



**BRITISH SWIMMING**

**OFFICIALS LICENCE**

**SUSPENSION & REVOCATION PROCEDURES**

**(September 2008)**

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Approved British Swimming Board 20 September 2008



## **BRITISH SWIMMING OFFICIALS LICENCE SUSPENSION & TERMINATION PROTOCOLS AND PROCEDURES**

### **1. General**

- 1.1 The following procedures have been adopted by British Swimming, and in particular the British Swimming Officials Licence Monitoring Panel (“the Monitoring Panel”) to regulate
  - 1.1.1 the exercise of the power of suspension and/or termination of the Officials Licence vested in the Monitoring Panel by the home nation swimming associations, Amateur Swimming (“ASA”), Scottish Swimming (“SASA”) and Swim Wales (“WASA”); and
  - 1.1.2 the consideration of any appeal made by or on behalf of any British Swimming Licence Holder (“Licence Holder”) wishing to appeal against a suspension or revocation of a British Swimming Officials Licence.
- 1.2 The protocols and procedures in this document cover failure to maintain the standards of performance required to be a Licence Holder and/or failure to maintain satisfactory standards of conduct or behaviour on the part of the Licence Holder without limitation.
- 1.3 A Licence Holder seeking review of a suspension or termination decision should be aware of the importance of the time limits contained within these procedures. These time limits are designed with the intention of resolving issues as expeditiously as possible consistent with ensuring a fair and just outcome.
- 1.4 Nothing in these protocols or procedures shall prevent the Monitoring Panel or any other member of British Swimming making an additional or alternative complaint under the Judicial Laws and Rules of the ASA, SASA and WASA about any matter being dealt with under any of the provisions of these protocols or procedures.
- 1.5 It is acknowledged that primary responsibility for raising matters of concern with regard to the actions of a Licence Holder when undertaking activities within their respective jurisdictions shall vest respectively in the ASA, SASA and WASA who shall in such cases be “the Reporting Party” for the purpose of these protocols and procedures
- 1.6 With the agreement of ASA, SASA or as the case may be WASA with regard to Licence Holders within their respective jurisdictions, British Swimming may delegate all or part of the Official Licensing Monitoring functions including the roles of the Monitoring Panel to the Institute of Swimming.

## **2. Protocols and Adjudicating Panel**

2.1 If the Reporting Party has concerns regarding the performance or the standards of conduct or behaviour of a Licence Holder then the following protocols shall normally be observed

2.1.1 The Reporting Party shall write to the British Swimming Licence Holder concerned setting out in detail its concerns.

2.1.2 A meeting shall be arranged between the Reporting Party and the Licence Holder concerned to discuss in an open and constructive fashion the issues of concern.

2.1.3 An Action Plan shall be produced by the Reporting Party (such plan if reasonably possible to have the consensus support of all persons attending the meeting) with a view to resolving the issues of concern. The Action Plan shall set out a clear timetable, objectives and performance indicators (as appropriate) in order that all involved shall be under no misunderstanding as to the steps required to be taken to address the concerns of the Reporting Party. The Action Plan may alternatively consist of an immediate reference to adjudication. A copy of this plan to be forwarded to the Monitoring Panel

2.2 Where the Action Plan comprises of an immediate reference to adjudication or should there be any material failure to achieve any performance indicators or to rectify other matters of concern within the timetable specified in the Action Plan then the Monitoring Panel shall deal with the matter in accordance with this Clause 2.2.

2.2.1 The Monitoring Panel shall appoint a group of up to three people who may be but need not be members of the Monitoring Panel (“Adjudicating Panel”). . The Adjudicating Panel may terminate or suspend (for such term and subject to such conditions as it shall see fit) a Licence Holder’s accreditation by giving written notice to the Licence Holder if the Licence Holder shall

2.2.1.1.be found to have failed to comply with an Action Plan issued pursuant to Clause 2.1 above including, but not being limited to, failing to achieve any performance indicators within the timetable specified in that Plan or

2.2.1.2.be guilty of impropriety or malpractice in relation to the sport. Some examples of these are listed below.

