



Voluntary Licensing Scheme for Athletes and Coaches Agent

Code of Practice
(February 2010)

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Preamble

The British Swimming Voluntary Licensing Scheme for Agents aims to create a level of quality representation within its sport, driving standards upwards between Licensed Agents and affiliated Athletes/Coaches. Licensed Agents shall at all time act in accordance with the law, the rules of the sport and in the legitimate best interests of the Athlete or Coach for whom they act as an Agent. They will deal always with them diligently and fairly with a conscientious regard for the Athlete or Coach's personal and professional welfare.

The Code of Practice is to be read in conjunction with the British Swimming Voluntary Licensing Scheme for Agents Terms and Conditions ("Terms and Conditions") and any other documentation referenced therein.

Any defined terms will take the meaning as those defined in the Terms and Conditions.

1. A Licence shall only be issued to an individual person, who shall hold it in his/her own name. The Licence is strictly non-transferable. Licensed Agents shall be entitled to call themselves "British Swimming Licensed Agent" for the duration of the Licence insofar as it remains valid.
2. Where a Licensed Agent is employed, the Licensed Agent shall take responsibility for its employer's actions in so far as it is reasonably possible for the purposes of this Code of Practice.

Child Safeguarding

3. A Licensed Agent shall comply fully with the Child Safeguarding Policy and procedures adopted by British Swimming.
4. A Licensed Agent shall treat Athletes/Coaches under the age of 18 years as minors and direct all communications through the minor's parent(s) or persons with parental responsibility.



Responsibility

5. A Licensed Agent is required to perform his/her duties conscientiously and to conduct himself/herself in a manner worthy of respect and befitting of his/her role.
6. A Licensed Agent agrees unconditionally to abide by the laws of the land; laws, regulations, rules and policies of British Swimming; and where applicable, those of the Home Nation, the Ligue Europeenne de Natation ("LEN"); the Federation Internationale de Natation ("FINA"); and any other applicable sports association.
7. In the unlikely event of a conflict between the laws, regulations, rules and policies referenced in clause 7 above, and the legitimate best interests and wellbeing of the athlete/coach, the latter shall prevail.

Respect for All

8. A Licensed Agent must respect the rights, dignity and worth of every human being and the ultimate right to self-determination. Specifically, Licensed Agents must treat everyone equally, regardless of gender; race or ethnic origin; religion; sexuality; disability or political persuasion.

Working Practice

9. A Licensed Agent shall inform the Athlete in writing that he/she should consider taking independent legal advice in relation to the representation and/or business partnership contract and/or any other agreement or matter; and afford the Athlete/Coach a reasonable opportunity to take such legal advice should he/she wish to take such advice; and obtain the Athlete/Coach's written confirmation that either (i) he/she has obtained such legal advice or (ii) he/she has decided that he/she does not need to do so.
10. Any agreement between the Licensed Agent and the Athlete/Coach shall be voidable in the event of the Licensed Agent being the subject of a sanction by British Swimming.
11. A Licensed Agent shall at all times use his/her best endeavours to maximise the Athlete/Coach's earning potential in the most effective manner. This may include if necessary the use of duly qualified professional advice including advice with respect to financial management, taxation and the law.

12. A Licensed Agent shall always adhere to the truth, and work with clarity and objectivity in his/her dealings with his/her client, negotiating partners and other parties.
13. A Licensed Agent shall protect the interests of his/her client in compliance with the law and a sense of fairness, while creating clear legal relations.
14. A Licensed Agent shall not encourage Athletes, Coaches and other persons to violate the rules of the sport, and should actively seek to discourage such action.
15. A Licensed Agent shall not compromise the Athlete/Coach by advocating measures which could be deemed to constitute seeking to gain an unfair advantage. Above all, he/she must never advocate the use of prohibited drugs or other banned performance enhancing substances.
16. Specifically and in this regard, a Licensed Agent shall at all times treat all Athletes, Coaches and Officials with due respect in victory and defeat and should encourage his/her client to act in a similar manner.
17. A Licensed Agent shall undertake to discourage inappropriate behaviour from his/her client.
18. A Licensed Agent shall without fail respect the rights of his/her negotiating partners and other parties. In particular, he/she shall respect the contractual relations of his/her professional colleagues and shall refrain from any action that could entice clients away from other parties.
19. A Licensed Agent shall only act for one party to a transaction or contract negotiation.
20. A Licensed Agent shall serve and protect the best interests of his/her clients at all times which shall include but not be limited to notifying the client of all material facts in relation to any transaction or contract negotiation in a timely fashion.
21. A Licensed Agent shall always disclose in writing in advance, as soon as reasonably practicable, any actual or potential conflict of interest in relation to a transaction or contract negotiation and obtain the express written consent of the other parties involved to continue.
22. Where a Licensed Agent assigns or subcontracts any agency activity duties or services or responsibilities the Licensed Agent must:
 - a. Obtain the prior written consent of his/her client; and
 - b. Record the terms upon which those obligations are assigned or sub-contracted in a single document.



