



## **COMPLAINTS PROCEDURE**

The following is the process detailing how Musselburgh Amateur Swimming Club, as an affiliated to Scottish Swimming, will deal with complaints.

### **INTRODUCTION**

A complaint<sup>1</sup> may be made in the circumstances described within the Club's Governance documentation. Any Individual or Body who is the subject of a complaint must be offered the opportunity to be heard in their defence.

The appropriate body to consider the complaint is as follows:

1. For Club constitution and/or rules – The Club
2. For Scottish Swimming Governance and/or rules – Scottish Swimming
3. For child & vulnerable group protection or criminal – Scottish Swimming
4. For drug offences – British Swimming

### **RESOLVE THROUGH INFORMAL CONCILIATION**

Taking time to try and resolve a complaint at the outset results in a quicker and more acceptable outcome for all parties. However, we appreciate that volunteers do not always know the best steps to follow and can often be embroiled in the complaint itself. The informal conciliation services are focused around mediation and involves the following steps:

1. To start the management process correctly, we invite clubs to contact Scottish Swimming's Director of Services for advice on how to proceed (Elaine Mackenzie, 01786 466522 or email @ [e.mackenzie@scottishswimming.com](mailto:e.mackenzie@scottishswimming.com)).
2. Where appropriate, and providing all parties involved are willing to participate, Scottish Swimming is now offering an independent facilitator to arrange a meeting to work towards informal resolution of the club complaint.

The facilitator will:

- 2.1 Outline the process
- 2.2 Allow each party the opportunity to present their issue and suggest a resolution
- 2.3 Encourage all parties to consider resolutions put forward and to try and agree on a workable outcome
- 2.4 Record the outcomes
- 2.5 Advise next steps

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<sup>1</sup> Where you read complaint, this refers to a club grievance or club complaint

**Who should attend the meeting:**

- The Scottish Swimming Facilitator
- Complainant
- Complainant's friend, if desired
- Respondent
- Respondent's friend, if desired
- Club President (or independent club rep)
- Club Secretary (or independent club rep)

**For the mediation process to work, we require attendance from all parties**

3. If the mediation process is unsuccessful, Scottish Swimming will be happy to talk to you through the correct process to file a complaint more formally.

## **FORMAL PROCEDURE FOR DEALING WITH THE COMPLAINT**

If the complaint involves the Club constitution and/or rules a Club Complaints Panel (CCP) should be formed.

If the complaint involves the Scottish Swimming constitution and/or rules the complainant should contact the Director of Services to pursue the complaint.

If the complaint involves child abuse or other criminal offences the complaint shall be referred to Scottish Swimming's Safeguarding Officer or Chief Executive within 48 hours. Failure to do so may result in disciplinary action. The Chief Executive, Safeguarding Officer, Legal Adviser, Director of Services and the Chair of the Board of Directors shall deal with such cases as appropriate. For such cases no fee is required, and the initial contact need not be in writing.

If the complaint involves the use of drugs the complaint shall be referred to the Secretary of British Swimming for action, and no further action taken by the Club under the complaint's procedure. British Swimming shall deal with all cases involving drugs and their decisions in such cases shall be accepted by the Club.

### **CLUB COMPLAINTS PANEL**

The Club Complaints Panel should be appointed from three members of the Management Committee or Club Members who are not all members of the Club Executive.

#### **Panel Membership**

No Panel Members shall participate in a hearing in which they have a personal involvement with either the subject matter(s) or the parties to the complaint or be present at such a panel.

One member should be appointed as Chair of the panel and the Club Secretary should carry out the administration for all complaints.

In any case, where a complaint is upheld, the record of any previous transgressions of the person concerned shall be sought by the Chair of the Panel before the Panel considers the imposition of a penalty.

A Panel may make whatever order it considers just, including the imposition of a financial penalty and/or exclusion/suspension for a period.

The Chair of the Panel shall arrange for the decision to be communicated in writing to the parties and the Club within 14 days of the date of the meeting.

