

Swim England North West

CONSTITUTION for a Registered (Unincorporated) Charity

Rules of Copeland Amateur Swimming Club

as at [1 February 2021]

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Preamble

Swim England is the trading/brand name of the Amateur Swimming Association (Swim England) Limited.

1. Adoption of the constitution

1.1 The charity and its property will be administered and managed in accordance with the provisions of this constitution.

2. Name

2.1 The name of the Charity shall be Copeland Amateur Swimming Club, hereinafter called the Charity.

3. Objects

3.1 The charity's objects are the promotion of community participation in healthy recreation, primarily but not exclusively, for the benefit of the inhabitants of Copeland and the surrounding areas by the provision of facilities for swimming and associated activities.

3.2 In the furtherance of these objects:

3.2.1 The Charity is committed to treat everyone equally within the context of its activity and with due respect to the differences of individuals. This shall be, for example, regardless of age, sex, ethnic origin, religion, disability or political persuasion, on any grounds.

3.2.2 The Charity shall implement the Swim England Equality policy as may be amended from time to time.

3.2.3 The Charity shall not apply nor endorse unlawful or unjustified discrimination, and shall act in compliance with the protections afforded by the Equality Act 2010 as may be amended from time to time.

3.2.4 The Charity will comply with the Data Protection Act 2018 as may be modified from time to time.

3.3 The Charity shall be affiliated to Swim England North West and the Cumbria Amateur Swimming Association and shall adopt and conform to the rules of those Associations, and to such other bodies as the Charity may determine from time to time.

3.4 The business and the affairs of the Charity shall at all times be conducted in accordance with the Articles, Company Regulations, General Regulations, Judicial Regulations and Technical Rules of Swim England, and in particular:

3.4.1 All competing members shall be eligible competitors as defined in Swim England Regulations.

- 3.4.2 The Charity shall in accordance with Swim England Regulations adopt Swim England's Child Safeguarding Policy and Procedures ('Wavepower'), and shall recognise that the welfare of children is everyone's responsibility and that all children and young people have a right to have fun, be safe and be protected from harm.
- 3.4.3 Members of the Charity shall in accordance with Swim England Regulations comply with Swim England's Child Safeguarding Policy and Procedures ('Wavepower').
- 3.5 By virtue of the affiliation of the Charity to Swim England North West, the Charity and all members of the Charity acknowledge that they are subject to the laws, rules, regulations and constitutions of:
 - 3.5.1 Cumbria ASA
 - 3.5.2 Swim England North West;
 - 3.5.3 Swim England (to include the Code of Ethics);
 - 3.5.4 British Swimming (in particular its Doping Control Rules and Protocols and the Judicial Code);
 - 3.5.5 FINA, the world governing body for the sport of swimming in all its disciplines (together 'the Governing Body Rules').
- 3.6 In the event that there shall be any conflict between any rule or by-law of the Charity and any of the Governing Body Rules then the relevant Governing Body Rule shall prevail.
- 3.7 For the avoidance of doubt, nothing in this Constitution shall seek supremacy over the law of the land. In the event of any conflict between the Governing Body rules and the laws of the land, the laws of the land shall prevail

4. Application of income and property

- 4.1 The income and property of the Charity must be applied solely towards the promotion of the objects.
 - 4.1.1 A trustee is entitled to be reimbursed from the property of the Charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the Charity.
 - 4.1.2 A trustee may benefit from trustee indemnity insurance cover purchased at the Charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- 4.2 None of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the Charity. This does not prevent a member who is not also a Trustee receiving:
 - 4.2.1 A benefit from the Charity as a beneficiary of the Charity;

4.2.2 Reasonable and proper remuneration for any goods or services supplied to the Charity.

5. Benefits and payments to Charity trustees and connected persons

5.1 General provisions

No Trustee or connected person may:

- 5.1.1 Buy or receive any goods or services from the Charity on terms preferential to those applicable to members of the public;
- 5.1.2 Sell goods, services, or any interest in land to the Charity;
- 5.1.3 Be employed by, or receive any remuneration from, the Charity;
- 5.1.4 Receive any other financial benefit from the Charity;

unless the payment or benefit is permitted by sub-clause 5.2 or authorised by the court or the Charity Commission ('the Commission'). In this clause, a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

5.2 Scope and powers permitting trustees' or connected persons' benefits

- 5.2.1 A trustee or connected person may receive a benefit from the Charity as a beneficiary of the Charity provided that a majority of the trustees do not benefit in this way.
- 5.2.2 A trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Charity where that is permitted in accordance with, and subject to the conditions in, section 185 of the Charities Act 2011.
- 5.2.3 Subject to sub-clause 5.3 a trustee or connected person may provide the Charity with goods that are not supplied in connection with services provided to the Charity by the trustee or connected person.
- 5.2.4 A trustee or connected person may receive interest on money lent to the Charity at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).
- 5.2.5 A trustee or connected person may receive rent for premises let by the trustee or connected person to the Charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- 5.2.6 A trustee or connected person may take part in the normal trading and fundraising activities of the Charity on the same terms as members of the public.

5.3 Payment for supply of goods only – controls

The Charity and its trustees may only rely upon the authority provided by sub-clause 5.2.3 if each of the following conditions is satisfied:

- 5.3.1 The amount or maximum amount of the payment for the goods is set out in a written agreement between the Charity and the trustee or connected person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the Charity.
- 5.3.2 The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- 5.3.3 The other trustees are satisfied that it is in the best interests of the Charity to contract with the supplier rather than with someone who is not a trustee or connected person. In reaching that decision the trustees must balance the advantage of contracting with a trustee or connected person against the disadvantages of doing so.
- 5.3.4 The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the Charity.
- 5.3.5 The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of trustees is present at the meeting.
- 5.3.6 The reason for their decision is recorded by the trustees in the minute book.
- 5.3.7 A majority of the trustees then in office are not in receipt of remuneration or payments authorised by this clause.

