

Constitutions 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

A.S.A. 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 A.S.A. Judicial Administrator.

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 A.S.A. Law.

The key principle to be followed is that A.S.A. laws and 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 A.S.A. 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 (or 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 Chairman 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 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 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 Chairman 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 A.S.A. Judicial Laws 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 A.S.A. Head Office, Loughborough.

5 Further Information

Additional guidance can be obtained from the A.S.A. Handbook Judicial Regulations. The Sports Council have also issued a booklet "Getting it Right" a Guide to Sports Ethics and Disciplinary Procedures.

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; and
- (c) The accused has the opportunity to respond.