



COMPLAINTS AND DISCIPLINARY RULES AND PROCEDURES

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INTRODUCTION

General

It is the right of a Swim Ireland Member to make a Complaint where standards of care, treatment and practice are perceived to fall short of what is acceptable and should be expected. Likewise, it is the right of Swim Ireland Clubs, Regional and/or National Bodies to take Disciplinary Action against a Member and others outlined in paragraph 1.2 of the Swim Ireland Complaints and Disciplinary Rules for misconduct that has been committed by a Respondent.

Simple and Clear Rules

The Complainant and Respondent and the Complaints and Disciplinary Committees should have ease of access to clear and simplified rules and to fair procedures in dealing with any Complaint or Disciplinary Action.

Consistency

These Rules (Part 1 of this document) and Procedures (Part 2 of this document) are designed to provide a high quality and consistent approach to Complaints. These Rules and Procedures deal with Complaints from Swim Ireland Members or from an appropriate person acting on behalf of a Swim Ireland Member, and Disciplinary Action against Swim Ireland Members and others outlined in paragraph 1.2 of the Rules.

Local Level

It should be emphasised that Disputes/Complaints should be dealt with at local level until all resolutions at this level have been exhausted. In the event that the matter is not resolved satisfactorily at local level, the matter can then be appealed to the National Swim Ireland Complaints and Disciplinary Committee (SICDC). If either party is still not satisfied with the outcome, there is the right to challenge the decisions of SICDC on certain grounds before Just Sport Ireland (JSI) arbitration.

Responsiveness

Responding effectively and in a timely manner to Complaints is a key element of quality service. Co-operation with any investigation of the Complaint is essential and the use of a standardised approach is of benefit to Complainants and to all involved.

Mediation

Swim Ireland supports Mediation as a form of dispute resolution. Mediation is appropriate for Complaints only. Where the Complaints and Disciplinary Officer (CDO) considers a Complaint appropriate for resolution by Mediation then the parties to the Complaint are compelled to participate in the Mediation. The Mediation does not prejudice either party's right to proceed to a formal Hearing should the Mediation not result in a settlement of the Complaint.

Water Polo and Diving

Members of the Irish Water Polo Association (IWPA) are bound by these Rules and Procedures, however, the IWPA's rules and procedures mirror these Rules and Procedures.

Members of Irish Diving are bound by these Rules and Procedures save and except where Complaints relate to breaches of competition rules, whereby the mechanisms set out by those competition rules shall apply.

Two Parts

This document is divided into two parts. Part 1 deals with the scope of the disciplinary rules, offences and sanctions. Part 2 covers the rights and obligations of parties and the procedures to be used before the Complaints and Disciplinary Committees (Club, Regional and National).

Just Sport Ireland (JSI) Arbitration

Just Sport Ireland (JSI) is an independent arbitral body that was set up by the Federation of Irish Sports (FIS) in 2005. National Governing Bodies (NGBs) that have signed up to JSI arbitration bind its Members so that any challenge to decisions of the internal bodies of those National Governing Bodies shall be referred to JSI arbitration and therefore challenges cannot be taken to the Courts. Swim Ireland has signed up to JSI arbitration.

Associate Members

Complaints or disciplinary issues relating to Associate Members working in a private capacity do not come within the jurisdiction of Swim Ireland or these Rules and Procedures, except for exceptional circumstances where there is no other independent third party to which to refer the Complaint, in which case Swim Ireland may accept jurisdiction. Similarly, Complaints relating to Affiliate Members should be referred to the Affiliate Member organisation in the first instance but these may be appealed to the SICDC.

Excluded Complaints

These Rules and Procedures are not an appropriate mechanism for dealing with certain Complaints such as allegations of physical or sexual abuse or other potential child abuse issues for which other procedures exist using the appropriate statutory authorities. In respect of allegations of physical or sexual abuse or other potential child abuse issues, parties are referred to the Swim Ireland Safeguarding Children Policies and Procedures as amended from time to time. These Rules and Procedures is also not an appropriate mechanism for dealing with Complaints against employees of Swim Ireland at Club, Regional or National level. Such Complaints should be referred to the relevant employer – in general this will be the employee's line manager. These Rules and Procedures provide guidance to Members as to the appropriate mechanism for dealing with Complaints or issues that may arise in relation to their membership of Swim Ireland, and to whom each type of Complaint should be referred.

Omissions

If there is an omission in these Rules and Procedures, then the Complaints and Disciplinary Bodies (Club, Regional and/or National) shall decide in accordance with the Swim Ireland (or Regional or Club) custom or, in the absence of custom, in accordance with the spirit of these Rules and Procedures.

Amendments

Swim Ireland may review and amend these Rules and Procedures from time to time, particularly where required by legislative updates or legal developments. Swim Ireland will also review, and may amend, the monetary value of the Complaint and Appeal fees and/or the penalties payable by Clubs or Regions under these Rules and Procedures on an annual basis. Swim Ireland will undertake a formal review of the Rules and Procedures before or during 2014.

Each Club and Region must incorporate these Rules and Procedures into its Constitution/Rules.

DEFINITIONS

Terms defined in the Swim Ireland Memorandum and Articles of Association shall have the same meaning in these Rules and Procedures unless the context indicates otherwise or as otherwise defined below.

Affiliate Member means an Affiliate Member as defined in the Swim Ireland Memorandum and Articles of Association.

Associate Member means an Associate Member as defined in the Swim Ireland Memorandum and Articles of Association.

Board means the Members of the Board for the time being of Swim Ireland.

Children's Officer means the Children's Officer appointed by Club, Region or by Swim Ireland.

Club means any Club as defined in the Swim Ireland Memorandum and Articles of Association.

Complaint means an expression of discontent by one Unit concerning the behaviour of any other Unit, which must be submitted in writing (which may include email) accompanied by all relevant documentation in support of the Complaint and the appropriate fee.

Complaints and Disciplinary Bodies: means those bodies listed in paragraph 2.1 of the Procedures and **Complaints and Disciplinary Body** means any of them (eg Club, Regional, National).

Complaints and Disciplinary Committee means the Complaints and Disciplinary Committee of the Club, Region or of Swim Ireland, as the case may be.

Complaints and Disciplinary Officer (CDO) means the person appointed by Swim Ireland to receive Complaints, conduct investigations, administer Complaints and Disciplinary Action and to act as prosecutor in respect of any Disciplinary Action.

Complainant means the person making the Complaint.

Competition Rules mean the rules governing any competition as recognised and published from time to time by the Board of Swim Ireland or any Unit duly authorised by Swim Ireland for such purpose.

Disciplinary Action means an action brought by any Club, Region or Swim Ireland against any Unit.

Disciplinary Report means a report from an official and/or Responsible Person or any clarification or addition thereto. **Discipline** means a sanction imposed by way of correction and training. Disciplinary will have the equivalent meaning.

Event means any Club, Region or Swim Ireland National or International Event (including but not limited to training, meetings or competitions) that may or may not involve an overnight stay.

First Instance Matter means a matter that is within the first instance jurisdiction of Swim Ireland because it falls within one of the following categories:

- a) a serious claim or allegation which, if substantiated, has the possibility of bringing Swim Ireland into disrepute;
- b) a majority of a Club or Regional Committee is involved in the decision to bring a Complaint against a Member to the extent that the Club or Region could not form a Complaints Committee that would be free from conflicts of interest;
- c) a Complaint is brought by a Member against a Club or Regional Committee as a whole such that the Club or Region could not form a Complaints Committee that would be free from conflicts of

- interest;
- d) a Complaint relating to a National or International Event or occurring at a National High Performance Centre.