5.4 In sub-clauses 5.2 and 5.3:

- 5.4.1 The Charity includes any company in which the Charity:
 - 5.4.1.1 Holds more than 50% of the shares; or
 - 5.4.1.2 Controls more than 50% of the voting rights attached to the shares; or
 - 5.4.1.3 Has the right to appoint one or more trustees to the board of the company;
- 5.4.2 'Connected person' includes any person within the definition set out in clause 26 (Interpretation) of this constitution.

6. Finance

- 6.1 The financial year of the Charity shall be the period commencing on 1st September and ending on 30th in the following year. Any change to the financial year shall require the approval of the members at a General Meeting.

- 6.2 The Annual General Meeting of the Charity shall be held each year on a date in November. The date, time and venue for the Annual General Meeting shall be fixed by the Committee.
- 6.3 The financial transactions of the Charity shall be recorded by the treasurer in such manner as the trustees think fit.
- 6.4 The income and property of the Charity shall be applied only in furtherance of the objects of the Charity and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Charity. See clause 25, Dissolution
- 6.5 All moneys received by the Charity shall be deposited in a bank account in the name of the Charity. No sum shall be drawn from that account except by cheque, by electronic means, telephone methods or online and sanctioned by two of the authorised individuals who shall be the Chair, Secretary and Treasurer (the Executive Officers). No two Executive Officers should be related.
- 6.6 Any moneys not required for immediate use may be invested as the trustees in their discretion think fit.
- 6.7 The trustees shall be responsible for ensuring that the Accounts of the Charity for each financial year be examined by an independent examiner to be appointed by the members at a General Meeting.
- 6.8 The trustees may borrow money on behalf of the Charity for the purposes of the Charity from time to time at their own discretion up to such limits on borrowing as may be laid down from time to time by a General Meeting for the general upkeep of the Charity or with the prior approval of a General Meeting for any other expenditure, additions or improvements.
- 6.9 When so borrowing the trustees shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sums or sums of money in such manner or on such terms and conditions as it thinks fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the Charity.
- 6.10 The trustees shall have no power to pledge the personal liability of any member of the Charity for the repayment of any sums so borrowed.
- 6.11 The Committee shall retain all financial records relating to the Charity and copies of Minutes of all meetings for a minimum period of six years.

7. Membership

7.1 Admission of new members

- 7.1.1 Membership is open to individuals or organisations who are approved by the trustees.
- 7.1.2 The total membership of the Charity shall not normally be limited. If however the trustees consider that there is a good reason to impose any limit from time to time then the trustees shall put forward appropriate proposals for consideration by the members at a General Meeting of the Charity. The members shall have the right to impose and remove from time to time any limits on total membership or any category of

membership of the Charity.

- 7.1.3 All persons who assist in any way with the Charity's activities shall become members of the Charity and hence of Swim England and the relevant Swim England membership fee shall be paid. Assisting with the Charity's activities shall include, but not be restricted to, administrators, associate members, voluntary instructors, teachers and coaches, committee members, helpers, honorary members, life members, officers, patrons, presidents, technical and non-technical officials, temporary members, vice presidents and verifiers or tutors of the Swim England's educational certificates.
- 7.1.4 Paid instructors, teachers and coaches who are not members of the Charity must be members of a body which accepts that its members are bound by Swim England's Code of Ethics, Swim England Regulations relating to 'Wavepower', and those parts of the Judicial Regulations and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of Swim England shall be subject to all the constraints and privileges of the Judicial Regulations.
- 7.1.5 Any person who wishes to become a member of the Charity must submit a signed application to the Secretary (and in the case of a junior swimmer the application must be signed by the swimmer's parent or guardian). Election to membership shall be determined by the Membership Officer but other person(s) authorised by the Committee may make recommendation as to the applicant's acceptability.
- 7.1.6 The Charity may only refuse an application for membership if, acting reasonably and properly, they consider it to be in the best interests of the charity to refuse the application.
- 7.1.7 The Charity may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Charity or the sport into disrepute, or is in arrears with another Swim England affiliated club, or, in the case of a swimmer, being unable to achieve the entry standards as laid down and provided by the Charity to the applicant for membership.
- 7.1.8 The Membership Officer shall,
- 7.1.8.1 If they approve an application for membership, notify the applicant of their decision within 21 days.
- 7.1.8.2 If they decide to refuse an application for membership, give the applicant their reasons for doing so in writing within 21 days.
- 7.1.9 Any person refused membership may seek a review of this decision before a 'Review Panel' appointed by the Committee comprised of not less than three members, who may or may not be members of the Committee. The procedures used for the review shall be at the discretion of the Review Panel. The Review Panel shall wherever practicable include one independent member nominated by Swim England North West.
- 7.1.10 The person refused membership shall be entitled to make representations to the Review Panel. The trustees' decision following any representations must be notified to the applicant in writing but shall be final and binding.

- 7.1.11 In its consideration of applications for membership, the Charity shall not act in a discriminatory manner and in particular, shall adhere to the Equality Act 2010 (as may be amended). Accordingly, (unless the Charity chooses to restrict its membership to only people who share the same Protected Characteristic) the Charity shall not refuse membership on the basis of a Protected Characteristic within the Equality Act 2010, such as disability; gender or gender identity; pregnancy; race; religion or belief; or sexual orientation. Neither may refusal be made on the grounds of political persuasion.
- 7.1.12 Membership of the Charity cannot be transferred to anyone else.

