

## **Swim Wales Practice for Responding to Child Protection Issues, Complaints or Allegations within an Aquatic setting.**

### **About Swim Wales**

Swim Wales is the National Governing Body for swimming in Wales and is recognised as such by Sport Wales.

Swim Wales is a non-profit making organisation with the main objective of developing and protecting the sport throughout Wales from the grassroots level through to our top athletes.

Swim Wales is responsible for:

- The development of the sport
- Co-ordination of national and international competition
- Selection of National teams;
- Training and registration of coaches and officials;
- Increasing the opportunities for participation in aquatic activities for all residents of this country, including the disabled.

Through our network of clubs we actively encourage newcomers to the sport, promote good practice and safety and work to enhance and improve standards of coaching in all aquatic disciplines.

Swim Wales also have a highly active competition programme across a range of disciplines.

### **1. There are five different types of investigations that are likely to be conducted:**

- a) **Criminal** - conducted by the Police – until this is concluded the organisation or club should deter from any internal investigations/decision making process but should consider interim suspension/s from all activities.
- b) **Child Protection** - carried out under section 47 (1) of the Children Act 1989 by Social Services and the Police - until concluded the organisation or club should deter from any internal investigations but should consider interim suspension/s from all activities.
- c) **Swim Wales/Club Internal Investigation** (Safeguarding or Disciplinary) - conducted by the organisation as a poor practice issue or on conclusion of statutory agency investigations.
- d) **Club Internal Investigation** (Safeguarding and/or Disciplinary) – conducted by the club as a poor practice issue or disciplinary issue. Clubs may be supported in this process by the National Governing

Body, and the decisions made may be subject to scrutiny and review by the NGB.

- e) **General Complaint** - A general complaint that is not linked with the above and may relate to an expression of dissatisfaction regarding Swim Wales about an action (inaction) or decision or policy or by one of its employees or by a Director including a volunteer acting on behalf of the company.

Several factors are to be considered when determining whether an interim suspension is necessary and proportionate to the risk. However, it must be stressed that this is a temporary safeguarding measure and a neutral action and it is not an indication of guilt.

All Safeguarding and protecting children/adults at risk and Disclosure and Barring Service disclosures must be regarded as highly confidential and are not to be disclosed outside the case management panel.

Disclosures will be referred by Swim Wales to a committee for decision making on the suitability of the applicant on the role held.

*These procedures shall not apply to the commission of Anti-Doping offences.*

2. **The following factors should be considered before taking any action:**

- Are children or adults at risk?
- Does the person subject of complaint (PSC) need protection?
- Do the allegations amount to misconduct?
- Would there be a reputational risk to the organisation/club/PSC?
- Would the continued presence of the PSC impede any enquiries/investigation?
- Any other relevant information that may increase the risk?


(Any interim suspensions made during an investigation should not be publicly disclosed).


3. **Actions Flowchart**

The following procedures have been drawn up to provide assistance for managing complaints and allegations of poor practise. Throughout all investigations it is vital that all parties are treated fairly, and the investigation is conducted with transparency and integrity.

All parties are entitled to see a copy of this complaints procedure.



	<b>Actions</b>
<p><b>COMPLAINT / CONCERN / ALLEGATION RECEIVED BY SWIM WALES / AFFILIATED ORGANISATION</b></p> 	<p><b>POINT OF CONTACT</b> Appoint a Complaints Officer for the purposes of an investigation (for safeguarding concerns this is usually the welfare officer, for Regulatory/Discipline matters another officer can be appointed, this person can be independent). There should be no conflicts of interest</p> <p>The appointed person should acknowledge receipt of the complaint/concern</p> <p>Appointed Complaints Officer to arrange contact with complainant to establish facts and promptly establish full circumstances of the incident/allegation. A copy of these procedures must be given to both the complainant/s and PSC.</p> <p>The appointed person should establish formal or informal complaint. (Identify the expectations of the complainant regarding the outcome they are seeking where applicable).</p>
	<p><b>Points to consider:</b></p> <p>If this is a criminal matter, or potentially a criminal matter then statutory authorities should be informed without delay. Where statutory agencies take ownership further action/investigation by Swim Wales will be placed on hold and not continue until statutory agencies have finalised their actions. Only once statutory agencies investigations have concluded will Swim Wales consider if internal action should be taken and internal procedures commenced.</p> <p>Notwithstanding the need for statutory agencies to take primacy, Swim Wales/club may still consider whether the complaint is serious enough to warrant interim suspension during the investigation. This decision will be considered by the Chief Executive Officer who may consider referring to the Board of Directors. The PSC will be advised a complaint/concern has been raised and until further notice an interim suspension has been placed on their membership if applicable.</p> <p>Swim Wales will advise the PSC of the details of the concern/allegation and request a written response</p> <p>Consideration will be given to the privacy of third parties and will provide redacted information when appropriate when sharing details with the PSC.</p>

