**CONSTITUTION**

**a Charitable Incorporated Organisation**

****

Date of constitution: Approved by members at a Special General Meeting

3.00 pm on 23rd July 2022

in

 Darwen Leisure Centre

(Formally approved by Swim England NW Ltd Board of Directors 23 July 2022).

**This constitution was approved by the Special General Meeting on Saturday 23rd July 2022 at Darwen Leisure Centre at 3.00 pm**

**Trustees**

**Chairman Geoff Dodd**

**Secretary Ged Johnson**

**Treasurer Kevin Massey**

**.Contents**

**1. Name**

**2. National location of principal office**

**3. Objects**

**4. Powers**

**5. Application of income and property**

**6. Benefits and payments to charity trustees and connected persons**

 **(1) General provisions**

**(2) Scope and powers permitting trustees’ or connected persons’ benefits**

**(3) Payment for supply of goods only – controls**

**7. Conflicts of interest and conflicts of loyalty**

**8. Liability of members to contribute to the assets of the CIO if it is wound up**

**9. Finance**

**10. Membership of the CIO**

**(1) Admission of new members**

**(2) Transfer of membership**

**(3) Duty of members**

**(4) Termination of membership**

**(5) Membership fees**

**(6) Informal or associate (non-voting) membership**

**11. Members’ decisions**

**(1) General provisions**

**(2) Taking ordinary decisions by vote**

**(3) Decisions that must be taken in a particular way**

**12. General meetings of members**

**(1) Types of general meeting**

**(2) Calling general meetings**

**(3) Notice of general meetings**

**(4) Chairing of general meetings**

**(5) Quorum at general meetings**

**(6) Voting at general meetings**

**(7) Representation of organisations and corporate members**

**(8) Adjournment of meetings**

**13. Charity trustees**

 **(1) Officers and trustees**

**(2) Functions and duties of charity trustees**

**(3) Eligibility for trusteeship**

**(4) Number of charity trustees**

**(5) First charity trustees**

**14. The Committee**

**15. Ceremonial Positions**

**16. Information for new charity trustees**

**17. Retirement and removal of charity trustees**

**18. Taking of decisions by charity trustees**

**19. Delegation by charity trustees**

**20. Meetings and proceedings of charity trustees (the Committee)**

**(1) Calling meetings**

**(2) Chairing of meetings**

**(3) Procedure at meetings**

**(4) Participation in meetings by electronic means**

**21. Saving provisions**

**22. Execution of documents**

**23. Use of electronic communications**

**(1) General**

**(2)** **To the CIO**

**(3)** **By the CIO**

**24. Keeping of Registers**

**25. Minutes**

**26. Accounting records, accounts, annual reports and returns, register** **maintenance**

**27. Rules**

**28. Disputes**

**29. Amendment of constitution**

**30. Voluntary winding up or dissolution**

**31. Interpretation**

**32. Acknowledgement**

**Appendix 1 Code of Ethics**

**Appendix 2 Guidelines for handling internal club disputes**

**Appendix 3 Internal club disputes**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**1. Name**

1. The name of the Charitable Incorporated Organisation (‘the CIO’) is **Darwen Masters Swimming Club**

**2. National location of principal office**

1. The principal office of the CIO is in England.

**3. Objects**

1. The objects of the CIO are:

The promotion of community participation in healthy recreation, primarily but not exclusively, for the benefit of the inhabitants *of* Darwen, Blackburn *and* the surrounding areas by the provision of facilities for swimming and associated activities.

1. In the furtherance of these objects:

(a) The CIO is committed to treat everyone equally within the context of its activity and with due respect to the differences of individuals. This shall be, for example, regardless of age, sex, ethnic origin, religion, disability or political persuasion, on any grounds.

(b) The CIO shall not apply nor endorse unlawful or unjustified discrimination, and shall act in compliance with the protections afforded by the Equality Act 2010 (as may be amended from time to time).

(c) The CIO shall implement the Swim England Equality Policy (as may be amended from time to time).

(d) The CIO will comply with the Data Protection Act 2018 (as may be amended from time to time).

(3) The CIO shall be affiliated to Swim England Northwest and the Lancashire County Water Polo and Swimming Association and shall adopt and conform to the rules of those Associations, and to such other bodies as the CIO may determine from time to time.

(4) The business and affairs of the CIO shall at all times be conducted in accordance with the Articles, Company Regulations, General Regulations, Judicial Regulations and Technical Rules of Swim England and in particular:

(a) All competing members shall be eligible competitors as defined in Swim England Regulations;

*(b)* The CIO shall, in accordance with Swim England Regulations adopt Swim England’s Child Safeguarding Policy and Procedures (‘Wavepower’); and shall recognise that the welfare of all members is everyone’s responsibility and that all members and young people have a right to have fun, be safe and be protected from harm.

(c) Members of the CIO shall in accordance with Swim England Regulations comply with Swim England’s Child Safeguarding Policy and Procedures (‘Wavepower’).

(5) By virtue of the affiliation of the CIO to Swim England North West, the CIO and all members of the CIO acknowledge that they are subject to the Regulations, Rules and Constitutions of:

:

(a) The Lancashire County Water Polo and Swimming Association,

(b) Swim England North West,

(c) Swim England (to include the Code of Ethics),

(d) British Swimming (in particular its Doping Control Rules and Protocols and the Judicial Code),

(e) FINA, the world governing body for the sport of swimming in all its disciplines (together ‘the Governing Body Rules’)

(6) This constitution shall be read in conjunction with the laws of the land, in particular, the Charities Act 2011 (as may be amended from time to time).  For the avoidance of doubt, nothing in this Constitution shall seek supremacy over the law of the land. In the event of any conflict between the Governing Body rules and the laws of the land, the laws of the land shall prevail

(7) In the event that there shall be any conflict between any rule or by-law of the CIO and any of the Governing Body Rules then the relevant Governing Body Rule shall prevail, to the extent that they do not conflict with the Objects of the Charity.

(8) Nothing in this constitution shall authorise an application of the property of the CIO for the purposes which are not charitable in accordance with the Charities Act 2011 (as may be amended).

**4. Powers**

1. The CIO has the power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, the CIO’s powers include, but are not limited to, the power to:

(a) Borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land;

(b) Buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;

(c) Sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;

(d) Employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 of this constitution (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of those clauses;

(e) Deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

**5. Application of income and property**

(1) The income and property of the CIO must be applied solely towards the promotion of the objects.

(a) A charity trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO.

(b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO’s expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(2) None of the income or property of the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO. This does not prevent a member who is not also a charity trustee receiving:

(a) A benefit from the CIO as a beneficiary of the CIO;

(b) Reasonable and proper remuneration for any goods or services supplied to the CIO.