7.2 Membership categories

The category of membership shall be decided in accordance with the following:

- 7.2.1 Senior Members, who shall be not less than 18 years of age, shall be eligible to hold office and to attend and vote at Committee and General Meetings and to submit nominations, proposals and resolutions to a General Meeting of the membership.
- 7.2.2 Junior Members, who shall be less than 18 years of age, shall not be allowed to hold office, attend meetings unless by invitation of the committee or vote at Committee or General Meetings or submit nominations, proposals or resolutions for consideration at a General Meeting of the membership.
- 7.2.3 Honorary Members. The Annual General Meeting may elect any person as an Honorary member of the Charity for such period as it thinks fit. Honorary members shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a general meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the Charity. Honorary members must be included in the Charity's annual return as to membership to Swim England.
- 7.2.4 Life Members. The Annual General Meeting may elect any person as a Life Member on a recommendation made by the Committee in recognition of outstanding services rendered to the Charity. Life members shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a general meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the Charity. Life members must be included in the Charity's annual return as to membership to Swim England.
- 7.2.5 Temporary Members, who are individuals granted temporary membership by Swim England by virtue of their participation in specific event(s) organised by the Charity in conjunction with a club, body, association or organisation under the provision of the Swim England Regulation on temporary membership. Temporary Members shall not be entitled to make proposals and resolutions, to vote at meetings and serve as officers or on the Committee.

- 7.2.6 Associate Members, who shall be not less than 18 years of age, who shall be elected by the Committee in recognition of support or services rendered to the Charity. Associate Members shall be entitled to all the privileges of membership including the right to make nominations for office and for the committee, to submit propositions and resolutions for consideration at any general meeting of the membership, to vote at General Meetings, to hold office and be elected to the Committee and must be included in the Charity's annual return as to membership.
- 7.2.7 The trustees must keep a register of names and addresses of the members which must be made available to any member upon request.

7.3 Termination of membership

- 7.3.1 Membership of the Charity comes to an end if:
- 7.3.1.1 The member dies, or, in the case of an organisation, it ceases to exist; or
 - 7.3.1.2 The member sends a notice of resignation to the trustees unless, after the resignation, there would be less than two members; or
 - 7.3.1.3 Any sum of money owed by the member to the Charity is not paid in full within one months of its falling due. Where the membership of a member shall be terminated in this way he/she shall be informed in writing that he/she is no longer a member by notice handed to him/her or sent by post to his/her last known address or by email; or
 - 7.3.1.4 The trustees decide that it is in the best interests of the Charity that the member in question should be removed from membership, and pass a resolution to that effect.
- 7.3.2 Before the trustees take any decision to remove someone from membership of the Charity they must:
- 7.3.2.1 Give the member at least 21 clear days' notice in writing of the meeting of the trustees at which the resolution will be proposed and the reasons why it is to be proposed.
 - 7.3.2.2 At a duly constituted meeting of the trustees, consider whether or not the member should be removed from membership.
 - 7.3.2.3 Consider at that meeting any representations which the member makes as to why the member should not be removed; and
 - 7.3.2.4 Allow the member, or the member's representative (who need not be a member of the Charity) to make those representations in person at that meeting, if the member so chooses.
 - 7.3.2.5 Comply with the relevant Judicial Regulations for handling Internal Club Disputes Procedures ("the Procedures") as the same may be revised from time to time A copy of the relevant Regulations and Procedures are given

as an Appendix 3 to this constitution.

- 7.3.3 A member may not be expelled or be made the subject of any other penalty unless the panel hearing the complaint shall **by a two-thirds majority** vote in favour of the expulsion of or other penalty imposed upon the member.
- 7.3.4 Once created, Honorary and Life Membership may only be removed at an Annual General Meeting of the Charity, when it shall be properly proposed in accordance with these Rules.
- 7.3.4.1 A minimum of 21 days in advance of the Annual General Meeting, the Secretary shall write or make contact electronically with all holders of honorary or life membership drawing the proposal to his/her/their attention and inviting him/her/them to attend the Annual General Meeting.
- 7.3.4.2 Where the affected holder or holders of Honorary or Life membership do not attend or are unable to attend the Annual General Meeting, the Chair may allow the matter (in so far as it relates to the absent person(s)) to proceed directly to vote, which shall be by **show of hands**.
- 7.3.5 The Executive Officers of the Charity (or any person to whom the Committee shall delegate this power) may temporarily suspend or exclude a member from particular training sessions and/or wider Charity activities, when in their opinion, such action is in the interests of the Charity. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Regulations.
- 7.3.6 The Club Officials in charge of a particular event shall be responsible for the discipline of the Club members. If further action is required this is to be referred to the Internal Disputes procedures as laid down in Swim England Judicial Regulations.
- 7.3.7 Upon expulsion, the former member **shall not** be entitled to have any part of the annual membership fee to be refunded and must return any Charity or external body's trophy or trophies held forthwith.
- 7.3.8 The Swim England Membership Department shall be informed should a member resign when still owing money or goods to the Charity.

7.4 Membership fees

- 7.4.1 The members' squad fees shall be proposed to the Annual General Meeting by the Committee, and they shall in so doing make special provision for different classes of membership as the Committee shall determine. This shall include the power to make such increase in the subscription as shall, where the Charity pays the individual Swim England Membership Fees to Swim England on behalf of members, be consequential upon an increase in individual Swim England membership fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase at the next Annual General Meeting.

- 7.4.2 The annual subscription and joining fee (if any) shall be due on joining the Charity and thereafter on the 1st day of January.
- 7.4.3 Any member whose training and other fees as applicable are unpaid by the date falling 30 days after the due date for payment may be suspended by the Committee from some or all Charity activities from a date to be determined by the Committee and until such payment is made.
- 7.4.4 The **Committee** shall have the power in special circumstances to remit the whole or part of the fees, including the Swim England membership fees, to address issues of social inclusion.
- 7.4.5 Any member who resigns from the Charity in accordance with sub-clause 7.3.1.2 shall not be entitled to have any part of the annual membership fee or any other fees returned.

