

Introduction

Swim Ireland have rules and procedures that make sure everyone knows how complaints and disciplinary matters are dealt with to help ensure everyone involved in our aquatic sports are able to participate for fun, safely and in the spirit of fair play.

This is a summary guide of the Swim Ireland Complaints and Disciplinary Rules and Procedures September 2019. There will be some reference to pages within the procedure document for more information.

Key Terms

- CDC – Complaints and Disciplinary Committee (Club or Regional level)
- CDO – Complaints and Disciplinary Officer (National level)
- SICDC – Swim Ireland Complaints and Disciplinary Committee (SICDC)
- UNIT - a member, team, association, club, region, committee (incl. sub), group, parent
- PERSON IN CHARGE (PIC) - Refers to the Member in ultimate authority over a unit at an event.
- FIRST INSTANCE MATTERS - A First Instance Matter is an incident that Swim Ireland is responsible

for dealing with at a National level.

People Involved

Who is the Person in Charge?

The Person in Charge is the person who is in charge at an event:

- Coach
- Team Manager
- Committee
- Referee (Club level and Meet Rules)
- Meet Director/Lead Referee (Regional) Technical Director (National)

These people are appointed in various Club, Regional and National activities and are responsible for the well-being of participants and to make sure acceptable behaviour is supported by everyone involved at the event.

What can a Person in Charge do?

If an individual is not behaving in line with the agreed codes of conduct, the Person in Charge can discipline that person to behave properly. There is a list of sanctions that can be given at the time of the incident, see page 18.

The Person in Charge can also pass on a report about behaviour to a CDC for further disciplinary action.

What is the Club Complaints and Disciplinary Committee (CDC)?

When forming the CDC clubs should ensure the following:

- Swim Ireland Members
- Garda Vetted
- Completed Basic Child Protection

- One CDC member appointed to receive complaints/reports from Club Secretary Only one club committee member allowed
- Conflict of interest declared
- Hearing needs minimum of three persons

- CCO involved if anyone is U18 (not on CDC)

What is the Club Complaints and Disciplinary Committee (CDC)? (continued)

The CDC at both club and regional level deals with disciplinary reports and complaints and is the only body responsible for deciding on how an incident is to be dealt with. The CDC is the only body that can issue a Non-Immediate sanction, see page 19.

The CDC is a committee appointed by the club or region specifically tasked with dealing with complaints and disciplinary matters. All must be members of Swim Ireland with one of the CDC appointed to receive complaints or reports from the Secretary. The CDC cannot have more than one member from a club or regional committee.

Who can be involved in a complaint or disciplinary process?

You can make a complaint or be the subject of a complaint or disciplinary action if you are: An individual member of Swim Ireland

- A team
- An association

- A club
- A Region
- A committee or subcommittee
- A grouping within or affiliated to Swim Ireland A parent of a child member

Some matters occurring at an event can be dealt immediately through disciplinary action (immediate sanctions) – this is carried out by the Person in Charge at the time.

To deal with complaints or disciplinary matters, clubs require the following: Club Constitution (Swim Ireland template)

- Rule book – Swim Ireland
- Club Handbook

- Codes of Conduct – all people
- Complaints and Disciplinary Procedures Complaints and Disciplinary Committee

Complaints and Disciplinary training is available to all clubs – contact Club Support Officers

Who is involved?

At Club and Regional level

- Person in Charge
- Club Secretary and Club Officers
- Club/Regional Complaints and Disciplinary Committee (CDC)

At National Level

- Complaints and Disciplinary Officer (CDO)
- Swim Ireland Complaints and Disciplinary Committee (SICDC) External Body
- Just Sport Ireland (JSI)

Definitions

Disciplinary action

Disciplinary action is when a sanction is issued by either a Person in Charge or CDC to any individual member, team, association, club, region or committee or subcommittee or other grouping within or affiliated to Swim Ireland or parent (page 20). Disciplinary action can be issued in the following forms:

- Warnings – verbal or written
- Immediate sanction – issued there and then by the Person in

Charge

- Further disciplinary action (non-immediate sanctions) –

issued on foot of report to CDC

What is a complaint?

A complaint is an expression of discontent by any individual member, team, association, club, region or committee or subcommittee or other grouping within or affiliated to Swim Ireland or a parent concerning the behaviour of any individual member, team, association, club, region or committee or subcommittee or other grouping within or affiliated to Swim Ireland or parent (page 20).

If you are upset about the way someone has behaved and the behaviour is a breach of the code of conduct or rules you can ask for this to be corrected. This can either be done through: a disciplinary action which can be instant, or a complaint process.