(3) Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by Clause 6 of this constitution (Benefits and payments to charity trustees and connected persons).

(4) The property of the CIO, other than cash at the bank, shall be vested in not less than two but not more than four Custodians. They shall deal with the property as directed by resolution of the Committee and an entry in the minute book shall be conclusive evidence of such a resolution. The Custodians shall be the Chair person, the Secretary and the Treasurer.

(5) The Custodians shall be elected at a General Meeting of the CIO and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.

(6) The Custodians shall be entitled to an indemnity out of the property of the CIO for all expenses and other liabilities properly incurred by them in the discharge of their duties.

**6. Benefits and payments to charity trustees and connected persons**

**(1) General provisions**

No charity trustee or connected person may:

(a) Buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;

(b) Sell goods, services, or any interest in land to the CIO;

(c) Be employed by, or receive any remuneration from, the CIO;

(d) Receive any other financial benefit from the CIO;

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the Charity Commission (‘the Commission’). In this clause, a ‘financial benefit’ means a benefit, direct or indirect, which is either money or has a monetary value.

**(2) Scope and powers permitting trustees’ or connected persons’ benefits**

(a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO provided that a majority of the trustees do not benefit in this way.

(b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the CIO where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.

(c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the charity trustee or connected person.

(d) A charity trustee or connected person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

(e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

(f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public.

(g) If a trustee fails to follow this procedure, the resolution to confer a benefit upon the trustee will be void and the trustee must repay to the CIO the value of any benefit received by the trustee from the CIO.

**(3) Payment for supply of goods only – controls**

The CIO and its charity trustees may only rely upon the authority provided by sub-clause 2(c) of this clause if each of the following conditions is satisfied:

(a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the CIO and the charity trustee or connected person supplying the goods (‘the supplier’).

(b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.

(c) The other charity trustees are satisfied that it is in the best interests of the CIO to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.

(d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the CIO.

(e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.

(f) The reason for their decision is recorded by the charity trustees in the minute book.

(g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6of this constitution (Benefits and payments to charity trustees and connected persons).

(4) In sub-clauses (2) and (3) of this clause:

(a) The CIO includes any company in which the CIO:

(i) holds more than 50% of the shares; or

(ii) controls more than 50% of the voting rights attached to the shares; or

(iii) has the right to appoint one or more directors to the board of the company;

(b) ‘Connected person’ includes any person within the definition set out in clause 31 of this constitution (Interpretation).

**7. Conflicts of interest and conflicts of loyalty**

1. A charity trustee must:
2. Declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and,
3. Absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any financial interest).
4. Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

**8. Liability of members to contribute to the assets of the CIO if it is wound up**

(1) If the CIO is wound up, the members of the CIO have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

**9. Finance**

* 1. Financial year
		1. The financial year of the CIO shall be the period commencing on 1st March and ending on last day of February of the following year. Any change to the financial year shall require the approval of the members in a General Meeting.
		2. The Annual General Meeting of the CIO shall be held each year on a date in October. The date, time and venue for the Annual General Meeting shall be fixed by the Committee. Adequate time must be given after the financial year end for the preparation, independent examination and dispatch to members of the accounts.
	2. The financial transactions of CIO shall be recorded by the treasurer in such manner as the trustees think fit.
	3. All cash and cheques received by the CIO shall be deposited in a bank account in the name of the CIO. No sum shall be drawn from that account except by cheque, by electronic means, telephone methods or online and sanctioned by two of the authorised individuals who shall be the Chairman, Secretary and Treasurer (the Executive Officers). No two Executive Officers should be related.
	4. Any moneys not required for immediate use may be invested as the trustees in their discretion think fit.
	5. The trustees shall be responsible for ensuring that the Accounts of the CIO for each financial year be examined by an independent examiner to be appointed by the members in a General Meeting.
	6. The trustees may borrow money on behalf of the CIO for the purposes of the CIO from time to time at their own discretion up to such limits on borrowing as may be laid down from time to time by a General Meeting for the general upkeep of the CIO or with the prior approval of a General Meeting for any other expenditure, additions or improvements.
	7. When so borrowing the trustees shall have power to raise in any way any sum or sums of money and to raise and secure the repayment of any sums or sums of money in such manner or on such terms and conditions as it thinks fit, and in particular by mortgage of or charge upon or by the issues of debentures charged upon all or any part of the property of the CIO. See also clause 4 (Powers).
	8. The Committee shall have no power to pledge the personal liability of any member of the CIO for the repayment of any sums so borrowed.

