



# CONSTITUTION

DATED 1<sup>ST</sup> SEPTEMBER 2021

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Affiliated to the Swim England, Swim England South West and Somerset A.S.A.



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# Rules of Burnham-on-Sea Swimming club as at 16<sup>th</sup> January 2021

## 1. NAME

- 1.1. The name of the Club shall be Burnham-on-Sea Swimming Club.

## 2. OBJECTS

- 2.1. The objects of the Club shall be the teaching, development and practice of swimming, artistic swimming, open water, water polo for its members and shall, where appropriate, be to compete. In the furtherance of these objects:
  - 2.1.1. The Club is committed to treat everyone equally within the context of its activity and with due respect to the differences of individual. It shall not apply nor endorse unlawful or unjustified discrimination, and shall act in compliance with the protections afforded by the Equality Act 2010.
  - 2.1.2. The Club shall implement the Swim England Equality Policy (as may be amended from time to time).
- 2.2. The Club shall be affiliated to Swim England South West Ltd Region, and shall adopt and confirm to the rules of Swim England South West Ltd Region, the Somerset ASA (SASA), British Long Distance S.A. (BLDSA), and such other bodies as the Club may determine from time to time.
- 2.3. The business and affairs of the Club shall at all times be conducted in accordance with the Articles, Regulations and Technical Rules of Swim England ("Swim England Regulations") and in particular:
  - 2.3.1. all competing members shall be eligible competitors as defined in Swim England Regulations; and
  - 2.3.2. the Club shall in accordance with Swim England Regulations adopt the Swim England's Child Safeguarding Policy and Procedures ("Wavepower") and shall recognise that the welfare of the children is everyone's responsibility and that all children and young people have a right to have fun, be safe and be protected from harm.
  - 2.3.3. members of the Club shall in accordance with Swim England Regulations comply with Wavepower.
- 2.4. By virtue of the affiliation of the Club to Swim England South West Ltd Region, the Club and all members of the Club acknowledge that they are subject to the regulations, rules and constitutions of:
  - 2.4.1. Swim England South West Region and the Somerset ASA; and
  - 2.4.2. Swim England (to include the Code of Ethics); and
  - 2.4.3. British Swimming (in particular its Anti-Doping Rules and Judicial Code); and
  - 2.4.4. FINA, the world governing body for the sport of swimming in all its disciplines, (together "The Governing Body Rules")
- 2.5. In the event that there shall be any conflict between any rule or by-law of the Club and any of the Governing Body Rules then the relevant Governing Body Rule shall prevail.

### 3. MEMBERSHIP

- 3.1. The total membership of the Club shall not normally be limited. If, however, the Committee considers that there is a good reason to impose any limit from time to time, then the Committee shall put forward appropriate proposals for consideration at a General Meeting of the Club. 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 Club.
- 3.2. All persons who assist in any way with the Club's activities shall become members of the Club and hence of the Swim England and the relevant Swim England membership fee shall be paid. Assisting with the Club's activities shall include, but not 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.
- 3.3. Paid instructors, teachers and coaches who are not members of the Club 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 Regulation.
- 3.4. Any person who wishes to become a member of the Club must complete the online membership form and submit prior to their first trial session. In the case of a junior swimmer the form must be submitted by the swimmer's parent or guardian. Election to membership shall be determined by the Membership Secretary but other person(s) authorised by the Committee may make recommendation as to the applicant's acceptability.

The Membership Secretary shall be required to give reasons for the refusal of any application for membership. Any person refused membership may seek a review of this decision before a Review Panel appointed by the Committee ("Review Panel") comprised of not less than three members (who may or may not be members of the Committee). The Review Panel shall (wherever practicable) include one independent member nominated by the Swim England South West Ltd Region. 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.

- 3.5. In its consideration of applications for membership, the Club shall not act in a discriminatory manner and in particular, shall adhere to the Equality Act 2010 (as may be amended). Accordingly, (unless the Club chooses to restrict its membership to only people who share the same Protected Characteristic) the Club 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.
- 3.6. The Club may refuse membership only for good and sufficient cause, such as conduct or character likely to bring the Club or the sport into disrepute, or, in the case of a swimmer, being unable to achieve the entry standards as laid down and provided by the Club to the applicant for membership.
- 3.7. There shall be five categories of Membership:

- 3.7.1. Swim England Club Train MEMBERSHIP (Non-competition). Shall be open to all applicants wishing to learn to swim, or to improve their swimming ability. Members in

this category will be given instruction over widths or lengths as appropriate. The Club reserves the right to withdraw membership, in consultation with the swimmer and parent/guardian, if improvement is not maintained

3.7.2. Swim England Club Compete MEMBERSHIP (Competition). To qualify all applicants shall be graded as competent swimmers to a standard set by a suitably qualified teacher or coach and approved by the Head Coach and an Executive Officer of the Club.

