



# Club Constitution

## **RULES of Kingsbridge Kingfishers Swimming Club as at 1<sup>st</sup> September 2012**

### **1. Name**

- 1.1 The name of the Club shall be Kingsbridge Kingfishers Swimming Club herein after called the club.

### **2. Objects**

- 2.1 The objects of the Club shall be the teaching, development and practice of swimming, the promotion of competitions and championships and any other associated water based activities of the club for its members and entry into competitions and championships at Local, County, Regional, National, and International level. In the furtherance of these objects:

2.1.1 The Club is committed to treat everyone equally within the context of its activity. This shall be, for example, regardless of age, sex, ethnic origin, religion, disability or political persuasion, on any grounds.

2.1.2 The Club shall implement the ASA Equal Opportunities policy.

- 2.2 The Club shall be affiliated to ASA South West Region and the Devon County ASA and shall adopt and conform to the rules of those Associations, and to such other bodies as the Club may determine from time to time.

- 2.3 The business and the affairs of the Club shall at all times be conducted in accordance with the Law, Regulations and Technical Rules of the ASA and in particular:

2.3.1 All competing members shall be eligible competitors as defined in ASA Laws; and

2.3.2 The Club shall in accordance with ASA Laws and Regulations adopt the ASA Child Safeguarding Procedures; and shall recognise that the welfare of children is everyone's responsibility and that all children and young people have the right to be safe, protected and have fun.

2.3.3 Members of the Club shall in accordance with ASA. Laws and Regulations comply with the [ASA Child Safeguarding Procedures](#).

- 2.4 By virtue of the affiliation of the Club to Devon County ASA, the Club and all members of the Club acknowledge that they are subject to the laws, rules, regulations and constitutions of:
- 2.4.1 ASA South West Region and
  - 2.4.2 the ASA. (to include the ASA./IoS Code of Ethics); and
  - 2.4.3 British Swimming (in particular its Doping Control Rules and Protocols and Disciplinary Code); and
  - 2.4.4 FINA, the world governing body for the sport of swimming in all its disciplines (together “the Governing Body Rules”).
- 2.5 In the event that there shall be any conflict between any rule or by-law of the Club and any of the Governing Body Rules then the relevant Governing Body Rule shall prevail.

### **3. Membership**

- 3.1 The total membership of the Club shall not normally be limited. If however the Committee considers that there is a good reason to impose any limit from time to time then the Committee shall put forward appropriate proposals for consideration at a General Meeting of the Club. The members shall have the right to impose and remove from time to time any limits on total membership or any category of membership of the Club.

All persons who assist in any way with the Club’s activities shall become members of the Club and hence of the ASA. and the relevant ASA membership fee shall be paid. Assisting with the Club’s activities shall include, but not be restricted to, administrators, associate members, voluntary instructors, teachers and coaches, Committee members, helpers, Honorary members, life members, Officers, Patrons, Presidents, technical and non-technical officials, temporary members, Vice Presidents and verifiers or tutors of the ASA’s educational certificates.

Paid instructors, teachers and coaches who are not members of the Club must be members of a body which accepts that its members are bound by the ASA’s Code of Ethics, the Laws and Regulations relating to Child Safeguarding and those parts of the Judicial Laws, Judicial Rules, Judicial Regulations and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of the ASA shall be subject to all the constraints and privileges of the Judicial Laws and Regulations.

- 3.2 Any person who wishes to become a member of the Club must submit a signed application to the Secretary (and in the case of a junior swimmer the application must be signed by the swimmer’s parent or

guardian). Election to membership shall be determined by the Membership Officer but other person(s) authorised by the Committee may make recommendation as to the applicant's acceptability. The Membership Officer shall be required to give reasons for the refusal of any application for membership. Any person refused membership may seek a review of this decision before a Review Panel appointed by the Committee comprised of not less than three members, who may or may not be members of the Committee. The Review Panel shall [wherever practicable] include one independent member nominated by the ASA South West Region. The person refused membership shall be entitled to make representations to the Review Panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding. The Club shall not refuse an application for membership on discriminatory grounds, whether in relation to ethnic origin, age, sex, religion, disability, political persuasion or sexual orientation.