A “First Instance Matter” includes a matter referred to and accepted by SICDC by a Club or Regional Complaints and Disciplinary Committee because it falls within one of (a) to (d) above.

Immediate Sanction means a sanction set out at paragraph 3.2 of the Rules.

IWPA means the Irish Water Polo Association.

Member means Member of Swim Ireland as defined in the Swim Ireland Memorandum and Articles of Association.

Non Immediate Sanction means a sanction set out at paragraph 3.4.4 of the Rules.

Offence means those offences listed in clause 2 of the Rules.

Office means the Office of Swim Ireland currently located at Sport HQ, 13 Joyce Way, Park West, Dublin 12.

Officer means a person who holds an executive position on a Club or Regional Committee or Swim Ireland, normally the Chairperson, Treasurer and Secretary.

Official means any person who officiates at or assists in or time-keeps at a competition.

Parent means the legally appointed person responsible for a child – parent or guardian.

Participant means any Member or person who participates in activities organised or sanctioned by Swim Ireland, its Regions or Clubs, in any capacity, including but not limited to a swimmer, coach, leader, manager, doctor or spectator.

Privileges mean normal social entitlements of participants at an Event.

Procedures mean Part 2 of these Swim Ireland Complaints and Disciplinary Rules and Procedures.

Region means any Region as defined in the Swim Ireland Memorandum and Articles of Association.

Reprimand means a recorded written admonishment for a period of three months.

Respondent means the person responding to or the subject of a Complaint as specified in clause 1 of the Complaints and Disciplinary Rules.

Responsible Person means the Member in ultimate authority over a Member, team or delegation at an Event. At a training session the coach is the Responsible Person. At a National competition, the Meet manager is the Responsible Person. At an International competition the head of the team delegation shall be the Responsible Person.

Rules mean Part 1 of these Swim Ireland Complaints and Disciplinary Rules and Procedures.

Severe Reprimand means a recorded written admonishment for a period of 12 months which may prevent a Member from participating in an Event or from holding office.

SICDC means the Swim Ireland Complaints and Disciplinary Committee.

Swim Ireland means the Irish Amateur Swimming Association Limited trading as Swim Ireland.

Spectator means any person who neither participates in nor officiates at an Event but who attends in a capacity to support a participant or participants.

Time Out means a temporary suspension from participation at an Event.

Unit means any individual Member, team, association, Club, Region or committee or sub committee or other grouping within or affiliated to Swim Ireland, parent.

PART 1 – SWIM IRELAND COMPLAINTS AND DISCIPLINARY RULES

1. JURISDICTION

Any of the following will be dealt with under these Rules and in accordance with the Procedures unless otherwise indicated:

- (i) Offences;
- (ii) breaches of these Rules;
- (iii) breaches of the Swim Ireland Memorandum and Articles of Association;
- (iv) breaches of Swim Ireland Rule Book;
- (v) breaches of Swim Ireland Code of Conduct for Safeguarding Children Policies and Procedures*, as amended from time to time; or
- (vi) breaches of other Swim Ireland regulations in existence.

*Where a Complaint or Disciplinary Action arises from an alleged breach of the Swim Ireland Code of Conduct for Safeguarding Children Policies and Procedures, the specific page number and paragraph and sub section must be specifically referred to on the Complaint Form or Notice of Disciplinary Action.

In doing so the Complaints and Disciplinary Bodies shall determine the offences committed and the sanctions to be imposed, if any, at Club, Regional or National level.

These Rules together with the Complaints and Disciplinary Procedures (Part 2) regulate the organisation and function of the bodies responsible for taking decisions and the procedures to be followed by these bodies.

In the absence of a specific provision in these Rules, the Complaints and Disciplinary Bodies shall decide according to the general principles appearing in these Rules or, failing that, according to the general principles of Irish law.

1.1 The Rules apply in respect of:

- (a) Complaints against natural and legal persons as specified in paragraph 1.2 of these Rules; and

- (b) Disciplinary matters against any natural or legal persons as set out in paragraph 1.2 of these Rules.

1.2 The following natural and legal persons are subject to these rules:

- (a) Member of Swim Ireland;
- (b) Teacher/Coach/Official;
- (c) Participant in an Event;
- (d) Affiliate Member;
- (e) Associate Member;
- (f) Unit;
- (g) Parent.

1.3 Notwithstanding any other provisions in these Rules, the following matters are excluded from the provisions of these Rules and Procedures:

- (a) Employment and quasi employment contractual disputes, which shall include a Swim Ireland tutor;
- (b) Breaches of any technical provisions of any Competition Rules (other than in respect of eligibility). Such breaches shall be dealt with in accordance with the provisions of such Competition Rules for Swimming, Water Polo and Diving. For the avoidance of doubt, this paragraph shall not cause matters outside any technical breaches of any Competition Rules (as may be determined by any Complaints and Disciplinary Body at its discretion) to be excluded from the provisions of these Rules and Procedures;
- (c) Complaints relating to Board Members of Swim Ireland (which shall be referred to the Chairperson of the Board);
- (d) Allegations of child abuse. Such allegations shall be referred to the statutory authorities and be dealt with as per process under Swim Ireland Safeguarding Children Policies and Procedures, as amended from time to time;
- (e) Competition administration (National level only). Such matters shall be referred to the Chief Executive Officer (CEO) of Swim Ireland;
- (f) Criminal matters. Such matters shall be referred to the statutory authorities;
- (g) Anti-doping matters. Such allegations shall be dealt with in accordance with the Irish Anti-Doping Rules;
- (h) Matters relating to an Affiliate Member or Associate Member outside the auspices of Swim Ireland. Such matters shall be referred to the Affiliate Member or party engaging the Associate

Member. However, nothing in this paragraph shall prevent Swim Ireland from bringing any action under these Rules and Procedures against any Associate Member in respect of any certification or license granted by Swim Ireland to such Associate Member.

2. OFFENCES

- (a) Breach of any rules, statutes, codes, regulations more specifically provided for at clause 1.1 of these Rules;
- (b) Offensive behaviour to other Participants;
- (c) Unsporting behaviour;
- (d) Violation of instructions and directives from Swim Ireland officials;
- (e) Damaging the dignity of a person or a group of persons, in anyway whatsoever, in particular due to colour, race, handicap, sex, sexual orientation, religion or ethnic origin;
- (f) Violation of contractual obligations towards Swim Ireland;
- (g) Cheating;
- (h) Inciting hatred or violence;
- (i) Fighting;
- (j) Aggressive or threatening behaviour;
- (k) Bullying;
- (l) Ineligibility;
- (m) Racism;
- (n) Intimidation or threats;
- (o) Coercion;
- (p) Discrimination;
- (q) Foul language;
- (r) Disparaging comments;
- (s) Forgery or falsification;
- (t) Corruption;
- (u) Acts or omissions bringing the sport of swimming into disrepute;
- (v) Curfew violation;
- (w) Alcohol or substance use;
- (x) Visitation violations;
- (y) Criminal investigation for indictable offences;
- (z) Criminal conviction which is likely to bring Swim Ireland into disrepute;
- (aa) Mischievous or vexatious Complaints.

3. SANCTIONS

3.1 Warnings

Prior to imposing an Immediate Sanction, where appropriate, a Responsible Person may issue any of the following Warnings in any sequence to a Member at an Event prior to imposing an Immediate Sanction:

- (a) Verbal Warning;
- (b) Written Warning.