Before the Adjudicating Panel makes any determination the Licence Holder shall be afforded the opportunity to respond to the allegations of impropriety or malpractice (or non-compliance with any Action Plan produced pursuant to Clause 2.1 above). The Adjudicating Panel may adopt such procedures as it sees fit with a view to securing, as expeditiously as possible, a fair and just outcome with regard to the issues before it

2.2.2 Impropriety or malpractice may include but not be limited to:-

- Wilful damage to the Reporting Party's property;
- Unauthorised removal or retention of the Reporting Party's property;
- A criminal offence committed by any Licence Holder;
- Any other criminal offence committed by any Licence Holder which may adversely affect the reputation of British Swimming, the Reporting Party or the sport of swimming;
- Falsification of records or expenses claims;
- Disclosure by any Licence Holder of confidential information to any person without authorisation;
- Serious breach of the Code of Ethics or Child Protection procedures by the Licence Holder;
- Serious breach of any other British Swimming, or Reporting Party policy by the Licence Holder;
- Serious breach of any Reporting Party Law by the Licence Holder;
- Fraud or other improper use of monies provided by British Swimming, the Reporting Party or any other funding agencies (e.g. UK England);
- Any behaviour that is detrimental to the British Swimming Licence system, or is liable to bring it into disrepute.

### **3 Reviews and Appeals**

3.1 If a Licence Holder wishes to appeal against a determination of the Adjudicating Panel:

3.1.1 The Licence Holder shall be required to lodge a request for a review of the decision (Request for Review) in writing setting out in full detail the basis upon which the Licence Holder requests the Adjudicating Panel to review its decision made in accordance with Clause 2 above. The Request for Review must be made within twenty working days of the date that the decision of the Adjudicating Panel to suspend or revoke the Licence was communicated to the Licence Holder.

3.1.2 The Request for Review should be forwarded to the office of the Head of Legal Affairs at Harold Fern House, Derby Square, Loughborough, Leicestershire, LE11 5AL. No fee is payable in respect of a Request for Review.

- 3.2 The Head of Legal Affairs (or in his absence his designee and any reference to the Head of Legal Affairs in these protocols and procedures shall be deemed to include a reference to such designee) shall as soon as possible (and in any event not later than five working days following receipt of the Request for Review) supply copies of the Request for Review to the Adjudicating Panel in order that they have the opportunity to review the original decision in light of the points made in the Request for Review. The Adjudicating Panel is required to advise the Head of Legal Affairs in writing within five working days of the date of receipt by them of the Request for Review whether they confirm or reverse their original decision on suspension or revocation.
- 3.3 The Head of Legal Affairs will as soon as possible (and in any event within five working days of the date of receipt by him of the determination of the Adjudicating Panel) advise the British Swimming Licence Holder in writing of the decision of the Adjudicating Panel with regard to the Request for Review.
- 3.4 Where the decision of the Adjudicating Panel is to confirm its original decision the Licence Holder may by notice in writing (Notice of Appeal) to be received by the Head of Legal Affairs not later than five working days after the date of notification to the Licence Holder of the confirmed decision of the Adjudicating Panel apply for leave to appeal against the decision. Such an application shall be accompanied by any additional relevant documentation or information which the Licence Holder wishes to submit in support of his or her appeal. No fee is payable in respect of a Notice of Appeal.
- 3.5 The Notice of Appeal (together with any further documents submitted by the Adjudicating Panel) shall be forwarded as soon as possible (and in any event not later than five working days from receipt by the Head of Legal Affairs of the application for leave to appeal) to the Judicial Chairman (“Judicial Chairman”). The Judicial Chairman shall be asked to determine in writing whether the Licence Holder shall be granted permission to proceed with an appeal before an Appeals Committee. Leave to appeal shall be granted only when the British Swimming Licence Holder shall have established a strong arguable case that,
  - 3.5.1 relevant information was ignored or not considered by the Adjudicating Panel; or
  - 3.5.2 the suspension/revocation process was tainted by unreasonable bias or conflict of interest; or
  - 3.5.3 the provisions of the relevant Licence suspension/revocation conditions were not adhered to; or
  - 3.5.4 the Adjudicating Panel exceeded its jurisdictional acts in that jurisdiction; or
  - 3.5.5 the findings of the Adjudicating Panel were irrational or otherwise exhibit an error of general law; or

3.5.6 the determination of the Adjudicating Panel include a financial penalty or suspension. An appeal on these grounds shall only be entertained regarding the amount of the financial penalty or the application of the suspension.