- 3.3 The Club may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Club or the sport into disrepute, or, in the case of a swimmer, being unable to achieve the entry standards as laid down and provided by the Club to the applicant for membership.
- 3.4 All membership shall be renewed on an annual basis through the process of reapplication not later than 1<sup>st</sup> September each year.
- 3.5 The category of membership shall be decided in accordance with the following
  - 3.5.1 Senior Members, who shall be not less than 18 years of age, shall be eligible to hold office and to attend and vote at Committee and General Meetings.
  - 3.5.2 Junior Members, who shall be less than 18 years of age, shall not be allowed to hold office, attend meetings of the committee, unless by invitation of the committee or vote at Committee or General Meetings. The Club requires that all Junior Members must have an associated Senior Member, normally a parent, carer or family member.
  - 3.5.3 Honorary Members, who shall be elected by the Committee, with the exception of the President or Vice President(s), for such a period as they think fit and they shall be entitled to all the privileges of membership except that they shall not be entitled to make proposals and resolutions, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the club. Such Honorary members must be included in the Club's annual return as to membership.
  - 3.5.4 Life Members, who shall be elected at the Annual General Meeting on a recommendation made by the Committee in recognition of outstanding

services rendered to the Club. Life members shall be entitled to all the privileges of membership except that they shall not be entitled to make proposals and resolutions, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the club. Such Life members must be included in the Club's annual return as to membership.

- 3.5.5 Associate Members, who shall be elected by the Committee in recognition of support or services rendered to the Club. Associate Members shall be entitled to all the privileges of membership including the right to submit propositions and resolutions, to vote at General Meetings, to hold office and be elected to the Committee and must be included in the Club's annual return as to membership.
- 3.5.6 Temporary Members, who are individuals granted temporary membership by the ASA by virtue of their participation in specific event(s) organised by the Club in conjunction with a club, body, association or organisation under the provision of the ASA Regulation on temporary membership. Temporary Members shall not be entitled to make proposals and resolutions, to vote at meetings and serve as officers or on the Committee.

#### **4. Subscription and Other Fees**

- 4.1 The annual members' subscription, membership, coaching, squad, session fees (as applicable) shall be reviewed from time to time by the Committee and the Committee shall in so doing make special provision for different classes of membership as the Committee shall determine.
- 4.2 The annual subscription and entrance fee (if any) shall be due on joining the Club and thereafter on the 1<sup>st</sup> day of September each year.
- 4.3 Any member whose subscription is unpaid by the date falling 30 days after the due date for payment may be suspended by the Committee from some or all Club activities from a date to be determined by the Committee and until such payment is made.
- 4.4 The Committee shall, from time to time, have the power to determine the annual membership subscription and other fees. This shall include the power to make such increase in the subscription as shall, where the Club pays the individual ASA Membership Fees to the ASA on behalf of members, be consequential upon an increase in individual ASA membership fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next Annual General Meeting.
- 4.5 The Committee shall have the power in special circumstances to remit the whole or part of the fees, including the ASA membership fees, to address issues of social inclusion (see Club Hardship Policy).

## **5. Resignation**

- 5.1 A member of the Club wishing to resign membership must give to the Secretary written notice of his/her resignation. A member's resignation shall only take effect when agreed by the Committee and there is no financial commitment or disciplinary action outstanding against the individual and this Rule 5.1 has been complied with.
- 5.2 The member who resigns from the Club in accordance with Rule 5.1 above shall not be entitled to have any part of the annual membership fee or any other fees returned except in the case where resignation occurs within two weeks of joining the Club (see Recruitment Policy).
- 5.3 Notwithstanding the provisions of Rule 5.1 above a member whose subscription is more than 2 2 months in arrears shall be deemed to have resigned. Where the membership of a member shall be terminated in this way he/she shall be informed in writing that he/she is no longer a member by notice handed to him/her or sent by post to his/her last known address.
- 5.4 The ASA Membership Services Department shall be informed should a member resign when still owing money or goods to the Club.

