



MARLBOROUGH PENGUINS AMATEUR SWIMMING CLUB

Club Complaint Policy

Swim England References

All references to Regulations within this policy relate to the Swim England Handbook. All parts of this policy are designed to comply with Swim England Regulation 103. This policy does not cover the process for a Judicial Complaint, which can be found in the Swim England handbook, Regulation 104, or a complaint which is being made against a paid employee of the Club, which is dealt within under the terms of the employee's contract unless Swim England Regulations have been breached.

Concerns vs Complaints

As in any organisation, misunderstandings can arise from time to time, which may lead to a Club member wishing to express concern. A concern is not a complaint and should not be treated as a complaint by the parent or the club. Only a very small number of concerns, which cannot be resolved through informal conversation, escalate into complaints which need to be investigated using the formal procedures outlined below.

When concerns are addressed and resolved there should be no need for a formal complaint. An initial request for action or an enquiry is not a complaint. However, failure to respond or address concerns could give rise to a complaint.

All complainants are reminded that if they approach another member of the Club concerning a concern or disagreement they should do so in a polite and civil manner. Any aggressive or impolite behaviour towards other Club Members will not be tolerated.

What is a Club Complaint?: a complaint involving an alleged breach of the club's rules, club's code of conduct, or any other dispute not relating to an alleged breach of Swim England regulations, between two or more club members. A Club Complaint is dealt with under Regulation 103 in the Swim England Handbook.

Making a Club Complaint

(1) Amicable Resolution:

Prior to making a Club Complaint, the parties to the dispute should seek to resolve the matter informally, within two weeks;

- This should be done by the two people involved in the dispute / issue, not by a third person trying to broker the discussion.
- Both parties should follow up in writing / via email to each other, summarising what was discussed and agreed so there is a record of this having taken place.

(2) Club Complaint Initiation:

- If the matter cannot be resolved informally, the Complainant should request, within 14 days of the issue that has caused the complaint to be raised, a Club Complaint form from

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the Club Chair (chairman@marlboroughpenguins.com). (Note – if the Club Chair is party to the Complaint, they will appoint a nominee to lead the process on behalf of the Club)

- The Club Complaint form will be sent to the Complainant as soon as possible and the Complainant should return the completed form to the Chair 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 their form with their response to the Complainant.
- Both parties have the option to agree to mediation. If agreed, the complaint moves to Step 3, if not agreed to, move to Step 4.

(3) Mediation (Optional, but strongly recommended):

- Swim England strongly recommends that mediation is considered. All parties retain ownership and agree the outcome
- If both parties agree, the Chair will appoint an independent mediator 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 it has failed.
- Mediation is a confidential process and the meeting shall not be discussed with anyone else other than to share the outcome with the Chair.

(4) Club Complaint Hearing:

- If both parties do not agree to mediation or the mediation fails, a Club Complaint hearing should take place.
- Within 7 days, the Club Chair shall organise a panel of 3 independent (*of the complaint*) members. One of those 3 should ideally be proposed by the Region to act as Chair of the Panel.
- Both parties can object to any panel member for good reason (see Regulation 103.5.3) but must be done within 3 days of notification.
- The panel hearing must take place within 28 days of the panel's appointment.
- Each party can have a maximum of 3 witnesses, unless the panel considers there to be a compelling reason for more to attend. The parties must obtain the consent from the panel for each witness to attend by providing the list of witnesses in advance and explaining why they consider their attendance necessary.
- On completion, the Panel must provide a copy of their decision to the parties and the Club Chair within 14 days.

(5) Club Complaint Outcome:

- 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 (Regulation 281).
- 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 final and binding. However, party to the Club Complaint may make a judicial complaint to the Office of Judicial Administration if;
 - i. they believe the Club or Panel did not comply with Judicial Regulation 103; or
 - ii. they believe the 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.

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