

Judicial Commissioner

Considerations Policy

Under the Judicial Regulations and the Terms of Reference for the Judicial Commissioner, the Judicial Commissioner has the power to limit and/or consolidate sequential or related Judicial Complaints, and to replace a party to a Judicial Complaint with another individual or body. Under the Regulations, the Judicial Commissioner has the power to publish policy on such.

This document shall explain the circumstances in which the Judicial Commissioner may consider exercising such powers. As the circumstances of Judicial Complaints vary greatly, it is not intended to define every such circumstance where the powers may be exercised. Similarly, the context and nature of a Judicial Complaint may result in the powers not being exercised.

Substitution

In some situations, the Judicial Commissioner may consider that a Judicial Complaint should more properly be brought against a different respondent or, that Swim England should act as a prosecutor in the place of the Complainant for serious matters.

In any case of substitution, all parties, including those subject to substitution shall be informed, with copies of all previously submitted paperwork provided to the party being substituted in.

Replacing an individual respondent with a Club committee respondent

The Judicial Commissioner shall consider replacing an individual respondent with a Club committee respondent where it appears to the Judicial Commissioner that the individual's alleged conduct was carried out on behalf of a Club committee.

The Judicial Commissioner shall also consider such where it appears to them that, based on the circumstances and context of the matter, it is more appropriate for the Club and/or the committee to respond to the allegations in question.

Replacing a Club committee respondent with an individual respondent

The Judicial Commissioner shall consider replacing a Club committee respondent with an individual respondent where it appears to the Judicial Commissioner that the alleged conduct was carried out solely by the individual in question, and not on behalf of the Club. In such circumstances, the Club committee will be notified of the individual respondent who will provide responses to the complaint.

Prior to making such a decision, the individual shall be informed and may comment on such by providing a response to the respondent Club committee, to forward to the Office of Judicial Administration.

Replacing a Complainant with Swim England

The Judicial Commissioner may consider replacing a Complainant with Swim England in the following circumstances:

1. cases of serious misconduct;
2. cases with the potential for serious consequences for the sport;
3. where a Judicial Complaint appears to contain complex legal issues or involves a dispute over the interpretation of Swim England Regulations;
4. where there are such a high number of Complainants to a matter that the overriding objective requires that Swim England should act on their behalf; and/or
5. where a Complaint relates to conduct at a judicial or appeal hearing.

In such circumstances, the original Complainants will be expected to give all reasonable assistance to Swim England and its Disciplinary Officer to aid with the handling of the matter. Failure to provide such support may result in Swim England withdrawing the Complaint.

Consolidation

The Judicial Commissioner may consolidate multiple Judicial Complaints into one, either with a single or multiple Complainant(s), where considered appropriate. The Judicial Commissioner may consider consolidating Complaints where:

1. two or more Complainants have made a Judicial Complaint against the same individual or Club with respect to the same or closely linked alleged conduct; or
2. a single Complainant has made multiple Judicial Complaints against the same individual or Club.

Limitation

Where a Judicial Complaint is made relating to conduct already considered and addressed as part of a Judicial Complaint or as a safeguarding concern, the Judicial Complaint will be rejected. This ensures that no Respondent faces multiple judicial processes (and potentially multiple sanctions) for the same conduct.

Where a Complaint is rejected on this basis, the Judicial Commissioner will request that the relevant decision making body grants permission for the Complainant to receive a redacted copy of the outcome.