## **6. Expulsion and Other Disciplinary Action**

- 6.1 The Committee shall have power to expel a member when, in its opinion, it would not be in the interests of the Club for the individual to remain a member. The Club in exercising this power shall comply with the provisions of Rules 6.3 and 6.4 below.
- 6.2 Upon expulsion the former member shall not be entitled to have any part of the annual membership fee to be refunded and must return any Club or external body's trophy or trophies held forthwith.
- 6.3 The Club shall comply with the requirements and procedures of the [Judicial Rules and Regulations](#) for handling Internal Club Disputes as the same may be revised from time to time. A copy of the relevant Regulations and Procedures are given as an appendix to the constitutional rules.
- 6.4 A member may not be expelled or, subject to Rule 6.5 below, be made the subject of any other penalty unless the panel hearing the dispute shall be by a two-thirds majority vote in favour of the expulsion of, or other penalty imposed upon, the member.
- 6.5 The Officers of the Club, or any person to whom the Committee shall delegate this power, may temporarily suspend or exclude a member of the Club from particular training sessions and/or wider club activities, when in their opinion, such action is in the interests of the Club. Where

such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Rules and Regulations.

- 6.6 The Officials in charge of a particular event shall be responsible for the discipline. If further action is required this is to be referred to the Internal Disputes procedures as laid down in ASA Judicial Laws and Regulations.

## **7. Committee**

- 7.1 The Committee shall consist of the Chairman, Secretary, Treasurer (together ' the Executive Officers of the Club') and Vice Chairman, Competition Secretary, Press and Publicity Secretary, Membership Secretary, Fund Raiser, Badges and Trophies Secretary, Equipment Secretary, Swimmers Representative, Swim 21 Coordinator and Co Opted elected members all of whom must be members of the Club. All Committee members must be not less than 18 years of age though the Committee may allow younger member(s) to attend their meetings by invitation of the Committee without the power to vote.
- 7.2 The Committee shall appoint as and when required a member of the Club as Welfare Officer who must be not less than 18 years of age, who should have an appropriate background and who is required to undertake appropriate training in accordance with ASA Child Safeguarding courses. The Welfare Officer shall not be a member of the teaching and coaching staff. The Welfare Officer shall not be a member of the committee but will have a right to attend Committee meetings without a power to vote and shall report to the Committee on all aspects of welfare concerning members of the club.
- 7.3 The Officers and Committee members shall be proposed seconded and elected at the Annual General Meeting each year and shall remain in office until their successors are elected at the next Annual General Meeting and will take office when the Chairman has closed the meeting. Any vacancy occurring by resignation or otherwise in any position previously filled at the Annual General Meeting may be filled by the Committee. Retiring Officers and members of the Committee shall be eligible for re-election.
- 7.4 Committee meetings shall be held not less than six times per year, save where the Committee itself shall by a simple majority resolve not to meet. The Chairman and the Secretary shall have discretion to call further meetings of the Committee if they consider it to be in the interests of the Club. The Secretary shall give all the members of the Committee not less than seven days written notice of a meeting. Decisions of the Committee shall be made by a simple majority and in the event of equality of votes the Chairman, or the acting Chairman of that meeting, shall have a casting or additional vote. The Secretary, or in his/her absence a member of the Committee, shall take minutes.

- 7.5 The quorum for a Committee meeting shall be such number as shall represent not less than a simple majority of the Committee members entitled to attend and vote, to include not less than one Officer. In the event that a quorum is not present within 30 minutes of the published start time, a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the Chairman. If a quorum is not present at the adjourned meeting then those Committee members attending may act for the purpose of calling a Special General Meeting of the members, to which the provisions as to minimum notice contained in Rule 11.1 and Rule 11.2 shall not apply.
- 7.6 In addition to the members so elected the Committee may co-opt further members of the Club who shall serve until the next Annual General Meeting. Co-opted members shall be entitled to vote at the meetings of the Committee and shall not be counted in establishing whether a quorum is present. Co-opted members shall not be less than 18 years of age.
- 7.7 The Committee may from time to time appoint from among such sub-committees as they may consider necessary (and to remove, in whole or in part, or vary the terms of reference of such sub-committees) and may delegate to them such of the powers and duties of the Committee as the Committee may determine. All sub-committees shall periodically report their proceedings to the Committee and shall conduct their business in accordance with the directions of the Committee.
- 7.8 The Committee shall be responsible for the management of the Club and shall have the sole right of appointing and determining the terms and conditions of service of employees and voluntary helpers of the Club. The Committee shall have power to enter into contracts for the purposes of the Club on behalf of all the members of the Club.
- 7.9 The Committee shall be responsible for ensuring that the Accounts of the Club for each financial year be examined by an independent examiner to be appointed by the members in a General Meeting.
- 7.10 The members of the Committee shall be entitled to an indemnity out of the assets of the Club for all expenses and other liabilities properly incurred by them in the management of the affairs of the Club.
- 7.11 The Committee shall maintain an Accident Book in which all accidents to Club members at swimming related activities shall be recorded (see Normal Operating Procedures section 7.2). Details of such accidents shall be reported to the ASA Membership Services Department. The Club shall make an annual return to the ASA Membership Department indicating whether or not an entry has been made in the prescribed form, which is to be found on the membership renewal form.

