Appendix 1

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 2

GUIDELINES FOR HANDLING INTERNAL CLUB DISPUTES

1. Introduction

The purpose of these notes is to give Clubs guidance in the handling of internal Club disputes. With the introduction of the Code of Ethics and the increased risk of litigation it is important that internal disputes are handled correctly from the outset. Whilst most Clubs do from time to time have disputes between Committee members, parents and swimmers these can usually be resolved amicably between the individuals concerned. Occasionally it is also necessary to discipline swimmers for minor incidents of misbehaviour and this can also be done fairly by the Coach/Team Manager.

Sometimes a more serious dispute arises in a Club and because such a situation does not occur frequently Clubs are unsure how to handle the matter. This can lead to the dispute becoming more serious with recourse to the Judicial procedures becoming necessary.

These guidelines do not apply to paid employees of a Club. If a Club is in dispute with a paid employee then the employment contract and employment law needs to be considered. Specialist legal advice may have to be sought.

2. General Principles

Swim England Judicial Regulations define Protests and Complaints and it should first be decided whether the matter is a Protest or a Complaint. A Protest can be dealt with by a Club provided they are the Promoter of the Competition to which the Protest relates. A Complaint cannot be dealt with by a Club. However, it is often possible to resolve a dispute within a Club without the matter becoming a formal Complaint. If either party is dissatisfied with a decision reached in an internal Club dispute then they still have the option to make a formal Complaint to the Judicial Commissioner.

It must be noted that a Club only has the power to legislate for a breach of its own rules and can only suspend a swimmer from its own Club activities. A Club has not power to handle a dispute relating to a member of another Club nor deal with an offence against Swim England Regulations.

The key principle to be followed is that Swim England Regulations conform to the law of the land in so much that an individual accused of an alleged offence is innocent until proven guilty and he/she must have reasonable opportunity to present a defence and have his/her views heard.

In these notes reference is made to the term 'dispute' to avoid confusion with the term 'Complaint' used in formal Swim England Judicial terms. The term Club could also refer to a League or County Association.

It is assumed for the purpose of these notes that the dispute is between the Club and one or more of its members. It is most important that the same people in the Club do not become both the prosecutor (and defender) and the judge. If the Committee or its officers are either the prosecutor or defender or involved in the dispute then they must find other members not connected with the matter to hear the evidence from both parties to the dispute.

There are occasions when a problem arises in a Club, for example fighting between members in a training session, where immediate action is required such as a temporary suspension or exclusion from a training session or from wider Club activities. Coaches and officers should always be given the power to invoke a temporary suspension. A report should then be made, immediately, to the Club officers who should follow the procedures in the relevant section of the rules.

3. Procedures

On receipt of the dispute every effort should be made to resolve the matter by informal discussion. In difficult cases the Chairperson of the relevant Panel is empowered to appoint an independent arbitrator to assist in achieving a settlement. If this fails or it is clearly necessary to discipline a member, the Club should set up a panel to deal with the matter.

The panel should consist of three persons, one to act as Chairperson. A Secretary may also be needed. The panel will need to consist of people not involved in the dispute and the Club may want to ask individuals from outside the Club to sit on the panel. The full Club Committee could of course hear the dispute but given the number of people on a Committee this could be seen as intimidating and it is usually preferable to have a smaller number of people to hear a disciplinary matter, hence the recommendation to set up a panel of three persons.

The Chairperson must notify both parties of the date, time and place of the hearing and the names of the panel members. Both parties need to be given copies of all the papers and every effort should be made to hold the hearing within 14 days of the receipt of the dispute.

If either party is under 18 years of age they must be advised of their right to be accompanied by a parent (or other person with a parental responsibility for them) or coach to help them present their case.

Both parties should be allowed to bring witnesses.

The hearing should be as informal as possible but needs to be controlled. Points to note:

(a) The complainant will present evidence first and the accused will have the right of reply.

(b) Both parties to the dispute are able to call witnesses, the complainant going first and each party should be allowed to question the other party's witnesses.

(c) Witnesses must wait outside the hearing room until they are called. After questioning they may wait in the hearing room, taking no further part in the proceedings.

