

Swim England Club Complaints

Guidance on imposition of sanctions

Introduction

This document will provide guidance on the approach that Club Complaint Panels should adopt when considering the imposition of sanctions on any member who may become subject to a Club disciplinary process. Sanctions may be imposed following a hearing, whether in person or on paper.

This sanctions guidance must be read in conjunction with the Swim England Regulations and any capitalised words would adopt the definition included therein. To the extent there is any discrepancy between this guidance note and Swim England's Regulations, the Swim England Regulations shall apply.

Clubs should ensure that a copy of this guidance is provided to all involved in a Club Complaint.

This sanctions guidance may be updated by Swim England from time to time and the parties should always ensure that they are using the latest version. The current version will always be accessible directly from www.swimming.org.

For assistance with this guidance, please contact clubdevelopment@swimming.org.

Powers

Under Swim England's Judicial Regulations, Club Complaint Panels may only apply sanctions within the Club's jurisdiction, and therefore cannot impose a sanction which affects someone's activities at another club. A Club Complaint Panel may impose the following sanctions:

1. a reprimand, such as a verbal or written warning;
2. a requirement to complete training or mentoring;
3. any requirements in respect of the Club;
4. a fixed term suspension from any or all activity of the Club, including holding any position in it; and
5. permanent exclusion from the Club.

Sanctions may be applied alone or in combination with each other.

Principles

Clubs should seek to ensure that any sanction imposed is no more than is necessary to achieve its purpose. It must comply with the overriding objective that it should be fair, balanced

and proportionate. While each case is different, sanctions imposed should also be consistent with those imposed in previous cases by the Club, so far as is possible.

Such an approach will ensure that members of the Club will feel like they have been treated fairly. A proportionate, well considered sanction is much more likely to be accepted, and less likely to be challenged or appealed.

To aid with consistency, Clubs should consider making clear to their members what forms of conduct could result in exclusion from the Club, either for a set period or permanently.

Considerations

When determining the imposition of sanctions, a Club Complaint Panel should consider a number of factors, including but not limited to:

1. the nature and frequency of the behaviour;
2. the harm or distress caused to the Complainant (the person making the Complaint);
3. the position of the Respondent (the person the Complaint is made against) within the Club and how long the Respondent has been at the Club;
4. any position within the Club held by the Complainant;
5. the ages of the individuals involved;
6. the content of the dispute, including any previous issues between the parties or with the behaviour of the individual being sanctioned;
7. the Respondent's response to the Complaint;
8. the Respondent's previous record whilst a member of the Club;
9. assistance by the Respondent with the process following notification of the Complaint;
10. each party's willingness to engage in the process, including adherence to time periods set for the provision of information (if requested);
11. whether the incident giving rise to the Complaint was witnessed by other Club members and the account of those members (if applicable);
12. any comments made by either of the parties regarding the imposition of sanctions; and
13. the outcomes of any previous cases, since the publication of the sanctions guidance, with a similar factual basis.

In addition, a Club Complaint Panel may find that certain factors in the case make it much more or less serious, requiring a more or less severe sanction. Any more severe sanctions must still be in line with the sanctions available to the Club Complaint Panel within the Judicial Regulations. These factors may include, but are not limited to:

Aggravating Factors (more serious)	Mitigating Factors (less serious)
Any attempt to conceal the conduct in question.	Genuine remorse.
Premeditation.	Admission at the earliest opportunity (where the facts could be disputed).
The public nature of any conduct (e.g. at a gala in front of a crowd of spectators).	Where steps have proactively been taken to prevent repetition of the conduct in the future.
Where efforts were made to resolve an issue informally but the individual failed to follow through on agreed actions.	The personal circumstances of the Respondent (including any medical/health issues).
The existence of previous issues within the Club.	

Communication of outcome

Following a hearing, all parties to the Complaint shall receive a written copy of the decision which will detail any sanctions imposed, and the reasons for such. The reasons shall include an outline of any relevant aggravating or mitigating factors that the Club Complaint Panel applied in determining the sanction.

The written decision should also be provided to Swim England at judicial@swimming.org. This requirement has been put in place to allow Swim England to monitor the issues that our clubs and members are facing generally, in order to identify trends within aquatics and seek to resolve any common issues.