**Constitutional Rules of Cumbria Amateur Swimming Association**

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**1. NAME**

1.1 The Association shall be called the Cumbria Amateur Swimming Association (herein after called the Association) and shall be based on the unitary authorities of Cumberland Council and Westmorland and Furness Council.

**2. AIMS**

2.1 The aims of the Association shall be to:

2.1.1 Carry out the aims, objectives and directions of Swim England (SE) and Swim England North West Limited (SENWL).

2.1.2 Obey and enforce the Articles, Regulations and Technical Rules of Swim England (‘Swim England Regulations’).

2.1.3 Manage the sport of swimming throughout Cumberland, and Westmorland and Furness subject to the strategic direction of Swim England and Swim England North West Limited.

2.1.4 Promote and encourage the knowledge and the practice of all the aquatic disciplines by means of championships and competitions.

**3. POWERS and RESPONSIBILITIES**

3.1 The Association shall be affiliated to, and subject to the Articles of Association and associated rules and regulations of Swim England North West Limited.

* 1. The Association:
		1. Is committed to treat everyone equally within the context of its activity and with due respect to the differences of individuals.
		2. Shall not apply nor endorse unlawful or unjustified discrimination, and shall act in compliance with the protections afforded by the Equality Act 2010 (as may be amended from time to time).
		3. Shall implement the Swim England Equality Policy (as may be amended from time to time).
		4. Will comply with the Data Protection Act 2018 (as may be amended from time to time). [The Data Protection Act 2018 is the UK’s implementation of the EU’s General Data Protection Regulations – GDPR.]
		5. Shall in accordance with Swim England Regulations adopt and comply with Swim England’s Child Safeguarding Policy and Procedures (‘Wavepower’); and shall recognise that the welfare of children is everyone’s responsibility and that all children and young people have a right to have fun, be safe and be protected from harm.
		6. Shall in accordance with Swim England Regulations adopt and comply with the Code of Ethics (see Appendix B).
		7. Shall comply with the requirements and procedures of the Swim England Judicial Regulations for handling internal club disputes as may be revised from time to time.
		8. Shall comply with the laws and rules of British Swimming, in particular its Doping Control Rules and Protocols and the Judicial Code.
		9. Shall comply with the laws and rules of World Aquatics, the world governing body for the sport of swimming in all its disciplines (together ‘the Governing Body Rules’).
		10. Shall comply with the laws and rules of European Aquatics, the European governing body for the sport of swimming in all its disciplines.

3.2.11 All entrants to county competitions shall be members of the club or other organisation they represent, shall be eligible competitors as defined in the Swim England Laws and Regulations and shall comply with the competition conditions of the Association and Swim England when competing.

* + 1. Shall make a nomination for the position of President of Swim England North West in accordance with the requirements of Swim England North West Limited.

3.3 In the event that there shall be any conflict between any rule or by-law of the Association and any of the Governing Body Rules then the relevant Governing Body Rules shall prevail.

3.4 Produce and issue as required Constitutional Rules for the operation and management of the Association and operate on the basis of an appropriate constitution which shall be reviewed and approved from time to time by Swim England North West Limited.

3.4.1 Such Constitutional Rules shall contain any mandatory provisions in respect of any parts of the governance of the Association received from Swim England and Swim England North West Limited and may contain recommended and optional provisions from Swim England North West Limited and/or Swim England.

3.5 Take disciplinary action against a club or individual (see Rule 5).

**4. AFFILIATION and MEMBERSHIP**

4.1 The Association shall automatically affiliate those clubs affiliated to Swim England North West Limited and who are based in Cumberland, and Westmorland and Furness and they shall be liable for any affiliation fee set by the Association. No club can be refused membership on discriminatory grounds.

4.2 The membership of the Association shall comprise:

4.2.1 Those clubs, and the individual members of those clubs, who are affiliated to the Association.

4.2.2 Individuals consisting of:

4.2.2.1 The President and Executive Officers and other designated post holders, as decided, from time to time, by the Executive Committee. All holders of individual positions shall be members of an affiliated club and shall be not less than 18 years of age.

4.2.2.2 Life Vice Presidents. Such persons shall be elected to Life Membership of the Association for outstanding or meritorious services rendered to the Association at an Annual Council Meeting

4.3. Resignation

4.3.1 A club or individual member wishing to resign membership of the Association must give written notice to the Secretary via post or electronic means.

4.3.2 A member who resigns from the Association or whose membership is terminated shall not be entitled to have any part of the of the Association’s membership fee refunded and must immediately return any Association property.

**5. SUSPENSION and OTHER DISCIPLINARY ACTION**

5.1 Swim England shall have the power to temporarily suspend or suspend for a specified term clubs or individuals in accordance with Judicial Regulations and Child Safeguarding Regulations as the same may be revised from time to time.

5.2 Any club not having paid its annual affiliation and membership fees to Swim England by 28th February will be suspended by Swim England.

5.3 Any club made the subject of a suspension imposed by Swim England or Swim England North West Limited shall automatically be suspended by the Association. Members of that club shall automatically be suspended and shall not be allowed to take part in any activities of the Association (or Swim England) until such time as the liability has been discharged.

5.4 If a complaint or dispute that involves a breach of Swim England Law is received by the Association it shall be submitted to Swim England for consideration under the Judicial Regulations of Swim England.

5.5 The Executive Committee shall have the power to:

5.5.1 Suspend a club or individual member proved guilty of infringing the Rules of the Association, or acting in such a manner as to bring disrepute to the Association.

5.5.2 Remove from office or appointment, or suspend from any activity within the

 jurisdiction of the Association, any officer or appointee of the Association against whom a complaint has been upheld under the Swim England Judicial Regulations for handling internal club disputes having regard to any penalty so ordered.

