

Swim England Judicial Regulations FAQ's

Please note: throughout this document, references to club include and are applicable to any organisation affiliated to Swim England.

General

Why have these changes been made?

An in-depth review into the regulations and processes relating to Safeguarding and Complaints has been ongoing since early 2023. Following Mr Louis Weston's review into three cases considered by Swim England we are implementing the recommendations he has made, in addition to this we have taken into account the findings of the Listening Report and as such have tried to reduce the burden placed on our volunteers with these changes.

Who is Mr Louis Weston?

Mr Weston is a barrister who was commissioned by Sport England to review Swim England's handling of three complaints in 2022. His findings were published in March 2023 and his recommendations have guided us in making the changes.

Please see the link to the report: <https://www.sportengland.org/news/report-published-handling-complaints-swim-england>

Is there a new Swim England Handbook 2024 due to be released which incorporates this?

A new Handbook has been released effective 3 September 2024. You can view the current handbook here: <https://www.swimming.org/swimengland/swim-england-handbook/>.

Will you provide a summary of changes to help everyone identify the updated areas and will we be required to update the constitution?

We do provide a change log at the bottom of the webpage: <https://www.swimming.org/swimengland/swim-england-handbook/>.

We will also amend the two Swim England model constitutions for clubs who are unincorporated and also those who are a Charitable Incorporated Organisation in the summer but these are minor changes. Again guidance notes are included to refer to any changes. These two documents can be found here: <https://www.swimming.org/swimengland/setting-up-your-club/>

I need Club complaint support and help to understand the new regulations. Where can I go?

Please email clubdevelopment@swimming.org.

How can I feedback on the Regulations guidance?

We welcome any feedback on the regulations guidance and it is gratefully received. Please email legal@swimming.org.

Will there be any changes to what is required from a SwimMark point of view?

SwimMark is currently under review, however, these regulations changes have no effect on it. Please see the review details here:

<https://www.swimming.org/swimengland/swimmark-review/>.

Have more Swim England friends been recruited?

We have recruited more Swim England friends and will continue to look to do so. For anyone who needs guidance and support who is going through the club complaints process, please email signposting@swimming.org to request a Swim England friend.

Club Complaints

Can you give examples of the types of complaint you would expect as club complaints or those that are judicial complaints? i.e. the difference between a rule breach of a club and breach of Swim England regulations and misconduct?

A club complaint would cover internal disputes between members within the club, such as where an argument may exist over lanes etc.. A Judicial Complaint would be where someone has breached Swim England regulations or our code of ethics, for example discrimination, or failure to comply with requirements of our regulations.

What are the guidelines for stopping the clock?

The chair will have the ability to 'stop the clock' and review a complaint to encourage parties to resolve informally or through mediation. Informal resolution ensures that matters are resolved quickly and smoothly and, to encourage such, any timeframes within the regulations will be paused pending attempts to resolve the dispute informally. This can happen at any time throughout the process. We have produced guidance documents to help support anyone going through the club complaint process [here](#).

Do clubs need to inform Swim England of a mediated outcome if a compliant form has been completed. Also have you now provided a template to record the outcome?

We would only require panel decisions to be communicated to us and not informal outcomes. A form has been produced for clubs to record the panel decision and this will send directly to Swim England. This is available [here](#).

The outcome of any information resolution attempts can be recorded on the Club complaint form but Swim England will not need to see this.

Why are Clubs having to inform Swim England of the determination of a club complaint?

By providing the outcomes to Swim England, it allows us to monitor how effectively the process is working. It also allows us to monitor trends within our sports to identify common issues faced by clubs (and our members) and where we can provide more support. You can inform of a determination of a club complaint by emailing legal@swimming.org.

If a club is required to share details and outcome of a club complaint to Swim England, is that not a data protection / privacy breach?

We believe that there is a legitimate interest in clubs and Swim England upholding standards of behaviour in sport and that, therefore, there is a lawful basis to share such information. The template created will not include individual names (other than club name) and just the nature of the complaint and what the outcome was.

Does the new reporting requirement not increase the work for volunteers?

We do accept that it is an extra step that needs to be completed (to inform Swim England of the outcome, in addition to the parties). We expect that in the long run, that being able to see the issues commonly faced by clubs will allow us to work to prevent issues in the future and reduce the burden on volunteers as a result.

Judicial Complaints

Are the Judicial Committee members independent of any club affiliated to Swim England?

Our panel members (nationally) vary greatly. Some are independent of any club, others are not. We always ensure that no panel member hears a case where there may be a conflict of interest and all panel members have appropriate training and expertise in specific areas of legal and safeguarding.

How does the judicial commissioner 'triage' the new complaints proceedings to rule out factitious complaints?

This would take the same approach as they currently do by reviewing the complaints and determining they meet the requirements for such. They have a power to dismiss such complaints but also to combine multiple complaints.

With regards to an appeal, what covers 'unfairness' and is there any guidance?

There will be a limited scope for appeal of a club complaint decision and appeals are limited to grounds of appeal only. This will prevent a drawn-out process for club volunteers and all parties involved.

Disagreement with the findings of a Club Complaint Panel or a Judicial Committee alone does not form grounds for an appeal. There is more guidance around appeals [here](#).

Safeguarding

Will these changes to the regulations be reflected in Wavepower?

While there will be some very minor changes to Wavepower, the regulations changes themselves will not require any major amendments to it.

Who will determine the appropriate level of expertise with regards to the Safeguarding Committee?

We have a judicial appointments panel - each region may elect one member - which reviews all applications to be on the panel and determines whether they are sufficiently experienced to 'count' as a legal or safeguarding member.

Within safeguarding, it has been suggested that if a complaint was made there would be a defined process that would make the process fairer. What is this process?

We now have regulations in place which require more from us regarding investigations. The safeguarding process also now requires that sanctions are only issued following a hearing by an independent judicial committee, rather than being imposed by the Case Management Group. The regulations may be found in the Swim England Handbook [here](#).

If the police are involved and a temporary suspension is only 90 days, how will a suspension be extended if the police investigation is protracted?

There is the power to extend a temporary suspension beyond 90 days where required, and this would be an example of where it is, however, for fairness this extension would be considered by a Judicial Committee.

In terms of carrying out safeguarding investigations, who will be carrying out these investigations?

Where there is a safeguarding concern, we use sport resolutions' safeguarding case management programme, which appoints an independent investigator from a panel of investigators that they use.