**10. Membership of the CIO**

1. **Admission of new members**
2. Eligibility
	* + 1. Membership of the CIO is open to anyone who is interested in furthering its purposes, and who, by applying for membership, has indicated his, her or its agreement to become a member and acceptance of the duty of members set out in sub-clause (3) of this clause.
			2. A member may be an individual, a corporate body, or an individual or corporate body representing an organisation which is not incorporated.
3. Admission procedures
4. The total membership of the CIO shall not normally be limited. If however the trustees consider that there is a good reason to impose any limit from time to time then the trustees shall put forward appropriate proposals for consideration by the members of the CIO at a General Meeting. The members shall have the right to impose and remove from time to time any limits on total membership or any category of membership of the CIO.
5. All persons who assist in any way with the CIO’s activities shall become members of the CIO and hence of Swim England and the relevant Swim England membership fee shall be paid. Assisting with the CIO’s activities shall include, but not be restricted to, administrators, associate members, voluntary instructors, teachers and coaches, committee members, helpers, honorary members, life members, officers, patrons, presidents, technical and non-technical officials, temporary members, vice presidents and verifiers or tutors of the Swim England’s educational certificates.
6. Paid instructors, teachers and coaches who are not members of the CIO must be members of a body which accepts that its members are bound by Swim England’s Code of Ethics, Swim England Regulations relating to ‘Wavepower’ and those parts of the Judicial Regulations and procedures necessary for their implementation and whilst engaged in activities under the jurisdiction of Swim England shall be subject to all the constraints and privileges of the Judicial Regulations.
7. Any person who wishes to become a member of the CIO must submit a signed application to the Secretary Election to membership shall be determined by the Membership Committee but other person(s) authorised by the committee may make recommendation as to the applicant’s acceptability.
8. The Membership Committee shall,
9. If they approve an application for membership, notify the applicant of their decision within 21 days.
10. If they decide to refuse an application for membership, give the applicant their reasons for doing so, within 21 days of the decision being taken.
11. Any person refused membership may seek a review of this decision before a ‘Review Panel’ appointed by the Executive Committee comprised of not less than three members, who may or may not be members of the Executive Committee. The Review Panel shall wherever practicable include one independent member nominated by Swim England North West.
12. The person refused membership shall be entitled to make representations to the Review Panel. The procedures for review shall be at the discretion of the Review Panel whose decision shall be final and binding.
13. In its consideration of applications for membership, the CIO shall not act in a discriminatory manner and in particular, shall adhere to the Equality Act 2010 (as may be amended). Accordingly, (unless the CIO chooses to restrict its membership to only people who share the same Protected Characteristic) the CIO shall not refuse membership on the basis of a Protected Characteristic within the Equality Act 2010, such as disability; gender or gender identity; pregnancy; race; religion or belief; or sexual orientation. Neither may refusal be made on the grounds of political persuasion.
14. The CIO may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the CIO or the sport into disrepute or is in arrears with another Swim England affiliated club, or, in the case of a swimmer, being unable to achieve the entry standards as laid down and provided by the CIO to the applicant for membership.
15. The category of membership shall be decided in accordance with the following:
16. Full Members, who shall be able to submit nominations, proposals and resolutions to a General Meeting of the membership *and who* shall be eligible to hold office and attend meetings of the committee as a result of a vote at a General Meeting. As a committee member they would have voting rights on the committee.
17. Senior Members, who shall be 65 years of age or older, retain the above right of Full Members.
18. Honorary Members. The Annual General Meeting may elect any person as an Honorary member of the CIO for such a period as it thinks fit and they shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a general meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the CIO. Such Honorary members must be included in the CIO's annual return of members to Swim England.
19. Life Members. The Annual General Meeting may elect any person as a Life Member, on a recommendation made by the Committee in recognition of outstanding services rendered to the CIO. Life members shall be entitled to all the privileges of membership except that they shall not be entitled to make nominations for office, to submit proposals and resolutions for consideration at a general meeting of the membership, to vote at meetings or serve as officers or on the Committee unless any such person shall have retained in addition their ordinary membership of the CIO. Such Life members must be included in the CIO's annual return of members to Swim England.
20. Temporary Members, who are individuals granted temporary membership by Swim England by virtue of their participation in specific event(s) organised by the CIO in conjunction with a club, body, association or organisation under the provision of the Swim England Regulation on temporary membership. Temporary Members shall not be entitled to make proposals and resolutions, to vote at meetings and serve as officers or on the Committee.

 **(2) Transfer of membership**

1. Membership of the CIO cannot be transferred to anyone else except in the case of an individual or corporate body representing an organisation which is not incorporated, whose membership may be transferred by the unincorporated organisation to a new representative. Such transfer of membership does not take effect until the CIO has received written notification of the transfer.

**(3) Duty of members**

1. It is the duty of each member of the CIO to exercise his or her powers as a member of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO.

**(4) Termination of membership**

(a) Membership of the CIO comes to an end if:

1. The member dies, or, in the case of an organisation (or the representative of an organisation) that organisation ceases to exist; or

(ii) The member sends a written notice of resignation to the Secretary; or

1. Any sum of money owed by the member to the CIO is not paid in full within *3* months of its falling due. Where the membership of a member shall be terminated in this way he/she shall be informed in writing that he/she is no longer a member by notice handed to him/her or sent by post to his/her last known address or by email; or

(iv) The charity trustees decide that it is in the best interests of the CIO that the member in question should be removed from membership and pass a resolution to that effect.

(b) Once created, Honorary and Life membership may only be removed at an Annual General Meeting of the CIO, when it shall be properly proposed in accordance with this constitution.

1. A minimum of 21 days in advance of the Annual General Meeting, the Secretary shall write or make contact electronically with all holders of honorary or life membership drawing the proposal to his/her/their attention and inviting him/her/them to attend the Annual General Meeting.
2. Where the effected holder or holders of the Honorary or Life membership do not attend or are unable to attend the Annual General Meeting, the Chairman may allow the matter in so far as it relates to the absent person(s) to proceed directly to vote, which shall be by show of hands.

(c) Before the charity trustees take any decision to remove someone from membership of the CIO they must:

1. Inform the member of the reasons why it is proposed to remove him, her or it from membership;
2. Give the member at least 21 clear days’ notice in which to make representations to the charity trustees as to why he, she or it should not be removed from membership;

(iii) At a duly constituted meeting of the charity trustees, consider whether or not the member should be removed from membership;

(iv) Consider at that meeting any representations which the member makes as to why the member should not be removed; and

1. Allow the member, or the member’s representative to make those representations in person at that meeting, if the member so chooses.
2. Comply with the relevant Judicial Regulations for handling Internal Club Disputes as the same may be revised from time to time. A copy of the relevant Regulations and Procedures are given as an Appendix to this constitution.

(d) A member may not be expelled or subject to clause 5(d) below be made the subject of any other penalty unless the panel hearing the complaint shall by a two-thirds majorityvote in favour of the expulsion of or other penalty imposed upon the member.

(e) The Executive Officers of the CIO (or any person to whom the Committee shall delegate this power) may temporarily suspend or exclude a member from particular training sessions and/or wider CIO activities, when in their opinion, such action is in the interests of the CIO. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Regulations.

(f) Upon expulsion, the former member shall not be entitled to have any part of the annual membership fee to be refunded and must return any CIO or external body’s trophy or trophies or equipment held forthwith.

(g) The Swim England Membership Department shall be informed should a member resign when still owing money or goods to the CIO.

**(5) Membership fees**

1. The CIO may require members to pay reasonable membership fees to the CIO.

(b) The members’ subscription fees shall be proposed to the Annual General meeting from time to time by the Committee, and they shall in so doing make special provision for different classes of membership as the Committee shall determine. This shall include the power to make such increase in the subscription as shall, where the CIO pays the individual Swim England Membership Fees to Swim England on behalf of members, be consequential upon an increase in individual Swim England membership fees. Any increase in subscriptions shall be advised to the members in writing with the reasons for any increase to be reported to the members at the next Annual General Meeting.

(c) The annual subscription and joining fee (if any) shall be due on joining the CIO. Thereafter the training and other fees as applicable shall be due as determined by the Committee.

(d) Any member whose training and other fees as applicable are unpaid by the date falling 30 days after the due date for payment may be suspended by the Committee from some or all CIO activities from a date to be determined by the Committee and until such payment is made.

(e) The Committee (shall have the power in special circumstances to remit the whole or part of the fees, including the Swim England membership fees, to address issues of social inclusion.

(f) Any member who resigns from the CIO in accordance with clause 4(a)(ii) of this clause shall not be entitled to have any part of the annual membership fee or any other fees returned. Any member removed from membership by the CIO shall not be entitled to have any part of the annual membership fee refunded and must return any CIO property forthwith.