	<p>In the event of a face to face meeting, the PSC has the right to attend with the presence of a chosen 'friend' providing their chosen friend has not had any prior involvement with the case and no other conflict of interest is relevant. The friend is not permitted to provide evidence in the meeting.</p> <p>The PSC must provide a response which will be used for decision making</p> <p><i>(Should a PSC fail to attend or notify any reasons of their inability to attend and cooperate with the complaints officer's requests a conclusion will be reached in their absence)</i></p> <p>(The appointed Complaints Officer will at this stage consider witness statements to corroborate accounts if appropriate).</p> <p>Once all the statements and evidence has been collated by the appointed Complaints Officer the PSC should be provided with the opportunity to review all the evidence the panel will consider. (Agreed timescales should be set for any response) This will allow the management group of the organisation or agreed panel of at least three to make an informed decision.</p> <p>The Complaints Officer once all the statements have been collated should write a summary of their findings and provide to the panel/ management group all of the evidence/statements for consideration and outcome.</p>
<p><b>REVIEW PANELS</b></p>	<p>In order to ensure a fair and consistent approach to concerns and complaints management a Case Management Panel can be convened to consider a matter as an independent group.</p> <p>The powers of a Case Management Panel or an Independent Panel must be documented in a Terms of Reference thus ensuring clarity and purpose.</p> <p>Examples of outcomes are given below however this list is not exhaustive:</p> <ul style="list-style-type: none"> <li>▪ Warning as to future conduct</li> <li>▪ Interim Suspension/exclusion</li> <li>▪ Coaching under supervision</li> <li>▪ Referred for Disciplinary hearing</li> <li>▪ Order the person to undertake appropriate training i.e. Sport recognised Safeguarding Awareness Training or attend a sport related coaching course/CPD/First Aid.</li> </ul>

	<p>Once a decision has been reached by the Case Management panel the Terms of Reference must include who the outcome must be communicated to.</p> <p>This could be</p> <ul style="list-style-type: none"> <li>• Safeguarding Officer/organisation Chairperson</li> <li>• Complaints Officer</li> <li>• Person Subject of Complaint</li> </ul> <p>.</p> <p>All subsequent communications sent to those involved should include a letter detailing the outcome and include a summary of the evidence considered.</p> <p>If either party does not agree with the outcome, they have the right of appeal which should be lodged within 14 days of the date of the outcome notification.</p> <p>A further Independent Panel must be convened to hear the appeal. The must not have prior knowledge of the case management Terms of Reference or be associated to the complainant/PSC</p>
<p><b>DISCIPLINARY PANELS</b></p>	<p>In the event of an outcome by a Case Management panel is for 'Referred for disciplinary' a panel must be convened to hear the case who have not had any previous involvement with the matter must be convened. A Terms of Reference must be prepared to instruct the disciplinary panel and correspondence, files and any other information relating to the case should be provided to the disciplinary panel and must be marked confidential.</p> <p>Additionally, consideration when convening a panel should be given to their knowledge and expertise in the case to be heard.</p> <p>The panel should agree a chair amongst themselves alternatively a chair can be selected by Swim Wales/affiliated organisation.</p> <ul style="list-style-type: none"> <li>▪ The disciplinary panel will write to the individual/s advising that the disciplinary procedure has been invoked. The letter will include details of the complaint and a summary of the evidence used for decision making. The correspondence will include details of disciplinary regulations. The panel must be considerate of appropriate methods of communication to support the needs of others. If the PSC/others provide information on their chosen method of communication consideration should be given to this at all times.</li> </ul>