I have a complaint, who do I complain to?

As the person sending in the complaint you are known as the complainant; the person about whom the complaint is made or is responsible for the incident is called the respondent.

If the complaint involves any member that is U18 then the Children's Officer and parent should be informed (page 21).

You need to write down your complaint (page 43) and give it to your Club or Regional secretary as appropriate.

Complaints relating to incidents at each level, i.e. Club, Regional or National must be dealt with first by the Complaints and Disciplinary Bodies at that level (NOT by a general club committee)

There is one exception to this rule:

If your complaint is a “First Instance Matter” your complaint must be sent to the CDO (page 13)

What is a ‘First Instance Matter’?

A First Instance Matter is an incident that Swim Ireland is responsible for dealing with at a National level. These are the types of complaints that are within this jurisdiction, and these should be forwarded directly to the CDO (page 27):

a) A serious claim or allegation which, if substantiated, has the possibility of bringing Swim Ireland into disrepute

b) Most of a Club or Regional Committee is involved in the decision to bring a Complaint against a Member to the extent that the Club or Region could not form a Complaints Committee that would be free from conflicts of interest

c) A complaint is brought by a Member against a Club or Regional Committee such that the Club or Region could not form a Complaints Committee that would be free from conflicts of interest d) A complaint relating to a National or International Event or occurring at a National High Performance Centre.

What happens with a complaint?

When your complaint is received, the Club/Regional Secretary they will contact you to if you wish to proceed with the informal or formal process.

If your complaint should be dealt with as a First Instance Matter the Secretary will send the complaint straight to the CDO.

Informal resolution

I have agreed to an informal process – now what?

The intermediary will help resolve the matter by reaching an agreement between the complainant and the respondent. This can often involve the parties getting together to discuss the matter to better understand the issues/complaint and how the incident happened. The solution reached will be agreed in writing and still subject to confidentiality.

How long should an informal process take?

Everyone should agree a time limit for an informal process to happen – this is especially important if you are a young person involved in a complaint. If people involved have not reached an agreement within this time then the complaint will have to be dealt with by the CDC, as a formal process.

What if the informal process does not happen?

If the informal process does not work or does not happen then the Secretary will pass your complaint to the CDC. This is a more formal process, but it still needs to take place within a certain time – the CDC have 14 days to decide on the process for dealing with your complaint. If you have tried to sort the incident out informally this time is not counted, hence it is better to act on complaints quickly.

What if either party does not agree to an informal process?

If either party does not want to use an intermediary, then the complaint must be sent to the CDC for a formal process either by examining the documents about the incident or by hearing those involved giving their account of what happened.

Formal Complaints Process

My complaint is being dealt with formally – what happens now?

The CDC will send your complaint to the respondent for their answer and any information that relates to the complaint against them. You and the respondent will be sent all information – you both need to be able to answer what has been said by each other about the incident. Dealing with a complaint can be upsetting for all parties so it is important for the complainant to clearly state the incident, what happened, what rule or code of conduct was broken. The respondent also needs to answer the complaint clearly.

What is the formal process?

When it is decided a complaint will be dealt with formally there are two options the CDC may take to reach an outcome/decision:

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Documents Only Hearing

What happens in documents only?

During the documents only process the CDC would receive all documentation in relation to the complaint. The CDC would then consider all submissions and would decide based on submitted evidence.

This is useful when evidence is clear and irrefutable, e.g. respondent admits to complaint.

What happens at a hearing?

If the CDC decides that a hearing is the best course of action, then the relevant parties will be notified and will be advised of process (page 31).

If an oral hearing is held then the oral evidence given at that hearing will be reviewed together with the documentary evidence and a decision will be issued to both parties.

An oral hearing may be necessary where there is a dispute between the parties to the complaint which cannot be fairly resolved without hearing the parties. Hearings will be undertaken in a private setting.

In a hearing the parties are entitled to:

- Be accompanied by SI or family member (Legal representation is not permitted)
- Call witnesses as required – notified to CDC in advance
- Make submissions in writing or verbally
- In the case of U18's a Children's Officer should be present to ensure all Young People are

treated fairly and understand how the process will run.

Appeals

All Club CDC decisions can be appealed to Swim Ireland CDC (SICDC) (Page 35) Appeals must be sent:

- Within 7 calendar days of receipt of decision
- On appeals form by registered post to Complaints and Disciplinary Officer With fee applicable - €100

Appeal shall be treated as a new hearing with all information sent on to SICDC.