5.5.3 Expel a club or member when, in its opinion, it would not be in the interests of the Association for the club or individual to remain a member.

5.6 In the event that Rule 5.5 is invoked the Association shall only take such action after the requirements and procedures of the relevant Swim England Judicial Regulations for handling internal club disputes, as the same may be revised from time to time, have been complied with. A copy of the relevant Regulations and Procedures are given as Appendix C to these Constitutional Rules.

5.7 A member may not be expelled or be made the subject of any other penalty unless the Executive Committee shall unanimouslyvote in favour of the expulsion, suspension or other penalty imposed upon the member.

5.8 Upon expulsion the former member (club or individual) shall not be entitled to have any part of the annual Association membership fee refunded and must immediately return any Association property.

5.9 The Executive Officers, Executive Committee post holders, officials in charge of a particular event or any other person to whom the Committee shall delegate this power, may temporarily suspend or exclude anyone from participating in activities of the Association when in their opinion such action is in the interests of the Association. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Regulations.

**6. FINANCE**

6.1 Financial arrangements

6.1.1 The financial year of the Association shall be the period commencing on 1st October and ending on 30th September. Any change to the financial year shall require the approval of the Annual Council Meeting.

6.1.2 All monies payable to the Association shall be received by the Treasurer and deposited in bank accounts in the name of the Association. No sum shall be drawn from the account by cheque or by electronic means or online unless approved in advance by another of the authorised signatories who shall be decided by the Executive Committee. Any monies not required for immediate use may be invested as the Executive Committee in its discretion think fit.

6.1.2.1 No sum shall be drawn from any account except by the method agreed by the Executive Committee which includes a minimum of the Treasurer and one other of the authorised signatories. No two Executive Officers shall be related or in a relationship.

6.1.3 The Treasurer shall record the financial transactions of the Association in such a manner, as the Executive Committee think is appropriate.

6.1.4 The Association shall retain all financial records and minutes of meetings for a minimum period of six years.

6.1.5 The Executive Committee shall have the power to set the level of payment of remuneration and expenses to any officer, member, or other such person for services rendered to the Association.

6.2 Affiliation and membership fees

6.2.1 The Executive Committee shall determine the amount payable for the next financial year, if any, to the Association for the annual club affiliation fee and any per capita membership fee.

6.2.2 If the relevant fees are to be charged by the Association and collected by Swim

 England the Executive Committee shall notify Swim England North West Limited by a date set by Swim England.

6.2.3 The level of the affiliation and per capita fees for the next financial year shall be notified to the Annual Council Meeting who shall have the opportunity to comment and to make recommendations to the Executive Committee as to the future levels of the fees.

6.2.4 The Executive Committee shall have the power to set any other fees as required.

6.2.5 The Executive Officers shall have the power in special circumstances to remit the whole or part of any fees or costs levied on members to address issues of social inclusion.

6.3 Borrowing

6.3.1 The Executive Committee may borrow money on behalf of the Association for the purposes of the Association 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 Annual Council Meeting for the general upkeep of the Association or with the (prior) approval of the Annual Council Meeting for any other expenditure, additions or improvements.

6.3.2 When so borrowing the Executive 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 Association.

6.3.3 The Executive Committee shall have no power to pledge the personal liability of any member of the Association for the repayment of any sums so borrowed.

6.4 Association funds

6.4.1 The income and property of the Association shall be applied only in furtherance of the aims and objectives of the Association and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Association or to an external organisation.

6.5 Indemnification

6.5.1 Every member of the Executive Committee, trustees, employees, servants or agents of

 the Association shall be indemnified by the Association for all costs, losses and expenses which any such persons may incur or for which they may become liable by reason of any contract entered into or act or thing done by them in good faith in the discharge of their duties.

6.6 Expenses

6.6.1 Any member of any duly appointed or elected member of the Executive Committee, or employee, servant or agent of the Association or any person duly appointed by the Association to act with its authority shall be paid their expenses necessarily incurred in accordance with the Association’s expenses policy.

**7. GOVERNANCE**

7.1 There shall be three levels of governance of the Association:

7.1.1 The Council.

7.1.2 The Executive Committee.

7.1.3 Other standing or sub committees as may be established.

7.2 A person who is nominated or appointed as a delegate to the Council, to the Executive Committee, to any other committee, as an Officer, or to any other post which carries the right to vote at any level of governance of the Association must be a member of a club affiliated to the Association and be not less than 18 years of age.

7.3 The management of the Association shall be exercised through Council Meeting(s) and at least four meetings of the Executive Committee each year.

7.3.1 The Annual Council Meeting (ACM) shall be held in November each year.

7.3.2 Executive Meetings shall be held on dates agreed at each ACM.

**8. EXECUTIVE OFFICERS**

8.1 The Executive Officers of the Association shall be the Chair, the Vice Chair, the Secretary and the Treasurer each of whom shall be a member of a club affiliated to the Association.

**9. COUNCIL**

9.1 Membership

9.1.1 The Council of the Association shall consist of the following each of whom shall be a member of a club affiliated to the Association:

9.1.1.1 President.

9.1.1.2 Past Presidents.

9.1.1.3 Life Vice Presidents.

9.1.1.4 The Executive Officers of the Association.

9.1.1.5 Other post holders appointed/elected to the Executive Committee.

9.1.1.6 Delegates of affiliated clubs.

9.1.1.6.1 Each club affiliated to the Association shall be entitled to representation at Annual and Special Council meetings by two delegates who must be members of that club and be 18 years of age or over.