3.7.3. Swim England Category Club Support MEMBERSHIP (Non-Swimming). The Committee may elect annually any person as an Honorary Member of the Club for such period as they think fit and they shall be entitled to all the privileges of membership. All teachers, coaches, Committee Members, Officials and club helpers will be awarded this membership. Non-swimming membership shall be open to one parent/guardian of a swimmer(s) who has not reached the age of 16 years to enable them to vote at a General Meeting on behalf of the swimmer(s).

3.7.4. STUDENT MEMBERSHIP (Category 1 or 2). Shall be open to all members attending college or university, living out of area during term time and have all the privileges of a swimming membership. Student members will only be eligible for selection to compete for club at galas and in the club championships if they have attended at least two weeks of the clubs training sessions prior to the event.

3.7.5. TEMPORARY MEMBERSHIP. Shall be open to visitors who wish to take part in the Club's activities for a limited period. Temporary Members whilst in this capacity have no right to vote or to compete in competitions. The Club will join and submit a batch to Swim England for the visitor if a current Swim England membership is not active with another club to ensure the swimmer is covered by the Club's insurance. All fees for membership will be payable by the visitor. Application for temporary membership shall be made to the Membership Secretary and each one will be considered on its merits.

3.8. No person shall take part in the Club Championships until they have been a Category 1 or 2 member for two months prior to the date of the first Championship event. Membership will commence from the date when payment is received and the online membership and medical form submitted. The Committee shall reserve the right to allow or reject any Championship entry form.

#### **4. SUBSCRIPTION AND OTHER FEES**

4.1. The annual members' subscription, coaching and squad fees (as applicable) shall be determined from time to time by the Committee and the Committee shall in doing so make special provision for different classes of membership as it shall determine.

4.2. The annual subscription and membership fee shall be due on joining the Club and thereafter on the 1st day of February each year. Monthly fees are due on the 1st day of each month.

4.3. Any member whose subscription is unpaid on the due date for payment, may be suspended by the Committee from some or all of the Club activities, from a date to be determined by the Committee and until such payment is made.

4.4. The Committee shall, from time to time, have the power to determine the annual membership subscription and other fees. This shall include the power to make such increase in the subscription as shall, where the Club 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 the members at the next Annual General Meeting.

- 4.5. The Executive Officers (or 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.

## **5. RESIGNATION**

- 5.1. A member wishing to resign membership of the Club must give the Club Secretary or Membership Secretary written notice of his/her resignation. A member's resignation shall only take effect when this (5.1.) has been complied with.
- 5.2. The member who resigns from the Club in accordance with Rule 5.1. above shall not be entitled to have any part of the annual membership fee or any other fees returned.
- 5.3. Any member(s) resigning will not be permitted to re-join within a three-month period unless the monthly fees for the period of non-membership are paid. Members who resign and subsequently apply to re-join after a period of four months will be subject to new membership rules and the annual membership and joining fee will be due.
- 5.4. Notwithstanding the provisions of Rule 5.1. above, a member whose subscription is more than 28 days in arrears from the payment due date shall be deemed to have resigned. 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 email, or on receipt of a delivery rejection by post to his/her last known address.
- 5.5. The Swim England Membership Department shall be informed should a member resign when still owing money or goods to the Club.

## **6. EXPULSION AND OTHER DISCIPLINARY ACTION**

- 6.1. The Committee shall have the power to expel a member when, in its opinion, it would not be in the interests of the Club for the individual to remain a member. The club in exercising this power shall comply with the provisions of Rules 6.3. and 6.4. below.
- 6.2. Upon expulsion, the former member shall not be entitled to have any part of the annual membership fee refunded and must return any Club or external body's trophy or trophies held forthwith. Clubs in exercising this power are required to comply with the provision of Rules 6.3 and 6.4 below.
- 6.3. The Club shall comply with the relevant Judicial Regulations for handling Internal Club Disputes Procedures ("the Procedures") as the same may be revised from time. (A copy of the Procedures may be obtained from the Swim England website, Swim England Handbook or from the Office of Judicial Administration).
- 6.4. A member may not be expelled or (subject to 6.5. below) be made the subject of any other penalty unless the panel hearing the complaint shall, by two-thirds majority, vote in favour of the expulsion of (or other penalty imposed upon) the member.
- 6.5. The Executive Officers of the Club (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 club activities, when in their opinion, such action is in the interests of the Club. Where such action is taken the incident or matter will thereafter be dealt with in accordance with the appropriate Judicial Regulations.