Complaints to Swim Ireland

When do I complain to Swim Ireland?

You send your complaint to the CDO if:

1. You have followed the complaints process at local level, and you would like to appeal the decision (i.e. you may be unhappy with the decision)

OR

2. You feel your complaint has not been dealt with properly by the Club/regional CDC - appeal OR 3. Your complaint is a First Instance Matter (page 12)

Please note that SICDC will not hear complaints if they should be dealt with at a club/regional level first.

What do I need to send to the CDO?

To lodge a complaint or appeal with the CDO, you need to complete the Swim Ireland Complaint Form contained in Appendix 1 (Page 43) of the Swim Ireland Complaints and Disciplinary Rules and Procedures 2019. These rules and the complaint form are available on the Swim Ireland website www.swimireland.ie

The complaint must be accompanied by a fee of €50 for First Instance Complaints or €100 for appeals or such other amount as determined by the Swim Ireland Office from time to time, (unless otherwise indicated in the Swim Ireland Rules and Procedures and which fee shall not include any subsequent fee imposed payable in respect of any Appeal of any decision).

Where do I need to send it?

The complaint should be delivered to the CDO (complaints@swimireland.ie) within the following timeframes:

- Appeals – 14 calendar days from the receipt of decision from CDC
- Complaints (First Instance Matters) – 14 calendar days from the incident occurring

What should I consider when submitting for complaint?

When submitting your complaint form it is important that you:

- Fill out form in a clear and concise manner
- Detail what has happened to date
- State why you feel you have a legitimate complaint – use the list of offences as a guide Include all key dates related to the matter

- Name the person/body that you are complaining about
- Indicate what would remedy the situation for you
- Include all relevant documentation which you wish to rely on during the process

Assessing a Complaint

When the complaint form is received by the CDO, it is assessed to determine whether it is a valid complaint and a decision is made on the best way to proceed. To determine whether a case has been established, the CDO may investigate the complaint by seeking additional information from the Complainant, Respondent, or any other relevant parties.

The CDO will decide on the following outcomes: No case to answer

- Matter should be referred to Club CDC
- Matter should be referred to mediation

- Matter should be referred to SICDC based on sufficient evidence being presented

The time taken to investigate a complaint depends on the complexity of the case as well as outside factors, such as the availability of relevant material. In general, the investigation is dealt with within 1 -2 weeks after a full exchange of documentary evidence has taken place.

Mediation

Mediation is sometimes offered to both parties to a complaint as an alternative method of resolving their dispute. Mediation is appropriate for complaints only and will generally only be offered where the nature of the complaint is considered by CDO appropriate for mediation (Page 30).

Mediation is an informal process in which the parties to a complaint actively participate in the resolution of their dispute with the assistance and support of a neutral, trained mediator. The parties are given the opportunity to voice their case from their own perspective and to hear the other party in a non-confrontational setting.

Mediation must be agreed to by both parties and if an agreement cannot be reached the complaints process will proceed.

What happens next?

Further Steps:

Where the CDO believes there is a case for a complaint, it will be passed onto SICDC for a decision to be made. SICDC will decide on how best to proceed with the issue:

- Oral Hearing

- Documents Only

These procedures will follow the similar process as outlined in the previous sections.

At the hearing:

- Only in exceptional circumstances, if you do not turn up to the hearing, the SICDC will proceed without you.
- It is not the policy of the SICDC to cancel or postpone hearings.
- A minimum of 72 hours' notice is required to postpone a hearing and documentation

substantiating the circumstance will be required to consider any postponement.

- At the start of the hearing SICDC will explain how the hearing will run and will answer any questions you may have on the procedures.
- The party who made the complaint (the complainant) will normally be asked to speak first.

When the complainant has finished its evidence, the respondent will then be asked to present its evidence. Both parties may be questioned by members of the SICDC. Questions can be asked by each party through the chair of the hearing.

- A Children's Officer shall be present at the Hearing where the Complainant or Respondent is under 18 years of age. The Children's Officer shall attend to ensure that the rights of the child are protected at the Hearing. The Children's Officer shall be entitled to make observation to the Committee on matters that might affect the welfare of the child but shall not be permitted to make any decision on culpability.

Decision of SICDC

Once the hearing is concluded SICDC are required to reach a decision. SICDC will inform both parties in writing within 3 days of the hearing unless an extension in time is deemed necessary. SICDC will agree on what is deemed an appropriate sanction and prior to the issue of any sanction the committee shall consider any aggravating/mitigating factors (Page 34).

