

# Swim England Safeguarding

## Guidelines on imposition of sanctions and requirements

### Introduction

This document will provide an outline of the approach that a Judicial Committee will adopt when considering the application of sanctions or requirements following a safeguarding concern being referred to it.

As safeguarding concerns can vary significantly in terms of nature and severity, we cannot define a specific sanction for each individual concern. However, Judicial Committees will follow the principles outlined below in determining what sanctions and requirements should be imposed.

These sanctions guidelines 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 these guidelines and Swim England's Regulations, the Swim England Regulations shall apply.

These sanctions guidelines may be updated from time to time, however, subjects of a safeguarding concern will be provided an up-to-date copy by the Safeguarding Team. The current version will always be accessible directly from [www.swimming.org](http://www.swimming.org).

### Powers

Under Swim England's Safeguarding Regulations, a Judicial Committee has powers to impose:

1. a reprimand;
2. a requirement to complete training or mentoring;
3. any requirement in respect of a Club, or Clubs in general, with the exception of any requirement to amend a Club's constitution;
4. permanent exclusion from a Club;
5. any requirement in respect of a specific location, or locations in general;
6. any requirement in respect of a specific person, or classes of persons in general;
7. any requirement in respect of the aquatics sports, or any aspect of the aquatics sports;
8. a fixed term suspension from any or all activity within Swim England's jurisdiction;
9. permanent exclusion from any or all activity within Swim England's jurisdiction; and/or
10. an order to pay costs.

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

## Principles

Sanctions and requirements must be fair, balanced and proportionate to the circumstances and risk of each case. While each case is different, sanctions and requirements should also be consistent with each other so far as is possible.

In recommending a sanction or requirement, consideration will be had to both 'punitive' and 'restorative' measures. Significant breaches of our safeguarding policies and regulations need to be punished, but we also recognise that restorative measures can aid in reducing future risk while allowing an individual to return to their sport.

Sanctions in safeguarding matters will be required to reflect, and mitigate, the risk posed by the individual.

Two sanctions or requirements for the same 'category' of offence may differ, yet still be applied in a consistent way. For example, the physical touching of a child may amount to an assault, but two cases of such will differ based on the context, level of force used, use of any implement such as a weapon, the vulnerability of the victim, extent of injury suffered, and the level of any power imbalance.

## Considerations

When determining the imposition of a sanction or requirement, a Judicial Committee will consider a number of factors, including but not limited to:

1. whether any relevant court order has been imposed;
2. the type of risk posed and whether such can be safely managed within an aquatics environment;
3. the severity of risk posed;
4. the level of harm caused by the individual;
5. the impact on other individuals;
6. whether the concern related to a single incident or a pattern of behaviour;
7. the likelihood of a reoccurrence;
8. representations made by relevant parties, including the individual; and
9. the outcomes of any previous cases with similar fact patterns.

Aggravating and mitigating factors may affect the level of sanction or requirement imposed. These may include, but not be limited to:

Aggravating (more serious)	Mitigating (less serious)
Criminal offence committed.	Genuine remorse shown.
Young age of Complainant.	Acceptance and understanding that the conduct was wrong.

Vulnerability of Complainant(s).	Attempts made to improve conduct and knowledge moving forwards.
Repeat offence.	Taking action to make amends.
Risk of sexual harm.	Admission at the earliest possible opportunity (where the facts could be disputed).
Breach of a position of trust.	
Premeditation.	
Breach of temporary suspension during investigation.	
Non-cooperation with Swim England's Safeguarding Team or appointed investigator.	

## Suspensions

While fixed term suspensions are a last resort, some conduct is so significant that a suspension from Swim England may be the only feasible option to safeguard children and adults from harm. A Judicial Committee will likely impose suspensions in certain situations, including but not limited to where:

1. a serious crime has been committed;
2. an individual abused a position of trust;
3. the risk is of a sexual nature;
4. grooming has been found to have occurred;
5. a mobile phone or any other device (such as a tablet or computer) or social media account or platform was misused;
6. abuse was prolonged; or
7. an adult physically assaulted a child.

Other factors may result in other forms of conduct meeting the threshold for suspension, such as a lack of remorse shown by an individual, or where it is clear to the Judicial Committee that additional mentoring or training will not reduce the risk posed. Similarly, mitigating factors may result in any of the above not meeting the threshold for suspension.

## Communication of outcome

Following consideration of the matter the individual will be provided with the decision and the reasons for such, along with other individuals that a Judicial Committee considers should receive the decision. The reasons shall include an outline of any relevant aggravating or mitigating factors that the deciding body applied in determining the sanction or requirement.