9.1.1.7 A member of the Council shall only be permitted one vote regardless of the number of positions they may hold.

9.2 Duties and Responsibilities

9.2.1 Deal with all matters of governance according to the rules of the Association.

9.2.2 Oversee the work of the Executive Committee and to receive its reports and accounts.

9.2.3 Consider and decide on any proposed additions, alterations or deletions to these rules.

9.2.4 Keep full and accurate minutes of its meetings.

9.2.5 Discuss any matters that are relevant and pass resolutions and orders concerning them.

9.3 Meetings

9.3.1 The Annual Council Meeting of the Association shall be held in November each year.

9.3.2 Only in the event of exceptional circumstances shall the Annual Council Meeting be postponed once the date, time and venue has been fixed and advised to the members.

9.3.2.1 A postponed Annual Council Meeting shall normally be reconvened on a date within one month of the original date and a minimum of 7 days advance notice given to the members of the rescheduled date, time and venue. At this meeting, the same agenda as originally issued shall be used.

9.3.2.2 Not more than 15 months shall elapse between any two consecutive Annual Council Meetings.

9.3.2.3 If a meeting commences but is adjourned for want of time or for other good reason, the members present at the meeting will be notified there and then of the adjourned date if practicable. If not, and the matter is adjourned for more than 14 days all members shall receive 7 days notice in writing of the adjourned hearing.

9.3.2.4 Any dissolved or adjourned meeting must be re-convened and the business completed within two months of the adjournment

9.3.3 The Secretary shall be responsible for providing each affiliated club and each member of the Executive Committee written notice of the date, time and place of the Annual Council Meeting or of a Special Council Meeting together with the resolutions to be proposed, at least 7 days before the date of the meeting and in the case of the Annual Council Meeting a list of the nominees for the Executive Officers and the Executive Committee posts and a copy of the examined accounts.

9.3.4 A Special Council Meeting may be called in response to:

9.3.4.1 An order of the Executive Committee to deal with ad hoc matters which need to be decided by the Council and which cannot be postponed until the Annual Council Meeting.

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9.3.4.2 A resolution of the Council carried at any meeting of the Council.

9.3.4.3 A requisition in writing, received by the Secretary, signed on behalf of not less than five different clubs or by a total of seven bodies including affiliated clubs and members of the Executive Committee. The request to state the purpose for which the meeting is required and the resolutions proposed.

9.3.5 The Secretary shall call a Special Council Meeting within 28 days of the receipt of a requisition to call the meeting.

9.3.6 Not less than 14 days’ notice of a Special Council Meeting shall be given to all affiliated clubs. The notice shall specify the object of the meeting. The venue and time of such a meeting shall be at the discretion of the Executive Committee.

9.3.7 No business shall be discussed at a Special Council Meeting other than that prescribed by the Council, the Executive Committee or that stated in the request for the meeting, as the case may be.

9.3.8 The Executive Committee shall fix the date, the time and the venue of the Annual and Special Council Meetings.

9.3.9 The Annual Council Meeting shall transact the following business:

9.3.9.1 Receive and comment on the Annual Report of the activities of the Association during the previous year. The Annual Report shall include the reports of any sub-committees.

9.3.9.2 Receive the reports of the discipline secretaries for the previous year.

9.3.9.3 Receive and consider the accounts of the Association for the previous year and Treasurer’s report as to the financial position of the Association.

9.3.9.4 Discuss any matters that are relevant and pass resolutions and orders concerning them.

9.3.9.5 Elect the following; the President and Executive Officers shall remain in office until their successors are elected at the next appropriate Annual Council Meeting and the meeting has been closed:

9.3.9.5.1 The President, who shall serve for a term not exceeding two annual periods and who shall be installed on a date determined by the Annual Council Meeting. The current President shall remain in office until the installation of the new President.

9.3.9.5.2 The President Elect.

9.3.9.5.3 The Executive Officers of the Association and discipline secretaries who shall retire from office at the Annual Council Meeting each year, but shall be eligible for re-election.

9.3.9.5.4 Life Vice President(s). The Executive Committee may nominate any person as a Life Vice President for outstanding or meritorious services rendered to the Association and they shall be entitled to all the privileges of membership except that they shall not be entitled to vote at meetings and serve as Officers or on the Executive Committee unless any such person shall also be a fee paying member of an affiliated club.

9.3.9.6 To decide on the dissolution of existing life memberships.

9.3.9.6.1 Life memberships may only be removed at an Annual Council Meeting of the Association, when it shall be properly proposed in accordance with these Rules. The reason(s) for the proposal shall be circulated with the agenda.

9.3.9.6.2 A minimum of 21 days in advance of the Annual General Meeting, the Executive Committee shall write to all holders of life membership effected by the above proposal drawing the proposal to their attention and inviting them to attend the Annual Council Meeting.

9.3.9.6.3 Where the affected holder(s) of life membership do not attend or are unable to attend the Annual Council Meeting, the Chairman may allow the matter (in so far as it relates to the absent person(s)) to proceed directly to vote, which shall be by secret ballot.

9.3.10 Nominations for election of members to the position of President or to any office of the Association shall be made in writing by the proposer and seconder to the Secretary, not later than 31st October prior to the Annual Council Meeting, with the written consent of the nominee.

9.3.11 Nominations for election to the position of Life Vice President shall be made to the Annual Council Meeting by the Executive Committee.

9.3.12 The Annual Council Meeting shall appoint the following:

9.3.12.1 One or more independent Examiners of Accounts who shall not be members of the Executive Committee or members of the family of a member of the Executive Committee.

9.3.12.2 A Welfare Officer who must be not less than 18 years of age and not be an Officer or an Executive Committee member, or be a member of the family of an Officer or Executive Committee member. He/she should have an appropriate background and is required to undertake appropriate training in accordance with ‘Wavepower’. The Welfare Officer will have a right to attend Executive Committee meetings without a power to vote.