## 7. COMMITTEE

- 7.1. The Committee shall consist of the Chairperson, Secretary, Treasurer (together “the Executive Officers of the Club”) and 8 (eight) elected members all of whom must be members of the Club. All committee members must be not less than 18 years of age though the Committee may allow younger member(s) to attend their meeting without power to vote.
- 7.2. The Committee shall appoint a member of the club as Welfare Officer who must be not less than 18 years of age, who should have an appropriate background and who is required to undertake appropriate training in accordance with Wavepower. The Welfare Officer will have a right to attend Committee meetings without a power to vote.
- 7.3. The Executive Officers and Committee members shall be proposed, seconded and elected at the Annual General Meeting each year and shall remain in office until their successors are elected at the next Annual General Meeting and will take office when the Chairman has closed the meeting. Any vacancy occurring by resignation or otherwise may be filled by the Committee. Retiring Executive Officers and members of the Committee shall be eligible for re-election.
- 7.4. Committee meetings shall be held not less than once every two months (save where the Committee itself shall by a simple majority resolve not to meet), and the quorum of that meeting shall be such number as shall represent not less than a simple majority of the committee members (to include not less than one Executive Officer). 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 Club. The Secretary shall give all the members of the Committee not less than two days oral or written notice of a meeting. Decisions of the Committee shall be made by a simple majority (and in the event of equality of votes the Chairman or (acting Chairman of that meeting) shall have a casting or additional vote). The Secretary, or in his/her absence a member of the Committee, shall take minutes.
- 7.5. The Committee reserves the right to remove from the Committee any member who has failed to attend three consecutive committee meetings.
- 7.6. 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 the 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 Rule 11.1 shall not apply.
- 7.7. In addition to the members so elected the Committee may co-opt up to 4 (four) further members of the Club who shall serve until the next Annual General Meeting. Co-opted members shall be entitled to vote at the meetings of the Committee, and shall not be counted in establishing whether a quorum is present.
- 7.8. Boy and Girl Captains and Vice Captains must be a minimum age of 14 years of age on the date of voting. Swimmers eligible for selection to these posts must first make it known by way of application that they would like to be considered as a Club Captain. The Captains will be voted on and decided by a majority by the Club Chairman, Club Head Coach, and the Club Coaching Team and announced at the Annual Presentation Evening. The newly appointed Captains will start in post the following day. Captains shall be co-opted onto the Committee and shall be entitled to be heard on those matters determined by the Chairman as matters concerning junior members and have no power to vote.

- 7.9. The Committee may from time to time appoint from among their number such sub-committees as they may consider necessary (and to remove (in whole or part) or vary the terms of reference of such sub-committees) and may delegate to them such powers and duties of the Committee as the Committee may determine. All sub-committees shall periodically report their proceedings to the Committee and shall conduct their business in accordance with the directions of the Committee.
- 7.10. The Committee shall be responsible for the management of the Club and shall have the sole right of appointing and determining the terms and conditions of service of employees of the Club. The Committee shall have power to enter into contracts for the purpose of the Club on behalf of all the members of the Club. The Committee shall be responsible for ensuring that the Accounts of the Club for each financial year be examined by an independent examiner to be appointed by the members in General Meeting.
- 7.11. The members of the Committee shall be entitled to an indemnity out of the assets of the Club for all expenses and other liabilities properly incurred by them in the management of the affairs of the Club.
- 7.12. The Committee shall maintain an Accident Book to which all accidents to Club members at swimming related activities shall be recorded. Details of such accidents shall be reported to the insurers in accordance with the Accident/Incident Notification guidelines. The Club shall make an annual return to the Swim England Membership Department indicating whether or not an entry has been made in the prescribed form.
- 7.13. The Committee shall have power to make regulations, create by-laws (see Rule 13.1.) and to settle disputed points not otherwise provided for in this Constitution.

