

**SWIM21 ACCREDITATION**  
**SUSPENSION & TERMINATION PROCEDURES**

**1. General**

- 1.1 The following procedures have been adopted by the ASA and in particular the National swim21 Panel to regulate the exercise of the power of suspension and/or termination of ASA accreditation as a “swim21 Club” vested in the National swim21 Panel by the ASA Board Minute 270.2 and the consideration of any appeal made by or on behalf of any swim21 Club wishing to appeal against a suspension or termination of swim21 accreditation.
- 1.2 The protocols and procedures in this document cover failure to maintain the standards of performance required to be a swim21 accredited club and/or failure to maintain satisfactory standards of conduct or behaviour on the part of the swim21 club and/or any of its members, without limitation.
- 1.3 A swim21 Club 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 Any reference in these procedures or protocols to “swim21 Club” shall include a reference to the Club Managing Committee or other body or person responsible for making decisions on behalf of the Club.
- 1.5 Nothing in these protocols or procedures shall prevent the National swim21 Panel or any other member of the ASA making an additional or alternative complaint under the ASA Judicial Laws and Rules about any matter being dealt with under any of the provisions of these protocols or procedures.

**2. Protocols and Adjudicating Panel**

- 2.1 If the National swim21 Panel has concerns regarding the performance or the standards of conduct or behaviour of an ASA Club holding swim21 accreditation (“swim21 Club”) then the following protocols shall normally be observed
  - 2.1.1 The National swim21 Officer shall on behalf of the National swim21 Panel write to the swim21 Club concerned setting out in detail its concerns.
  - 2.1.2 A meeting shall be arranged between the Regional Development Officer for the ASA Region to which the swim21 Club is affiliated (“RDO”) together with a representative of the National swim21 Panel and the swim21 Club concerned to discuss in an open and constructive fashion the issues of concern.

2.1.3 A letter shall be produced by the RDO titled “Action Plan” (such letter if reasonably possible to have the consensus support of all persons attending the meeting) with a view to resolving the issues of concern. The letter 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 National swim21 Panel. The letter may alternatively consist of an immediate reference to adjudication.

2.2 Where the letter comprises of a 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 letter then the National swim21 Panel shall deal with the matter in accordance with this Clause 2.2.

2.2.1 The National swim21 Panel shall appoint a group of up to three people who may be but need not be members of the National swim21 Panel (“Adjudicating Panel”). The Adjudicating Panel may terminate or suspend (for such term and subject to such conditions as it shall see fit) a swim21 Club’s accreditation by giving written notice to the swim21 Club if the swim21 Club shall be found to have failed to comply with an letter 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 letter or to 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 swim21 Club 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 ASA property;
- Unauthorised removal or retention of ASA property;
- A criminal offence committed by any swim21 Club member arising from or related to Club duties;
- Any other criminal offence committed by any swim21 Club member which may adversely affect the reputation of the ASA or the sport of swimming;
- Falsification of records relating to swim21 accreditation or expenses claims;
- Disclosure by any swim21 Club member of confidential information to any person without authorisation;

- Serious breach of the Code of Ethics or the ASA Child Protection procedures by the swim21 Club [or any member of the swim21 Club];
- Serious breach of any other ASA policy by the swim21 Club;
- Serious breach of any ASA Law by the swim21 Club;
- Fraud or other improper use of monies provided by the ASA or any other funding agencies (e.g. Sport England);
- Any behaviour which is detrimental to the swim21 programme, or is liable to bring it into disrepute.

### **3 Reviews and Appeals**

- 3.1 If a swim21 Club wishes to appeal against a determination of the Adjudicating Panel:
  - 3.1.1 The swim21 Club shall be required to lodge an request for a review of the decision (Request for Review) in writing setting out in full detail the basis upon which the swim21 Club 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 terminate swim21 accreditation was communicated to the swim21 Club.
  - 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 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 termination.
- 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 swim21 Club 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 swim21 Club 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 swim21 Club 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 swim21 Club wishes to submit in support of its 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 ASA Judicial Commissioner. The ASA Judicial Commissioner shall be asked to determine in writing whether the swim21 Club shall be granted permission to proceed with an appeal before an Appeals Committee. Leave to appeal shall be granted only when the swim21 Club shall have established a strong arguable case that, either
- 3.5.1 relevant information was ignored or not considered by the Adjudicating Panel; or
  - 3.5.2 the suspension/termination process was tainted by unreasonable bias or conflict of interest; or
  - 3.5.3 the provisions of the relevant swim21 scheme suspension/termination 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 ASA Judicial Commissioner whether to allow an appeal to proceed or not under this Clause 3.5 shall be final.

- 3.6 If the ASA Judicial Commissioner 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 swim21 Club shall be notified accordingly.
- 3.7 If permission is granted the ASA Judicial Commissioner shall convene an Appeal Committee, normally comprising of three members of the ASA Independent Disciplinary and Dispute Resolution Panel or Appeals Panel. The appeal will proceed to the full Appeal Committee in accordance with the procedures set out below.
- 3.8 Following receipt of the determination of the ASA Judicial Commissioner 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 ASA Judicial Commissioner's determination) notify the swim21 Club of the composition of the Appeal Committee with accompanying curriculum vitae of the Appeal Committee Members and of the swim21 Club's right to object to its composition (as described in Clause 3.11 below).

- 3.9 In determining the composition of the Appeal Committee the ASA undertakes to ensure that the Appeal will be conducted fairly and impartially. The Appeal Committee shall not include individuals with any connection to the swim21 Club or the matters being considered.
- 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 ASA Judicial Commissioner shall appoint a replacement member.
- 3.11 The swim21 Club 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 The ASA shall, within five working days from the date of receipt of an Objection, notify the swim21 Club that either:
  - 3.12.1 the composition of the Appeals Committee has changed (in which case the ASA shall provide details of the new Appeal Committee); or
  - 3.12.2 the composition of the Appeal Committee has not changed (in which case the ASA shall give reasons why it has not accepted the swim21 Club’s Objection).

The decision by the ASA Judicial Commissioner 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 the ASA of the determination of the ASA Judicial Commissioner that the appeal may proceed or (if later) within two working days from the date the ASA responds to the Objection (as appropriate), the Chairman of the Appeal Committee shall give such directions to the swim21 Club and the National swim21 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 be heard later than fourteen 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 swim21 Club and the ASA 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, 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 National swim21 Panel and/or the ASA 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.