3.2 Immediate Sanctions

The following Immediate Sanctions may be imposed by a Responsible Person to a Member at an Event:

- (a) Time Out from the Event;
- (b) Removal of Privileges at the Event;
- (c) Suspension from the Event;
- (d) Expulsion from the Event.

3.3 Interlocutory Sanctions

3.3.1 On confirmation that a Respondent is under criminal investigation for a criminal offence, which if proven, is likely to bring the Club, Region or Swim Ireland into disrepute, then the Chair of the Board of Swim Ireland shall be empowered to suspend a Respondent from Membership and/or from future participation in a Club, Region or National Event and/or from

attending a Club, Region or National building pending the outcome of a criminal investigation prior to any hearing on the matter before a Complaints and Disciplinary Committee.

- 3.3.2 The Chair of the Board of Swim Ireland shall be empowered to impose a suspension on a Respondent pending the determination of a Complaints and Disciplinary Committee where the gravity of the Complaint received shall warrant immediate suspension.

3.4 Non Immediate Sanctions

- 3.4.1 The Complaints and Disciplinary Committee (Club, Regional or National) has sole jurisdiction to impose a Non Immediate Sanction save where a Fast Track Committee is convened under clause 1.6 of these Procedures.
- 3.4.2 Non Immediate Sanctions may only be imposed by a Complaints and Disciplinary Committee following a decision either on foot of consideration of all of the documents relating to the Complaint or on foot of an Oral Hearing.
- 3.4.3 Any suspension or removal from Membership or Affiliation from a Club must be notified to Swim Ireland for consideration in accordance with Article 29 of the Swim Ireland Memorandum and Articles of Association as amended in 2011 (or the relevant appropriate article if amended).
- 3.4.4 The following **Non Immediate Sanctions** may be imposed by a Complaints and Disciplinary Committee:
- (a) Reprimand;
 - (b) Severe Reprimand;
 - (c) Written Warning;
 - (d) Removal of privileges;
 - (e) Suspension from participation in:
 - a. Events
 - b. Team/squad;
 - (f) Suspension from Membership/Affiliation;
 - (g) Expulsion from Membership;
 - (h) Fine;

- (i) Suspension of a Licence to Practice;
- (j) Revocation of a Licence to Practice;
- (k) Other.

4. MITIGATING AND AGGRAVATING FACTORS

4.1 A Complaints and Disciplinary Committee shall take into account mitigating and aggravating factors once a decision on culpability is reached but prior to the imposition of a sanction.

4.2 A Complaints and Disciplinary Committee shall take into account the following factors:

- (a) Age;
- (b) Co-operation;
- (c) Prior warnings;
- (d) Prior record;
- (e) Apology made;
- (f) Remorse;
- (g) Gravity of offence;
- (h) Effect on victim;
- (i) Effect of sanction on Respondent;
- (j) Any other factor deemed relevant.

PART 2 – SWIM IRELAND COMPLAINTS AND DISCIPLINARY PROCEDURES

INTRODUCTION

Complaint

A Unit of Swim Ireland may bring a Complaint against another Unit.

Disciplinary Action

A Club, Region or Swim Ireland may initiate Disciplinary Action against a Unit in respect of alleged misconduct.

Guide

The Procedures set out below are intended to provide a step by step guideline as to how a Complaint or Disciplinary Action should be commenced, investigated, decided on and appealed for the benefit of any Complainant, Respondent or Complaints and Disciplinary Committee.

Mediation

In respect of a Complaint only, the Complaints and Disciplinary Officer (CDO) may, prior to a formal Hearing, refer the parties to a Complaint to Mediation. Members of Swim Ireland agree to refer any Complaint to Mediation as organised by Swim Ireland as recommended by the CDO.

Local Level

Complaints and Disciplinary Actions relating to incidents at a certain level (Club, Regional, National) should be dealt with by the Complaints and Disciplinary Bodies at that level, save in respect of First Instance Matters which shall be referred immediately to the Swim Ireland Complaints and Disciplinary Committee (SICDC).

Technical Breaches

The primary function of the Complaints and Disciplinary Committee (at the relevant level) is to hear and decide Complaints and Disciplinary Action. They attempt to do so in a fair and swift manner. In so far as there may be minor technical breaches of these Procedures, Complainants and Respondents must recognise that laymen, who are volunteers, may on occasion administer justice somewhat robustly. Such breaches as such do not constitute cause for dismissal on appeal of a decision.

Appeal

If either party is dissatisfied with the decision of the Complaints and Disciplinary Committee then they may appeal that decision to the Swim Ireland Complaints and Disciplinary Committee (SICDC) via the CDO if the original decision was made at Club or Regional level.

JSI Arbitration

If a party is dissatisfied with the decision of the SICDC then a challenge may be brought to JSI Arbitration only on the basis of the illegality of the decision or procedures used by the Complaints and Disciplinary Bodies.

1. GENERAL

1.1. PROOF

The Complaints and Disciplinary Bodies shall make decisions on culpability based on the 'balance of probabilities' meaning that the incident in question was more likely than not to have occurred.

1.2 CONFIDENTIALITY

Members of the Complaints and Disciplinary Bodies shall keep all information disclosed to them confidential and no disclosure of any detail shall be made to any third party unless in the administration of their disciplinary function. The administration of a disciplinary function may require the disclosure of certain offences and sanctions to be made to other persons at Club, Region or National level but only where strictly required.

1.3 YOUNG PEOPLE (UNDER 18 YEARS OF AGE)

- a. Any Member under 18 years of age shall be accompanied by his/her guardian or parent at any Hearing.
- b. Any Member under 18 years of age who is a Complainant or a Respondent is obliged to be present at a Hearing.
- c. Any Member under 18 years of age who is present at a Hearing as a complainant, Respondent or witness shall be obliged to give evidence (either in writing or at the Hearing, depending upon the circumstances).
- d. In all cases, but particularly where the subject of the Complaint is under 18 years of age, steps should be taken to ensure the fair treatment of both parties, and advice should be sought if necessary from the Club, Region and National Children's Officer/CEO.
- e. The Complaints and Disciplinary Bodies shall ensure a Children's Officer is present where the matter concerns a Member under 18 years of age.

1.4 ROLE OF CHILDREN'S OFFICER

- a. The Children's Officer is appointed by the Swim Ireland Board in the case of the National Children's Officer (NCO); by the Regional Management Committee in the case of the Regional Children's Officer (RCO) and by the Club Committee or Club AGM in the case of the Club Children's Officer (CCO).

- b. The role of the Children's Officer in the context of these Rules and Procedures is to promote and safeguard the rights of child Members in respect of the initiation, investigation, resolution, Hearing, Appeal and implementation of any sanction in respect of a Complaint or Disciplinary Action.