8. General Meetings of members

8.1 Types of General Meeting

- 8.1.1 There must be an annual General Meeting (AGM) of the members of the Charity. The first AGM must be held within 12 months of the date of adoption of this constitution. An annual General Meeting must be held in each subsequent year and not more than fifteen months may elapse between successive annual General Meetings.
- 8.1.2 The Annual General Meeting of the Charity shall be held each year on a date in November. The date, time and venue for the Annual General Meeting shall be fixed by the Committee.
- 8.1.3 Other General Meetings of the members of the Charity shall be called Special General Meetings.
- 8.1.4 The secretary or in his/her absence another Executive Committee member shall take minutes at General Meetings.

8.2 Purpose of the Annual General Meeting

- 8.2.1 To receive and consider the accounts of the Charity for the previous year, the report on the accounts of the independent examiner and the Treasurer's report as to the financial position of the Charity.
- 8.2.2 To receive the trustees' annual report on the activities of the Charity during the previous year.
- 8.2.3 To elect as trustees the Executive Officers and other members of the Committee.
- 8.2.4 To remove and elect the independent examiner (who must not be a member of the Committee or a member of the family of a member of the Committee) or confirm that he/she remain in office.
- 8.2.5 To elect a President and Vice-Presidents if required. See also clause 11 of this constitution (Ceremonial Positions).
- 8.2.6 To elect Honorary and Life members of the Charity. See also clauses 7.2.3 and 7.2.4 of this constitution.
- 8.2.7 To decide on the dissolution of existing honorary and life membership categories.
- 8.2.8 To decide on any resolution, proposal or submission that is duly submitted in accordance with sub-clause 8.3.10.

8.3 Procedures for calling General Meetings

- 8.3.1 The minimum period of notice required to hold any General Meeting of the Charity is fourteen clear days from the date on which the notice is deemed to have been given.
- 8.3.2 A General Meeting may be called at shorter notice if it is so agreed by all the members entitled to attend and vote.
- 8.3.3 The trustees may call a Special General Meeting of the members at any time.
- 8.3.4 The trustees must, within 21 days, call a Special General Meeting if requested to do so in writing by at least ten members or one tenth of the membership, whichever is the greater. The request must state the general nature of the business that is to be discussed.
- 8.3.5 Any general meeting called by the trustees at the request of the members of the Charity must be held within 28 days from the date on which it is called.
- 8.3.6 If the trustees fail to hold the meeting within 28 days of the request, the members may proceed to call a Special General Meeting but in doing so they must comply with the provisions of this constitution.
- 8.3.7 A general meeting called in this way must be held not more than 3 months after the date when the members first requested the meeting.

- 8.3.8 The trustees may only in the event of exceptional circumstances postpone a General Meeting once the date, time and venue has been fixed and advised to members. A postponed General Meeting shall normally be reconvened on a date within 28 days of the original date and a minimum of 7 days advance notice given to the members of the rescheduled date, time and venue. At this meeting, the same agenda as originally issued shall be used.
- 8.3.9 The Secretary shall personally be responsible for the handing out or sending to each senior member the notice of any General Meeting not less than 28 days before the date of the meeting which must state the time, date and venue of the meeting and the closing date for the receipt of any resolutions, proposals, nominations or reports to be considered thereat. Notice of the Meeting shall in addition wherever possible be displayed on the Charity's Notice Board where one exists.
- 8.3.10 Notice of any resolution, proposal or submission to be considered at a General Meeting, duly proposed and seconded shall be given in writing or by electronic means to the Secretary not later than 21 days prior to the date of the meeting.
- 8.3.11 Nominations for the election of members to any office, named position or for membership of the Committee shall be made in writing or by electronic means by the proposer and seconder to the Secretary not less than 21 days prior to the date of the meeting. The nominee shall be required to indicate on the nomination form his/her willingness to stand for election.
- 8.3.12 The Secretary shall personally be responsible for making available to each senior member:
- 8.3.12.1 A written or electronic agenda for a General Meeting together with the resolutions to be proposed, and of the general nature of any other business to be dealt with at the meeting at least 14 days before the meeting;
- 8.3.12.2 In the case of the Annual General Meeting the annual statement of accounts and the trustees' annual report, details of persons standing for election or re-election as trustee, and removal and election of the independent examiner or confirm that he/she remain in office.
- 8.3.12.3 If a proposal to alter the constitution of the Charity is to be considered at the meeting, the text of the proposed alteration must be included.
- 8.3.13 The Secretary shall comply with clause 24 of this constitution (Notices) when communicating with members.

8.4 Chiring of General Meetings

- 8.4.1 The person elected as Chair of the Charity shall preside as Chair of the meeting.
- 8.4.2 If the Chair is not available or declines to act as chair, the Vice Chair (if one has been appointed) shall be invited to take the chair.

- 8.4.3 If the Vice Chair is not available or declines to act as Chair a trustee nominated by the trustees shall chair the meeting.
- 8.4.4 If there is only one trustee present and willing to act, he or she shall chair the meeting.
- 8.4.5 If no trustee is present and willing to chair the meeting within thirty minutes after the time appointed for holding it, the members of the Charity who are present and entitled to vote at a General Meeting shall elect one of their number to chair to the meeting.
- 8.4.6 The Chair shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of the Constitution of the Charity.

8.5 Quorum at General Meetings

- 8.5.1 No business may be transacted at any General Meeting unless a quorum is present when the meeting starts.
- 8.5.2 The quorum for General Meetings shall be the greater of six members entitled to vote upon the business to be conducted at the meeting, or one tenth of the total membership at the time, and must include at least one officer.
- 8.5.3 The authorised representative of a member organisation shall be counted in the quorum.
- 8.5.4 If a quorum is not present within 30 minutes of the starting time specified in the notice of the meeting, or the meeting is adjourned for want of time (or other good reason), the meeting shall be adjourned. The date, time and place at which the meeting will resume must either be announced by the chair or be notified to the Charity's members at least seven clear days before the date on which it will resume.
- 8.5.5 If the meeting has been called by or at the request of the members and a quorum is not present within 30 minutes of the starting time specified in the notice of the meeting, or during the meeting a quorum ceases to be present, the meeting is closed.
- 8.5.6 Any adjourned meeting must be re-convened and business completed within 2 months of the adjournment.
- 8.5.7 If a quorum is not present within thirty minutes of the start time of the adjourned meeting, the members present at the meeting shall constitute a quorum for that meeting.
- 8.5.8 If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the trustees but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

8.6 Voting at General Meetings

- 8.6.1 Each member present who is entitled to attend and vote shall have one vote and

resolutions shall be passed by a simple majority.