**(6) Informal or associate (non-voting) membership**

(a) The CIO may create associate or other classes of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members.

(b) Other references in this constitution to ‘members’ and ‘membership’ do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.

**11. Members’ decisions**

**(1) General provisions**

1. Except for those decisions that must be taken in a particular way as indicated in sub-clause (3) of this clause, decisions of the members of the CIO may be taken by vote at a general meeting as provided in sub-clause (2) of this clause.

**(2) Taking ordinary decisions by vote**

1. Subject to sub-clause (3) of this clause, any decision of the members of the CIO may be taken by means of a resolution at a general meeting. Such a resolution may be passed by a simple majority of votes cast at the meeting.

**(3) Decisions that must be taken in a particular way**

(a) Any decision to remove a trustee must be taken in accordance with clause 17 of this constitution (Retirement and removal of charity trustees).

(b) Any decision to amend this constitution must be taken in accordance with clause 29 of this constitution (Amendment of Constitution).

1. Any decision to wind up or dissolve the CIO must be taken in accordance with clause 30 of this constitution (Voluntary winding up or dissolution).
2. Any decision to amalgamate or transfer the undertaking of the CIO to one or more other CIO’s must be taken in accordance with the provisions of the Charities Act 2011.

**12. General meetings of members**

**(1) Types of general meeting**

1. There must be an annual general meeting (AGM) of the members of the CIO. The first AGM must be held within 18 months of the registration of the CIO, and subsequent AGMs should be held every 12 months but at intervals of not more than 15 months.
2. The Annual General Meeting of the CIO shall be held each year on a date in October. The date, time and venue for the Annual General Meeting shall be fixed by the Committee.
3. The purpose of the Annual General Meeting is to transact the following business:
4. To receive the annual statement of accounts (duly audited or examined where applicable)

(ii) To receive the trustees’ annual report,

1. To elect as trustees the Executive Officers and other members of the Committee as required under clause 14 of this constitution (The Committee).
2. To remove and elect the independent examiner (who must not be a member of the Committee or a member of the family of a member of the Committee) or confirm that he/she remain in office.
3. To elect Honorary and Life members of the CIO.
4. To decide on the dissolution of existing honorary membership categories. See also clause 15 (Ceremonial Positions, Honorary Members and Life Members).
5. To decide on any resolution, proposal or submission that is duly submitted in accordance with sub-clause (d) of this clause. If a proposal to alter the constitution of the CIO is to be considered at the meeting, the text of the proposed alteration must be included – see also clause 30 (Voluntary winding up or dissolution).
6. Notice of any resolution, proposal or submission to be considered at a General Meeting, duly proposed and seconded shall be given in writing or by electronic means to the Secretary not later than 21 days prior to the date of the meeting.
7. Other general meetings of the members of the CIO may be held at any time. These shall be called special general meetings.
8. The secretary or in his/her absence another Executive Committee member shall take minutes at the annual and other general meetings.
9. All general meetings must be held in accordance with the following provisions.

**(2) Calling general meetings**

(a) The charity trustees:

1. Must call the annual general meeting of the members of the CIO in accordance with sub-clause (1) of this clause, and identify it as such in the notice of the meeting; and
2. May call a special general meeting of the members at any time.
3. May only in the event of exceptional circumstances postpone a general meeting once the date, time and venue has been fixed and advised to members. A postponed general meeting shall normally be reconvened on a date within one month of the original date and a minimum of 7 days advance notice given to the members of the rescheduled date, time and venue. At this meeting, the same agenda as originally issued shall be used.

(b) The charity trustees must, within 21 days, call a general meeting of the members of the CIO if:

1. They receive a request to do so from ten members or one tenth of the membership, whichever is the greater; and

(ii) The request states the general nature of the business to be dealt with at the meeting, and is authenticated by the member(s) making the request.

(c) If, at the time of any such request, there has not been any general meeting of the members of the CIO for more than 12 months, then sub-clause (b)(i) of this clause shall have effect as if 5% were substituted for 10%.

(d) Any such request may include particulars of a resolution that may properly be proposed, and is intended to be proposed, at the meeting.

(e) A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous or vexatious.

(f) Any general meeting called by the charity trustees at the request of the members of the CIO must be held within 28 days from the date on which it is called.

(g) If the charity trustees fail to comply with this obligation to call a general meeting at the request of its members, then the members who requested the meeting may themselves call a general meeting but in doing so they must comply with the provisions of this constitution.

(h) A general meeting called in this way must be held not more than 3 months after the date when the members first requested the meeting.

(i) The CIO must reimburse any reasonable expenses incurred by the members calling a general meeting by reason of the failure of the charity trustees to duly call the meeting, but the CIO shall be entitled to be indemnified by the charity trustees who were responsible for such failure.

**(3) Notice of general meetings**

(a) The charity trustees, or, as the case may be, the relevant members of the CIO, must give at least 14 clear days’ notice of any general meeting to all of the members, and to any charity trustee of the CIO who is not a member.

(b) If it is agreed by not less than 90% of all members of the CIO, any resolution may be proposed and passed at the meeting even though the requirements of sub-clause (3)(a) of this clause have not been met. This sub-clause does not apply where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.

(c)The notice of any general meeting must, or where allowed under clause 23 of this constitution (Use of electronic communication) give details of where the information may be found on the CIO’s website.

(i) State the time and date of the meeting:

(ii) Give the address at which the meeting is to take place;

(iii) Give particulars of any resolution which is to be moved at the meeting, and of the general nature of any other business to be dealt with at the meeting; and

(iv) Give the text of the proposed alteration if a proposal to alter the constitution of the CIO is to be considered at the meeting.

(d) Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

(e) The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it because of accidental omission by the CIO.

**(4) Chairing of general meetings**

1. The person nominated as chair by the charity trustees under clause 20(2) of this constitution (Chairing of Meetings), shall, if present at the general meeting and willing to act, preside as chair of the meeting. If no trustee is present and willing to chair the meeting within 30 minutes after the time appointed for holding it, the members of the charity who are present at a general meeting shall elect a chairman to preside at the meeting.
2. The Chairman shall at all General Meetings have unlimited authority upon every question of order and shall be, for the purpose of such meeting, the sole interpreter of the Constitution of the CIO.

**(5) Quorum at general meetings**

(a) No business may be transacted at any general meeting of the members of the CIO unless a quorum is present when the meeting starts.

(b) Subject to the following provisions, the quorum for general meetings shall be the greater of 10% of the members entitled to vote upon the business to be conducted at the meeting or one tenth of the total membership at the time, whichever is the greater, and must include at least one Officer. An organisation represented by a person present at the meeting in accordance with sub-clause (7) of this clause, is counted as being present in person.

