



Portsmouth Northsea Swimming Club

Internal Disputes Process v1 - Nov 22

Even in the most friendly, and well managed, clubs there are unfortunately times when things go wrong. Sometimes these issues arise from a misunderstanding or a clash of personalities, but problems do need to be resolved quickly for the benefit of everyone involved, and for the club as a whole.

The Swim England Handbook includes information (Regulation 150) on dealing with 'Internal Disputes' and this should be read and understood by everyone involved. In our view, there are very few instances where an internal dispute should lead to a formal complaint to the national governing body. Complaints to Swim England may take many months to be resolved. There is also the possibility that a formal complaint could make matters worse in the short-term and that it may not result in an outcome that enables everyone to move on afterwards.

It is essential that all club members act in accordance with the club's constitution. The constitution sets out the rules for the club, and those rules must be followed.

Sequence of steps to deal with a dispute

The parties shall use any reasonable means to settle the issues between them informally and amicably.



Informal discussion

The best idea is to sit down and talk about the issue, as soon as possible, in a calm and civilised manner and to try to resolve the issue without falling out. Ideally the individuals involved could do this informally, but if that doesn't resolve the problem, and a complaint is submitted to the club Chair, they should arrange for the issue to be discussed with a mediator.

In the event of coaching matters, a senior coach will be appointed to gather the facts from both parties and facilitate the informal discussion, as they will be able to assess if the coaching methods and behaviours have been appropriate.

Mediation

The Chair, or another committee member if the Chair is involved, should arrange for an independent mediator to meet with both parties. The mediator should be someone from the club who is independent in that they haven't been involved in the issue previously, and are not a family member

or particular friend (or enemy) of either party. If agreed by both parties, the senior coach can act as mediator in coaching related matters.

Both parties should be given the opportunity to raise any concerns about the choice of the mediator. If there is no-one suitable within the club, consider appointing someone from another local club, or ask the county association if they could help.

A **mediation meeting** should be arranged, either face to face or via video conferencing, so that both parties can explain their views on the issue in front of the other party, and answer questions from the other party and from the mediator.

The conduct of the meeting should be informal, the mediator should ask both parties what resolution or outcome they are seeking, and both parties should be willing to achieve a resolution, even if this means compromise. **The mediator should seek to come to a conclusion at the meeting that is acceptable to both parties.**

If the mediation process doesn't resolve the issue and the complaint is not withdrawn, the club committee shall within a further 14 days appoint a panel (the 'panel') to determine the dispute.

The Panel

- The Panel should be made up of independent people who can listen to the complaint without bias, so must not have previously been involved in the issue or incident, must not have an 'interest' in the outcome, and should be acceptable to both parties.
- The panel shall consist of three persons who have not been involved in the dispute, either from the members of the club or, if this is not possible or desirable, from the members of any other club affiliated to Swim England.
- One of the Panel must be appointed as the Chair, who will then take over the management of the arrangements for the hearing. Usually, within a club, it is possible to find suitable members who have not been involved in the complaint. However, if that isn't possible, for example because the complaint is about an issue that involves many members, the region will help the club identify people who can hear the complaint independently.
- An additional person without any other powers, can act as the clerk of the hearing.
- The parties shall be given the opportunity to object to any of the members of the panel at least seven days before the scheduled date of any hearing. The club committee shall consider any such objections, decide whether they are justified and act accordingly.
- **Everyone involved must remember that the purpose of the hearing is to try to resolve the complaint, so lessons learnt are identified and that all members can continue to enjoy their sport.**

Procedure before a hearing

- The panel members shall appoint one of their number to act as the Chair and either appoint another of their number, or alternatively appoint an additional person without any other powers, to act as the clerk of the hearing.
- The Chair of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least 14 days in advance of the date set. The notified date shall not be changed

unless one or more of the parties has a compelling reason for not being able to attend on the notified day or time.

- Although it is open to the Chair of the Panel to decide on process, we suggest that the following procedure be used to achieve a fair hearing: both parties be advised of the arrangements for the hearing, which may be conducted face to face or via video conferencing. This will include the agenda for the meeting, and names of panel members
- Both parties will be asked to submit any evidence at least 5 days before the hearing, by email. Any evidence submitted will be sent to the panel members and to both parties.
- The Chair of the Panel may request the Mediator to share any evidence gathered during the Mediation process.

Procedure at a hearing

- The procedure shall be flexible and it shall be the responsibility of the Chair of the panel to ensure the orderly and effective conduct of the hearing.
- The panel shall not be bound by the judicial rules of the courts of England and Wales governing procedure or the admissibility of evidence provided that the hearing is conducted in a fair and orderly manner and that each party is given a reasonable opportunity to give and call evidence, address the panel and present their case. The Chair shall have the discretion to limit the number of witnesses that would otherwise have been called.
- Witnesses shall normally be provided with an area outside the hearing room and not take any part in the hearing other than giving evidence and responding to questions.
- The parties shall be informed of their right to make a complaint under Regulation 102 if they are dissatisfied with the conduct of the hearing or the grounds upon which the decision was made or if they consider any sanction imposed to be disproportionate.

Procedure after a hearing

- The panel shall come to a decision as soon as reasonably practicable after the hearing and if possible announce its findings and decisions orally to the parties. This decision must be based on written and oral evidence, presented prior and at the hearing, as per this process.
- The Chair shall notify the parties and, if the club was not a party to the dispute, the club secretary in writing of its findings and decisions within five days of the hearing.

Considerations regarding children

- Any person under the age of 18 (a 'child') who is a party to a dispute or who has been called as a witness shall normally be accompanied by a parent, a person with parental responsibility or a suitable adult. The Chair shall have the sole discretion as to whether a child is permitted to present or defend a case or be questioned as a witness and may order that the child be assisted or represented by an adult.
- The Chair shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:
 - No child aged 14 or under shall normally be expected to attend a hearing to give evidence in person. Their evidence shall normally be given as a written statement with the assistance of a club welfare officer or other person acceptable to the child and parent. Questions and responses may be relayed by a panel member. If the child appears distressed the panel shall rely only on the written evidence;

- A child over the age of fourteen shall only attend a hearing as a party to the dispute or to give evidence in person provided they wish to, and the Chair has consulted with the parent and child and is satisfied that they both understand the nature of the hearing and what will happen and that the child is competent to attend;
- If there is a disagreement between parent and/or child and the Chair on any of the considerations above, the Chair shall consider requesting advice from the Independent Child Protection Officer via the Swim England Legal Department.
- During the hearing, a child who is expected to give evidence in person and their accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for a child to give their evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.
- After the hearing the Chair shall inform the parent of the panel's findings and decisions and shall discuss whether they or the parent shall inform the child

Unresolved Disputes

If a dispute cannot be resolved fairly and amicably between the parties concerned, and does not include a breach of Swim England Regulations, it may be dealt with under the relevant provisions of Regulation 281 which deal with club rights and responsibilities.

References:

- <https://www.swimming.org/swimengland/swim-england-handbook/>