- 8.6.2 In the event of an equality of votes the chair of the meeting shall have a second, or casting vote.
- 8.6.3 A resolution in writing signed by each member (or in the case of a member that is an organisation, by its authorised representative) who would have been entitled to vote upon it had it been proposed at a General Meeting shall be effective. It may comprise several copies each signed by or on behalf of one or more members.

8.7 Representatives of other bodies

- 8.7.1 An organisation that is a member of the Charity may nominate any person to act as its representative at any meeting of the Charity.
- 8.7.2 The organisation must give written notice to the Charity of the name of its representative. The nominee shall not be entitled to represent the organisation at any meeting unless the notice has been received by the Charity. The nominee may continue to represent the organisation until written notice to the contrary is received by the Charity.
- 8.7.3 Any notice given to the Charity will be conclusive evidence that the nominee is entitled to represent the organisation or that his or her authority has been revoked. The Charity shall not be required to consider whether the nominee has been properly appointed by the organisation.

8.8 Adjournment of meetings

- 8.8.1 The members present at a meeting may resolve that the meeting shall be adjourned.
- 8.8.2 The person who is chairing the meeting must decide the date, time and place at which the meeting is to be re-convened unless those details are specified in the resolution.
- 8.8.3 No business shall be conducted at an adjourned meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- 8.8.4 If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the re-convened meeting stating the date, time and place of the meeting.

9. Charity trustees

9.1 Officers and trustees

- 9.1.1 The Charity and its property shall be managed and administered by a committee comprising the officers and other members elected in accordance with this constitution. The officers and other members of the committee shall be the trustees of the Charity and in this constitution are together called 'the trustees'.
- 9.1.2 The Charity shall have the following Executive Officers:

- 9.1.2.1 A chair,
- 9.1.2.2 A secretary,
- 9.1.2.3 A treasurer,
- 9.1.2.4 A vice chair
- 9.1.3 A trustee must be a member of the Charity or the nominated representative of an organisation that is a member of the Charity.
- 9.1.4 All trustees must be not less than 18 years of age though younger member(s) of the Charity may attend meetings by invitation but without the power to vote.
- 9.1.5 No one may be appointed a trustee if he or she would be disqualified from acting under the provisions of sub-clause 9.3.
- 9.1.6 The number of trustees shall be not less than three. The maximum number of trustees shall be twelve
- 9.1.7 The trustees may not appoint any trustee if as a result the number of trustees would exceed the maximum.
- 9.1.8 In addition to the trustees so elected, the Committee may co-opt up to three further members of the Charity who shall serve until the next Annual General Meeting. Co-opted members must be more than 18 years of age and shall not be entitled to vote at the meetings of the Committee and **shall not** be counted in establishing whether a quorum is present.
- 9.1.9 A trustee may not appoint anyone to act on his or her behalf at meetings of the trustees.
- 9.1.10 The Committee shall appoint a member of the Charity as Welfare Officer who must be not less than 18 years of age who should have an appropriate background and who is required to undertake appropriate training in accordance with "Wavepower". The Welfare Officer shall not be a member of the teaching and coaching staff or the Team Manager or a member of the family of an officer, committee member, the teaching and coaching staff or the Team Manager. Although the Welfare Officer will not be a trustee, he/she will have a right to attend Committee meetings without a power to vote and shall report to the Committee on all aspects of welfare concerning members of the Charity.

9.2 Powers and duties of trustees

- 9.2.1 The trustees must manage the business of the Charity and have the following powers in order to further the objects (but not for any other purpose):
 - 9.2.1.1 To raise funds. In doing so, the trustees must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations;

- 9.2.1.2 To buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- 9.2.1.3 To sell, lease or otherwise dispose of all or any part of the property belonging to the Charity. In exercising this power, the trustees must comply as appropriate with sections 117 - 122 of the Charities Act 2011;
- 9.2.1.4 To borrow money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed. The trustees must comply as appropriate with sections 124 - 126 of the Charities Act 2011, if they intend to mortgage land;
- 9.2.1.5 To co-operate with other Charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- 9.2.1.6 To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the objects;
- 9.2.1.7 To acquire, merge with or enter into any partnership or joint venture arrangement with any other Charity formed for any of the objects;
- 9.2.1.8 To set aside income as a reserve against future expenditure but only in accordance with a written policy about reserves;
- 9.2.1.9 To obtain and pay for such goods and services as are necessary for carrying out the work of the Charity;
- 9.2.1.10 To open and operate such bank and other accounts as the trustees consider necessary and to invest funds and to delegate the management of funds in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;
- 9.2.1.11 To do all such other lawful things as are necessary for the achievement of the objects.
- 9.2.2 The trustees shall have the sole right of appointing and determining the terms and conditions of service of employees and voluntary helpers of the Charity.
- 9.2.3 The trustees shall have power to enter into contracts for the purposes of the Charity on behalf of all the members of the Charity.
- 9.2.4 The trustees shall be entitled to an indemnity out of the assets of the Charity for all expenses and other liabilities properly incurred by them in the management of the affairs of the Charity.
- 9.2.5 No alteration of this constitution or any special resolution shall have retrospective effect to invalidate any prior act of the trustees.
- 9.2.6 Any meeting of trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the trustees.