23. A Licensed Agent must take responsibility for any sub-contracted services provided.
24. A Licensed Agent shall not attempt to either directly or indirectly:
 - a. Enter into a representation contract with an Athlete/Coach under an exclusive representation contract with another Licensed Agent;
 - b. Knowingly approach an Athlete/Coach under an exclusive representation contract with another Licensed Agent with a view to negotiating a Representation Contract with the Athlete/Coach unless:
 - i. The Licensed Agent who is the other party to the exclusive Representation Contract has provided express written permission; or
 - ii. The Representation Contract between the Athlete and Licensed Agent has less than one month until termination by expiry of its term (provided that in any event no Representation Contract with the other party may be concluded or have effect unless and until the current exclusive Representation Contract has terminated).
 - c. Induce an Athlete/Coach to breach his/her Representation Contract with another Licensed Agent, or his/her contract with any other party.
25. A Licensed Agent may however publicise his/her services generally.
26. A Licensed Agent shall ensure that he/she can provide evidence of his/her activity at any time by means of documents and other records, so as to demonstrate compliance with the Licensing Scheme. He/she shall keep all of the books conscientiously and detail his/her business activity faithfully in other records.
27. At the request of British Swimming or its duly appointed representative, conducting an investigation into disciplinary cases and other disputes, a Licensed Agent is required to produce books and record directly connected with the case in point.
28. A Licensed Agent shall produce an invoice showing his/her fees, expenses and any other charges upon first demand from his/her client.
29. A Licensed Agent will gather personal information about Athletes/Coaches in the course of a working relationship. A Licensed Agent and his/her client must reach agreement as to what is regarded as "confidential" information and this must not be divulged to a third party without the express approval of his/her client.

30. A Licensed Agent shall take responsibility for his/her own continuous professional development. The Licensed Agent agrees to comply with the generally recognised and accepted standards for the provisions of professional sports management services acting with due care, skill and diligence and at all times with good faith and in the best interests of the Athlete/Coach.
31. A Licensed Agent shall ensure that any Representation Agreement between the Agent and the Athlete/Coach falling under the scope of this Code of Practice (including but not withstanding a Representation Agreement) shall contain the clauses required under this Code of Practice's Annex One. The exact wording of the clauses may be altered to suit the drafting of the Agreement, but the meaning must remain the same.

Insurance

32. A Licensed Agent must procure and maintain at all relevant times professional liability insurance, and shall make a copy of the certificate promptly available to British Swimming if requested. The insurance shall as a minimum cover any claims for compensation against the Licensed Agent arising from his failure to exercise reasonable skill and care in carrying out his/her professional activities as a Licensed Agent, and be for a minimum amount of £2 million. The policy shall be worded in such a way that the relevant risks connected with a Licensed Agent's occupation are covered.
33. A Licensed Agent is responsible for ensuring that insurance is in place at all times. In the event that the said insurance is not in place for any reason or is not on the terms required, then the Licensed Agent will be deemed to have breached the terms of the Licence and his/her authorised status shall be suspended in accordance with the Terms and Conditions of the British Swimming Voluntary Licensing Scheme for Agents unless and until the insurance is restored.

Criminal Records Check

34. A Licensed Agent shall apply to British Swimming for CRB Enhanced Disclosure certificate at the time of his/her Licence Application, and shall re-apply within three years from the date of its issue for the duration of the Licence. It shall be the responsibility of a Licensed Agent to ensure that he/she has in place a valid CRB Enhanced Disclosure certificate in accordance with this provision.



35. A Licensed Agent shall comply with the requirements of the Vetting and Barring Scheme, including registration (as applicable).

Suspension or Termination

37. In the event of the Licensed Agent having his/her Licence suspended by British Swimming, the Licensed Agent shall immediately notify the Athlete/Coach.

In the event of the Licensed Agent no longer holding a British Swimming Licence, the Licensed Agent shall immediately notify the Athlete/Coach.

