

# Club Complaints

## Mediation Guidance

This guidance attempts to clarify the early stages of a Club Complaint explaining, in practical terms, what happens before, during and after a Club Complaint mediation.

Consider these scenarios:

- Parents of a talented young swimmer have complained to their club as she has been moved from the training squad where all her friends swim. She does not understand why she has been moved on and has become anxious and upset and wants to give up swimming.
- You are a Club Secretary. Parents of one child are very vocal at meets and sometimes shout instructions at their daughter. Other parents complain that their behaviour is upsetting their children.
- You are the team manager for your Club at a gala and have consistently been subjected to poor behaviour by a swimmer.

These are a few of many different scenarios which may cause a Club Complaint to arise but can also be quickly dealt with through mediation under the Club Complaints procedure. It is important that all Swim England members and Clubs follow the Swim England Handbook and the procedure set out in Regulation 103 in reference to Club Complaints.

## Definitions

- **Club Complaint:** a complaint involving an alleged breach of the club's rules or any other dispute not relating to an alleged breach of Swim England regulations, 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.
- **Club Complaint Form:** a form, which is completed by the person making the complaint, the respondent and the Club Chair.
- **Club Chair:** principle officer of the Club
- **Complainant:** a party who makes a Club Complaint.
- **Respondent:** a party subject to a Club Complaint.

## Why do disputes arise within sport?

Sport is competitive and a highly selective environment, at both amateur and professional level. Energy, focus and commitment, which are essentially qualities for sporting success, can be negative factors when a dispute arises. The passion and emotion at the heart of sport is replicated in every dispute or reasons for a Club Complaint.

These qualities are also seen within volunteers and parents of swimmers, usually to the great benefit of the sports. As with participants, this passion can give rise to a Club Complaint from time to time.

Underlying factors that affect upon the resolution of conflict may include emotions, self-esteem, personal values and the need to be heard. Appreciation of these factors is crucial in resolving any sports dispute. Recognition of the need to be heard, and how that need is managed is important in creating a workable solution which will enhance future relationships.

### What is mediation?

Mediation is a structured process whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator.

### What are the benefits of mediation?

Although mediation is optional to parties, Swim England strongly recommends that individuals consider mediation of a means to resolve a Club Complaint.

Mediation has the following benefits:

- The parties retain ownership of the dispute, and do not hand power to the mediator.
- Parties are able to control the outcome and cannot be forced to accept a solution. This control shall be lost in the event that a matter escalates to a hearing.
- A party is free to walk away at any time before a settlement agreement has come to fruition.
- Mediation is confidential.
- The process is flexible at the discretion of the mediator and can very often be a speedy and efficient means of resolving a dispute.
- It can help preserve and repair the relationships between the parties and/or the Club, unlike a hearing, which usually occurs after such relationships have totally broken down.

### Who can be a mediator?

Swim England recommends that a mediator appointed to assist with a Club Complaint is a Swim England member. The individual must also be independent and not involved in the dispute.

For example, a mediator could be a Swim England member from another Club or an individual from another Region. It is important for the Chair to understand the importance of an independent mediator.

The mediator does not have to be legally qualified.

It is also important to remember that the mediator should not be the Club Chair, as this will then exclude them from pulling together a panel for the next step of the Club Complaints process, if needed.

## The mediation process

### Before

For mediation to work, it is essential that both parties agree to the independent mediator.

The mediation will be held as quickly as required and it is important to consider how long the mediation may take given the topic at hand. Seek to schedule the mediation on a date and time, which will avoid time pressures. We also encourage those attending mediation not to arrange any personal events that would require them to leave at a set time.

Mediation should be held in person if possible, due to the benefits of bringing those involved in a dispute into one room. The venue chosen should be convenient for the parties while ensuring confidentiality. If an in-person mediation cannot be held, it may be held over videoconferencing software.

The process is confidential and generally without prejudice to ongoing proceedings and/or discussions relating to the dispute in question. Breach of confidentiality may in itself give to a Judicial Complaint.

### During

The mediator should:

- remain independent and neutral throughout;
- not force a settlement;
- not provide advice;
- provide a forum in which to dissect the past whilst also thinking forward. Strong views on each side may be safely expressed but it should not be seen as an opportunity for a heated argument;
- not be afraid to call time if a line of discussion is proving fruitless;
- keep the process confidential; and
- record the outcome of mediation;

A mediator could:

- challenge preconceptions by testing thought processes for example, by asking “why do you think you were overlooked for the training camp? Is there another way of looking at what happened that seems plausible”;
- explore the views of the parties;
- support both parties by guiding them to clear communication and manage emotions helping parties to make your points calmly and clearly; and/or
- suggest a night’s sleep to reflect on the discussions that could assist the parties in reaching an agreement however, the mediator is reminded that there are time restrictions in place.

## What happens after mediation?

The mediator must share the outcome of the mediation in writing to the complainant, respondent and the Club Chair as stated in regulation 103.4.3.

If mediation was successful, the details of the agreement between the parties shall be recorded on the Club Complaint Form by the Club Chair.

If the mediation is unsuccessful, the mediator shall notify the Chairperson of the Club (or their nominee) in writing only that the mediation has failed without providing any additional detail. Once this has been received, the Chair will have 7 days to appoint a panel of three members to determine the Club Complaint. This will then go to a Club Complaint Hearing procedure.

## Further Support

Swim England Handbook: <https://www.swimming.org/swimengland/swim-england-handbook/>

Swim England Friends: <https://www.swimming.org/members/how-to-resolve-issues-with-your-club/>

Club Complaint Log Form: <https://www.swimming.org/members/how-to-resolve-issues-with-your-club/>

Next Step; Club Complaint Panel Hearing Guidance:  
<https://www.swimming.org/members/how-to-resolve-issues-with-your-club/>

Further guidance: <https://www.sportresolutions.com/>