The decision by the Judicial Chairman whether to allow an appeal to proceed or not under this Clause 3.5 shall be final.

- 3.6 If the Judicial Chairman refuses to grant permission to proceed with an Appeal Hearing because insufficient grounds are shown the decision of the Adjudicating Panel shall stand and the Licence Holder shall be notified accordingly.
- 3.7 If permission is granted the Judicial Chairman shall convene an Appeal Committee The appeal will proceed in accordance with the procedures set out below together with such additional directions as to procedures as may be made by the Judicial Chairman..
- 3.8 Following receipt of the determination of the Judicial Chairman that an appeal may proceed the Head of Legal Affairs shall as soon as possible (and in any event within five working days of the date of receipt of the Judicial Chairman's determination) notify the Licence Holder of the composition of the Appeal Committee with accompanying curriculum vitae of the Appeal Committee Members and of the Licence Holder's right to object to its composition (as described in Clause 3.11 below).
- 3.9 In determining the composition of the Appeal Committee British Swimming undertakes to ensure that the Appeal will be conducted fairly and impartially. The Appeal Committee shall not include individuals with any connection to the Licence Holder or the matters being considered. The Judicial Chairman may but shall not be required to act as Chairman of the Appeal Committee.
- 3.10 Should a member of the Appeal Committee become unable to hear the Appeal following the appointment of the Appeal Committee for whatever reason, the Judicial Chairman shall appoint a replacement member.
- 3.11 The Licence Holder may object to the composition of the Appeal Committee by notifying the Head of Legal Affairs of the objection and setting out the reasons for such an objection (the notification shall be referred to an "an Objection") no later than five working days from the date of receipt of notice of the composition of the Appeal Committee.
- 3.12 British Swimming shall, within five working days from the date of receipt of an Objection, notify the Licence Holder that either:
- 3.12.1 the composition of the Appeals Committee has changed (in which case British Swimming shall provide details of the new Appeal Committee); or
  - 3.12.2 the composition of the Appeal Committee has not changed (in which case British Swimming shall give reasons why it has not accepted the British Swimming License Holder's Objection).

The decision by the Judicial Chairman on the composition of the Appeal Committee under this Clause 3.12 shall be final.

3.13 Within five working days from the date of receipt by British Swimming of the determination of the Judicial Chairman that the appeal may proceed or (if later) within two working days from the date British Swimming responds to the Objection (as appropriate), the Chairman of the Appeal Committee shall give such directions to the Monitoring Panel as are appropriate for consideration of the matter, in particular:

3.13.1 the date and place at which the Appeal Committee will meet to determine the Appeal, provided that the Appeal shall not normally be heard later than twenty one days from the date of the determination of the Chairman that the appeal may proceed;

3.13.2 whether the Appeal will proceed by way of written submissions or an oral hearing; and

3.13.3 whether the parties should be required to submit statements of their evidence and/or written submissions prior to the hearing and, if so, a timetable for doing so and the procedure for exchanging such statements and written submissions.

3.14 The Appeal Committee shall meet on the date fixed by the Chairman and shall, no later than five working days after hearing the Appeal, inform the Licence Holder and British Swimming of its decision together with written reasons for its decision. The decision of the Appeal Committee shall be final and binding.

#### **4 Powers of the Appeal Committee**

4.1 The Appeal Committee may at its sole discretion disregard any failure by a party to adhere to these Procedures and may give such further directions as may be appropriate.

4.2 Prior to and at the Appeal hearing, the Chairman of the Appeal Committee may give such directions whether or not made at the request of the parties, for the proper conduct of the Appeal as he or she deems may be reasonably necessary for the fair conduct of the appeal, including changes to the procedure as set out in these Procedures.

4.3 The Appeal Committee may make such additional recommendations to the Monitoring Panel and/or British Swimming as it deems appropriate

4.4 The Appeal Committee may make an order for the costs of the Appeal to be paid, in such proportions as the Appeal Committee may decide, by any of the parties to the Appeal. The costs may include any room hire, travel and other expenses incurred in attending any hearing but nothing shall be included on account of professional charges for representation or otherwise.