- 9.2.7 The trustees shall maintain an Accident Book in which all accidents to Charity members at swimming related activities shall be recorded. Details of such accidents shall be reported to the insurers in accordance with the Swim England Accident/Incident Notification guidelines. The Charity shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed online form.
- 9.2.8 The Committee shall appoint a member of the Charity who shall be the responsible for overseeing the Charity's compliance with data protection laws.

9.3 Disqualification and removal of trustees

- 9.3.1 A trustee ceases to hold office if he or she:
- 9.3.1.1 Resigns as a trustee by notifying the Charity in writing (but only if at least two trustees will remain in office when the notice of resignation is to take effect);
 - 9.3.1.2 Ceases to be a member of the Charity;
 - 9.3.1.3 Is absent without the permission of the trustees from all their meetings held within a period of six consecutive months and the trustees resolve that his or her office be vacated;
 - 9.3.1.4 In the written opinion, given to the Charity, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a trustee and may remain so for more than three months;
 - 9.3.1.5 Is disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

10. Election of the Committee/Trustees

- 10.1 The trustees may appoint any person who is willing to act as a trustee.
- 10.2 The trustees may also appoint trustees to act as officers. However, the trustees may not appoint a person to be an officer if a person has already been elected or appointed to that office and has not vacated the office.
- 10.3 The Executive Officers and other trustees shall be proposed, seconded and elected at each Annual General Meeting and shall remain in office until their successors are elected at the next Annual General Meeting and will take office when the Chairman has closed the meeting. Retiring Executive Officers and trustees shall be eligible for re-election.
- 10.4 Any Executive Officer or other trustee who retires by rotation or by giving notice to the Charity is eligible for re-election at the next Annual General Meeting.

- 10.5 Nominations for election of trustees shall be made in writing by the proposer and seconder to the secretary not later than 21 days before the Annual General Meeting. The nominee shall indicate in writing his/her willingness to stand for election.
- 10.6 Any casual vacancy occurring by resignation or otherwise may be filled by the Committee but any member so chosen shall retire at the next Annual General Meeting but shall be eligible for re-election at that Meeting.
- 10.7 The appointment of a trustee, whether at a General Meeting or by the other trustees, must not cause the number of trustees to exceed any number fixed in accordance with this constitution as the maximum number of trustees – see sub-clause 9.1.6 above.

11. Ceremonial Positions

- 11.1 The Annual General Meeting, if it thinks fit, may elect a President and Vice-Presidents. A President or Vice-President need not be a member of the Charity on election but shall, ex officio, be an honorary member of the Charity and must be included in the Charity's annual return of members to Swim England.

12. Meetings and proceedings of Charity trustees (the Committee)

- 12.1 The trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

12.2 Calling meetings

- 12.2.1 Any trustee may call a meeting of the trustees.
- 12.2.2 The secretary must call a meeting of the trustees if requested to do so by a trustee.
- 12.2.3 Subject to that, the trustees shall decide how their meetings are to be called, and what notice is required.
- 12.2.4 Meetings of the trustees shall be held not less than monthly save where the Committee itself shall by a simple majority resolve not to meet, but there shall be not less than six meetings of the Committee per year.
- 12.2.5 The Chair and the Secretary shall have discretion to call further meetings of the Committee if they consider it to be in the interests of the Charity.
- 12.2.6 The Secretary shall give all the members of the Committee not less than seven days' notice of a meeting in writing or by electronic means.

12.3 Chairing of meetings

- 12.3.1 Meetings of the trustees will normally be chaired by the Chair of the Charity.
- 12.3.2 If the Chair is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the trustees present may appoint one of their number to chair that meeting.

12.3.3 The person appointed to chair meetings of the trustees shall have no functions or powers except those conferred by this constitution or delegated to him or her in writing by the trustees.

12.4 Procedure at meetings

12.4.1 No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum of those meetings shall be not less than a simple majority of the trustees, to include not less than one Officer.

12.4.2 A trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

12.4.3 In the event that a quorum is not present within 30 minutes of the published start time, a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the Chair. If a quorum is not present at the adjourned meeting then those Committee members attending may act for the purpose of calling a Special General Meeting of the members, to which the provisions as to minimum notice contained in sub-clause 8.3 of this constitution shall not apply.

- 12.4.4 If the number of trustees is less than the number fixed as the quorum the continuing trustees or trustee may:
- 12.4.4.1 Discuss issues and make recommendations to the trustees but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.
 - 12.4.4.2 Act for the purpose of filling vacancies.
 - 12.4.4.3 Act for the purpose of calling a general meeting.
- 12.4.5 A resolution in writing signed by all the trustees entitled to receive notice of a meeting of trustees or of a committee of trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the trustees or (as the case may be) a committee of trustees duly convened and held.
- 12.4.6 The resolution in writing may comprise several documents containing the text of the resolution in like form each signed by one or more trustees.
- 12.4.7 Decisions of the Committee shall be made by a simple majority of votes. In the event of equality of votes the Chair (or the acting Chair of that meeting) shall have a casting or additional vote.
- 12.4.8 The Secretary, or in his/her absence a member of the Committee, shall take minutes.

13. Delegation by Charity trustees

- 13.1 The trustees may delegate any of their powers or functions to a sub-committee or committees, and, if they do, they must determine the terms and conditions on which the delegation is made.
- 13.2 The trustees may at any time alter those terms and conditions, or revoke or alter the delegation.
- 13.3 The terms of any such delegation must be recorded in the minute book.
- 13.4 All acts and proceedings of any sub committees must be fully and promptly reported to the trustees.
- 13.5 A sub-committee may consist of two or more persons with at least two trustees.
- 13.6 The trustees may impose conditions when delegating, including the conditions that:
- 13.6.1 The relevant powers are to be exercised exclusively by the committee to whom they delegate;
 - 13.6.2 No expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the trustees.

14. Conflicts of interest and conflicts of loyalty

14.1 A trustee must:

14.1.1 Declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared; and,

14.1.2 Absent himself or herself from any discussions of the trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the Charity and any personal interest (including but not limited to any financial interest).