The Chair of the Panel at which the complaint is heard shall arrange for a copy of the finding with all the attendant documents to be sent to the Club Secretary for record.

### **COMPLAINANT (The person making the complaint)**

A complaint is made to the Club on the appropriate form, which can be obtained by contacting the Club Secretary.

The written complaint must reach the Club not later than 30 days after the incident that gave rise to it, but the CCP Chairperson may at their discretion extend this period up to six months in any case in which they are satisfied that it was not practicable for the complaint to be made within 30 days of the incident.

The written complaint must detail the matter(s) with which the complainant is dissatisfied and the reasons for their dissatisfaction.

### **RESPONDANT (The person to whom the complaint is against)**

All Respondents will be given the opportunity to respond to the complaint against them. They will be sent a copy of the written complaint and then given 14 days to respond to the allegations in writing.

### **PROCEDURE**

Within 14 days of receipt of a complaint, the Club shall send a copy to each of the parties who are involved, and the Chair of the Club Complaint Panel.

The CCP Chair shall arrange the date and venue for the Club Complaint Panel to consider the complaint, which must be within 60 days of receipt of the complaint and shall give the parties at least 14 day's notice of the arrangement.

If the CCP Chair becomes aware of any unavoidable circumstances which will prevent a hearing being held within 60 days from receipt of the complaint, they shall have the discretion to extend the period for the hearing to a maximum of 120 days from receipt of the complaint, and shall notify the parties as soon as the decision to extend the period is made giving the reasons.

The Chair may seek written or verbal evidence from any person who may be able to help the Hearing.

The proceeding shall be flexible and shall be at the discretion of the Chair who shall ensure that manuscript notes of the proceedings are taken.

### **OUTCOMES**

#### **Powers of the Club**

For a breach of its own Rules, a Club may suspend a member from activities wholly within its own jurisdiction provided that before doing so, it informs the member of the alleged offence and the requirements of their governance documentation have been satisfied.

## **Powers of Club Complaints Panel**

Suspensions and fines may be imposed on Individuals by the Club Complaints Panel provided the requirements of their governance documentation have been satisfied.

### **SUSPENSIONS**

A person under suspension shall not participate in any activity organised by the Club or controlled by the Club unless there are any exceptions detailed within their governance documentation.

Where appropriate a person may be given a limited suspension provided the limitation(s) are clearly defined (e.g. a person may be suspended from all competition activities but allowed to continue in training and administration activities).

An eligible competitor taking part in competitions, exhibitions or demonstrations with someone whom they know to be under suspension may themselves be suspended.

Suspensions by the Club Complaints Panel shall be binding on all Clubs and Districts of Scottish Swimming.

Suspensions and the lifting of suspensions shall be reported to Clubs, Districts and Scottish Swimming as appropriate.

### **FINES**

Fixed fines published annually in the Club Information Booklet/Club Notice Board shall be imposed on all Individuals by the Club Standing Committees as appropriate.

Fines may be imposed on Individuals by the Club Complaints Panel. The value of the fine will be as determined by the Club Complaints Panel.

When a fee or fine (not subject of an appeal) due to the Club has not been paid the Club can, after due warning, suspend the Individual until payment is made.

### **APPEAL PROCESS**

There is LEAVE TO APPEAL against a decision taken by a Club, or any individual(s) or organisations empowered to act on behalf of the Club.

An Appeal shall be made by lodging the appeal with Scottish Swimming no later than 14 days after receipt of the written notification of the decision. The appeal fee must be sent along with the appeal.

In dealing with Appeals for a decision of a Club or the Club Complaints Panel the appropriate Body to consider an appeal will be Scottish Swimming.

Decisions arising from the normal course of business of a Club on administrative and technical matters, appointments and selection of teams may not be the subject of an appeal.

When Leave to Appeal is made, the decision against which the appeal is being made shall be suspended, except in exceptional cases which shall include but not be limited to circumstances where Child Protection is an issue. For the avoidance of doubt the Company will decide whether or not the case is an exceptional case for the purposes of the forgoing sentence.