decision.**
- 10.15 **Action: Board members to help with the Strategy rollout among key stakeholders, including attending meetings where necessary, to advocate for the new Strategy.**
11. **Transgender Policy**
- 11.1 JMN clarified that this item refers to the Transgender and non-binary competition policy.
- 11.2 Swim England has taken a lot of consultation on this area of work, inside and outside the sport. The policy has been written and is circulated to the board with some guidance notes.
- 11.3 It was noted that Swim Scotland and Swim Wales are considering following the same or very similar policy. British Swimming have already followed FINA – which currently does not include an “open” category.
- 11.4 It was requested that the section applying to Rankings in the policy also applies to Records, this was agreed.
- 11.5 It was clarified that the definition of Masters Swimming is 25 years old plus.
- 11.6 In terms of Swim England’s internal systems, a member’s birth sex will be unchangeable but their gender can be changed in accordance with the policy. All competitors will still need to comply with anti-doping requirements, so an athlete will need to be fully aware of any medication used as part of a transition process.
- 11.7 **Decision: The Board endorsed the Transgender and non-binary competition policy. Unanimous decision**
- 11.8 **Action: JMN to send the Transgender and Non-Binary Competition policy to key stakeholders with an implementation plan.**
12. **Committee Roles**
- 12.1 The paper was taken as read.
- 12.2 It was clarified that the Board Champion for EDI will be AK.
- 12.3 The Board discussed establishing a Safeguarding and Welfare Committee, in order to have oversight of the implementation and action plan. The Committee would further act as an independent source of advice and counsel to SLT in this

area. The Audit, Probity & Risk Committee is also keen to see the Safeguarding and Welfare Committee established.

12.4 **Decision: The Board approved the distribution of Board members across the Standing Committees. Unanimous decision**

12.5 **Decision: The Board sanctioned the establishment of a Safeguarding and Welfare Committee pending Terms of Reference. Unanimous decision.**

12.6 **Action: NB to draft the Terms of Reference for the Safeguarding and Welfare Committee.**

13. **Committee / Working Group reports – meetings held since last meeting**

13.1 **Regional Chairs' Meeting held 26 September and 28 November 2022**

13.1.1 RH gave an update.

13.1.2 The main content for both meetings was review of the new Strategy.

13.2 **Sports Operations Committee held 11 October and 22 November 2022**

13.2.1 The Minutes were taken as read. There were no questions.

13.2.2 Minimum depths have been decided upon. Communications are now public and there will be some mitigations on the policy until late 2023.

13.3 **Swim England Qualifications Board held 25 October 2022**

13.3.1 The Minutes were taken as read.

13.3.2 The Institute of Swimming received a sanction, they are working together with Swim England Qualifications to remedy. The IoS may appeal against the level of the sanction but not against the decision itself.

13.4 **Institute of Swimming Board held 29 November 2022**

13.4.1 The Minutes were taken as read. There were no questions.

13.4.2 Much of the IoS Board's time was spent debating the sanction from SEQ, and the appropriateness of an appeal. The issue was therefore brought to the attention of the Audit, Probity & Risk Committee.

13.5 **Trading Board held 6 December 2022**

13.5.1 The Minutes were taken as read. There were no questions.

13.6 **Audit, Risk & Probity Committee (held 9 December 2022)**

13.6.1 The Minutes were taken as read. There were no questions.

13.6.2 The ARP was made aware of SEQ's sanction to the IoS.

13.6.3 There will be four meetings next year, one of which will be held in SportPark.

14. **Board EDI Training Journey**

14.1 The paper was taken as read and the Board were happy to proceed as proposed. An in-person Board meeting will be held in February in order to facilitate the training.

14.2 There is also an online training platform that Board members can use to start their learning in this area.

14.3 **Action: JMN to send link to EDI training platform to Board members.**

15. **Dates for next meetings**

Wednesday 1 February 2023 – 11am (In person)

Wednesday 15 March 2023 – 1pm (Zoom)

AGM – Monday 15 May 2023 – 7.30pm (Zoom)

Wednesday 17 May 2023 – 11am (In person)

Wednesday 12 July 2023 – 1pm (Zoom)

Wednesday 13 September 2023 – 11am (In person)

Wednesday 13 December 2023 – 1pm (Zoom)

16. **Any other business**

16.1 The Board noted that Swim England were found compliant with all 33 points of the UKAD E-Net learn platform and this was signed off by UKAD for all the Aquatic sports.

Summary of Decisions made

Minute	Item	Decision
5.1	Confirmation of decisions made by e-mail	The appointment of Katie Walcott as an Independent Director was confirmed by the Board. Unanimous decision.
6.2.8	Regulations Review	The new Judicial Regulations were approved by the Board. Unanimous decision.
6.2.9	Regulations Review	The Board approved the ancillary changes to the Handbook that refer to the Judicial Regulations. Unanimous decision
6.3.16	Safeguarding and Welfare update	The Board approved the new Safeguarding & Welfare regulations. Unanimous decision.
9.1.2	Statutory accounts for old unincorporated ASA	The Board approved the formal closing of the old unincorporated ASA. Unanimous decision.
9.4.8	2023 budget	The Board approved the 2023 budget. Unanimous decision.
10.14	Swim England Strategy Review	The Board approved the new 2023 – 2033 Strategy. Unanimous decision.
11.7	Transgender policy	The Board endorsed the Transgender and non-binary competition policy. Unanimous decision
12.4	Committee Roles	The Board approved the distribution of Board members across the Standing Committees. Unanimous decision
12.5	Committee Roles	The Board sanctioned the establishment of a Safeguarding and Welfare Committee pending Terms of Reference. Unanimous decision.