(d) The Chairperson or Secretary will make notes of the hearing and the panel will make every effort to announce their decision verbally to all the parties without delay followed by written confirmation to reach all parties within five days.

4. Powers of the Clubs

The powers of Clubs regarding the disciplinary action they can apply must not exceed those in Swim England Judicial Regulations which can result in full suspension from Club activities for whatever period the panel shall decide or in expulsion. The panel if it wishes can impose a lesser penalty such as a written or verbal reprimand.

If either party to the dispute is dissatisfied with the outcome they are still entitled to make a Complaint to the Judicial Commissioner at Swim England Head Office, Loughborough.

5. Further Information

Additional guidance can be obtained from the Judicial Regulations in the Swim England Handbook.

6. Conclusions

The key message when dealing with disputes is to ensure:

(a) All parties are treated fairly.

(b) The complainant has the opportunity to present the case.

(c) The accused has the opportunity to respond.

Appendix 3

SWIM ENGLAND REGULATIONS

INTERNAL CLUB DISPUTES

1. CLUB RIGHTS and RESPONSIBILITIES

The rights and responsibilities of a Club in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in Swim England Regulation 281 which specifies:

Regulation 281: Club discipline and internal dispute procedures

281.1 For a breach of its own rules, but subject to Swim England Regulations 150 and 151, an affiliated Club or body may:

281.1.1 Apply sanctions to a member relating to activities wholly within its own jurisdiction up to and including suspension from any or all of them.

281.1.2 Expel a member, provided that before doing so it informs the member of the alleged offence and gives him a reasonable opportunity to defend himself against the charge. If the alleged offence is also a breach of Swim England Regulations the Club or body shall not deal with it but may make a complaint under the Judicial Regulations.

281.2 A Club or body may expel from membership and/or refuse to renew the membership of any member who has been suspended according to Regulation 109 or Regulation 241 provided that any such expulsion or initial refusal shall not be lawful after the twelve months immediately following the end of the suspension.

281.3 Each Club shall include in its rules provisions specifying the procedures to be carried out to handle internal Club disputes which shall include compliance with Swim England Judicial Regulations.

281.4 Any such provisions shall comply with the Swim England Recommended Club Constitution and the accompanying Guidance Notes.

2. COMPLAINT TO SWIM ENGLAND

Any dispute that involves an allegation of a breach of Swim England Regulations must be submitted to Swim England and dealt with as a complaint under the condition of Swim England Regulations 150.4 and 281.1.2.

Judicial Regulation 102 deals with the circumstance of a complaint made to Swim England. It provides the necessary explanation that defines a complaint, the grounds on which a complaint can be made, who can make a complaint and the procedure to be used.

Judicial Regulation 102: Complaints

102.1 A complaint is a formal expression of dissatisfaction with the actions or behaviour of any person, including an individual or a Club, or other body, or organisation or with alleged unfair practice in connection with the sport. Decisions of a Club, body, organisation, association, County Association or Region on selection of teams may not be the subject of a complaint.

3. INTERNAL DISPUTES

When a dispute arises between two or more members of the same Club, body or organisation it must be handled using the Internal Disputes procedure specified in the Club Constitutional Rules and Judicial Regulations 150 to 155.

Judicial Regulation 150: General

150.1 The primary objective of the Regulations in this section is to set out ways by which a just outcome of an internal dispute between the members of a Club, organisation, association or body may be secured as expeditiously as possible.

150.2 An 'internal Club dispute' is a dispute involving an alleged breach of the Club's rules, between two or more Club members, any or none of whom may be an officer of the Club, or one or more Club members and one or more employees of the Club (the "parties").

150.3 Any dispute which involves an allegation that there has been a breach of Swim England Regulations by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.

150.4 If the dispute involves an allegation against a paid employee of the Club the issue must be dealt with under the terms of his contract of employment.

150.5 A failure by a Club or any of the parties to comply with Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.

150.6 Organisations, associations or bodies affiliated to Swim England shall conform with such parts of Regulations 150 to 155 inclusive as may reasonably be applied to them, in all respects as if they were a Club.