7.12 The Committee shall have power to make regulations, create by-laws, see also Rule 13.1, and to settle disputed points not otherwise provided for in this Constitution.

## **8. Officers**

8.1 The Annual General Meeting of the Club, if it thinks fit may elect a President and Vice-Presidents. A President or Vice-President need not be a member of the Club but on election shall, *ex officio*, be an honorary member of the Club and must be included in the Club's Annual Return of Members to the ASA.

## **9. Annual General Meeting**

9.1.1 The Annual General Meeting of the Club shall be held each year on a date in November. The date, time and venue for the Annual General Meeting shall be fixed by the Committee.

9.2 The purpose of the Annual General Meeting is to transact the following business:

9.2.1 to receive the Chairman's report of the activities of the Club during the previous year;

9.2.2 to receive and consider the accounts of the Club for the previous year and the report on the accounts of the independent examiner and the Treasurer's report as to the financial position of the Club;

9.2.3 to remove and elect the independent examiner (who must not be a member of the Committee or a member of the family of a member of the Committee) or confirm that he/she remain in office.

9.2.4 to elect the Officers and other members of the Committee;

9.2.5 to decide on any resolution which may be duly submitted in accordance with Rule 9.3.

9.2.5 Nominations for election of members to any office, position or for membership of the Committee shall be made in writing by the proposer and seconder to the Secretary not later than 21 days prior to the date of the meeting. The nominee shall be required to indicate in writing on the nomination form his/her willingness to stand for election.



- 9.3 Notice of any resolution, proposal or nomination to be moved at the Annual General Meeting shall be given in writing to the Secretary not later than 21 days prior to the date of the meeting.

## **9 Special General Meeting**

- 10.1 A Special General Meeting may be called at any time by the Committee.
- 10.2 A Special General Meeting shall be called by the Club within 28 days of receipt by the Secretary of a requisition in writing signed by not less than 7 members entitled to attend and vote at a General Meeting stating the purposes for which the meeting is required and the resolutions proposed.

## **11. Procedures at the Annual and Special General Meetings**

- 11.1 The Secretary shall personally be responsible for making available to each member a written notice of the date, time and venue of the Annual General Meeting together with the closing date for the receipt of any resolutions, proposals, nominations or reports to be considered thereat not less than 28 days before the date of the meeting. The Secretary may, alternatively, with the agreement of member(s) concerned distribute these materials by e-mail or similar form of communication. The Notice of the Meeting shall in addition wherever possible be displayed on the Club Notice Board where one exists.
- 11.2 The Secretary shall personally be responsible for making available to each member a written agenda for a General Meeting together with the resolutions to be proposed thereat at least fourteen days before the meeting and in the case of the Annual General Meeting a copy of the reports to be considered, a list of nominees for the Committee posts and other positions and a copy of the examined accounts. The Secretary may, alternatively, with the agreement of member(s) concerned distribute these materials by email or similar form of communication.
- 11.3 The quorum for the Annual and Special General Meetings shall be 7 members entitled to attend and vote at the Meeting which must include at least one officer.
- 11.4 In the event that a quorum is not present within 30 minutes of the published start time, a meeting shall stand adjourned to the time and date falling one month after the date of the meeting, or such other date and time as may be determined by the Chairman. If a quorum is not present at the adjourned meeting then those Committee members attending may act for the purpose of calling a

Special General Meeting of the members, to which the provisions as to the minimum notice contained in Rule 11.1 and Rule 11.2 shall not apply.