(c) If the meeting has been called by or at the request of the members and a quorum is not present within 30 minutes of the starting time specified in the notice of the meeting, or during the meeting a quorum ceases to be present, the meeting is closed.

(d) If the meeting has been called in any other way and a quorum is not present within 30 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time and place at which the meeting will resume must either be announced by the chair or be notified to the CIO’s members at least seven clear days before the date on which it will resume.

(e) If a quorum is not present within 30 minutes of the start time of the adjourned meeting, the member or members present at the meeting constitute a quorum.

(f) If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the trustees but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

**(6) Voting at general meetings**

(a) Any decision other than one falling within clause 11(3) of this constitution (Decisions that must be taken in a particular way), shall be taken by a simple majority of votes cast at the meeting. Every eligible member has one vote*.*

(b) A resolution put to the vote of a meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 10% of the members present in person at the meeting.

(c) A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.

(d) A poll may be taken:

(i) At the meeting at which it was demanded; or

(ii) At some other time and place specified by the chair; or

(iii) Through the use of postal or electronic communications.

(e) In the event of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall have a second, or casting vote.

(f) Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

**(7) Representation of organisations and corporate members**

1. An organisation or a corporate body that is a member of the CIO may, in accordance with its usual decision-making process, authorise a person to act as its representative at any general meeting of the CIO.
2. The representative is entitled to exercise the same powers on behalf of the organisation or corporate body as the organisation or corporate body could exercise as an individual member of the CIO.

**(8) Adjournment of meetings**

1. The chair may, with the consent of a meeting at which a quorum is present, (and shall if so directed by the meeting) adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

**13. Charity trustees**

**(1) Officers and trustees**

 (a) The charity and its property shall be managed and administered by a committee comprising the officers and other members elected in accordance with this constitution. The officers and other members of the committee shall be the trustees of the Charity and in this constitution are together called ‘the trustees’.

 (b) The charity shall have the following Executive Officers:

 (i) A chair,

 (ii) A secretary,

 (iii) A treasurer

1. A Welfare Officer

**(2) Functions and duties of charity trustees**

1. The charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. The trustees shall have the sole right of appointing and determining the terms and conditions of service of employees and voluntary helpers of the CIO.
2. The trustees shall have power to enter into contracts for the purposes of the CIO on behalf of all the members of the CIO.
3. The trustees shall be entitled to an indemnity out of the assets of the CIO for all expenses and other liabilities properly incurred by them in the management of the affairs of the CIO.
4. It is the duty of each charity trustee:

(i) To exercise his or her powers and to perform his or her functions as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and

(ii) To exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

1. Any special knowledge or experience that he or she has or holds himself or herself out as having; and
2. If he or she acts as a charity trustee of the CIO in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

**(3) Eligibility for trusteeship**

1. Every charity trustee must be a natural person.
2. A trustee must be a member of the charity or the nominated representative of an organisation that is a member of the charity.
3. No one may be appointed as a charity trustee:
4. If he or she would automatically cease to hold office under the provisions of clause 17 of this constitution (Retirement and removal of charity trustees).

(d) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.

**(4) Number of charity trustees**

 (a) There must be at least three charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee.

The maximum number of trustees is 10. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees exceeds the maximum.

.

**(5) First charity trustees**

1. The first charity trustees of the CIO are:

 Chairman Geoff Dodd

 Secretary Ged Johnson

 Treasurer Kevin Massey

**14. The Committee**

* 1. The Committee shall be elected at each Annual General Meeting and shall hold office until the conclusion of the meeting at which their successors are appointed.
	2. Nominations for election of charity trustees shall be made in writing by the proposer and seconder to the secretary not later than 21 days before the annual general meeting. The nominee shall indicate in writing his/her willingness to stand for election.
	3. At every annual general meeting of the members of the CIO, one-third of the charity trustees shall retire from office. If the number of charity trustees is not three or a multiple of three, then the number nearest to one-third shall retire from office, but if there is only one charity trustee, he or she shall retire.
	4. Any person who retires as a charity trustee by rotation or by giving notice to the CIO is eligible for reappointment.
	5. The charity trustees to retire by rotation shall be those who have been longest in office since their last appointment or reappointment. If any trustees were last appointed or reappointed on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
	6. The vacancies so arising may be filled by the decision of the members at the annual general meeting; any vacancies not filled at the annual general meeting may be filled as provided in sub-clause (7) of this clause.
	7. The members or the charity trustees may at any time decide to appoint a new charity trustee, whether in place of a charity trustee who has retired or been removed in accordance with clause 17 of this constitution (Retirement and removal of charity trustees), or as an additional charity trustee, provided that the limit specified in clause 13(4) on the number of charity trustees would not as a result be exceeded. A person so appointed by the members of the CIO shall retire in accordance with the provisions of sub-clauses (3) and (5) of this clause.
	8. In addition to the elected members the trustees may co-opt up to 7 further members of the CIO, provided that the limit specified in clause 13(4) of this constitution on the number of charity trustees would not as a result be exceeded. Co-opted members of the committee shall serve until the next Annual General Meeting. Co-opted members shall not be entitled to vote at the meetings of the Committee and shall not be counted in establishing whether a quorum is present. A person so appointed by the charity trustees shall retire at the conclusion of the next annual general meeting after the date of his or her appointment and shall not be counted for the purpose of determining which of the charity trustees is to retire by rotation at that meeting.
	9. The Committee shall appoint a member of the CIO as Welfare Officerwho should have an appropriate background and who is required to undertake appropriate training in accordance with ‘Wavepower’. Although the Welfare Officer will not be a trustee, he/she will have a right to attend Committee meetings without a power to vote.
	10. The trustees shall maintain an Accident Book in which all accidents to CIO members at swimming related activities shall be recorded. Details of such accidents shall be reported to the insurers in accordance with the Swim England Accident/Incident Notification guidelines. The CIO shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed online form.
	11. The Committee shall appoint a member of the CIO who shall be the responsible for overseeing the CIO’s compliance with data protection laws.

**15. Ceremonial Positions**

(1) None*.*

**16. Information for new charity trustees**

1. The charity trustees will make available to each new charity trustee, on or before his or her first appointment:

(a) A copy of this constitution and any amendments made to it; and

(b) A copy of the CIO’s latest trustees’ annual report and statement of accounts.

**17. Retirement and removal of charity trustees**

(1) A charity trustee ceases to hold office if he or she:

1. Retires by notifying the CIO in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
2. Retires by rotation in accordance with clause 14 (The Committee) of this constitution;
3. Is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
4. Dies;
5. In the written opinion, given to the CIO, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a trustee and may remain so for more than three months;
6. Is removed by the members of the CIO in accordance with sub-clause (2) of this clause;
7. Is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

(2) A charity trustee shall be removed from office if a resolution to remove that trustee is proposed at a general meeting of the members called for that purpose and properly convened in accordance with clause 12 of this constitution (General meetings of members) and the resolution is passed by a two-thirds majority of votes cast at the meeting.