9.3.12.3 Trophy controller.

9.3.12.4 County team manager(s).

9.3.12.5 County swimming coach.

9.3.12.6 Volunteer coordinator.

9.3.12.7 Records officer and a Masters records officer.

9.3.12.8 Championships secretary.

9.3.12.9 Competition organiser.

9.3.12.10 Para swimming coordinator.

9.3.12.11 Water Polo Secretary.

9.3.12.12 Data protection officer.

9.3.12.13 Diddy League Secretary.

9.3.12.14 Masters Secretary.

9.3.12.15 Open Water Secretary.

9.4 Changes to Association Rules

9.4.1 Any proposal to change a Rule of the Association shall only be considered at the Annual Council Meeting or at a Special Council Meeting called for that purpose. The Executive Committee shall draft the wording of the changes to the Rules to implement the principles and intentions approved by Council.

9.4.2 Every proposal to change a Rule of the Association and/or amend it shall be proposed and seconded separately and shall be open for discussion by any delegate with or without prior indication of intent.

9.4.3 An amendment to any proposal to change a Rule of the Association may be proposed by any member of Council, supported by another member as a seconder, and shall reach the Secretary by 31st October for consideration at the Annual Council meeting, or twenty one days prior to a Special Council Meeting, as the case may be.

9.4.4 A proposal to change the Rules of the Association shall be carried only if at least two-thirds of those present and voting are in favour.

9.4.5 The changes to the Rules shall become effective upon approval by Swim England North West Limited or at a specified later date as determined by the Council.

9.4.6 If any addition, alteration or deletion of either a Swim England Law or a Rule of Swim England North West Limited causes an Association Rule to conflict with it, the Executive Committee shall immediately cause the Association Rule to conform with it. Any such changes shall be notified to the next Annual Council Meeting following the change of Rule.

9.5 Proceedings

9.5.1 The proceedings of Council meetings shall be in accordance with the Standing Orders.

**10. EXECUTIVE COMMITTEE**

10.1 Membership

10.1.1 The Executive Committee shall comprise the following each of whom shall be a member of a club affiliated to the Association and shall be not less than eighteen years of age:

10.1.1.1 The Executive Officers (Chair, Vice Chair, Secretary and Treasurer).

10.1.1.2 The discipline Secretaries (Diddy League, Open Water, Masters) each of whom shall be a member of a club affiliated to the Association.

10.1.1.3 One nominated representative of each affiliated club who shall be a member of that club.

10.1.1.4 Other post holders as defined in Rule 9.3.12.

10.1.1.5 The Executive Committee may fill any vacancy occurring by resignation or by any other means.

10.1.1.6 In the event of any member of the Executive Committee not attending three consecutive Executive Committee meetings, it shall be considered equivalent to their resignation and the Executive Committee shall proceed to fill the vacancy, unless the Executive Committee are satisfied that such absence is unavoidable and have notice of the same.

10.1.1.7 The Executive Committee shall have the authority to invite such other persons as deemed necessary for any specific purpose who may speak but not vote.

10.2 Duties and Responsibilities

10.2.1 The Executive Committee shall be responsible for the management of the Association. The powers and responsibilities of the Executive Committee shall include but not be limited to:

10.2.1.1 Determine the strategies of the Association within the overall policies and plans agreed by the Council.

10.2.1.2 Carry out any specific duty laid upon it by the Council.

10.2.1.3 Have day to day management of the affairs of the Association.

10.2.1.4 Monitor and evaluate the work of any sub-committees, discipline secretaries and any other person appointed to a specific task within the Association.

10.2.1.5 The Executive Committee shall determine any question arising as to the correct interpretation of any of these rules, or any other question not herein provided for.

10.2.1.6 Make nomination for the position of President Elect of Swim England North West Limited in accordance with the requirements of Swim England North West Limited.

10.2.1.7 Set the affiliation and other fees as required.

10.2.1.8 Set the level of competition and championship fees.

10.2.1.9 Determine who shall be the authorised signatories of the accounts of the Association.

10.2.1.10 Ensure that full and accurate minutes of its meetings are kept.

10.2.1.11 Establish sub-committees to consider and report on any matter, determine the terms of reference and appoint the members of such sub-committees. This power may be delegated to the Officers of the Association

10.2.1.12 Set and authorise the payment of remuneration and expenses for services to the Association by Executive Officers, Executive Committee post holders, committee members or officials of the Association.

10.2.1.13 Make grants to any person or organisation as decided by the Executive Committee.

10.2.1.14 Implement with immediate effect a change of the Rules of the Association if they are in conflict with any addition, alteration or deletion of either a Law or a Rule of Swim England or Swim England North West Limited.

10.2.1.15 Be accountable to the Council of the Association and report to it at such times and in such a form as it may require.

10.2.1.16 The Executive Committee may contract and set up partnership agreements with outside agencies in support and furtherance of the aims and objectives of the Association.

10.2.1.17 The Committee shall have power to make regulations, create by-laws (see Rule 19) and to settle disputed points not otherwise provided for in this Constitution.

10.2.1.18 The Executive Committee shall have power to enter into contracts on behalf of the members of the Association.

10.2.1.19 The Executive Committee shall maintain a log of all Accidents/Incidents at Association related activities. Details of such shall be reported to the insurers in accordance with the Accident/Incident Notification guidelines. The Association shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed online form. A copy of entries should be kept for a period of six years or in respect of an injury to a child they should be kept for a period of six years after they attain 18 years of age.

10.2.1.20 The Committee shall retain all financial records relating to the Association and copies of minutes of all meetings for a minimum period of six years.

10.3 Meetings

10.3.1 Meetings of the Executive Committee shall be held not less than four times per year save where the Executive Committee itself shall, by a simple majority, resolve not to meet.

10.3.2 The Chairman and the Secretary shall have the discretion to call further meetings of the Executive Committee if they consider it to be in the interests of the Association.

10.3.3 The Secretary shall be responsible for providing each affiliated club and each member of the Executive Committee written notice of the date, time and place of the next meeting together with the agenda and any supporting papers for the meeting at least 7 days before the date of the meeting.