- c. The Children's Officer shall be a notice party to any Hearing involving a child in a Complaint or Disciplinary Action.
- d. The Children's Officer shall receive a copy of the Complaint or Notice of Disciplinary Action and any response thereto together with any supporting documentation submitted, where a Complaint or Notice of Disciplinary Action involves a child Member.
- e. The Children's Officer shall assist any child Member in respect of the meaning and interpretation of rules and procedures and processes involved in a Complaint or Disciplinary Action.
- f. The Children's Officer shall not act as an advisor to any child Member in respect of proving or disproving any facts relating to a Complaint or Disciplinary Action.
- g. The Children's Officer shall immediately liaise with the Parent of a child Member of any Complaint or Disciplinary Action involving that child Member.
- h. The Swim Ireland Children's Officer shall actively support whichever process is deemed to be appropriate by the CDO in the resolution of a Complaint where it is in the best interests of the child Member.
- i. The Children's Officer may attend Mediation if the Mediator deems it appropriate and/or where requested to do so by the child Member.
- j. Prior to any Hearing in respect of a Complaint or Disciplinary Action involving a child, the Complaints and Disciplinary Committee shall correspond with and, if the Children's Officer deems it necessary, meet with the Children's Officer to receive guidelines for the Complaints and Disciplinary Committee.
- k. In particular the Children's Officer may give guidelines to the Complaints and Disciplinary Committee on the following exhaustive list:
 - i. Rules, regulations and guidelines relevant to the welfare of the child;
 - ii. How evidence should be delivered by parties;
 - iii. How to conduct the Hearing in the most child-friendly manner.

The Children's Officer shall have the right to serve notice on the CDO in respect of any concerns of non-compliance by a Committee in respect of best practice for child welfare at a Hearing or to the Secretary of the Club or Region.

1. The Children's Officer shall be present at any Hearing before the Complaints and Disciplinary Committee where the Complainant or Respondent is a child.

- m. The Children's Officer does not have a right to deliver submissions or actively participate at a Hearing unless invited to do so by the Complaints and Disciplinary Committee.
- n. The Complaints and Disciplinary Bodies are not permitted to invite submissions from the Children's Officer in respect of any factual matter in dispute or on any issue of culpability.
- o. The Complaints and Disciplinary Bodies are permitted to invite submissions from the Children's Officer solely in respect of child welfare issues in the context of the Hearing.
- p. The Children's Officer shall not sit on any Complaints and/or Disciplinary Committee and shall not have any role whatsoever in the decision making process.

1.5 EXEMPTION FROM LIABILITY

Members of Complaints and Disciplinary Bodies may not be held personally liable for any deeds, acts or omissions relating to any disciplinary procedure.

1.6 FAST TRACK HEARINGS

In exceptional and urgent circumstances, where it is not possible to convene a Hearing before the National Complaints and Disciplinary Committee i.e. SICDC in the normal course prior to an Event, then either party may apply to the CDO of Swim Ireland who shall arrange an expedited Hearing and who shall have discretion to decide on the appropriate Members and quorum for the expedited ad hoc SICDC.

1.7 COSTS/EXPENSES

Any costs or expenses incurred by a Member (or any of his/her witnesses, if relevant) in relation to any matter under these Procedures will be the sole responsibility of that Member. The Complaints and Disciplinary Bodies shall have no authority to make any award for costs.

There is a cost for each Club, Region and Swim Ireland in administering the Complaints and Disciplinary process. Accordingly, Members when making a Complaint or making an Appeal will be subject to an administration fee as set out below in this document. Where a Complaint is upheld or where an Appeal is upheld, the administration fee may be reimbursed to the Complainant. For the avoidance of doubt, no such fee shall be payable in respect of any Complaint and/or Disciplinary Action brought by any appointed Official, or Officer of Swim Ireland.

1.8 CRIMINAL CHARGES

The Complaints and Disciplinary Committee reserves the right to suspend a Member or Associate Member where that Member or Associate Member is subject to a criminal charge where that charge has the potential to bring the Club/Region or Swim Ireland into disrepute. Once the matter has been dealt with by the statutory authorities, the relevant Complaints and Disciplinary Committee reserves the right to take further action in accordance with these

Procedures including referring the matter to the SICDC, or other Officer such as the National Children's Officer, as appropriate.

In the event of criminal charges being initiated in relation to the alleged misconduct of a Member or Associate Member the subject of the Complaint received by the Club/Region, then the Member or Associate Member may be suspended pending the outcome of the said charges, which will be referred to the statutory authorities. Once the statutory authorities have dealt with the matter, even if the Member or Associate Member concerned is not eventually convicted of the charge, the Club/Region/Swim Ireland shall nevertheless have the right and power to review all circumstances in accordance with these Rules and Procedures and decide to continue the suspension or expel the Member or Associate Member, if it deems it so necessary in the interests of the Club/Region or Swim Ireland as a whole.

1.9 POOR PRACTICE

It should be noted that allegations of breaching the Swim Ireland Safeguarding Children Policies and Procedures 2010 (as amended from time to time) are not necessarily suspected child abuse. A breach of the code of conduct can be due to poor practice which should be dealt with pursuant to these Rules and Procedures. If assistance is required in order to define what is abuse vis-a-vis poor practice the Club/Regional Children's Officers or the Swim Ireland National Children's Officer or the Swim Ireland Development Officers should be contacted for advices. Matters of poor practice are dealt with pursuant to these Rules and Procedures.

1.10 SUSPENSION PENDING HEARING

A Complaints and Disciplinary Committee shall be empowered to impose a suspension on a Respondent pending the determination of a Complaint where the gravity of the Complaint received shall warrant immediate suspension.

This provision is appropriate where a serious offence is committed by a Unit which is unlikely to be disciplined before the occurrence of the next Event that the Unit participates in.

1.11 COMMUNICATION

All communications to or from any party will be conducted primarily by email. An email shall be deemed to have been received within 24 hours of sending, unless documentary proof is adduced to prove otherwise.

1.12 NOTIFICATION TO SWIM IRELAND

Swim Ireland must be notified if a Member is suspended, stepped down from a position or expelled from a Club or Region at any stage during a process.

Notification should be received in writing from the person or committee imposing the sanction stating the sanction imposed, the outcome and their authority in the process.

1.13 MEDIATION AS AN ALTERNATIVE

Mediation is a flexible process conducted confidentially in which a neutral person actively assists parties in working towards a negotiated agreement of a dispute or difference, with the parties in ultimate control of the decision to settle and the terms of resolution.

Mediation is appropriate to a Complaint only.

The CDO may recommend Mediation in appropriate Complaints. Where the CDO so recommends, the parties to the Complaint shall be bound to refer that dispute to Mediation.

Participation in Mediation does not prejudice either party's right to a formal Hearing

before the Complaints and Disciplinary Bodies.

In the event that Mediation is unsuccessful, the Complaint may then proceed through the appropriate Complaints and Disciplinary Body.

2. COMPLAINTS AND DISCIPLINARY BODIES (Club, Regional and National)

2.1 RESPONSIBLE BODIES

The following Bodies shall be responsible for imposing disciplinary sanctions:

- (a) Responsible Person;
- (b) Club and Region Complaints and Disciplinary Committee;
- (c) Swim Ireland Complaints and Disciplinary Committee (SICDC).

2.2 RESPONSIBLE PERSON

2.2.1 Immediate Sanctions may only be imposed by Responsible Persons at an Event.

2.2.2 The Responsible Person need not give a warning as per clause 3.1 of the Rules herein;

2.2.3 The imposition of a warning is not bound by the sequence of warnings as set out in clause 3.1 of the Rules herein;

2.2.4 The imposition of an Immediate Sanction need not be imposed in the order set out at Rule 3.2 of the Rules;

2.2.5 Responsible Persons shall, where a Respondent is under 18 years of age, notify the parents of the Respondent of the Immediate Sanction where such Immediate Sanction involves expulsion from an Event, and/or where a number of warnings and Immediate Sanctions have been imposed prior to the expulsion;

- 2.2.6** Responsible Persons shall prepare a report for the Complaints and Disciplinary Committee within three days of the incident only if:
- i. an Immediate Sanction has been imposed **and**
 - ii. where the Responsible Person deems it necessary that further sanction be imposed on a Respondent (without commenting on what that further sanction should be).
- 2.2.7** The report prepared by Responsible Persons shall contain:
- i. details of the nature of the misconduct;
 - ii. the rule breached;
 - iii. Immediate Sanction imposed; and
 - iv. time, date and venue of the Event.

