**CARADON SWIMMING CLUB – COMPLAINTS PROCEDURES**

**INTRODUCTION**

**The** Club is affiliated to the Amateur Swimming Association **(ASA)** by Region, ours being the ASA South West Region (Cornwall, Devon, Dorset, Gloucestershire, Somerset and Wiltshire). As such the Club must comply with the rules and regulations of the governing body, the Amateur Swimming Association (**ASA)**.

**The** Amateur Swimming Association is the governing body for the sport of swimming, open water swimming, diving, synchronised swimming, and water polo in England and is one of the constituent members of British Swimming Ltd and, as such, is bound by its Memorandum and Articles of Association.

***(ASA 2013 Official Handbook of Laws & Technical Rules, Pg 19:1.1.1)***

Caradon Swimming Club; conforms to the **‘standard constitutions and model rules’**, **rule 4**, laid down in the ASA 2013 Official Handbook of Laws & Technical Rules by holding and developing its own “club constitution” (This can be viewed on request). The following is an abstract from the ASA 2013 Official Handbook of Laws & Technical Rules that states that the Club will provide:

**4. Standard constitutions and model rules**

**4.1.3 a fair and open disciplinary system for dealing with internal disciplinary**

**matters, conforming with ASA Judicial Regulations 150 to 155 inclusive.**

**ASA REGULATIONS REGARDING COMPLAINTS**

TheAmateur Swimming Association **(ASA**) provides a multitude of regulations that correspond to the day to day running of Swimming events and the sport in general, therefore the following headings **(Page 9)** are those listed within the ASA 2013 Official Handbook of Laws & Technical Rules. The Club has highlighted the ones necessary (**Aqua**) for any Club complaints. If you wish to follow the ASA complaint procedures, look at the regulation number (eg.**102.**) which relates to “complaints”, now look at the provided ASA 2013 Official Handbook using the relevant regulation number and find the information you require or alternatively ask a committee member, who will be willing to help unless there is a conflict of interest.

**MAKING A COMPLAINT WITHIN THE CLUB**

Firstly, please read Annex A **(Page 2-8)** this will enable you to verify that you have a valid complaint, remember that on top of these ASA set regulations the Club also has a right to provide additional rules set out within their “Club Constitution”, this takes into account that each Club has continuous changing circumstances. The “Club Constitution” can be reviewed on request, in writing to the Clubs President or Vice Chairman, either by written letter; posting within the provided post boxes at either Liskeard or Saltash or by email through the contact page on the club website ([www.caradon-swimming.org.uk](http://www.caradon-swimming.org.uk)). If you require a copy of the “Club Constitution”, then there may be an additional administration charge, including postage, but a written request must be provided.

The Club will record the complaint. The Club is then committed to acknowledging complaints within 48 hours of receipt and will attempt to resolve complaints to the satisfaction of the complainant within 28 days.

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**APPENDIX A**

**ASA LAWS and REGULATIONS**

**INTERNAL CLUB DISPUTES**

**1 CLUB RIGHTS and RESPONSIBILITIES**

The rights and responsibilities of a club in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in ASA Law 281 which specifies:-

***ASA Regulation 281. Club discipline and internal dispute procedures***

281.1 For a breach of its own rules, an affiliated club or body may:

281.1.1 apply sanctions to a member relating to activities wholly within its own jurisdiction up to

and including suspension from any or all of them;

281.1.2 expel a member, provided that before doing so it informs the member of the alleged offence and gives him a reasonable opportunity to defend himself against the charge. If the alleged offence is also a breach of ASA Law or Regulations the club or body shall not deal with it but may make a complaint under the Judicial Laws and Regulations.

281.2 A club or body may expel from membership and/or refuse to renew the membership of any member who has been suspended according to Regulation 109 or Regulation 241 provided that any such expulsion or initial refusal shall not be lawful after the twelve months immediately following the end of the suspension.

281.3 Each club shall include in its rules provisions specifying the procedures to be carried out to handle internal club disputes.

281.4 Any such provisions shall comply with the ASA Recommended Club Constitution and the accompanying Guidance Notes.

**2 COMPLAINT TO ASA**

Any dispute that involves an allegation of a breach of ASA Law must be submitted to the ASA and dealt with as a complaint under the condition of ASA Regulation 150.4 and ASA Regulation 281.1.2. ASA Judicial Regulation 102 deals with the circumstance of a complaint made to the ASA. It provides the necessary explanation that defines a complaint, the grounds on which a complaint can be made, who can make a complaint and the procedure to be used.