10.4 Proceedings

10.4.1 The proceedings of Executive Committee meetings shall be in accordance with the Standing Orders.

**11. SUB-COMMITTEES**

11.1 Sub-committees may be formed to consider and report on any matter.

11.2 The Executive Committee shall agree the membership and Terms of Reference when the committee is established. This power may be delegated to the Officers of the Association

11.3 Except in cases of emergency no decisions of any sub-committee shall be binding upon the Executive Committee until considered and voted upon by the Executive Committee.

11.4 All sub-committees and working groups shall periodically report their proceedings to the Executive Committee and shall conduct their business in accordance with the directions of the Executive Committee.

11.5 Each sub-committee shall keep full and accurate minutes of its meetings. The minutes of all such meetings or a report of the activities and business conducted by the committee shall be submitted for approval to the Executive Committee.

**12. HONORARY TRUSTEES**

12.1 The Trustees of the Association shall be the Chairman, Vice Chairman, Secretary and Treasurer during their respective terms of Office.

12.2 The property and assets of the Association, other than cash at the bank, shall be vested in the Honorary Trustees.

12.3 Any trophies of the Association, not being competed for shall be lodged with a person nominated by the Executive Committee, for their safe keeping.

12.4 The Trustees shall be empowered to carry out all necessary actions in connection with the property and assets of the Association considered appropriate or as directed by the Executive Committee or the Council.

12.5 The Trustees shall be indemnified by the Association against all liabilities and expenses properly incurred by them in the management of the affairs of the Association.

**13. INDEPENDENT FINANCIAL EXAMINER**

13.1 One or more independent Financial Examiners shall be appointed at the Annual Council Meeting. They shall give an opinion, based on the financial records, about whether they have found any evidence to suggest that the accounts have not been kept properly, or that the figures being presented to the group by the Treasurer do not tally with the records that have been kept. They shall certify the annual statement of the accounts and the balance sheet before they are printed and circulated.

**14. REPRESENTING THE ASSOCIATION**

14.1 Any person selected to represent the Association and failing to appear shall not be allowed to take part in any of the Association Championships or competitions until a satisfactory explanation is given to the Executive Committee.

**15. AWARD OF ASSOCIATION BADGE**

15.1 Cumbria ASA badges shall be awarded to competitors in all disciplines of the sport who represent the Association.

**16. COMPETITION CONDITIONS**

16.1 The rules and conditions of the following shall not be considered part of the Constitutional Rules for the purpose of these rules.

16.1.1 Cumbria Championships and Age Groups.

16.1.2 Cumbria Diddy League.

16.1.3 Cumbria Winter Meet.

16.1.4 Any other competitions organised by Cumbria ASA.

**17. DISSOLUTION**

17.1 A resolution to dissolve the Association shall only be considered at a Council Meeting and shall be carried by a majority of at least three-quarters of the members present and entitled to vote.

17.2 The dissolution shall have effect from the date of the resolution and members of the Executive Committee shall be responsible for the winding-up of the assets and liabilities of the Association.

17.3    Any property remaining after the discharge of the debts and liabilities of the Association shall be sold and divided equally between the affiliated clubs at the dissolution.

**18. BY-LAWS**

18.1 The Executive 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 Association. Any such by-laws, repeals and amendments shall have effect until set aside by the Executive Committee or at a General Meeting.

**19. ACKNOWLEDGEMENT**

19.1 Clubs and individual members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the membership with each other and the Association.

19.2 This constitution must be readily available to all members. This will be via posting on the Association’s website and/or shared with members by other means.

**APPENDIX A: Standing Orders**

The Annual Council, Special General and Executive Committee meetings shall be governed by the following Standing Orders.

1.      The Chair at all meetings shall be the Chair of the Association if he/she is present. If the Chair is absent, or unable to act or declines to act the Vice Chair shall act as the chairman for the meeting. If the Vice Chair is not able to act, the meeting shall elect a chair from its members present.

2.      The Chair shall have unlimited authority upon every question of order and, for the purpose of the meeting, shall be the sole interpreter of the rules.

3. Meetings may be held, and any votes cast, at one physical location, or by electronic means, or partly by one such means and partly by another (’hybrid meeting’).

4.       The Secretary, or in the absence of the Secretary, a member present shall take the minutes of meetings.

5. The minutes of the previous meeting as circulated shall be considered as the first substantive item on the agenda.

6. The quorum for any meeting shall consist of representatives of four affiliated clubs and not less than one Officer of the Association. In the event that a quorum is not present within thirty minutes of the published starting time, the meeting shall stand adjourned. The Secretary shall give members a minimum of seven days’ notice of the date and venue of the reconvened meeting.

7.       The minutes of sub-committees and reports of Executive Officers, Executive Committee post holders or other individuals shall not be considered unless they have been circulated with the agenda, unless the Chairman and the members of the Executive Committee agree by a two thirds majority that it will not prejudice the good governance of the Association to do so.

8.       Every motion shall be proposed and seconded.

9. Proposals and resolutions shall be submitted in writing to the Secretary by the 31st October prior to the Annual Council Meeting.

10.    Unless the Chair directs otherwise, voting on all motions or amendments shall be by a show of hands.

11. Each member present and entitled to vote, with the exception of the Chair, or acting Chair for that meeting, shall have one vote regardless of the number of positions they may hold. In the event of an equality of votes the Chair, or the acting Chair for that meeting, shall have a casting vote.

12. Voting on elections shall be by secret ballot and any ballot paper containing more votes than the number required shall be void. The result of each ballot shall be announced by the Chair during the meeting and the Chair shall indicate the number of votes cast for each candidate and the number of spoiled ballot papers.

13. All proposals, including amendments to proposals, shall require a simple majority of those members voting unless otherwise specified in these Rules.