2.3 COMPLAINTS AND DISCIPLINARY COMMITTEE (Club and/or Regional)

- 2.3.1** The Complaints and Disciplinary Committee, which shall consist of a minimum of three persons over 18 years of age, shall be appointed in accordance with the rules and/or constitution of the Club/Region/Swim Ireland (as the case may be):
- a) Every person appointed to sit on a Complaints and Disciplinary Committee must be a Swim Ireland registered member:
 - b) A written record of the appointed Complaints and Disciplinary Committee must be kept;
 - c) No more than one person from a Club or Regional management committee may sit on a Complaints and Disciplinary Committee.
- 2.3.2** A Children's Officer may not sit on the Complaints and Disciplinary Committee. See clause 1.4 of Part 2 (Procedures) of this document for details of the role of the Children's Officer with regard to the Complaints and Disciplinary Rules and Procedures.
- 2.3.3** A quorum of three Members shall be sufficient to convene a meeting/Hearing of the Complaints and Disciplinary Committee.
- 2.3.4** The Complaints and Disciplinary Committee shall be empowered to delegate any particular function to one Member of the Complaints and Disciplinary Committee, save

and except for any decision making on culpability.

- 2.3.5** Subject to the remainder of this clause, the Chairperson of the SICDC shall, on receipt of a Complaint or Disciplinary Action, appoint three persons from the SICDC to deal with such Complaint or Disciplinary Action. The Chairperson may, at his discretion, appoint further persons from the SICDC where the Chairperson believes that it is warranted due to the seriousness of the Complaint or Disciplinary Action. Any such panel shall be deemed to represent the SICDC as a whole.
- 2.3.6** On appointment, the Complaints and Disciplinary Committee shall appoint a Chairperson to chair any meetings or Hearings.
- 2.3.7** No person appointed to the Complaints and Disciplinary Committee shall stand for more than four years.
- 2.3.8** Any Member of the Complaints and Disciplinary Committee shall decline to participate in the consideration of certain Complaints if there would be serious grounds to question his/her impartiality such as having a direct or indirect interest in the outcome of the proceedings.
- 2.3.9** The Complaints and Disciplinary Committee (or any panel of the Complaints and Disciplinary Committee nominated to hear a particular matter) shall act on a simple majority vote (+ 51%) in arriving at its decision/s.
- 2.3.10** The Complaints and Disciplinary Committee shall have jurisdiction to impose any sanctions as set out in sections 3.2 and 3.3 of the Disciplinary Rules.

2.4 COMPLAINTS AND DISCIPLINARY OFFICER (CDO)

- 2.4.1** Swim Ireland shall appoint a Complaints and Disciplinary Officer.
- 2.4.2** The CDO shall have the following functions:
- (i) To be the recipient of any written Complaint and Disciplinary Report (email to: complaints@swimireland.ie);
 - (ii) To investigate a Complaint or Disciplinary Report. Where any Complaint or Disciplinary Report makes reference to suspected child abuse the CDO shall immediately notify the National Designated Person and the National Children's Officer;

- (iii) To investigate an incident which comes to the attention of the CDO but which is not contained in a Complaint or Disciplinary Report;
- (iv) To determine whether a prima facie case has been made against a Respondent on receipt of a Complaint or an incident which comes to the attention of the CDO but which is not contained in a Complaint or Disciplinary Report;
- (v) To refer the Complaint/Disciplinary Report to the Committee where in the opinion of the CDO a prima facie case to answer has been established;
- (vi) To dismiss a Complaint where after an investigation, in the opinion of the CDO, a prima facie case to answer has not been established;

- (vii) To dismiss a Complaint where an invalid Complaint has been made;
- (viii) To determine if the Complaint has been made in the correct jurisdiction and within the correct timeframes;
- (ix) To receive any fees on behalf of Swim Ireland in respect of a Complaint or Appeal, to pass such fees to the Swim Ireland Office and to instruct and advise the Swim Ireland Office where any fee needs to be returned;
- (x) To refer the parties to a Complaint to Mediation, where appropriate (a Complaint may be referred to Mediation but not a Disciplinary Action);
- (xi) To correspond with and notify the parties of all necessary information prior to a Hearing before the Complaints and Disciplinary Committee;
- (xii) To prepare documents for the Complaints and Disciplinary Committee;
- (xiii) To present the case in respect of a disciplinary matter before the Complaints and Disciplinary Committee, including the calling of witnesses etc;
- (xiv) To maintain a record of decisions of the Complaints and Disciplinary Committee;
- (xv) To liaise with the CEO of Swim Ireland or his/her delegate and to return all records to the Office on completion;
- (xvi) To ensure that sanctions are observed by Respondents.

2.4.3 Where the CDO has any actual, perceived or potential conflict of interest, he/she shall stand aside from investigating the Complaint/Disciplinary matter and the CEO of Swim Ireland shall appoint another CDO in respect of that particular matter. In the event that the CDO does not stand aside, the CEO of Swim Ireland shall be entitled to remove the CDO from the investigation and appoint another CDO.

2.4.4 The CDO is not obliged to investigate any Complaint/Disciplinary Report.

2.4.5 In the course of an investigation of any Complaint/Disciplinary Report, the CDO may consider any evidence he/she deems relevant and shall have the right to make enquiries of any individuals and seek any information or documents in relation to the matter. For the

avoidance of doubt, where necessary, the CDO is entitled to consult with the judge/official/Responsible Person to clarify any issues arising in relation to a Disciplinary Report, including his/her handwriting.

2.4.6 Prior to referring the matter to the Complaints and Disciplinary Committee, the CDO shall notify the Respondent and any other relevant party with the following information and documentation:

- i) Copy of the written Complaint/Disciplinary Report;
- ii) The relevant rule allegedly breached;
- iii) Copy of supporting documents relied on by either party;
- iv) The parties to the Complaint;
- v) The procedures involved;
- vi) The possible sanctions;
- vii) The rights of the parties at the Hearing;
- viii) Any other procedural requirements;

The Secretary of the Complaints and Disciplinary Committee will notify the time, date and venue of the Hearing.

2.5 SWIM IRELAND COMPLAINTS AND DISCIPLINARY COMMITTEE (SICDC)

2.5.1 The SICDC shall act as an appellate body to decisions of the Club or Regional Complaints and Disciplinary Committee decisions.

2.5.2 The SICDC shall act in the first instance for First Instance Matters.

2.5.3 The SICDC shall hear Complaints and Disciplinary Actions in the First Instance at Club/Region level where an application has been made to Swim Ireland by any party and consent is given by the CDO of Swim Ireland to such an expedited Hearing.

2.5.4 The SICDC shall be bound by clause 2.3 of these Procedures.

3. COMMENCEMENT

3.1 Disciplinary Action

Disciplinary Action may be commenced in the following ways:

3.1.1 By a Responsible Person who imposes any Immediate Sanction against a Member.

3.1.2 On receipt of a written report from a Responsible Person or CDO (as the case may be) by the relevant Complaints and Disciplinary Committee.