14.2 Any trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the trustees on the matter.

15. Irregularities in proceedings

15.1 Subject to sub-clause 15.2 below, all decisions of the trustees or acts done by a meeting of trustees, or of a committee of trustees, shall be valid notwithstanding the participation in any vote of a trustee:

15.1.1 Who was disqualified from holding office;

15.1.2 Who had previously retired or who had been obliged by the constitution to vacate office;

15.1.3 Who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;

if, without:

15.1.4 The vote of that trustee; and

15.1.5 That trustee being counted in the quorum,

the decision has been made by a majority of the trustees at a quorate meeting.

15.2 Sub-clause 15.1 above does not permit a trustee to keep any benefit that may be conferred upon him or her by a resolution of the trustees or of a committee of trustees if the resolution would otherwise have been void, or if the trustee has not complied with clause 14 of this constitution (Conflicts of interest and conflicts of loyalty).

15.3 No resolution or act of

15.3.1 The trustees;

15.3.2 Any committee of the trustees;

15.3.3 The Charity in General Meeting,

shall be invalidated by reason of the failure to give notice to any trustee or member or by reason of any procedural defect in the meeting unless it is shown that the failure or defect has materially prejudiced a member or the beneficiaries of the Charity.

16. Minutes

16.1 The trustees must keep minutes of all:

16.1.1 Appointments of officers and trustees made by the trustees;

16.1.2 Proceedings at General Meetings of the Charity;

16.1.3 Meetings of the trustees and committees of trustees including:

16.1.3.1 The names of the trustees and/or voting members present at the meeting;

16.1.3.2 The decisions made at the meetings; and

16.1.3.3 Where appropriate the reasons for the decisions.

17. Accounts, annual report and annual return

17.1 The trustees must comply with their obligations under the Charities Act 2011 with regard to:

17.1.1 The keeping of accounting records for the Charity;

17.1.2 The preparation of annual statements of account for the Charity;

17.1.3 The transmission of the statements of account to the Commission;

17.1.4 The preparation of an Annual Report and its transmission to the Commission;

17.1.5 The preparation of an Annual Return and its transmission to the Commission.

17.2 The statement of accounts, annual report and annual return must be sent to the Charity Commission if the income of the Charity is more than £10K within 10 months of the financial year end.

17.3 Accounts must be prepared in accordance with the provisions of any Statement of Recommended Practice issued by the Commission, unless the trustees are required to prepare accounts in accordance with the provisions of such a Statement prepared by another body.

17.4 The Charity must retain all accounting records, for example, cash books, invoices, receipts etc. for at least 6 years.

18. Registered particulars

18.1 The trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

Note: A Charity's entry includes its name, correspondence address, objects, governing document (and any amendment) and names of its trustees. The Commission issues to every Charity an Annual Update form and Annual Return on which these details can conveniently be supplied, although changes to the correspondent details should be provided as soon as possible.

19. Property

19.1 The trustees must ensure the title to:

19.1.1 All land held by or in trust for the Charity that is not vested in the Official Custodian of Charities; and

19.1.2 All investments held by or on behalf of the Charity, is vested either in a corporation entitled to act as custodian trustee or in not less than three individuals appointed by them as Custodians.

19.2 The Custodians shall be elected at a General Meeting of the Charity and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.

19.3 The Custodians shall be entitled to an indemnity out of the property of the Club for all expenses and other liabilities properly incurred by them in the discharge of their duties.

19.4 The terms of the appointment of any holding trustees must provide that they may act only in accordance with lawful directions of the trustees and that if they do so they will not be liable for the acts and defaults of the trustees or of the members of the Charity. They shall deal with the property as directed by resolution of the Committee and an entry in the minute book shall be conclusive evidence of such a resolution.

20. Repair and insurance

20.1 The trustees must keep in repair and insure to their full value against fire and other usual risks all the buildings of the Charity (except those buildings that are required to be kept in repair and insured by a tenant). They must also insure suitably in respect of public liability and employer's liability.

21. Rules

21.1 The trustees may from time to time make such reasonable and proper rules or by-laws as they may deem necessary or expedient for the proper conduct and management of the Charity.

21.2 The by-laws may regulate the following matters but are not restricted to them:

21.2.1 The admission of members of the Charity (including the admission of organisations to membership) and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;

21.2.2 The conduct of members of the Charity in relation to one another, and to the Charity's employees and volunteers;

- 21.2.3 The setting aside of the whole or any part or parts of the Charity's premises at any particular time or times or for any particular purpose or purposes;
- 21.2.4 The procedure at General Meetings and meetings of the trustees in so far as such procedure is not regulated by this constitution;
- 21.2.5 The keeping and authenticating of records. (If regulations made under this clause permit records of the Charity to be kept in electronic form and requires a trustee to sign the record, the regulations must specify a method of recording the signature that enables it to be properly authenticated.)
- 21.2.6 Generally, all such matters as are commonly the subject matter of the rules of an unincorporated association.

21.3 The Charity in General Meeting has the power to alter, add to or repeal the rules or by-laws.

21.4 The trustees must adopt such means as they think sufficient to bring the rules and bye-laws to the notice of members of the Charity. Copies of any such rules or by-laws currently in force must be made available to any member of the Charity on request.

21.5 The rules or by-laws shall be binding on all members of the Charity. No rule or by-law shall be inconsistent with, or shall affect or repeal anything contained in, this constitution.

22. Disputes

22.1 If a dispute arises between members of the Charity about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

22.2 The Charity shall adopt the Swim England Guidelines for Handling Internal Club Disputes. A copy of the relevant Regulations and Procedures are given as an Appendix to this constitution.