14. Proxy voting is not allowed at any meeting.

15. Amendments:

15.1 Any amendment shall be disposed of before another amendment is considered. The Chair may accept, without notice, verbal amendments that do not affect substantially the nature of the proposal under discussion.

15.2 If an amendment is lost other amendments may be moved on the original proposal.

15.3 If an amendment is carried, the proposal as amended will replace the original proposal and can be subject to further amendment.

16.     The minutes of meetings shall be circulated to each member present, to each club, and to other appropriate individuals. Minutes shall be published on the county website although matters of a sensitive nature may be withheld from the county website.

17. Conflict of interest: A member of the Executive Committee shall not vote at a meeting of a committee on any resolution concerning a matter in which they have a personal interest which conflicts (or may conflict) with the interests of the Association; they must withdraw from the meeting while an item of that nature is being dealt with.

**Appendix B: Code of Ethics**

**Terms of Reference**

The content of this Code of Ethics applies to all those involved within the sport of Swimming, Diving, Water Polo, Open Water Swimming and Synchronised Swimming. The Code of Ethics should be read in conjunction with the Codes of Conduct contained in ‘Wavepower’ (Child Safeguarding Policy and Procedures).

**Swim England Code of Ethics**

All individuals within the Swim England aquatic disciplines will at all times:

* Respect the rights, dignity and worth of every person, be they adult or child, treating everyone equally within the context of the sport.
* Respect the spirit of the sport adhering to the rules and laws in and out of the pool, incorporating the concept of friendship and respect for others.
* Promote the positive aspects of the sport and never condone the use of inappropriate or abusive language, inappropriate relationships, bullying, harassment, discrimination or physical violence.
* Accept responsibility for their own behaviour and encourage and guide all Swim England members and parents of junior members to accept responsibility for their own behaviour and conduct.
* Ensure all concerns of a child safeguarding nature are referred in accordance with ‘Wavepower’ (Swim England Child Safeguarding Policy and Procedures).
* Conduct themselves in a manner that takes all reasonable measures to protect their own safety and the safety of others.
* Promote the reputation of the sport and never behave or encourage or condone others to behave in a manner that is liable to bring the sport into disrepute.
* Adhere to ‘Wavepower’ the Swim England Child Safeguarding Policy and Procedures.
* Adhere to the Swim England Anti-Doping Rules.
* Adhere to the Swim England Equity Policy.
* Adhere to the Swim England Laws and Regulations.
* Adhere to the Swim England Codes of Conduct.

**Appendix C: Swim England Judicial Regulations**

**Guidance Note**

From February 2023, Swim England has updated its Judicial Regulations and procedures, in order to ensure that members and Clubs who are involved in disputes or who allege breaches of Swim England Regulations may resolve their disputes as easily and smoothly as possible.

This Guidance Note will provide Swim England members with an outline of the new Judicial Regulations. Swim England has further published additional Guidance Notes for those in specific roles as follows:

* Guidance Note: Judicial Regulations for Club Committees
* Guidance Note: Making a Judicial Complaint
* Guidance Note: Receiving a Judicial Complaint

This Guidance Note is intended to support, and should be read in conjunction with, the Swim England Judicial Regulations, contained within Regulations 100-106 of the Swim England Handbook 2023. It does not form a part of the Judicial Regulations and is not binding upon individuals. A digital copy of the Handbook may be found at <https://www.swimming.org/swimengland/swim-england-handbook/>.

**Purpose and Structure**

The primary objective of the Judicial Regulations is to ensure, as quickly as possible, a fair outcome following the submission of a Complaint in accordance with the Judicial Regulations.

The Judicial Regulations seek to achieve this purpose in two ways:

1. By providing a structure and procedure by which Clubs can resolve internal Club Complaints (Judicial Regulation 103).
2. By providing a structure and procedure for the handling of Judicial Complaints escalated to the Swim England Office of Judicial Administration (Judicial Regulations 104 and 105).

A flowchart describing the structure of the Judicial Regulations may be found within the Swim England Handbook and at the end of this Guidance Note.

Clubs are required to ensure that they have a fair and open disciplinary system for the handling of internal Club Complaints conforming with Judicial Regulation 103. A Club’s failure to comply with Regulation 103 may result in a Judicial Complaint being made.

**Personnel**

Where a Judicial Complaint is made or an individual involved in a dispute has a query in relation to a Club or Judicial Complaint, the following may be involved with the handling of the matter:

* **Judicial Administrator**: The Swim England Director of Legal, who oversees the operation of the Office of Judicial Administration.
* **Judicial Office Manager**:The key point of contact for all parties to a Club or Judicial Complaint, and any individuals seeking to enquire about making a Complaint.
* **Judicial Commissioner:** An independent solicitor who reviews all Judicial Complaints to determine whether it may be allowed to proceed under the Judicial Regulations and makes orders regarding the procedure for such Complaints.
* **Dispute Resolution Panel:** A panel consisting of independent Swim England members who sit on mediations or hearings for Judicial Complaints.
* **Appeals Panel:** A panel consisting of independent Swim England members to determine appeals against decisions made by the Judicial Commissioner or at hearings.
* **Swim England Friends:** A network of highly experienced Swim England members who provide advice to other members who have or are concerned about a Club Complaint or a Judicial Complaint.

**Contacting the Office of Judicial Administration**

The Office of Judicial Administration (the “OJA”) may be contacted by email at judicial@swimming.org or by phone at 01509 640 764.

The Office of Judicial Administration must be contacted in order to obtain a copy of the Judicial Complaint Form if you wish to file a Judicial Complaint and all correspondence relating to a complaint should be directed to it. Any correspondence from the Judicial Commissioner, a Judicial Committee or the other party shall be sent via the Office of Judicial Administration.