- 11.5 The Chairman, or in the Chairman's absence a member appointed by the Committee, shall take the chair. Each member present shall have one vote and resolutions shall be passed by a simple majority. For the procedures for submitting resolutions to be considered at a General Meeting members are referred to Rule 9.3. In the event of an equality of votes the Chairman shall have a casting or additional vote.
- 11.6 Only paid up members who have reached their 18<sup>th</sup> birthday shall be entitled to be heard and to vote on all matters. (Members who have not reached their 18<sup>th</sup> birthday shall be entitled to be heard and vote only on those matters determined by the Chairman as matters concerning juniors, such as the election of club captains.)
- 11.7 The Secretary, or in his/her absence a member of the Committee, shall take minutes at the Annual and Special General Meetings.
- 11.8 The Chairman shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of the Rules of the Club.

## **12. Alteration of the Rules and Other Resolutions**

- 12.1 The Rules may be altered by resolution at an Annual or Special General Meeting provided that the resolution is carried by a majority of at least two-thirds of members present and entitled to vote at the General Meeting.
- 12.2 No amendment(s) to the Rules shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by the ASA South West Region or at a later date decided by the meeting.
- 12.3 Any Senior member who is not excluded under the conditions of Rule 3.5.3, 3.5.5 or 3.5.6 shall be entitled to put any proposal for consideration at any General Meeting provided the proposal in writing shall have been handed to or posted to the Secretary of the Club so as to be received by him/her not later than 21 days before the date of the meeting in the case of the Annual General Meeting or a Special General Meeting and thereafter the Secretary shall supply a copy of the proposal or resolution to the members in the manner provided in Rule 11.1 and Rule 11.2.

### **13. By-Laws**

- 13.1 The Committee shall have power to make, repeal and amend such by-laws as they may from time to time consider necessary for the wellbeing of the Club which by-laws, repeals and amendments shall have effect until set aside by the Committee or at a General Meeting.

### **14. Finance**

- 14.1 All moneys payable to the Club shall be received by the Treasurer and deposited in a bank account in the name of the Club. No sum shall be drawn from that account except by cheque signed by two of the three signatories who shall be the Chairman, Secretary and Treasurer. Any monies not required for immediate use may be invested as the Committee in its discretion think fit.
- 14.2 The income and property of the Club shall be applied only in furtherance of the objects of the Club and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Club, save as set out in Rule 17.3.
- 14.3 The Committee shall have power to authorise the payment of remuneration and expenses to any Officer, member or employee of the Club and to any other person or persons for services rendered to the Club.
- 14.4 The financial transactions of the Club shall be recorded by the Treasurer in such manner as the Committee thinks fit.
- 14.5 The financial year of the Club shall be the period commencing on 1<sup>st</sup> September and ending on 31<sup>st</sup> August. Any change to the financial year shall require the approval of the members in a General Meeting.
- 14.6 The Committee shall retain all financial records relating to the club and copies of Minutes of all meetings for a minimum period of six years.

### **15. Borrowing**

- 15.1 The Committee may borrow money on behalf of the Club for the purposes of the Club from time to time at their own discretion up to such limits on borrowing as may be laid down from time to time by the General Meeting for the general upkeep of the Club or with the prior approval of a General Meeting for any other expenditure, additions or improvements.
- 15.2 When so borrowing the Committee shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sums or sums of money in such manner or on

such terms and conditions as it thinks fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the Club.

- 15.3 The Committee shall have no power to pledge the personal liability of any member of the Club for the repayment of any sums so borrowed.

## **16. Property**

- 16.1 The property of the Club, other than cash at the bank, shall be vested in not more than four Custodians. They shall deal with the property as directed by resolution of the Committee and entry in the minute book shall be conclusive evidence of such a resolution.
- 16.2 The Custodians shall be elected at a General Meeting of the Club and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.
- 16.3 The Custodians shall be entitled to an indemnity out of the property of the Club for all expenses and other liabilities properly incurred by them in the discharge of their duties.

## **17. Dissolution**

- 17.1 A resolution to dissolve the Club shall only be considered at a General Meeting and shall be carried by a majority of at least three-quarters of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.
- 17.2 The dissolution shall take effect from the date specified in the resolution and the members of the Committee shall be responsible for the winding-up of the assets and liabilities of the Club.
- 17.3 Any property remaining after the discharge of the debts and liabilities of the Club shall be given to a charity or charities or other non-profit making organisation having objects similar to those of the Club for the furtherance of such objects nominated by the last Committee.