- 3.1.3** By the CDO or Chairperson of the relevant Complaints and Disciplinary Committee on becoming aware of any alleged breach of rules or regulations or any allegation of misconduct.

3.2 Complaints

The Complaints procedure may be commenced when any party (which includes a Club Committee) makes a written Complaint against a Unit.

- 3.2.1** The Complaint shall be delivered by email to the relevant CDO.

- 3.2.2** For a Complaint to be valid, the written Complaint shall be made:

3.2.2.1 In writing on the Complaint Form Template (see Appendix 1);

3.2.2.2 Delivered to the CDO within 14 days of the date of the alleged incident unless the CDO is satisfied that there are exceptional circumstances to extend beyond the 14 days deadline.

3.2.2.3 Be accompanied by a fee of €50 for First Instance Complaints or

€100 for Appeals or such other amount as determined by the Swim Ireland Office from time to time, (unless otherwise indicated in these Rules and Procedures and which fee shall not include any subsequent fee imposed payable in respect of any Appeal of any decision).

4. MEDIATION

- 4.1** In respect of any Complaint made, which the CDO deems to be appropriate for Mediation, the parties, in the first instance, agree to refer such Complaint to Mediation. No Disciplinary Action shall be mediated.
- 4.2** Where the CDO deems it appropriate to refer the Complaint to Mediation, the CDO will contact the parties within seven days of receipt of such Complaint outlining the reference to Mediation and the contact details for the Mediator.
- 4.3** The time period within which to make and process a Complaint is stayed pending the outcome of the Mediation process.
- 4.4** Swim Ireland shall maintain a panel of Mediators.
- 4.5** The Mediator will make contact with the parties directly and will

arrange meetings with each of the parties and will conduct the Mediation in any manner the Mediator deems appropriate.

- 4.6** The Mediator will use his/her best endeavours to convene the Mediation within seven days of receipt of the Complaint from the CDO.

- 4.7 The Mediator shall notify the CDO within 24 hours after the Mediation of the outcome i.e. whether the process resulted in settlement or not. The Mediator shall keep the terms of any such settlement strictly confidential save where required for proper administration and records.
- 4.8 In the event that the Mediation does not result in settlement of the Complaint, the CDO shall refer the Complaint to the Complaints and Disciplinary Committee for formal resolution.
- 4.9 Swim Ireland may agree to discharge the specific expenses of the Mediator as advised to the parties.

5. COMPLAINTS AND DISCIPLINARY HEARING

- 5.1 Where a Hearing shall take place, within 14 days of receipt of a Complaint or the commencement of Disciplinary Action, the Secretary of the relevant Complaints and Disciplinary Committee (in this clause, the “Committee”) shall write to the relevant parties advising them of:
- (i) Composition of the Committee;
 - (ii) Declaration that the Committee Members have no interest in the outcome;
 - (iii) The parties to the Complaint/Disciplinary Action;
 - (iv) The offence alleged and relevant rule;
 - (v) The rights of the parties;
 - (vi) List of witnesses to be called;
 - (vii) Procedures involved;
 - (viii) Potential sanctions;
 - (ix) Confirmation of documents to hand;
 - (x) Invitation for any further evidence to be relied on/submissions in writing;
 - (xi) Time, date and venue for Hearing.

The Committee shall have discretion to extend the deadline in exceptional circumstances.

- 5.2 In circumstances where an expedited process is necessary, the CDO may designate himself/herself or another Member from the Complaints and Disciplinary Panel to serve as the Committee in the event that it is not possible to constitute the entire Committee in an expedited manner. In such cases, the CDO or the person designated by the CDO shall have all the powers of a Committee as if a Committee had been duly convened.

- 5.3 The Committee, in its discretion, may invite other persons (including but not limited to witnesses, officials or experts) to provide evidence or assistance to the Committee in any form.
- 5.4 The Committee shall decide either to convene an Oral Hearing or to decide the matter on a “documents only” basis. In considering the above the Committee shall have regard to the gravity of the Complaint or Disciplinary Action amongst other matters.
- 5.5 The Committee shall conduct the Hearing of any matter in any manner which it deems appropriate:
- 5.5.1 The Committee shall have the power to convene any meetings by way of teleconference;
- 5.5.2 The Committee shall have the discretion to accept testimony by telephone, written statement or submission, whether by fax, email or other means;
- 5.5.3 The Committee shall have the power to decide on the admissibility, relevance and weight of any evidence (including the testimony of any fact or expert witness) and shall not be bound by any laws or rules regarding the conduct of Court proceedings in relation to such matters. Facts may be established by any reliable means, including admissions.
- 5.6 The parties to a Hearing are entitled to:
- (i) Be accompanied at the Oral Hearing if one is convened, by either a Member of Swim Ireland or a close family Member or someone in loco parentis such as an unrelated guardian or custodian. Legal representatives shall not be permitted;
- (ii) Call witnesses. Such witnesses may only be present to give their evidence and which witnesses may be questioned by the Committee;
- (iii) Make submissions in writing or otherwise.
- 5.7 Where a party exercises any or all of the rights as set out in 5.6 (i) or 5.6 (ii) above then the party shall notify the CDO, Chairperson of the Committee and the other party of the names of any persons accompanying and the names of any witnesses. The Committee shall have due regard to section 1.3 of these Procedures where the witness is under 18 years of age.
- 5.8 A Children’s Officer shall be present at the Hearing where the Complainant or Respondent is under 18 years of age. The Children’s Officer shall attend to ensure that the rights of the child are protected

at the Hearing. The Children's Officer shall be entitled to make observation to the Committee but shall not be permitted to make any decision on culpability.

5.8.1 Where the witness is under 18 years of age, the Children's Officer shall also be permitted to be present and in this regard full permission of the Parent of the witness must be given in order for the witness to be present.

- 5.9 In the case of a Complaint, in the event of the non-attendance, without reasonable cause (considered by the Committee to be justifiable reason for non-attendance) of a Complainant at a Hearing, the Complaint against the Respondent shall be taken no further. In the event of non-attendance, without reasonable cause, of a Respondent at a Hearing, the Committee will be entitled to base its decision on the information and evidence it has received.
- 5.10 The Committee may adjourn or rearrange the Hearing at its discretion. An adjourned or rearranged Hearing shall take place as soon as is practicable, and the suspension of the Member, if already imposed, shall be automatically extended until the rearranged Hearing takes place.
- 5.11 In the case of a Disciplinary Action, the CDO shall present the case against the Respondent, and the CDO shall be entitled to introduce such evidence and witnesses as the CDO may at his/her discretion decide is appropriate. In the case of a Complaint, the Complainant shall present the case against a Respondent.
- 5.12 The CDO/Complainant (as the case may be) shall have the burden of proving the alleged Offence(s) or rule breach(es). The standard of proof shall be whether the CDO/Complainant has established the Offence(s) or rule breach(es) on the balance of probabilities. Where facts are established by virtue of a Disciplinary Report the burden of proof is then on the Respondent to establish the contrary on the balance of probabilities.
- 5.13 Facts established in a Court Hearing where that Court has imposed sanction on a Respondent shall be irrefutable evidence of those facts against a Respondent in a Complaint or Disciplinary Hearing.
- 5.14 A Disciplinary Report shall be, until the contrary is established to satisfaction of the Committee, sufficient evidence of:
- (i) the qualifications and authority of any official/judge/citing commissioner/Responsible Person who has reporting authority; and
 - (ii) the authority of the official/judge/Responsible Person who signed the Disciplinary Report;
 - (iii) the facts stated in the Disciplinary Report.
- 5.15 On deciding culpability but prior to the imposition of a sanction, the Committee shall take into account any aggravating/mitigating factors.
- 5.16 After deciding on culpability of the Respondent, the Committee shall impose a sanction as set out in clause 3.3 and clause 3.4 of the Rules.