23. Amendment of constitution

23.1 The Charity may amend any the following provisions: clause 2 (Name); clause 3 (Objects); clause 4 (Application of income and property); clause 5 (Benefits and payments to Charity trustees and connected persons); clause 23 (Amendment of constitution) and clause 25 (Dissolution) provided that:

23.1.1 No amendment may be made that would have the effect of making the Charity cease to be a Charity at law;

23.1.2 No amendment may be made to alter the Objects if the change would undermine or work against the previous Objects of the Charity;

23.1.3 No amendment may be made to clause 4 (Application of income and property) or clause 5 (Benefits and payments to trustees and connected persons) and clause 6 (Dissolution) without the prior written consent of the Commission;

- 23.1.4 Any resolution is passed by a majority of at least 75% of the members present and entitled to vote at a General Meeting.
- 23.2 Any other provision contained in this constitution may be amended, provided that any such amendment is made by resolution passed by a simple majority of the members present and voting at a General Meeting.
- 23.3 A copy of any resolution altering the constitution must be sent to the Commission within twenty one days of it being passed.
- 23.4 No amendment(s) to this constitution shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by Swim England North West or at a later date decided by the meeting.

24. Notices

- 24.1 Any notice required by this constitution to be given to or by any person must be:
- 24.1.1 In writing; or
 - 24.1.2 Given using electronic communications.
- 24.2 The Charity may give any notice to a member either:
- 24.2.1 Personally; or
 - 24.2.2 By sending it by post in a prepaid envelope addressed to the member at his or her address; or
 - 24.2.3 By leaving it at the address of the member; or
 - 24.2.4 By giving it using electronic communications to the member's address.
- 24.3 A member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.
- 24.4 A member present in person at any meeting of the Charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.
- 24.5 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- 24.6 Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.
- 24.7 A notice shall be deemed to be given 48 hours after the envelope containing it was posted or, in the case of an electronic communication, 48 hours after it was sent.

25. Dissolution

- 25.1 A resolution to dissolve the Charity shall only be considered at a General Meeting and shall be carried by a majority of at least 75% of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.
- 25.2 If the members resolve to dissolve the Charity the trustees will remain in office as Charity trustees and be responsible for winding up the affairs of the Charity in accordance with this clause.
- 25.3 The trustees must collect in all the assets of the Charity and must pay or make provision for all the liabilities of the Charity.
- 25.4 The trustees must apply any remaining property or money:
- 25.4.1 Directly for the objects;
 - 25.4.2 By transfer to any Charity or Charities for purposes the same as or similar to the Charity;
 - 25.4.3 In such other manner as the Charity Commission may approve in writing in advance.
- 25.5 The members may pass a resolution before or at the same time as the resolution to dissolve the Charity specifying the manner in which the trustees are to apply the remaining property or assets of the Charity and the trustees must comply with the resolution if it is consistent with sub-clauses 25.4.1 to 25.4.3 inclusive above.
- 25.6 In no circumstances shall the net assets of the Charity be paid to or distributed among the members of the Charity (except to a member that is itself a Charity).
- 25.7 The trustees must notify the Commission promptly that the Charity has been dissolved. If the trustees are obliged to send the Charity's accounts to the Commission for the accounting period which ended before its dissolution, they must send the Commission the Charity's final accounts.
- 25.8 After the Charity is wound up, the trustees must arrange for the accounting books and records of the Charity (including cash books, invoices and receipts) to be kept for at least six years after the year they were made.

26. Interpretation

In this constitution:

'connected person' means:

- 26.1 A child, parent, grandchild, grandparent, brother or sister of the trustee;
- 26.2 The spouse or civil partner of the trustee or of any person falling within sub-clause 26.1 above;
- 26.3 A person carrying on business in partnership with the trustee or with any person falling within sub-clauses 26.1 or 26.2 above;

26.4 An institution which is controlled:

26.4.1 By the trustee or any connected person falling within sub-clause 26.1 to 26.3 inclusive above; or

26.4.2 By two or more persons falling within sub-clause 26.4.1, when taken together

26.5 A body corporate in which:

26.5.1 The trustee or any connected person falling within sub-clauses 26.1 to 26.3 inclusive above has a substantial interest; or

26.5.2 Two or more persons falling within sub-clause 26.5.1 who, when taken together, have a substantial interest.

Section 350-352 of the Charities Act 2011 shall apply for the purposes of interpreting the terms used in this constitution.

27. Acknowledgement

27.1 The members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the members with each other and the Charity.

27.2 The following statement needs to appear on Charity membership forms and is to be signed by the member and must also be countersigned by the parent, or a person having parental responsibility for the member, if under 18 years of age.

I acknowledge receipt of the rules of Copeland Amateur Swimming Club and confirm my understanding and acceptance that such rules (as may be amended from time to time) shall govern my membership of the Charity.

I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.

Data Protection Statement:

It shall be a condition of affiliation or membership that all members shall be subject to and bound by any Swim England Rule, Regulation or Condition, in addition to complying with the Equality Policy, the Child Safeguarding Regulations and the Data Protection Act 2018 which may from time to time apply to them.

[Note: This consent needs to be provided by the parent for children under the age of 13 years. Anyone over the age of 13 years can provide consent for the use of data under the Data Protection Act 2018]

The Charity will take the protection of the data that we hold about you as a member seriously and will do everything possible to ensure that data is collected, stored, processed, maintained, cleansed and retained in accordance with current and future UK data protection legislation.

Please read the full privacy notice carefully to see how the Charity will treat the personal information that you provide to us. We will take reasonable care to keep your information secure and to prevent any unauthorised access.

In addition to receiving general Charity communications please let us know how else you would like to hear from us:

I would like to receive Information from the Charity about specially selected products and services available from commercial sponsors and partners.

I am happy to receive communications via:

SMS

Post

email

When you become a member of or renew your membership of the Charity you will automatically be registered as a member of Swim England. We will provide Swim England with your personal data which they will use it to enable access to an online portal. It is vital, therefore, that a valid email address is given, so that you can ensure that your data is correct and so that you can set your own privacy settings.

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

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.