***ASA Judicial Regulation 102. Complaints***

102.1 A complaint is a formal expression of dissatisfaction with the actions or behaviour of any person, including an individual or a club, or other body, or organisation or with alleged unfair practice in connection with the sport.

**3 INTERNAL DISPUTES**

When a dispute arises between two or more members of the same club, body or organisation it must be handled using the Internal Disputes procedure specified in the Club Constitutional Rules and the following

ASA Judicial Regulations 150 to 155.

***ASA Judicial Regulation 150. General***

150.1 The primary objective of the Regulations in this section is to set out ways by which a just outcome of an internal dispute between the members of a club, organisation, association or body may be secured as expeditiously as possible.

150.2 An ‘internal club dispute’ is a dispute involving an alleged breach of the club’s rules, between two or more club members, any or none of whom may be an officer of the club, or one or more club members and one or more employees of the club (the “parties”).

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

150.4 Any dispute which involves an allegation that there has been a breach of ASA Law by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.

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150.5 If the dispute involves an allegation against a paid employee of the club the issue must be dealt with under the terms of his contract of employment.

150.6 A failure by a club or any of the parties to comply with these Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.

150.7 Organisations, associations or bodies affiliated to the ASA shall conform with such parts of Regulations 150 to 155 inclusive as may reasonably be applied to them, in all respects as if they were a club.

***ASA Judicial Regulation 151. Sequence of steps to deal with a dispute***

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

151.2 If such a resolution cannot be achieved, the dispute shall be referred to the chairman of the club committee or, if he is a party to the dispute, to another officer of the club who is not a party who within seven days of the reference shall appoint an independent person to act as a mediator between the parties. The mediator may be a member of the club or a member of another club affiliated to the ASA.

151.3 If the mediator is unable to bring about a satisfactory settlement within twenty one days, the club committee shall within a further fourteen days appoint a panel (the “panel”) to determine the dispute.

151.3.1 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 the ASA.

151.3.2 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.

***ASA Judicial Regulation 152. Procedure before a hearing***

152.1 The panel members shall appoint one of their numbers to act as the Chairman 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.

152.2 The Chairman of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least fourteen 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.

***ASA Judicial Regulation 153. Procedure at a hearing***

153.1 The procedure shall be flexible and it shall be the responsibility of the Chairman of the panel to ensure the orderly and effective conduct of the hearing.

153.2 The panel shall not be bound by the judicial rules of the courts of England and Wales’s 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 his case. The Chairman shall have the discretion to limit the number of witnesses that would otherwise have been called.

153.3 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.

153.4 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.

***ASA Judicial Regulation 154. Procedure after a hearing***

154.1 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.

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154.2 Notwithstanding anything in Regulation 154.1 the Chairman 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.

***ASA Judicial Regulation 155. Considerations regarding children***

155.1 Any person under the age of eighteen (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 Chairman 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.

155.2 The Chairman shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:

155.2.1 No child aged fourteen or under shall normally be expected to attend a hearing to give evidence in person. His 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:

155.2.2 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 he wishes to, and the Chairman 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:

155.2.3 If there is a disagreement between parent and/or child and the Chairman on any of the considerations above, the Chairman shall consider requesting advice from the Independent Child Protection Officer via the ASA Legal Department.

155.3 During the hearing, a child who is expected to give evidence in person and his accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for him to give his evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.

155.4 After the hearing the Chairman shall inform the parent of the panel’s findings and decisions and shall discuss whether he or the parent shall inform the child.

**4.** **THE ASA CHILD WELFARE COMPLAINTS PROCEDURE**

***Introduction***

The ASA is committed to promoting the welfare of all involved in swimming and we will seek to establish a process that will make it straightforward for people to raise any concerns they have.

***This procedure sets out the method of dealing with a child welfare concern when a complaint is received from a parent, guardian, carer or child.***

It needs to be read in conjunction with the Child Safeguarding Protocols, Child Protection Regulations 241et al, the ASA Child Safeguarding Policy and Procedures (Wavepower) and the ASA Judicial Regulations and Guidelines. The ASA Judicial Regulations provide the procedure to bring a complaint for matters other than child welfare, for example rule breaches, breaches of the Code of Ethics and ASA Codes of Conduct.