5.17 The decision of the Committee shall be made and notified in writing to the relevant parties within three days of the Hearing, unless the Committee deems an extension of time necessary. The CDO shall retain the decision on a register and shall notify the Swim Ireland Office accordingly.

5.18 The written decision shall be in a format as set out in the appendices. The decision shall include reference to the parties' right to appeal the decision to JSI within 14 days of the date of the decision.

5.19 Pending the appeal, the original sanction imposed by the Committee shall remain in force.

6. COMPLAINT TAKEN BY OR AGAINST THE CLUB COMMITTEE (OR BY MEMBER OF THE COMMITTEE AGAINST A MEMBER OF THE CLUB).

6.1 A Club Committee Member or the Club Committee as a whole may make a Complaint against a Club Member or vice versa.

6.2 Where a Club Committee Member makes the Complaint or where the Complaint is made against a Club Committee Member, the Club Complaints and Disciplinary Committee must be appointed without inclusion of that Club Committee Member.

6.3 Where a Complaint is made by a Club Member against a Club Committee or visa versa, then jurisdiction should be declined by the Club to determine the Complaint and a reference should be made to SICDC to hear the matter in the First Instance.

7. APPEALS

7.1 A decision of the Club/Regional Complaints and Disciplinary Committee may be appealed to SICDC.

7.2 A decision of SICDC may be not be appealed but may be challenged before Just Sport Ireland (JSI) Arbitration.

7.3 The Appeal to SICDC shall be a fresh Hearing as if the first Hearing before the Complaints and Disciplinary Committee did not take place.

7.4 The appellant shall deliver a written Notice to Appeal to SICDC within seven days of receipt of the Complaints and Disciplinary Committee's written decision specifying

- (a) date of decision;
- (b) the grounds of appeal; and
- (c) copy of relevant documentation together with an Appeal fee of €100.

- 7.5 The procedures as set out in clause 5 of these Procedures shall apply to Appeal Hearings.
- 7.6 A copy of the Notice of Appeal shall be sent by registered post to the CDO of Swim Ireland and the relevant Complaints and Disciplinary Committee and Complainant/Respondent to any Appeal

8. JUST SPORT IRELAND (JSI) ARBITRATION

- 8.1 Any decision of a Complaint and Disciplinary Committee or an Appeals Committee may ultimately be challenged before JSI Arbitration.
- 8.2 The challenge shall be limited to a review of the legality of the procedures used and the decision made by the Complaints and Disciplinary Bodies.
- 8.3 No Member, Participant, Unit of Swim Ireland, its Affiliate or Associates may issue Court proceedings relating to such dispute in any Court in any jurisdiction.
- 8.4 No dispute shall be referred to JSI Arbitration until all available avenues of resolution under these Rules and Procedures have been exhausted.
- 8.5 A Notice to Arbitrate must be filed with JSI within seven days of the date of the decision. The Notice to Arbitrate must be copied to the CDO of Swim Ireland at complaints@swimireland.ie.
- 8.6 The decision of the JSI Arbitrator shall be final and binding.
- 8.7 JSI Arbitration shall be conducted in accordance with the JSI Arbitration Rules and Procedures and in accordance with the Arbitration Act 2010 or any statutory modification or re-enactment thereof.
- 8.8 The National Children's Officer shall be permitted to attend the Arbitration where any of the parties or witnesses are under 18 years of age

For more details on Just Sport Ireland refer to <http://www.justsport.ie>.

APPENDICES

1. Swim Ireland Complaint Form Template 2012
2. Swim Ireland (Written) Complaint Decision Template 2012
3. Swim Ireland Sanction Guidelines 2012

APPENDIX 1 Swim Ireland Complaint Form Template 2012

SWIM IRELAND COMPLAINT FORM

BETWEEN:

Complainant
(insert name of Complainant here):

-and-

Respondent
(insert name of Respondent here):

- If a Complainant or Respondent is under 18 years of age then please state the name of the parent or guardian to represent the Complainant/Respondent.
- Failure to complete all sections will result in an invalid Complaint.
- A Complaint must be delivered to the Club or Regional Secretary or to the Complaints and Disciplinary Officer (CDO) by **email** within 14 days of an incident.
- A Complaint must be accompanied by payment of a €50 fee. An Appeal must be accompanied by payment of a €100 fee.
- The completed Complaint form should be returned to:
 - A) **If Internal Club Complaint** – Club Secretary by email
 - B) **If External Club Complaint** – by email to complaints@swimireland.ie

1. YOUR CONTACT DETAILS:

Name: _____

Parent/Guardian: _____

Address: _____

Tel No: _____

Email:

Club:

2. COMPLAINT DETAILS

When completing this section, please give as much information as possible.

Date of incident(s)

Location of incident(s)

Details of incident(s)

Name of other party/ies

Club of other party/ies

Name of Witness/es

Club of Witness/es

3. DESCRIPTION OF COMPLAINT

You must specify the exact nature of your complaint(s):

Description of Offence:

(You must identify one or more Offences in Section 2 of the Swim Ireland Complaints and Disciplinary Rules that you allege has/have been breached). Where the offence is a breach of a code of conduct, you must specify which area/s of the code of conduct specifically that you allege have been breached.

4. SUPPORTING DOCUMENTATION

If you are supplying supporting documentation please set out a description of each document relied on here:

Document A _____

Document B _____

Document C _____

Document D _____

5. AGREEMENT TO MEDIATE

I HEREBY AGREE TO PARTICIPATE IN THE MEDIATION OF THIS DISPUTE IF THE CDO DEEMS IT APPROPRIATE THAT THIS COMPLAINT BE MEDIATED. PLEASE NOTE THAT THIS IS MANDATORY UNDER THE SWIM IRELAND COMPLAINTS AND DISCIPLINARY RULES AND PROCEDURES.

Signed: _____

Name in block: _____

Date: _____

The Complaints and Disciplinary Bodies shall keep all information disclosed to them confidential and no disclosure of any detail shall be made to any third party unless in the administration of the disciplinary function or a requirement by law.

APPENDIX 2 - Swim Ireland (Written) Complaint Decision Template 2012

SWIM IRELAND COMPLAINT DECISION FORM

IN THE MATTER OF A SWIM IRELAND COMPLAINT

BETWEEN:

Complainant

(insert name of Complainant here): _____

-and-

Respondent

(insert name of Respondent here): _____

A Complaint having been made by [name of Complainant] against [name of Respondent] in respect of an alleged [details of offence] alleged to have occurred at [place] on [date] in breach of Rule [specify Rule].

The matter having been considered by the Complaints and Disciplinary Committee [on a documents only basis] OR [at an Oral Hearing] on (specify time date and venue) – DELETE WHERE APPROPRIATE.

On assessment of the evidence and submissions presented to the Complaints and Disciplinary, the Committee preferred the evidence of the [Complainant]/[Respondent] - DELETE WHERE APPROPRIATE that the alleged offence as per Rule [specify Rule for offence] [was]/[was not] - DELETE WHERE APPROPRIATE committed by the Respondent in breach of Rule [specify Rule].