- The PSC will have 10 days to respond in writing to answer the complaint. Should other suitable methods of responding be required this must be permitted. If no response is received within the timescales and no reasonable response has been received by way of an explanation, then a suspension will be placed on the individual/s from all activities until a response has been received (if this has not already been actioned).
- Once a reply has been received from the PSC by the Disciplinary Panel a date for the hearing must be scheduled. At least 21 days' notice must be given for the date, time and venue for the hearing. The details must be communicated to the PSC.
- The disciplinary hearing shall be conducted in private with no access to the public or press. The Panel will beforehand consider any witnesses they wish to attend and request attendance. Consideration should be given to ensure all parties attending the hearing that they are not unattended in the presence of the PSC or anyone else so the case can be discussed outside of the hearing room. Therefore, careful planning must be in place.
- The respondent has the right to support from either a family member or friend of their own choice. They may also appoint a representative to speak on their behalf.
- If the charge relates to a person under 18 then all communications and representation will be sent to the parents/guardians, who have full responsibility for appraising the child of the details. Wherever possible disciplinary proceedings against a person under 18 should be avoided. When this is necessary specialist safeguarding advice will be sought.
- Great care will be taken where an attendee (witness, alleged victim/offender) is under the age of 18 years, or an Adult at Risk (as defined in the Social Services and Well-being Act (Wales) 2014). All proceedings must pay due consideration to safeguarding the welfare of the individual with no part of the process being oppressive or intimidating for them.
- Where an Adult at Risk or child is attending, the panel should consider appointing an individual to support

them as 'Welfare Chaperone', ideally this is likely to be a qualified sports Welfare Officer. This appointment is to be discussed and agreed in consultation with the Adult at Risk or the child's parents.

- The Welfare Chaperone should have no other role in the process - their involvement is purely in regard to the welfare of the child. The Welfare Chaperone should liaise with the Adult at Risk or child and family throughout, making sure the Adult at Risk or child is kept fully informed. The chaperone can act for more than one child at the same hearing if this is thought appropriate.
- No child or Adult at Risk should be compelled to attend. However, it is permitted to ask if a written statement could be made available for the disciplinary panel.
- If, when attending the hearing Panel, the child or Adult at Risk is to be questioned regarding their behaviour or what they have witnessed, all involved should bear in mind the age and potential vulnerability in such a setting. Questioning should be conducted in a considerate manner, and must not be oppressive, persistent, lengthy or demeaning. The Welfare Chaperone should ask the Chair of the panel to suspend proceedings immediately if they have any concerns about the manner or duration of questioning.
- Where a child is found to have committed a disciplinary offence requiring potential sanction, consideration should be given to the child's age and understanding, as well as their experience of life and of the sport, before any sanctions are issued. A Child-centred approach must be considered at all times
- Where it is necessary for a report to be circulated following the hearing (within the organisation or even to the press), any individual under 18 years of age or anyone considered to be an Adult at Risk must not have their details published.
- The PSC should confirm they have no conflict of interest with any panel member.

- The PSC should confirm they understand the process and confirm whether they accept or deny the allegations.
- Panel members must declare any conflicts of interest.
- The Chair or alternative designated person should present all the evidence to the panel and should make clear the preliminary points for the hearing.
- The standard of proof shall be the civil standard, i.e.; the balance of probability.
- The PSC shall have the right to appropriately cross examine witnesses except children under 18 and Adults at Risk
- When the PSC has concluded their case, the designated person shall make concluding remarks relating to the charge. The PSC shall also be offered the opportunity to make concluding remarks.
- The panel will then retire to consider their verdict in private.
- If the Disciplinary Panel find the charge is proved they will return to hear from the PSC any matters in support of mitigation before retiring again to consider any sanction.
- If the panel decides the charge has not been proved it will return to announce the decision and will within 5 days provide a short, written statement setting out the reasons for its decision.
- The decision of the panel must be by majority and no minority decision will be included in the written statement.
- If the panel decides the case is proven they will return to announce the decision and will within 5 days provide a written statement of its decision to all parties. This will include detailed reasons and findings.
- The Disciplinary Panel shall have the powers to regulate its own procedures and also have the power to:

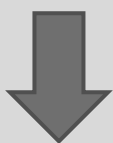


- Adjourn proceedings to consider further evidence for submission
- To ask questions directly of any party or witness to any proceeding before the panel
- To admit or exclude any evidence which they do not consider relevant or comply with directions

- Where at any time it is considered that during the course of disciplinary proceedings there has been a breach of procedures or failure to follow directions this shall not invalidate the hearing unless the breaches are considered too serious and immediately prejudice the position of any party.
- The Disciplinary Panel shall not be obliged to follow any strict rules of evidence and may admit evidence as it sees appropriate and may accord such evidence weight as it sees fit. Where the allegation has been the subject of the findings of guilt in previous criminal proceedings or any other judicial proceeding the results of these proceedings and the facts and matters shall be presumed correct and true. This will also be deemed correct if the respondent has been placed on the statutory barring list or restriction in place for working with children and young persons.
- Examples of outcomes The Disciplinary Panel may impose are below;
  - Referral to statutory agencies if appropriate
  - Sanctions
  - Permanent exclusion
  - Risk assessment
  - Any additional training
  - Any other sanction the panel agree is appropriate.

This list is not exhaustive.

- Where the panel imposes a suspension the commencement date shall be from the date the decision was made. The panel will take into consideration any interim suspension already served. Details of any sanctions imposed will be notified in the decision outcome letter which will be sent to the PSC within 5 days of the hearing.



**PROCEDURES  
FOR APPEALS**




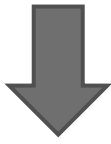
The Complainant/PSC may submit an appeal to the complaints officer on the decision of the review panel or disciplinary panel within **21** days from the date the communication was issued by the complaints officer on the following grounds only;

- the review panel/disciplinary panel misdirected itself in its conduct or conclusion; or
- that the panel reached a conclusion that no panel having heard the evidence could have reached in the circumstances; or
- that a procedure error was fundamental to the decision reached by the panel.

An appeal must be received in writing or the chosen method of communication and contain reasons for the appeal which will be considered by an appeals panel.

- Swim Wales/affiliated organisation management committee shall appoint an appeals panel of no less than 3 members who have not had any prior involvement with the case and have no financial gain, knowledge or relevant interest in the proceedings or the outcome. A further Terms of Reference must be provided to the Appeals Panel.
- The appeals panel between themselves will agree a chairperson.
- The chairperson will notify the party submitting any appeal the date the appeal will be heard 14 days beforehand
- The appeals panel will consider all the relevant evidence/documentation and may wish to recall witnesses who have submitted evidence. The appeals panel have the right to submit new evidence if they agree to seek further evidence from witnesses and decide on an adjournment to submit/consider new evidence
- The appeals panel may wish to uphold the initial decision, amend it or cancel it. The decision of the appeals panel is final with no right of further appeal.