It should be remembered that children and young people are equally as entitled to complain as an adult. Everyone within the ASA must be conversant with the procedures for dealing with them in a child friendly way whilst ensuring these procedures are followed, the child’s rights are protected and most importantly, the child’s safety is paramount.

Equally, parents, guardians and carers of ASA members must be assured that they will also be listened to and appropriate action taken if they have cause for concern or complaint in a child welfare complaints procedure.

This procedure is mandatory for all ASA Staff, ASA Members, IoS Members, ASA Affiliated Swim Schools and other ASA affiliated bodies. This procedure must be adopted when a complaint is received from any ASA member or ASA member of staff, involves a child (at all times a person under the age of 18 years) and

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which is deemed to be a child welfare issue by a Club Welfare Officer, County Welfare Officer, Regional Welfare Officer or the ASA Safeguarding Team and the ASA Independent Child Protection Officer (ICPO).

All other complaints will be dealt with under appropriate procedures as identified in the ASA Signposting document which is available to view or download from the website at [www.swimming.org](http://www.swimming.org). If it is believed that a concern or complaint is considered being of sufficient seriousness as to involve, not just child welfare issues, but child protection issues, these will be dealt with either by direct referral to a Statutory Agency or by referral to the ASA ICPO who in turn may:-

**1.** Refer the matter to a Statutory Agency; or

**2.** Recommend the matter be dealt with by the ASA under the Protocols for Child Safeguarding

Investigations found in the ASA Handbook.

***Why is this Procedure Necessary?***

Adults often do not realise that their actions can significantly impact on children, causing them distress.

In return children often do not realise that adults can find it difficult to recognise problems, which would cause a child to be worried or unhappy. A concern, which may appear minor to an adult, can be overwhelming for a child.

Because of this it is vital to encourage communication between adults and children not least to put forward an environment whereby a child that is worried or unhappy about something feels confident that they can let someone know what is worrying them and believe their worries and concerns will be addressed.

***The ASA Child Welfare Complaints Procedure***

It is for this purpose that the ASA wish to work towards a culture at club level that is conducive to encouraging all our members under the age of 18 years to feel able to speak to other members of their club regarding their worries or concerns. The following is the recommended procedure for dealing with a complaint made by or on behalf of a child and which a parent, guardian, carer or friend may make. At all times action should be immediate where possible and all stages outlined within the procedure should be carried out within the timescale provided.

It is important to acknowledge that a child welfare concern from the point of view of someone under 18 years of age will be something very important to them and which has potentially been causing them concern long before they took the step of reporting it to another party.

It is important that complaints of this nature are dealt with at the earliest opportunity and as such the following procedure should be a last resort for matters that have been incapable of resolution.

**Remember if the complaint is or may be a child protection matter a referral to a statutory agency (Children’s Care Services, the police or the NSPCC) must be made immediately. Guidance and support can be obtained from the ASA ICPO.**

***The Procedure***

**Step One – Informal Resolution Locally Timescale: Immediate**

As an adult member of the ASA, when a child, parent or carer has made a complaint or drawn to your attention a concern, you must first assess as to whether it is appropriate for you to resolve it. In general terms if it is minor in its nature and if you are able to address the concern, you should do so. Ideally, if at all possible, you should consult your club Welfare Officer before embarking on any course of action.

Confidentiality must be maintained on a “need to know basis” i.e. only the coach, the Welfare Officer and child’s parents may need to know of a concern and no one else. Sometimes the individuals involved may need to be extended to the Team Manager (for example a child causing distress to another during club sessions) or to the Chairman. The important factor is to keep the information restricted to as small a circle

as possible.

**Step Two – Resolution through Club Welfare Officer Timescale: Intervention 7 Days**

The primary role of the club Welfare Officer will be to resolve to the satisfaction of the child, parent, guardian, carer or anyone else the welfare issues complained of, if at all possible. A club Welfare Officer may have matters referred to them for example through Step One or may have matters brought directly to

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their attention. The club Welfare Officer will consider the nature of the complaint and if they are able to address the concern. It is anticipated that club Welfare Officers will be able to address issues such as minor club rule infringements, poor practice and bullying through the club’s own complaints process. Guidance and support can be obtained from the ASA ICPO at any time.