Having taken into account all aggravating and mitigating circumstances, the Complaints and Disciplinary Committee **HEREBY DETERMINES** by [majority]/[unanimously]] - DELETE WHERE APPROPRIATE [to impose a Sanction]/[not to impose a Sanction] - DELETE WHERE APPROPRIATE on the Respondent.

Specifically the Complaints and Disciplinary Committee imposes the following Sanctions: [Insert (i) Sanction and (ii) specific Rule which empowers the Committee to impose Sanction].

The Complainant and Respondent are advised of their right of appeal to [name of Appeals Body] within 14 days from the date of this Decision.

Dated [insert date]

Signed [by quorum of members of the Complaints Committee present at the hearing – minimum 3]

APPENDIX 3 - Swim Ireland Sanction Guidelines 2012

OFFENCE	LOW OFFENCE	MEDIUM OFFENCE	HIGH OFFENCE
Fighting, Aggressive or threatening behaviour	N/A	Written Warning	Suspension from: (a) Membership/Affiliation (b) participation in an Event/Team or Squad
Offensive behaviour to other swimmers, participants, judges or Swim Ireland officials	Fine €25	Fine €50	Fine €100 + Written Warning
Unsportsmanlike behaviour	Reprimand	Written Warning	Fine €100 + Written Warning
Violation of instructions and directives from Swim Ireland Officials	Reprimand	Written Warning Fine	Suspension from participation in: (a) Events (b) Team/Squad Fine
Damaging the dignity of a person or a group of persons, in any way whatsoever, in particular due to his/her colour, race, handicap, sex, sexual orientation, religion or ethnic origin	N/A	Suspension from participation in: a) Events b) Team/Squad Written Warning Removal of Privileges Suspension from Membership/Affiliation Fine Suspension of a Licence	Expulsion from Membership Fine Revocation of a Licence to Practice Other

		to Practice	
Violation of contractual obligations towards Swim Ireland	Reprimand	Reprimand Written Warning Removal of Privileges Suspension from: (a) Events (b) Squad Suspension from Membership/Affiliation Fine	Expulsion from Membership Fine Revocation of a Licence to Practice Other

OFFENCE	LOW OFFENCE	MEDIUM OFFENCE	HIGH OFFENCE
Cheating	Reprimand Suspension from participation in a) Events b) Team/Squad Fine	Severe Reprimand Written Warning Removal of Privileges Suspension from participation in: (a) Events (b) Squad Suspension from Membership/Affiliation Fine	Expulsion from Membership Fine Revocation of a Licence to Practice
Racism	N/A	Written Warning Suspension from participation in: (a) Events (b) Team/Squad Removal of Privileges Suspension from Membership/Affiliation Fine Suspension of a Licence to Practice	Expulsion from Membership Revocation of a Licence to Practice Fine Other
Inciting hatred or violence	N/A	Severe Reprimand Written Warning Removal of Privileges Suspension from participation in: (a) Team (b) Squad Suspension from	Expulsion from Membership Revocation of a Licence to Practice Fine

		Membership/Affiliation Fine Suspension of a Licence to Practice	
Visitation violation	Reprimand	Written Warning Fine	Written Warning Severe Reprimand Fine
Curfew violation	Reprimand	Reprimand Written Warning Fine	Written Warning Severe Reprimand Fine
Bullying	Reprimand	Written Warning Severe Reprimand Removal of Privileges Suspension from participation in: (a) Team (b) Squad	Expulsion from Membership Revocation of a Licence to Practice

OFFENCE	LOW OFFENCE	MEDIUM OFFENCE	HIGH OFFENCE
Ineligibility	Reprimand	Reprimand Written Warning	Severe Reprimand Written Warning Suspension from participation in: (a) Events (b) Team/Squad
Intimidation or threats	Reprimand	Written Warning Severe Reprimand Suspension from Membership/Affiliation €50 Fine	Expulsion from Membership Revocation of a Licence to Practice €100 Fine Other
Coercion	Reprimand	Written Warning	Severe Reprimand Suspension from Membership/Affiliation Suspension of a Licence to Practice
Discrimination	Reprimand	Written Warning Suspension from participation in: (a) Events (b)Team/Squad	Severe Reprimand Suspension from participation in: (a) Events (b)Team/Squad Suspension from Membership/ Affiliation
Foul language	Reprimand	Written Warning Fine	Severe Reprimand Written Warning Fine
Disparaging comments	Reprimand Fine	Written Warning Fine	Written Warning Severe Reprimand

			Suspension from participation in: (a) Events (b) Team/Squad Fine
Forgery or falsification	Reprimand Fine	Written Warning Severe Reprimand Suspension from participation in: (a) Events (b) Team/Squad Fine	Expulsion from Membership Revocation of a Licence to Practice Fine
Corruption	N/A	Suspension from Membership/Affiliation Fine Suspension of a Licence to Practice	Expulsion from Membership Revocation of a Licence to Practice Fine Other

OFFENCE	LOW OFFENCE	MEDIUM OFFENCE	HIGH OFFENCE
Acts or omissions bringing the sport of swimming into disrepute	N/A	Written Warning Suspension from Membership/Affiliation Suspension of a Licence to Practice Fine	Severe Reprimand Expulsion from Membership Revocation of a Licence to Practice Fine
Alcohol or substance use at an Event	Reprimand Suspension from participation in: (a) Events (b) Team/Squad Fine	Written Warning Severe Reprimand Removal of Privileges Suspension from Membership/Affiliation Fine Suspension of a Licence to Practice	Expulsion from Membership Revocation of a Licence to Practice Fine
Criminal investigation for indictable offences	Suspension from participation in: (a) Events (b) Team/Squad pending the outcome of criminal investigations	Suspension from participation in: (a) Events (b) Team/Squad pending the outcome of criminal investigations	Suspension from participation in: (a) Events (b) Team/Squad pending the outcome of criminal investigations
Criminal conviction likely to bring Swim Ireland into disrepute.	Suspension from Membership	Expulsion from Membership	Expulsion from Membership
Mischievous or vexatious Complaints	Reprimand Fine	Reprimand Written Warning	Severe Reprimand Fine

		Fine	Suspension from participation in: (a) Events (b) Team/Squad
Participation at an Event without the permission of Swim Ireland	Reprimand	Severe Reprimand Written Warning	Suspension from participation in: (a) Events (b) Team/Squad
Purporting to represent Swim Ireland without the permission of Swim Ireland	Reprimand Suspension from participation in: (a) Events (b) Team/Squad	Severe Reprimand Written Warning Suspension from Membership Fine	Severe Reprimand Written Warning Suspension from Membership Fine Expulsion from Membership
Taking part in a competition or display organised by a club or committee not affiliated to Swim Ireland	Reprimand	Reprimand	Severe Reprimand Suspension from participation in: (a) Events (b) Team/Squad
Breaches of Rules and Codes of Conduct	Reprimand	Written Warning Fine	Severe Reprimand Suspension from participation in: (a) Events (b) Team/Squad Fine
Other			

NOTES

Please note that this document is designed to provide guidance only for Complaints and Disciplinary Committees.

Complaints and Disciplinary Committees should always take into account aggravating and mitigating circumstances before deciding on a sanction to be imposed.

Complaints and Disciplinary Committees should reduce the scale of an offence when there is compelling mitigating circumstances. Likewise Complaints and Disciplinary Committees should increase the scale of an offence where there is compelling aggravating circumstances.

SUSPENSION PERIOD	Low = 1-2 Weeks	Medium = 2-4 Weeks	High = 5 Weeks +
FINES			
Individual	€20	€50	€100
Club	€50	€100	€500