Judicial Regulation 151: Sequence of steps to deal with a dispute

151.1 The parties shall use any reasonable means to settle the issues between them informally and amicably.

151.2 If such a resolution cannot be achieved, the dispute shall be referred to the Chairperson of the Club committee or, if he is a party to the dispute, to another officer of the Club who is not a party who within seven days of the reference shall appoint an independent person to act as a mediator between the parties. The mediator may be a member of the Club or a member of another Club affiliated to Swim England.

151.3 If the mediator is unable to bring about a satisfactory settlement within twenty one days, the Club committee shall within a further fourteen days appoint a panel (the 'panel') to determine the dispute.

151.3.1 The panel shall consist of three persons who have not been involved in the dispute, either from the members of the Club or, if this is not possible or desirable, from the members of any other Club affiliated to Swim England.

151.3.2 The parties shall be given the opportunity to object to any of the members of the panel at least seven days before the scheduled date of any hearing. The Club committee shall consider any such objections, decide whether they are justified and act accordingly.

Judicial Regulation 152: Procedure before a hearing

152.1 The panel members shall appoint one of their numbers to act as the Chairperson and either appoint another of their number, or alternatively appoint an additional person without any other powers, to act as the clerk of the hearing.

152.2 The Chairperson of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least fourteen days in advance of the date set. The notified date shall not be changed unless one or more of the parties has a compelling reason for not being able to attend on the notified day or time.

Judicial Regulation 153: Procedure at a hearing

153.1 The procedure shall be flexible and it shall be the responsibility of the Chairperson of the panel to ensure the orderly and effective conduct of the hearing.

153.2 The panel shall not be bound by the judicial rules of the courts of England and Wales governing procedure or the admissibility of evidence provided that the hearing is conducted in a fair and orderly manner and that each party is given a reasonable opportunity to give and call evidence, address the panel and present his case. The Chairperson shall have the discretion to limit the number of witnesses that would otherwise have been called.

153.3 Witnesses shall normally be provided with an area outside the hearing room and not take any part in the hearing other than giving evidence and responding to questions.

153.4 The parties shall be informed of their right to make a complaint under Regulation 102 if they are dissatisfied with the conduct of the hearing or the grounds upon which the decision was made or if they consider any sanction imposed to be disproportionate.

Judicial Regulation 154: Procedure after a hearing

154.1 The panel shall come to a decision as soon as reasonably practicable after the hearing and if possible announce its findings and decisions orally to the parties.

154.2 Notwithstanding anything in Regulation 154.1 the Chairperson shall notify the parties and, if the Club was not a party to the dispute, the Club secretary in writing of its findings and decisions within five days of the hearing.

Judicial Regulation 155: Considerations regarding children

155.1 Any person under the age of eighteen (a 'child') who is a party to a dispute or who has been called as a witness shall normally be accompanied by a parent, a person with parental responsibility or a suitable adult. The Chairperson shall have the sole discretion as to whether a child is permitted to present or defend a case or be questioned as a witness and may order that the child be assisted or represented by an adult.

155.2 The Chairperson shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:

155.2.1 No child aged fourteen or under shall normally be expected to attend a hearing to give evidence in person. His/her evidence shall normally be given as a written statement with the assistance of a Club welfare officer or other person acceptable to the child and parent. Questions and responses may be relayed by a panel member. If the child appears distressed the panel shall rely only on the written evidence.

155.2.2 A child over the age of fourteen shall only attend a hearing as a party to the dispute or to give evidence in person provided he wishes to, and the Chairperson has consulted with the parent and child and is satisfied that they both understand the nature of the hearing and what will happen and that the child is competent to attend.

155.2.3 If there is a disagreement between parent and/or child and the Chairperson on any of the considerations above, the Chairperson shall consider requesting advice from the Independent Child Protection Officer via the Swim England Legal Department.

155.3 During the hearing, a child who is expected to give evidence in person and his accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for him to give his evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.

155.4 After the hearing the Chairperson shall inform the parent of the panel's findings and decisions and shall discuss whether he or the parent shall inform the child.