The Office of Judicial Administration is unable to provide advice relating to a Club or Judicial Complaint, or any potential ones. It may, however, arrange for a Swim England Friend to contact you to discuss and provide advice on your concerns.

**Club Complaints (Regulation 103)**

A Club Complaint is any internal Club dispute between members of a Club concerning an alleged breach of the Club’s rules.

A Club Complaint is not:

* A Complaint alleging that Swim England Regulations have been breached, which should instead be made as a Judicial Complaint; or
* A Complaint against a paid employee of the Club that does not allege that Swim England Regulations have been breached. Such a complaint should be dealt with under the terms of the employee’s contract.

**Making a Club Complaint**

Any member of a Club may make a Club Complaint. Prior to doing so, the parties to the dispute should seek to resolve the matter informally, such as by having a discussion. If the matter cannot be so resolved, the Complainant may request a copy of the Club Complaint Form from the Chairperson of the Club.

The Club Complaint Form should be completed and returned to the Chairperson (or nominee) within seven days of receipt. Once returned, it will be forwarded to the Respondent within three days, who will have seven days to complete and return the form with their response to the complaint.

The Club Complaint Form includes an administrative section for the Club chair (or their nominee) to complete as the matter progresses. It is essential that this section is completed and a copy of the final form sent to the parties to the Club Complaint. If a Judicial Complaint is made following a Club Complaint, the completed form, documenting the Club’s actions, will form a key piece of evidence for the Club.

**Mediation**

If both Parties express a willingness to have the Club Complaint mediated, the Chair of the Club shall appoint an independent person to act as mediator. The mediator will seek to arrange a meeting, either in person or on video call, within 14 days.

If an agreement is made at mediation, the mediator shall record the outcome and provide a copy to the Parties and the Club chair. If no agreement is reached, the mediator shall notify the Club chair that it has failed.

Mediation is a confidential process and, as such, the contents of the mediation meeting should not be discussed with anyone who did not participate, save for where a mediator provides the Chair with confirmation of a successful outcome.

Swim England strongly recommends that individuals consider mediation as a means to resolve a Club Complaint. While it is unlikely to result in both parties to the complaint obtaining their ideal outcomes, it can produce an outcome that both are satisfied with, whilst preserving and repairing the relationship between the parties. Mediation also provides the parties themselves with control over the outcome, which will be lost if the Club Complaint escalates to a hearing.

**Club Complaint Hearing**

If the Parties do not agree to mediation or mediation fails, the Judicial Regulations require that a Club Complaint Hearing takes place.

The Club shall appoint a panel of three independent members, including a Chairperson who will usually be proposed by the Region and two wing members, who may be members of the Club or, if this is not desirable, members of any other Swim England affiliated Club. Parties to a Club Complaint may object to any individual sitting on the Club Complaint Panel and such objections shall be considered and determined by the Club’s chair (unless involved in the Club Complaint personally).

A hearing shall take place within 28 days of the panel’s appointment. The procedure for the hearing shall be flexible and at the discretion of the panel. Each party will be limited to bringing a maximum of three witnesses unless the panel considers there to be compelling reasons for more to attend. The parties must obtain the consent from the panel for each witness to attend by providing the panel with a list of the witnesses in advance, explaining why they consider each witness’ attendance necessary.

Upon completion of the Club Complaint Hearing, the Panel shall provide a copy of their decision to the parties and the chair of the Club within 14 days. If the panel finds that there has been a breach of Club rules, it may apply sanctions to a Club member within the Club’s power (i.e. suspensions from training, competing or volunteering with the Club). If the panel believes that a breach of Swim England Regulations has taken place, the matter should be referred to the Office of Judicial Administration as a Judicial Complaint.

The outcome to a Club Complaint is binding upon the parties to it. However, a party to the Club Complaint may make a Judicial Complaint to the Office of Judicial Administration if:

1. They believe that the Club or panel did not comply with Judicial Regulation 103; or
2. They believe that a sanction imposed by a panel is disproportionate.

A Judicial Complaint may not be made by a party to a Club Complaint on the sole basis that a panel’s decision was not in their favour.

**Judicial Complaints (Regulation 104)**

Making a Judicial Complaint

A Judicial Complaint may include:

1. A complaint alleging maladministration, misconduct or serious misconduct by a Club or individual;
2. A complaint arising from a water polo match following conduct which, in a referee or delegate’s view, warrants a sanction more severe than a water polo automatic sanction;
3. A complaint alleging a breach of Swim England Regulations or the Code of Ethics;
4. A complaint arising out of a Club Complaint outcome (see above); or
5. A protest appeal.

An individual may make a Judicial Complaint by filing a completed Judicial Complaint Form with the Office of Judicial Administration. A copy of this form can be obtained from the same. When providing you a copy of the Judicial Complaint Form, the OJA may also offer to put you in contact with a Swim England Friend to provide advice on the specifics of your concern.

The Judicial Complaint Form contains advice for filling in the form. We strongly recommend that you read this prior to completing it.

A Judicial Complaint must be made within 30 days of the incident occurring. This may for instance include the date of the alleged breach of Swim England Regulations or the date that a Club Complaint outcome was distributed. A Judicial Complaint received late will not be allowed to proceed unless the Judicial Commissioner determines that it is in the best interest of the sport to allow it.

Judicial Complaints must usually be accompanied by a fee. Please see Judicial Regulation 100.8 for details.

**Commissioner’s Determination**

Upon receipt of a Judicial Complaint, the Judicial Commissioner shall accept or reject the Complaint. If accepted, the Judicial Commissioner shall determine whether the complaint shall be decided by the Commissioner themselves or by a Judicial Committee.

If accepted, the Judicial Complaint Form shall be sent to the Respondent, along with a blank Judicial Response Form for completion within 21 days.

The Judicial Commissioner’s determination may be appealed under Judicial Regulation 104.6.

