

Amateur Swimming Association

GUIDELINES FOR HANDLING INTERNAL CLUB DISPUTES

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 onset. 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 law needs to be considered. Specialist legal advice may have to be sought.

General Principles

ASA Judicial Laws 105/106 Defines Protests and Complaints and it should first be decided whether the matter is a Protest or a Complaint. A Club can deal with a 'Protest', provided that it is the Promoter of the Competition to which the 'Protest' relates. A Club cannot deal with a Complaint. 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 DJT.

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. The key ASA Law to be followed is Law 134. A Club does not have the power to handle a dispute relating to a member of another Club, or deal with an offence against ASA Law.

The key principle to be followed is that ASA Law conforms to the law of the land in so much that an individual accused of an alleged offence is innocent until proven guilty and he must have reasonable opportunity to present a defence and have his views heard.

In these notes reference is made to the term 'dispute' to avoid confusion with the term 'Complaint' used in formal ASA 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 the judge or the 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 section 3.

Procedures

On receipt of the dispute every effort should be made to resolve the matter by informal discussion. In difficult cases the Chairman of the relevant DJT 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 Chairman. 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 Chairman should notify both parties of the date, time and place of the hearing and the names of the panel members. Both parties should 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 should present evidence first and the accused should have the right to reply.

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

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

(d) The Chairman or Secretary should make notes of the hearing and the panel should 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.

Powers of the Clubs

The powers of Clubs regarding the disciplinary action they can apply must not exceed those in ASA Judicial Laws 129/130, 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 Administrator at ASA Head Office, Loughborough.

Further Information

Additional guidance can be obtained from the ASA Handbook Judicial Laws. The Sports Council have also issued a booklet 'Getting it right' a Guide to Sports Ethics and Disciplinary Procedures. This very useful document can be obtained from the ASA Head Office.

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.