	<ul style="list-style-type: none"> <li>▪ The panel will provide a short, written version of their decision, stating their reasons for reaching their conclusion. This shall be conveyed to all parties within 7 days of their final decision.</li> </ul>
<p style="text-align: center;"><b>INFORMAL COMPLAINTS</b></p> 	<p>Should it be established by the Complaints Officer the complainant does not wish to make a formal complaint and is seeking help to resolve the concerns amicably, the Complaints Officer agrees a course of action with the complainant which can include;</p> <ul style="list-style-type: none"> <li>▪ Speak to the person/s about who the concerns relate to, allow a response. Highlighting expected behaviours that support upholding codes of conduct/code of ethics, values and culture of the organisation if appropriate. Behaviour contracts can be considered for a specified time period. Behaviour contract should include agreed interactions, training and follow ups.</li> <li>▪ Consider talking to all parties together to ascertain if there are any concerns or problems you should be aware of that is affecting a relationship between them.</li> <li>▪ Speak to coaches/ relevant club personnel to see if they have any knowledge that would support the concerns raised.</li> <li>▪ Keep a watchful eye and address any concerns.</li> </ul> <p>Swim Wales/affiliated organisations retain the right to refer investigations to external panels if they deem appropriate.</p> <p>Note to Clubs; All referrals to statutory agencies by clubs <b>must</b> be reported to Swim Wales</p>
<p style="text-align: center;"><b>WHISTLE BLOWING</b></p>	<p>It is acknowledged that individuals are often very reluctant to report concerns through fear of negative reprisal. Swim Wales will take action against anyone who has harassed or victimised a whistle blower. The identity of individuals who wish to remain anonymous will not be disclosed without first taking time to explain the circumstances in which disclosure may be required.</p> <p>In some instances, particularly those involving child protection issues, it may be necessary to refer the matter to other agencies i.e. the Police or Social Services. Any person who reports a genuine concern will not be disadvantaged or discriminated against in any way because of the disclosure.</p>



	<p>However, the organisation will take a serious view and act accordingly, including taking disciplinary action against appropriate parties, should it be found that the allegations are untrue or have been raised maliciously.</p> <p>Individuals are encouraged not to report matters anonymously, and allegations that are made anonymously may be investigated depending on the seriousness of the issues raised, the credibility of the concern, and the likelihood of confirming the allegation from attributable sources.</p> <p>In the first instance, poor practice concerns that relate to a club should be referred to the Club Safeguarding Officer or a member of the Club's Senior Management Committee except where:</p> <ul style="list-style-type: none"><li>▪ The whistle blower believes there would be a risk of victimisation, either to the whistle blower or child/children, if the matter was raised internally within the club</li><li>▪ The whistle blower has already raised the matter internally and the matter was covered up or no action was taken and the situation remains unchanged</li></ul>
<p><b>MEDIA INTEREST</b></p>	<p>Incidents of child abuse can generate significant media interest. When a Professional Strategy meeting called by Authorities is convened this will very often be one of the issues discussed, and a lead agency will be identified to manage this process, particularly in high profile cases. In all Authority investigated matters Swim Wales must be notified.</p> <p>Anyone who is approached by the media should refrain from providing any information and should follow the below guidance:</p> <ul style="list-style-type: none"><li>▪ Do not make any initial comment until advice is sought</li><li>▪ Take a note of the journalist's name and contact details and whom they represent</li><li>▪ Establish exactly what information the journalist requires</li><li>▪ Establish whether the journalist is working to any deadlines and inform them that the matter will be referred to the organisation to discuss a response</li></ul>

	<ul style="list-style-type: none"> <li>▪ Inform the appropriate Safeguarding Officer or person in charge who must refer the matter to Swim Wales Safeguarding Advisor who will assist in formulating an appropriate response in consultation with Swim Wales Communications Dept.</li> <li>▪ A copy of the response will be sent to the journalist and other relevant individuals</li> </ul>
<p><b>SUPPORT SERVICES</b></p>	<p>Both the victim of abuse and anyone who is investigated for allegations of abuse may benefit from information about support services.</p> <p>Swim Wales may consider it appropriate to identify a single point of contact for the PSC to provide updates and support. Ideally this should be an individual not connected with the complaint or investigation</p> <p>It is also useful to provide this information for anyone else who has been affected by an incident of abuse, including family members, those involved in responding to the incident, and sometimes other children, parents or club members.</p>
<p><b>FOR FURTHER CONSIDERATION WHEN CONDUCTING AN INVESTIGATION BY THE NGB</b></p>	<p>The provision for a generic email will support removing the denunciation of any named person for communications throughout any investigation.</p> <p>The generic email will additionally reflect the decisions/outcomes are those of a panel.</p>