If the assistance of the ASA ICPO is not sought before the issues are resolved, the concerns and outcomes should be reported to the ASA ICPO afterwards. The club Welfare Officer should at all times be mindful of the support and guidance that can be accessed from the ASA ICPO and that concerns to be dealt with by a club Welfare Officer should be child welfare concerns only. Matters of child protection should be referred, where appropriate, immediately to the appropriate statutory authority (see *The ASA Child Welfare Complaints Procedure* details in Wavepower – Welfare Officer’s information sheet) and to the ASA ICPO.

***The club Welfare Officer must:***

**1.** Record the details of the complaint – what was the problem?

**2.** How it was resolved? The actions taken and by whom (the Welfare Officer or others).

**3.** Observe confidentiality and secure storage of referral documentation (see appropriate policies

within Wavepower).

**Step Three – National Level – The ASA Independent Child Protection Officer Timescale:**

**Intervention 3 Days**

The ASA ICPO will have a right to be involved in any child welfare matter, which the ASA ICPO in consultation with the Director of Regulatory and Legal Affairs reviews and decides needs ASA intervention. For example:

1. Where one party remains unhappy that the problem has not been resolved at Step One or Step

Two.

1. Where a matter is brought to the ASA ICPO’s attention by an ASA Welfare Officer at Steps One or Step Two.
2. At any stage, by direct referral to the ASA ICPO by an ASA member (child or adult), parent,

guardian or carer of an ASA member.

Within three days of a child welfare complaint being brought to the attention of the ASA ICPO consideration will be given to section 2 (i) of the Protocols For Child Safeguarding Investigations found in the ASA handbook. The ASA ICPO will liaise with the club Welfare Officer to ensure that the club is handling the child welfare issue correctly. The club Welfare Officer will be responsible for ensuring that the club follows the ASA ICPO’s guidance. It is entirely a matter for the ASA ICPO as to the level of involvement and the guidance given. At any point throughout the ASA ICPO’s involvement, the issues will be kept under constant review and a decision may be taken to:

1. Implement a referral to a statutory agency under section 2 (ii) of the Protocols. For Child

safeguarding Investigations or

1. Appoint an independent investigator to complete a fact-finding investigation under section 2 (iii) of the Protocols For Child Safeguarding Investigations or
2. Make a formal complaint under the ASA Judicial Regulations under section 2 (iv) of the Protocols For Child Safeguarding Investigations or
3. Take such action as recommended by the ASA ICPO (e.g. a direction that an individual be required to submit to a risk assessment or that the ASA file a complaint against a club or an individual).

All clubs must note that if the guidance of the ASA ICPO is not followed the ASA ICPO may complete a report to the Director of Regulatory and Legal Affairs and may recommend that formal judicial complaint is filed against the club under ASA Judicial Regulations. The basis of a judicial complaint will be that the club has failed to comply with the required level expected of ASA clubs in complying with ASA Child Safeguarding.

**CARADON SWIMMING CLUB – COMPLAINTS PROCEDURES**

In the case of clubs with Swim 21 accreditation, the ASA ICPO’s Report may alternatively be submitted to the National Swim 21 Panel recommending removal of Swim 21 accredited status, the basis of the recommendation being that the club has not met its requirements under ASA child safeguarding.

The above timescale provides an indication that within three days of being notified of a child welfare issue, the ASA ICPO will decide the level of his/her involvement and will inform all parties accordingly. The ASA ICPO will have the child’s welfare as the main concern and will try to resolve the issues with that main

concern in mind. As a guide the ASA ICPO will try to achieve a successful resolution or to decide other appropriate action or to have concluded and closed the file within three months of the original referral.

***The ASA Child Welfare Complaints Procedure***

Where a three month conclusion is not possible, e.g. because of the involvement of a statutory agency, the ASA ICPO will seek to keep the child (through their parent, guardian or carer) informed of progress being made.

***No Appeal***

The ASA ICPO’s final report as to the steps taken, closing the file and/or recommendation as to alternative action is final. In the case of a decision being taken under ASA Child Protection Regulations 241 et al there shall be a right of appeal to the Independent Disciplinary and Dispute Resolution Appeals Panel against a decision of the Chief Executive.