## **18. Acknowledgement**

- 18.1 The Members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the members with each other and the Club.

***The following statement needs to appear on Club membership forms and is to be signed by the member and must also be countersigned by the parent, or a person having parental responsibility for the member, if under 18 years of age:***

***I acknowledge receipt of the rules of Club and confirm my understanding and acceptance that such rules (as amended from time to time) shall govern my membership of the Club. I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.***

## **APPENDIX A**

### **EXCERPT FROM ASA HANDBOOK 2012**

#### **REGULATIONS FOR THE OPERATION OF THE JUDICIAL SYSTEM**

##### **ASA LAWS and REGULATIONS**

###### **CLUB RIGHTS AND RESPONSIBILITIES**

**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 Regulations General

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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.

###### **INTERNAL DISPUTES**

###### **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.

**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.

### **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.

### **152 Procedure before a hearing**

**152.1** The panel members shall appoint one of their number 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.

### **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 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.

#### **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.

**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.

#### **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.

## **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.

**102.2** If a person, club or other body or organisation is dissatisfied with a decision of a Committee appointed under Law 21 or Law 22 an appeal may be made by lodging a complaint with the Judicial Administrator under this Regulation 102 (See Regulation 159). In such cases only decisions of a disciplinary nature may be the subject of an appeal. Decisions made in the normal course of the business of a Committee on administrative and technical matters, appointments and selection of teams may not be the subject of an appeal.

**102.3** No complaint may be made under the Judicial Laws or Regulations against an employee of the ASA relating to any action taken in the course of his employment. Any complaint about such an action shall be dealt with by the ASA and should be addressed to the Chief Executive.

**102.4** Grounds for a complaint shall include but shall not be limited to the following:

**102.4.1** misconduct;

**102.4.2** "serious misconduct"; being any action, behaviour or practice liable to bring the sport into disrepute;

**102.4.3** maladministration or breach of ASA Laws, Regulations or Rules, or the rules of a club, body or organisation etc.;

**102.4.4** a breach of the ASA/IoS Code of Ethics.

**102.5** A complaint may be made by:

**102.5.1** any member who is aged 18 years or over on the date of the complaint;

**102.5.2** the parent of or other person with parental responsibility for a member, who is aged under 18 years on the date of the complaint, on his behalf;

**102.5.3** any affiliated club, body, organisation, association, County Association or Region through its secretary or other officer acting on its behalf;

**102.5.4** the Board or any committee of the ASA, Region or affiliated organisation through its secretary or other officer acting on its behalf;

**102.5.5** a person officiating at an event;

**102.5.6** any member of an Associated Organisation, a Corporate Organisation, an Associate Association, or an Affiliated Body who is aged 18 years or over on the date of the complaint. Any



such complaint may only be made relative to swimming related activities in which the complainant was engaged;

**102.5.7** the parent of or other person with parental responsibility for a member of an Associated Organisation, a Corporate Organisation, an Associate Association or an Affiliated Body, who is aged under 18 years on the date of the complaint, on his behalf. Any such complaint may only be made relative to swimming related activities in which the member was engaged.

**102.6** A complaint which the Commissioner determines (in accordance with Regulation 160) raises an allegation which is properly to be categorised as misconduct and refers the matter to be dealt with by a Disciplinary Committee shall be prosecuted by the complainant pursuant to the disciplinary procedure. (See Regulations 162 et seq.).

A complaint which the Commissioner determines (in accordance with Regulation 160) raises an allegation which is properly to be categorised as serious misconduct liable to bring the sport into disrepute and refers the matter to be dealt with by a Disciplinary Committee shall be prosecuted by a Disciplinary Officer pursuant to the disciplinary procedure. (See Regulations 162 et seq.).

Any other complaint which is permitted to proceed shall be decided by the Commissioner or dealt with under the dispute resolution procedure. (See Regulations 167 et seq.).

**102.7** A complaint must normally reach the Judicial Administrator not later than thirty days after the alleged incident that gave rise to it.