Appealing the decision of SICDC

Either party may challenge a decision of SICDC to Just Sport Ireland (JSI), within 7 calendar days from the date of the SICDC's decision. The challenge is limited to the legality of the procedures used by SICDC, rather than the decision. The decision of the JSI arbitrator is final and binding (Page 35).

Frequently Asked Questions

How would an U18 make a complaint?

An under 18 can make a complaint through their parent or guardian. All procedures are followed as normal for complaints process; however, parent/ carer must be present during formal or informal process. The children's officer should also be present where complainant/ respondent is under 18.

How would a complaint be dealt with involving members from different clubs e.g. at a regional gala who would be responsible?

If a complaint is made at a regional gala the Person in Charge (meet director) can impose an

immediate sanction. If an immediate sanction is being imposed on a respondent who is under 18 years of age, the parent/ guardian should be informed where the sanction involves expulsion from the event, and/ or where a number of warnings and immediate sanctions have been imposed prior to the expulsion. The Person in Charge shall prepare a report for the regional complaints and disciplinary committee if an immediate sanction has been imposed and where the Person in Charge deems it necessary that further sanction be imposed on a respondent.

What happens if a complaint is sent to SI without first being dealt with by the club/region?

The complaints and disciplinary officer (CDO) will review the complaint. All first instance matters must be sent to the CDO within 14 days. All appeals to club decisions must be sent to the CDO within 7 days.

If a complaint has been sent to the CDO before it has been referred to a club/ regional complaints and disciplinary committee (CDC) the CDO will send it back to the club or regional CDC.

Who can act as an intermediary?

At club/ regional level an intermediary can be a club member who is agreeable to both the complainant and respondent.

At national level Swim Ireland shall maintain a panel of intermediaries.

Why does the Person in Charge report directly to the Club Committee rather than the CDC?

The Person in Charge may impose an immediate sanction and should not influence any further sanctions which may be imposed. They submit a disciplinary report to the committee. The club secretary informs the CDC.

What if a person involved in the complaint (complainant or respondent) is a solicitor?

A complainant's or respondent's profession should not influence the complaints process.

What are the exceptions to time limits?

When the complainant is under 18

When there are on-going issues or concerns that escalate into a complaint

When does a complaint become a complaint?

When one person expresses discontent concerning behaviour of any other person in writing, providing evidence, and supplying any other information which may be relevant

How far can a disciplinary action go before it becomes a complaint or further action is required?

If there are further breaches of discipline it can be referred as a formal complaint to the club CDC. If the sanction imposed is breached it can be referred as a formal complaint to the club CDC.

Who decides/initiates a formal process?

The complainant or respondent can initiate the formal process if either party does not agree to the informal process.

If the informal process breaks down either party can request the formal process, or it can be requested by the intermediary.

The CDC will decide if a complaint is valid and can proceed to the formal process.

Does the respondent have to know who made the complaint?

Yes, the respondent is entitled to know who the complainant is and have a copy of all submitted documentation relating to the complaint.

Issues

What happens if a sanction is breached?

A Club can issue three types of sanctions to a member.

- Warnings
- Immediate Sanction
- Non Immediate Sanction

In the circumstance that the first sanction is breached then the Club can follow up by imposing either an immediate or non-immediate sanction on a club member.

- Warnings: The first step in dealing with an incident is that the Person in Charge in that situation can issue the club member with either a verbal or written warning.

Immediate Sanction: When a club member is issued with a warning and continues to break club rules then the Person in Charge involved in the incident can impose an immediate sanction on that club member. If the incident is serious in its nature, then the Person in Charge has in its power to issue an immediate sanction if they deem it necessary.

- Non-immediate Sanction: If a club member is issued with either several warnings or an immediate sanction's then the Person in Charge can send this matter to the CDC to investigate these incidents further. Non-immediate sanction may only be imposed on a member by the CDC.
- In the situation that a non-immediate sanction is ignored e.g. written warning sent out to a member and ignored, then the CDC may issue further non-immediate on that member.

Can sanctions be imposed on U18's because of a parent's behaviour?

Yes, a non-immediate sanction can be imposed on an U18 due the behaviour of a parent e.g. removal of privileges on the U18.

Imposing a Sanction on an U18 should be the last case scenario for club after all other avenues for dealing with the parent's behaviour have been exhausted.

Can a club refuse a membership and if so, do they need to give a reason for refusal?

Yes, a Club can refuse a person membership.

Yes, the club does need to give a reason for their refusal.