***Note***

**Failure to comply** with this procedure may result in a recommendation from the ASA ICPO that a club is not meeting its obligations under child safeguarding. This may result in a formal complaint or other action being taken under ASA Child Safeguarding Regulations 241 *et al.*

Any action complained of under the Child Welfare Complaint Procedure may amount to a breach of ASA Laws and Regulations or of the ASA Code of Ethics. Any ASA member may bring a complaint under the Judicial Regulations against an ASA member. It is therefore possible for a child welfare concern to amount to a breach of ASA Laws and Regulations or of the Code of Ethics and for a judicial complaint to be filed for the same set of circumstances.

It is a matter for the individual member as to whether or not they wish to file a judicial complaint whilst a matter is being dealt with under the Child Welfare Complaints Procedure. Where a judicial complaint is filed and a Child Welfare Complaint is also filed, the child welfare matter will take precedence.

This procedure is subject to continuous review and amendment as best practice evolves and accordingly the ASA reserves the right in particular cases to depart from the above and, accordingly, procedures where it is deemed to be appropriate by the ASA ICPO in consultation with the ASA Director of Regulatory and Legal Affairs.

***ASA SWIMLINE***

***Who is the ASA SwimLine for?***

This service is provided for anyone involved in swimming, including children and young people who believe that the welfare of a child is at risk. This could be neglect or abuse, bullying or fear of someone, or anything that is worrying you and you don’t know who to discuss this with.

***Who will take the calls and what happens?***

When you ring you will hear a message. This will explain that if you wish to speak to someone urgently - or it would not be convenient or safe for someone to call you back – you can press a number to transfer straight to the NSPCC Child Protection Helpline.

This will be answered by trained and experienced counsellors who will advise you and will act to protect children. If there is no problem with someone calling back and you wish to speak to someone who understands swimming, you will need to leave your telephone number and a time convenient for the ASA Safeguarding Team to ring you back. If there is an issue which causes concern the ASA will act to protect the child.

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***Other things you should know***

* SwimLine calls are free and do not appear on itemised bills unless the call is made from a mobile phone.
* SwimLine does not use the 1471 code or any other call return or call display facilities. If you leave a message we aim to ring back during the next working day.
* If you phone over the weekend we will aim to contact you on Monday.

You can call the ASA Swim Line on 0808 100 4001.

You can call the NSPCC Child Protection Helpline direct on 0808 800 5000.

This line is open for 24 hours each day and calls are free of charge.

If you have a Text phone you can call the NSPCC Text phone on 0800 056 0566 Comments and suggestions on how we can improve this service are welcome at:

Amateur Swimming Association

4th Floor, Sport Park

Loughborough University

3 Oakwood Drive

Loughborough

Leicestershire

LE11 3QF

**ASA REGULATIONS REGARDING COMPLAINTS**

**102. Complaints**

**108. Rights of appeal**

**109. Sanctions**

**110. Fees and costs**

**150. General**

**151. Sequence of steps to deal with a dispute**

**152. Procedure before a hearing**

**153. Procedure at a hearing**

**154. Procedure after a hearing**

**155. Considerations regarding children**

**159. Procedure to make a complaint**

**160. Procedure to deal with a complaint or protest appeal**

**161. Procedure to deal with an appeal against a decision of the Commissioner**

**162. Procedure to deal with a complaint which involves misconduct or serious misconduct liable to bring the sport into disrepute by reference to a Disciplinary**

**Committee**

**163. Procedure at a Disciplinary Committee hearing**

**164. Procedure after a Disciplinary Committee hearing**

**165. Procedure to deal with an appeal against a final decision of a Disciplinary**

**Committee**

**167. Provision of persons to deal with dispute resolution procedures**

**168. Agreement to refer a complaint to arbitration**

**169. Procedure to deal with a complaint by arbitration**

**170. Procedure for an arbitration hearing**

**171. Procedure after arbitration**

**172. Procedure to deal with an appeal against a final arbitration decision**

**173. Procedure to deal with a complaint by referral to an expert**

**174. Procedure to deal with a complaint by mediation**

**175. Procedures for an Appeal Committee**

**176. Procedure at an Appeal Committee hearing**

**177. Procedure after an Appeal Committee hearing**

**178. Administration procedure**

**241. Child Protection**

**281. Club discipline and internal dispute procedures**