(3) A resolution to remove a charity trustee in accordance with this clause shall not take effect unless the individual concerned has been given at least 14 clear days’ notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to the members of the CIO.

**18. Taking of decisions by charity trustees**

1. Any decision may be taken either:
2. At a meeting of the charity trustees; or
3. By resolution in writing or electronic form agreed by all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more charity trustees has signified their agreement.

**19. Delegation by charity trustees**

(1) The charity trustees may delegate any of their powers or functions to a sub-committee or working group, and, if they do, they must determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.

All sub-committees and working groups shall periodically report their proceedings to the Committee and shall conduct their business in accordance with the directions of the Committee.

(2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:

(a) A committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;

(b) The acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable; and

(c) The charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

**20. Meetings and proceedings of charity trustees (the Committee)**

The trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.

**(1) Calling meetings**

(a) Any charity trustee may call a meeting of the charity trustees. The secretary must call a meeting of the trustees if requested to do so by a trustee.

(b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

1. Meetings of the trustees shall be held not less than 4 times per year save where the Committee itself shall by a simple majority resolve not to meet.
2. The Chairman and the Secretary shall have discretion to call further meetings of the Committee if they consider it to be in the interests of the CIO.
3. The Secretary shall give all the members of the Committee not less than seven days’ notice of a meeting in writing or by electronic means.

**(2) Chairing of meetings**

1. Meetings of the trustees will normally be chaired by the Chairman of the CIO. In his/her absence the meeting may be chaired by another of the trustees present.

**(3) Procedure at meetings**

(a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum of those meetings shall be not less than a simple majority of the trustees to include not less than one Officer. A charity trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

1. In the event that a quorum is not present within 30 minutes of the published start time, a meeting shall stand adjourned to the time and date falling seven days after the date of the meeting, or such other date and time as may be determined by the Chairman. If a quorum is not present at the adjourned meeting then those Committee members attending may act for the purpose of calling a Special General Meeting of the members, to which the provisions as to minimum notice contained in clause 12 of this constitution (General meetings of members)shall not apply.
2. Decisions of the Committee shall be made by a simple majority. In the event of equality of votes the Chairman (or the acting Chairman of that meeting) shall have a casting or additional vote.
3. The Secretary, or in his/her absence a member of the Committee, shall take minutes.

**(4) Participation in meetings by electronic means**

(a) A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.

(b) Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

(c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

**21. Saving provisions**

1. Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:
2. Who was disqualified from holding office;
3. Who had previously retired or who had been obliged by the constitution to vacate office;
4. Who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;

if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

(2) Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 7 of this constitution (Conflicts of interest and conflicts of loyalty).

**22. Execution of documents**

(1) The CIO shall execute documents by signature which shall include electronic signatures where permitted by law.

(2) A document is validly executed by signature if it is signed by at least two of the Executive Officers.

**23. Use of electronic communications**

1. **General**
2. The CIO will comply with the requirements of the Communications Provisions in the General Regulations and in particular:
3. The requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;
4. Any requirements to provide information to the Commission in a particular form or manner.

**(2)** **To the CIO**

1. Any member or charity trustee of the CIO may communicate electronically with the CIO to an address specified by the CIO for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the CIO.

**(3)** **By the CIO**

(a) Any member or charity trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.

(b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website:

(i) Provide the members with the notice referred to in clause 12(3) of this constitution (Notice of general meetings);

(ii) Give charity trustees notice of their meetings in accordance with clause 20(1) of this constitution (Calling meetings).

(c) The charity trustees must:

1. Take reasonable steps to ensure that members and charity trustees are promptly notified of the publication of any such notice or proposal;
2. Send any such notice or proposal in hard copy form to any member or charity trustee who has not consented to receive communications in electronic form.

**24. Keeping of Registers**

1. The CIO must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, registers of its members and charity trustees.

**25. Minutes**

(1) The charity trustees must keep minutes of all:

(a) Appointments of officers made by the charity trustees;

(b) Proceedings at general meetings of the CIO;

(c) Meetings of the charity trustees and committees and sub-committees of charity trustees including:

1. The names of the trustees and/or voting members present at the meeting;
2. The decisions made at the meetings; and
3. Where appropriate the reasons for the decisions;

(d) Decisions made by the charity trustees otherwise than in meetings.

**26. Accounting records, accounts, annual reports and returns, register** **maintenance**

(1) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Charity Commission, regardless of the income of the CIO, within 10 months of the financial year end.

1. The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.
2. The CIO must retain all minutes and accounting records, for example, cash books, invoices, receipts, Gift Aid records etc. for at least 6 years.

**27. Rules**

1. The charity trustees may from time to time make such reasonable and proper rules or by-laws as they may deem necessary or expedient for the proper conduct and management of the CIO, but such rules or by-laws must not be inconsistent with any provision of this constitution. Copies of any such rules or by-laws currently in force must be made available to any member of the CIO on request.

**28. Disputes**

1. If a dispute arises between members of the CIO about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.
2. The CIO shall adopt the Swim England Guidelines for Handling Internal Club Disputes. See also clause 10(4)(b)(vi) of this constitution.

**29. Amendment of constitution**

1. As provided by clauses 224-227 of the Charities Act 2011:
2. This constitution can only be amended:
3. By resolution agreed in writing by all members of the CIO; or
4. By a resolution passed by a 75% majority of votes cast at a general meeting of the members of the CIO.

(2) Any alteration of clause 3 of this constitution (Objects), clause 30 (Voluntary winding up or dissolution), this clause (29), or of any provision where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them, requires the prior written consent of the Charity Commission.

(3) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.

(4) A copy of any resolution altering the constitution, together with a copy of the CIO’s constitution as amended, must be sent to the Commission within 15 days from the date on which the resolution is passed. The amendment does not take effect until it has been recorded in the Register of Charities.

**30. Voluntary winding up or dissolution**

(1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the CIO can only be made:

(a) At a general meeting of the members of the CIO called in accordance with clause 12 of this constitution (General Meetings of Members) of which not less than 14 days’ notice has been given to those eligible to attend and vote:

(i) By a resolution passed by a 75% majority of those voting, or

(ii) By a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or

1. By a resolution agreed in writing by all members of the CIO.

(2) Subject to the payment of all the CIO’s debts:

(a) Any resolution for the winding up of the CIO, or for the dissolution of the CIO without winding up, may contain a provision directing how any remaining assets of the CIO shall be applied.