Variation

38. British Swimming reserves the right to vary this Code of Practice and any accompanying annexes.



Annex One

The following provisions must be included in any Representation Contract between a Registered Agent and an Athlete/Coach, affiliated to British Swimming:-

- *Independent Advice*

The Agent has informed the Athlete/Coach in writing that he/she should consider taking independent legal advice in relation to this Agreement and he/she has afforded the Athlete/Coach the opportunity to take such legal advice prior to the execution of this Agreement.

The Athlete/Coach has provided written confirmation on or before the date of the Agreement that either (i) he/she has obtained such legal advice or (ii) he/she has decided that he/she does not need to do so.

The Agent shall advise the Athlete/Coach to obtain independent legal advice prior to the execution of any Agreement, and the Athlete's/Coach's decision shall be recorded in writing.

- *Appointment*

The Agent agrees to act as the Athlete's/Coach's Agent in order to represent the Athlete's/Coach's interest in any transaction.

The Athlete/Coach hereby appoints the Authorised Agent to provide services on the following terms: [*describe the detail and nature of the services*].

- *Licensed Status*

The Agent warrants that he/she is a Licensed Agent with British Swimming.

- *Term*

The term of Agreement shall be for a period of [*Months/Years*] up to a maximum of 2 years from the date hereof at the end of which it shall terminate without notice. The Agreement may be renewed at any time upon the written agreement of both parties, provided that the term of the Agreement renewed by the parties shall not be for a term of more than 2 years.



- *Self Representation / Nature Of The Relationship*

The Athlete/Coach shall not be obliged to use the services of the Agent during the term of this Agreement and may represent himself/herself in any transaction or contract negotiation should he/she so desire, without penalty.

- *Remuneration*

In consideration for the provision of the Services, the Athlete/Coach shall pay to the Agent a fee as follows: *[Set out full details of the fee payable both during the Agreement and after expiry of the Agreement (e.g. an hourly rate, a percentage of earnings by periodic instalments, post-termination entitlement etc) and specify the terms upon which it is payable, (e.g. 30 days after receipt of invoice) and the regularity of payment (e.g. at the commencement of the contract, monthly/ quarterly /annual instalments)]*

The above sums being [inclusive/exclusive] of any Value Added Tax that may be payable.

- *Obligations*

The Agent undertakes and warrants to the Athlete/Coach that he/she will at all times during the term of this Representation Contract perform the Services conscientiously and in the best interests of the Athlete/Coach and, in particular shall comply fully with the British Swimming Code of Conduct and Terms and Conditions of the British Swimming Voluntary Licensed Scheme for Agents.

The Athlete/Coach undertakes and warrants to the Agent that he/she is free to enter into the Agreement and is not prevented or restricted from so doing by any other Agreement with another Authorised Agent or otherwise.

- *Voidable*

The Agreement shall be voidable in the event of the Agent being the subject of a sanction by British Swimming.

- *Termination*

The Agreement may be terminated immediately by the Athlete/Coach in the event that the Agent no longer is a British Swimming Licensed Agent.

- *Confidential Information*

The Agent agrees to maintain confidentiality in relation to the Athlete's/Coach's personal and business affairs.



Confidential information must not be divulged to a third party without the express approval of the Athlete/Coach.

- *Non-Assignment*

The Authorised Agent shall not assign, subcontract or novate the benefit or burden of the Agreement or of any of its provisions without the prior consent in writing of the Athlete/Coach (such consent to be given or withheld in the Athlete's/Coach's absolute discretion).

- *Third Party Rights*

Notwithstanding any other provision of this Agreement, a person who is not a party to this Representation Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Representation Contract.

- *Reporting*

The Agent shall keep the Athlete/Coach fully informed and shall regularly report (in writing if requested) in relation to any activities carried out on the Athlete's/Coach's behalf.

- *Insurance*

The Agent must procure and maintain at all relevant times professional liability insurance to a minimum amount of £2 million. The policy shall be worded in such a way that the relevant risks connected with the Agent's occupation are fully covered.

- *Accounts*

The Agent shall keep appropriate and adequate accounts relating to the performance of this Agreement, and shall show them to the Athlete/Coach upon request.

- *Governing Law & Jurisdiction*

The Agreement shall be governed by and construed and interpreted in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

- *Conflict of Interest*

The Agent shall disclose in writing in advance as soon as reasonably practicable to the Athlete/Coach any conflict of interest in a transaction including relevant formal or informal relationships the Agent may have had or is having with any other party to a transaction.



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