**Mediation**

If both parties consent to mediation, the Judicial Commissioner may appoint a mediator to assist the parties in finding a resolution. The mediator, or Office of Judicial Administration on their behalf, will seek to arrange a meeting between the parties to seek a resolution.

If the mediator is able to assist the parties in coming to a satisfactory outcome, they shall record the outcome and provide a copy to each party and the Judicial Commissioner. If unsuccessful, the mediator shall notify the Commissioner, for a further Commissioner’s Determination to be made.

Swim England strongly recommends that individuals consider mediation as a means to resolve a Judicial Complaint. While it is unlikely to result in both parties to the complaint obtaining their ideal outcomes, it can produce an outcome that both are satisfied with, whilst preserving and repairing the relationship between the parties. Mediation also provides the parties themselves with control over the outcome, which will be lost if the Judicial Complaint is decided by the Commissioner or a Judicial Committee.

**Statement of Complaint and Response**

Whether a Judicial Complaint is to be determined by a Commissioner’s Decision or a Judicial Committee, each party will be expected to provide the OJA with an electronic copy of its Statement of Complaint or Response. The Statement of Complaint must be filed within 14 days of the Complainant receiving a copy of the Response Form, and the Response must be filed within 14 days of the Respondent receiving a copy of the Statement of Complaint.

Both the Statement of Complaint and Response should contain the following information:

1. A full written submission explaining the facts and arguments that the party wishes to make;
2. A summary of the evidence on which the party will rely; and
3. Copies of all the evidence on which the party will rely, including a maximum of three witness statements.

Where a Judicial Complaint is to be determined by a Judicial Committee, the Statement of Complaint and Response must also include a list of dates for which the party is unavailable. Swim England judicial hearings take precedence over all other swimming matters and, accordingly you may wish to explain why you are unavailable on the listed dates.

Where a Judicial Complaint is to be determined by a Judicial Committee, we also require that you send three paper copies of the Statement of Complaint or Response to the Swim England Office of Judicial Administration, Pavilion 3, SportPark, 3 Oakwood Drive, Loughborough University, LE11 3QF.

**Judicial Hearing**

Judicial Hearings shall be arranged by the Office of Judicial Administration and communicated to the Parties. Such hearings may be held in person, on video call, or on papers.

Three members of the Dispute Resolution Panel will be appointed to hear the Judicial Complaint, and the Chair of the Judicial Committee shall have discretion as to the procedure to be followed. Usually, the Complainant will be invited to state their case and bring in witnesses to provide additional evidence, followed by the Respondent. The Judicial Committee shall inform the parties of any witnesses they consider it necessary to hear from.

**Judicial Committee Decision**

Following a Judicial Hearing, the Judicial Committee shall prepare a decision, which shall be circulated to the parties to the Judicial Complaint and any other individual to which the Judicial Committee directs. The decision may not be distributed to any other individual without the permission of the Judicial Committee – to do so is a breach of the Swim England Regulations and a Judicial Complaint may be filed against you.

The Judicial Committee, if it sees fit, may issue sanctions including but not limited to:

1. A written warning;
2. A requirement to change current practices;
3. A requirement to change the rules of a Club;
4. Quashing an automatic water polo sanction;
5. A suspension from participating in any or all Swim England activities; and/or
6. A financial penalty.

**Appeals (Regulation 105)**

There is a right of appeal to the Appeals Panel against:

1. A decision on a Judicial Complaint by a Judicial Committee;
2. A decision on a Judicial Complaint by the Judicial Commissioner;
3. An imposition of a water polo automatic sanction; and
4. A decision by the Lead Safeguarding Officer, other than a decision to impose a temporary suspension, pursuant to Swim England Safeguarding Regulations 241-246 (a “Safeguarding Decision”).

An appeal made against a decision on a Judicial Complaint by a Judicial Committee or the Judicial Commissioner is limited to the following grounds:

1. The decision maker exceeded its power or acted without having the power to do so;
2. The decision maker failed to act in accordance with the rules of natural justice;
3. An error of law was made; or
4. The decision imposed a disproportionate financial penalty or suspension.

An appeal made against a Safeguarding Decision is limited to the following grounds:

1. The outcome reached was based on an error of fact or was unreasonable given the evidence upon which the Safeguarding Decision was made;
2. Significant new evidence has become available since the Safeguarding Decision was made;
3. Safeguarding Regulations 241-246 were not adhered to; or
4. The Safeguarding Decision was irrational or exhibits an error of law on the record.

Disagreement with the findings of a Judicial Committee alone does not form grounds for an appeal.

**Commencing an Appeal**

An appeal may be made by sending a completed Appeal Form to the Office of Judicial Administration, along with the £200 fee. There is no fee payable for an appeal against an automatic water polo sanction.

An appeal must be filed within 14 days from the date of receipt of the decision being appealed. The Chair of the Appeals Panel may nonetheless allow a late appeal to proceed if it is in the interests of the sport to do so.

**Procedure**

The Chair of the Appeals Panel, or their nominee, shall upon receipt review the Appeal Form and determine whether an appeal may be allowed to proceed or not. If an appeal is not allowed to proceed, the Judicial Complaint is at an end.

If an appeal is allowed to proceed, the other party to the decision being appealed shall be informed and a hearing arranged. The procedure for an appeal, including provision of statements and evidence, is largely similar to that of a Judicial Hearing and may be found in Judicial Regulations 105.5-105.8.

An Appeal Committee hearing an appeal has the power to:

1. Quash any decision and substitute its own decision;
2. Quash any penalty and/or substitute its own penalty; or
3. Make any such order as it thinks right and just.

A decision on appeal is final and not subject to further appeal. Accordingly, once an appeal decision has been made, subject to enforcement of any sanctions, the matter will be at an end.