(b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the CIO shall be applied.

(c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the CIO.

(3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Commission for the CIO to be removed from the Register of Charities, and in particular:

1. The charity trustees must send with their application to the Commission:
2. A copy of the resolution passed by the members of the CIO;
3. A declaration by the charity trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and

(iii) A statement by the charity trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;

(b) The charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the CIO, and to any charity trustee of the CIO who was not privy to the application.

(4) If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

(5) After the CIO is wound up, the trustees must arrange for the accounting books and records of the CIO (including cash books, invoices and receipts) to be kept for at least three years after the year they were made.

(6) The former charity trustees remain responsible for the decisions they made while they were in office.

**31. Interpretation**

In this constitution:

**‘connected person’** means:

(a) A child, parent, grandchild, grandparent, brother or sister of the charity trustee;

(b) The spouse or civil partner of the charity trustee or of any person falling within sub- clause (a) above;

(c) A person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) or (b) above;

(d) An institution which is controlled:

(i) By the charity trustee or any connected person falling within sub-clause (a), (b), or (c) above; or

(ii) By two or more persons falling within sub-clause (d)(i), when taken together

(e) A body corporate in which:

(i) The charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or

(ii) Two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

Section 118 of the Charities Act 2011 shall apply for the purposes of interpreting the terms used in this constitution.

‘**General Regulations’** means the Charitable Incorporated Organisations (General) Regulations 2012.

‘**Dissolution Regulations**’ means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

The ‘**Communications Provisions**’ means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations.

‘**Charity trustee**’ means a charity trustee of the CIO.

A ‘**poll**’ means a counted vote or ballot, usually (but not necessarily) in writing.

**32. Acknowledgement**

1. The Members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the members with each other and the CIO.
2. The following statement needs to appear on CIO membership forms and is to be signed by the member and must also be countersigned by the parent, or a person having parental responsibility for the member, if under 18 years of age.

I acknowledge receipt of the rules of [insert the full name of the CIO] and confirm my understanding and acceptance that such rules (as amended from time to time) shall govern my membership of the CIO.

I further acknowledge and accept the responsibilities of membership upon members as set out in these rules.

**Data Protection Statement:**

It shall be a condition of affiliation or membership that all members shall be subject to and bound by any Swim England Rule, Regulation or Condition, in addition to complying with the Equality Policy, the Child Safeguarding Regulations and the Data Protection Act 2018 which may from time to time apply to them.

[Note: This consent needs to be provided by the parent for children under the age of 13 years. Anyone over the age of 13 years can provide consent for the use of data under the Data Protection Act 2018]

The CIO will take the protection of the data that we hold about you as a member seriously and will do everything possible to ensure that data is collected, stored, processed, maintained, cleansed and retained in accordance with current and future UK data protection legislation.

Please read the full privacy notice carefully to see how the CIO will treat the personal information that you provide to us. We will take reasonable care to keep your information secure and to prevent any unauthorised access.

In addition to receiving general CIO communications please let us know how else you would like to hear from us:

I would like to receive Information from the CIO about specially selected products and services available from commercial sponsors and partners.

I am happy to receive communications via:

 SMS Post email

When you become a member of or renew your membership of the CIO you will automatically be registered as a member of Swim England. We will provide Swim England with your personal data which they will use it to enable access to an online portal. It is vital, therefore, that a valid email address is given, so that you can ensure that your data is correct and so that you can set your own privacy settings.

**Appendix 1**

**CODE OF ETHICS**

# Terms of Reference

The content of this Code of Ethics applies to all those involved within the sport of Swimming, Diving, Water Polo, Open Water Swimming and Synchronised Swimming. The Code of Ethics should be read in conjunction with the Codes of Conduct contained in ‘Wavepower’ (Child Safeguarding Policy and Procedures).

# Swim England Code of Ethics

All individuals within the Swim England aquatic disciplines will at all times:

* Respect the rights, dignity and worth of every person, be they adult or child, treating everyone equally within the context of the sport.
* Respect the spirit of the sport adhering to the rules and laws in and out of the pool, incorporating the concept of friendship and respect for others.
* Promote the positive aspects of the sport and never condone the use of inappropriate or abusive language, inappropriate relationships, bullying, harassment, discrimination or physical violence.
* Accept responsibility for their own behaviour and encourage and guide all Swim England members and parents of junior members to accept responsibility for their own behaviour and conduct.
* Ensure all concerns of a child safeguarding nature are referred in accordance with ‘Wavepower’ (Swim England Child Safeguarding Policy and Procedures).
* Conduct themselves in a manner that takes all reasonable measures to protect their own safety and the safety of others.
* Promote the reputation of the sport and never behave or encourage or condone others to behave in a manner that is liable to bring the sport into disrepute.
* Adhere to ‘Wavepower’ the Swim England Child Safeguarding Policy and Procedures.
* Adhere to the Swim England Anti-Doping Rules.
* Adhere to the Swim England Equity Policy.
* Adhere to the Swim England Laws and Regulations.
* Adhere to the Swim England Codes of Conduct.

**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**

Swim England 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 Judicial Commissioner.

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 Swim England Regulations.

The key principle to be followed is that Swim England 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 Swim England 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 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 Chairperson 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 Chairperson. 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 Chairperson 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 Chairperson 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 Swim England Judicial Regulations 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 Commissioner at Swim England Head Office, Loughborough.

**5. Further Information**

Additional guidance can be obtained from the Judicial Regulations in the Swim England Handbook.

**6. Conclusions**

The key message when dealing with disputes is to ensure:

1. All parties are treated fairly.
2. The complainant has the opportunity to present the case.

(c) The accused has the opportunity to respond.

Appendix 3

SWIM ENGLAND REGULATIONS

**INTERNAL CLUB DISPUTES**

**1. CLUB RIGHTS and RESPONSIBILITIES**

The rights and responsibilities of a Club in terms of its discipline, its internal dispute procedures and the sanctions it can impose are given in Swim England Regulation 281 which specifies:

Regulation 281**: Club discipline and internal dispute procedures**

281.1 For a breach of its own rules, but subject to Swim England Regulations 150 and 151, an affiliated Club or body may:

281.1.1 Apply sanctions to a member relating to activities wholly within its own jurisdiction up to and including suspension from any or all of them.

281.1.2 Expel a member, provided that before doing so it informs the member of the alleged offence and gives him a reasonable opportunity to defend himself against the charge. If the alleged offence is also a breach of Swim England Regulations the Club or body shall not deal with it but may make a complaint under the Judicial Regulations.