"The Club Management Committee reserves the right to accept or reject applications for membership of the club. If they are refused, the applicant must be notified by the

Management Committee in writing as to the reasons for their refusal.” Swim Ireland Template Constitution 4.C pg. 7

Does a club have to issue a Letter of Release if there is a complaint outstanding against that member?

No, a club does not have to issue a letter of release when a member who has a current complaint against them is looking at transferring to another Swimming Club.

“If the transferring member owes fees to Swim Ireland or the Club or holds Club Property and/or has a complaint made against them which is in the process or pending or in relation to which a sanction has been issued but not yet served, then the club may withhold a members transfer until the matter is reasonable resolved” Swim Ireland Rule Book 2010 6.9.2 pg. 16

Who ratifies a member’s acceptance?

The Club Management Committee ratifies a member’s acceptance.

Application Procedures for Club Members

- All members and officials must complete the necessary application forms and attach the necessary fees as set down by Swim Ireland and [club].
- They must also be familiar with and comply with the Swim Ireland and [club] rules and read and sign the Swim Ireland and [club] Codes of Conduct.
- These forms must then be forwarded to the Management Committee for approval. Those under 18 must have their parents sign the necessary application forms.
- Swim Ireland Template Constitution 4.D pg. 7

What can a club do if a member does not pay their fees?

A Club has several options in the circumstance in which a member does not pay their fees: The Club Treasurer should communicate with the member in question to establish the reason for non- payment (in the situation that the member is U18 then the Club Treasurer will communicate with either the members Parents or Guardians)

Organise a payment plan if the issue of non-payment is a finance one

The Club may have a hardship fund in place, which could be used to pay this member fees if necessary

If these options are exhausted or if the reason for non-payment of fees is not a finance one, then the club may through the CDC issue sanctions on this member for non-payment of fee.

How would you deal with an issue when the Person in Charge is the cause?

In this scenario the issue could be dealt with:

At the incident:

Another Person in Charge may deal with the situation and issuing this person with a sanction on the spot. e.g. A coach is shouting at their swimmer in an unprofessional manner. Then the Parent on Duty/Committee Member could step in and give the coach a warning or an immediate sanction if they deem necessary.

After an incident:

The matter may be reported to the Management committee who may deal with the issue in the following manner; Deal with it informally by speaking with the person involved about the issue, give the person a formal warning or issue an immediate sanction. If the matter is deemed to be of a serious nature, then a report can be sent to the CDC for further consideration and non-immediate sanction issued to the person involved with the issue.

Person in Charge (PIC)

What does the Person in Charge take note of?

- Details of the Nature of the misconduct The rule breached
- The immediate Sanction imposed
- The time, date, and venue of the event

Swim Ireland Complaints & Disciplinary (SICDC)

How is SICDC chosen?

The Swim Ireland Complaints and Disciplinary Committee shall be appointed in accordance with the rules and constitution of Swim Ireland. There must be eight members on the Committee with two members elected to the committee at each of the four Regional Annual Conferences.

How is the CDO chosen?

Swim Ireland shall appoint a Complaints and Disciplinary Officer

Mediation

Who pays for mediation?

The cost of the Mediator may be borne by Swim Ireland

Appeals

What are the reasons/grounds for an appeal?

If either party is dissatisfied with the decision of the Club/Regional Complaints and Disciplinary Committee then they may appeal that decision to SICDC

A decision of SICDC may not be appealed but may be challenged before Just Sport Ireland Arbitration and shall be limited to a review of the procedures used and the decision made by the Complaints and Disciplinary Bodies.

Does the sanction stand if a matter is appealed?

Pending the appeal, the original sanction imposed shall remain in force

Fees

When do you need to pay a fee for a complaint?

A complaint must be delivered to the Club or Regional Secretary or the CDO by email within 14 days of the incident and must be accompanied by payment of a 50 Euro fee.

What are the different fees?

A Complaint must be accompanied by payment of a 50 Euro fee. An Appeal must be accompanied by a 100 Euro Fee

Club Committee

Should a committee have a club email address to receive complaints?

No, a complaint must be given to the Club or Regional Secretary.

What should the Club constitution state about the CDC committee?

The Club should ensure their constitution is in line with the most up to date version of the Swim Ireland template document.

Are complaints discussed or recorded by the club committee?

A complaint must never be discussed or recorded by a club committee

What information should a facility be aware of concerning the Complaints Process?

A Facility should be made aware that there is a Complaints and Disciplinary procedure in place. They should also be informed to whom they should make a complaint should they need to.

For **support** and advice with the Complaints and Disciplinary procedures contact your club support officer

Template and sample documents are available on **the Swim Ireland website**