281.2 A Club or body may expel from membership and/or refuse to renew the membership of any member who has been suspended according to Regulation 109 or Regulation 241 provided that any such expulsion or initial refusal shall not be lawful after the twelve months immediately following the end of the suspension.

281.3 Each Club shall include in its rules provisions specifying the procedures to be carried out to handle internal Club disputes which shall include compliance with Swim England Judicial Regulations.

281.4 Any such provisions shall comply with the Swim England Recommended Club Constitution and the accompanying Guidance Notes.

**2. COMPLAINT TO SWIM ENGLAND**

Any dispute that involves an allegation of a breach of Swim England Regulations must be submitted to Swim England and dealt with as a complaint under the condition of Swim England Regulations 150.4 and 281.1.2.

Judicial Regulation 102 deals with the circumstance of a complaint made to Swim England. It provides the necessary explanation that defines a complaint, the grounds on which a complaint can be made, who can make a complaint and the procedure to be used.

**Judicial Regulation 102: Complaints**

102.1 A complaint is a formal expression of dissatisfaction with the actions or behaviour of any person, including an individual or a Club, or other body, or organisation or with alleged unfair practice in connection with the sport. Decisions of a Club, body, organisation, association, County Association or Region on selection of teams may not be the subject of a complaint.

**3. INTERNAL DISPUTES**

When a dispute arises between two or more members of the same Club, body or organisation it must be handled using the Internal Disputes procedure specified in the Club Constitutional Rules and Judicial Regulations 150 to 155.

#  Judicial Regulation 150: General

150.1 The primary objective of the Regulations in this section is to set out ways by which a just outcome of an internal dispute between the members of a Club, organisation, association or body may be secured as expeditiously as possible.

150.2 An ‘internal Club dispute’ is a dispute involving an alleged breach of the Club’s rules, 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 (the ‘parties’).

150.3 Any dispute which involves an allegation that there has been a breach of Swim England Regulations by a member must be dealt with as a Complaint under Regulation 102 and the other relevant Regulations.

150.4 If the dispute involves an allegation against a paid employee of the Club the issue must be dealt with under the terms of his contract of employment.

150.5 A failure by a Club or any of the parties to comply with Regulations 150 to 155 inclusive shall be grounds for a complaint under Regulation 102.

150.6 Organisations, associations or bodies affiliated to Swim England shall conform with such parts of Regulations 150 to 155 inclusive as may reasonably be applied to them, in all respects as if they were a Club.

#

#  Judicial Regulation 151: Sequence of steps to deal with a dispute

151.1 The parties shall use any reasonable means to settle the issues between them informally and amicably.

151.2 If such a resolution cannot be achieved, the dispute shall be referred to the Chairperson of the Club committee or, if he is a party to the dispute, to another officer of the Club who is not a party who within seven days of the reference shall appoint an independent person to act as a mediator between the parties. The mediator may be a member of the Club or a member of another Club affiliated to Swim England.

151.3 If the mediator is unable to bring about a satisfactory settlement within twenty one days, the Club committee shall within a further fourteen days appoint a panel (the ‘panel’) to determine the dispute.

151.3.1 The panel shall consist of three persons who have not been involved in the dispute, either from the members of the Club or, if this is not possible or desirable, from the members of any other Club affiliated to Swim England.

151.3.2 The parties shall be given the opportunity to object to any of the members of the panel at least seven days before the scheduled date of any hearing. The Club committee shall consider any such objections, decide whether they are justified and act accordingly.

# Judicial Regulation 152: Procedure before a hearing

152.1 The panel members shall appoint one of their numbers to act as the Chairperson and either appoint another of their number, or alternatively appoint an additional person without any other powers, to act as the clerk of the hearing.

152.2 The Chairperson of the panel shall arrange the date of the hearing and notify the parties of the arrangements at least fourteen days in advance of the date set. The notified date shall not be changed unless one or more of the parties has a compelling reason for not being able to attend on the notified day or time.

#  Judicial Regulation 153: Procedure at a hearing

153.1 The procedure shall be flexible and it shall be the responsibility of the Chairperson of the panel to ensure the orderly and effective conduct of the hearing.

153.2 The panel shall not be bound by the judicial rules of the courts of England and Wales governing procedure or the admissibility of evidence provided that the hearing is conducted in a fair and orderly manner and that each party is given a reasonable opportunity to give and call evidence, address the panel and present his case. The Chairperson shall have the discretion to limit the number of witnesses that would otherwise have been called.

153.3 Witnesses shall normally be provided with an area outside the hearing room and not take any part in the hearing other than giving evidence and responding to questions.

153.4 The parties shall be informed of their right to make a complaint under Regulation 102 if they are dissatisfied with the conduct of the hearing or the grounds upon which the decision was made or if they consider any sanction imposed to be disproportionate.

#  Judicial Regulation 154: Procedure after a hearing

154.1 The panel shall come to a decision as soon as reasonably practicable after the hearing and if possible announce its findings and decisions orally to the parties.

154.2 Notwithstanding anything in Regulation 154.1 the Chairperson shall notify the parties and, if the Club was not a party to the dispute, the Club secretary in writing of its findings and decisions within five days of the hearing.

#  Judicial Regulation 155: Considerations regarding children

155.1 Any person under the age of eighteen (a ‘child’) who is a party to a dispute or who has been called as a witness shall normally be accompanied by a parent, a person with parental responsibility or a suitable adult. The Chairperson shall have the sole discretion as to whether a child is permitted to present or defend a case or be questioned as a witness and may order that the child be assisted or represented by an adult.

155.2 The Chairperson shall give due consideration to any child attending a hearing as a party to a dispute or to give evidence and in particular:

* + 1. No child aged fourteen or under shall normally be expected to attend a hearing to give evidence in person. His/her evidence shall normally be given as a written statement with the assistance of a Club welfare officer or other person acceptable to the child and parent. Questions and responses may be relayed by a panel member. If the child appears distressed the panel shall rely only on the written evidence.
		2. A child over the age of fourteen shall only attend a hearing as a party to the dispute or to give evidence in person provided he wishes to, and the Chairperson has consulted with the parent and child and is satisfied that they both understand the nature of the hearing and what will happen and that the child is competent to attend.
		3. If there is a disagreement between parent and/or child and the Chairperson on any of the considerations above, the Chairperson shall consider requesting advice from the Independent Child Protection Officer via the Swim England Legal Department.

155.3 During the hearing, a child who is expected to give evidence in person and his accompanying adult(s) shall be required to attend only those parts of the hearing which are necessary for him to give his evidence and shall be provided with a separate waiting area with no contact with any of the [other] parties.

155.4 After the hearing the Chairperson shall inform the parent of the panel’s findings and decisions and shall discuss whether he or the parent shall inform the child.