## **8. ANNUAL GENERAL MEETING**

- 8.1. The Annual General Meeting 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.
- 8.2. The purpose of the Annual General Meeting is to transact the following business:
- 8.2.1. to receive the Chairperson's report of the activities of the Club during the previous year;
  - 8.2.2. to receive and consider the accounts of the Club for the previous year and the report, on the account, of the independent examiner and the Treasurer's report as to the financial position of the Club;
  - 8.2.3. to remove and elect the independent examiner, (who must not be a member of the Committee or a member of the family of a Committee member) or confirm that he/she remain in office.
  - 8.2.4. to elect the Executive Officers and other members of the Committee;
  - 8.2.5. to decide on any resolution which may be duly submitted in accordance with Rule 8.3.
- 8.3. Nominations for election of members to any office or for membership of the Committee shall be made in writing by the proposer and seconder to the Secretary not later than 14 days prior to published AGM date. The nominee shall be required to indicate in writing his/her willingness to stand for election. Notice of any resolution proposed to be moved at the Annual General Meeting shall be given in writing to the Secretary not later than 14 days prior to the published AGM date.



## **9. SPECIAL GENERAL MEETING**

- 9.1. A Special General Meeting may be called at any time by the Committee. A Special General Meeting shall be called by the Club within 28 days of receipt by the Secretary of a requisition in writing signed by not less than seven members entitled to attend and vote at a General Meeting or, if greater, such number as represents one-tenth in number of such members, stating the purposes for which the meeting is required and resolutions proposals.

## **10. PROCEDURES AT THE ANNUAL AND SPECIAL GENERAL MEETING**

- 10.1. The Secretary shall personally be responsible for the handing out or sending to each member at his/her last known email address a written agenda giving notice of the date, time and location of the General Meeting together with the resolutions to be proposed thereat at least fourteen days before the meeting and in the case of the Annual General Meeting a list of the nominees of the Committee posts and a copy of the examined accounts. The Secretary may, alternatively, with the agreement of member(s) concerned distribute these materials by other means or similar form of communication. The Notice of Meeting shall in addition wherever possible be displayed on the Club Notice Board.
- 10.2. The quorum for the Annual and Special General Meetings shall be seven members entitled to attend and vote at the Meeting or, if greater, such number as represents one-tenth in number of such members.
- 10.3. The Chairman, or in the Chairman's absence a member appointed by the Committee, shall take the chair. Each member present shall have one vote and resolutions shall be passed by a simple majority. For the procedures for submitting resolutions to be considered at a General Meeting member are referred to Rule 8.3. In the event of an equality of votes the Chairperson shall have the casting or additional vote.
- Only paid up members who have reached their 16<sup>th</sup> birthday shall be entitled to be heard and to vote on all matters. (Members who have not reached their 16<sup>th</sup> birthday shall be entitled to be heard and vote only on those matters determined by the Chairman as matters concerning juniors, such as the election of club captains).
- 10.4. The Secretary, or in his/her absence a member of the Committee, shall take minutes at the Annual and Special General Meetings.
- 10.5. 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 Rules of the Club.

## **11. ALTERATION OF THE RULES AND THEIR RESOLUTIONS**

- 11.1. The Rules may be altered by resolution at an Annual or Special General Meeting provided that the resolution is carried by a majority of at least (two thirds) of members present and entitled to vote at a General Meeting. No amendment(s) to the Rules shall become effective until such amendment(s) shall have been submitted to and validated by such person as is authorised to do so by Swim England South West Ltd Region.
- 11.2. Any member shall be entitled to put any proposal for consideration at any General Meeting provided the proposal in writing shall have been handed to or posted to the Secretary of the Club so as to be received by him/her not later than 1<sup>st</sup> October in the case of the Annual General Meeting or, in the case of a Special General Meeting 21 days before the date of the meeting and thereafter the Secretary shall supply a copy of the proposal or resolution to the members in the manner provided in Rule 10.1.

## **12. BY-LAWS**

- 12.1. The Committee shall have power to make, repeal and amend such by-laws as they may from time to time consider necessary for the wellbeing of the Club which by-laws, repeals and amendments shall have effect until set aside by the Committee or at a General Meeting.

## **13. FINANCE**

- 13.1. All monies paid to the Club shall be received by the Treasurer and deposited in a bank account in the name of the Club. No sum shall be drawn from that account unless approved by not less than two of the Club Executive Officers. Any monies not required for immediate use may be invested as the Committee, in its discretion, think fit.
- 13.2. The income and property of the Club shall be applied only in the furtherance of the objects of the Club and no part thereof shall be paid by way of bonus, dividend or profit to any members of the Club, (save as set out in Rule 16.3.)
- 13.3. The Committee shall authorise the Treasurer to make remuneration and expenses to any Officer, member or employee of the Club and to any other person or persons for services rendered to the Club upon receipt of an invoice to support the expenditure being claimed.
- 13.4. The financial transactions of the Club shall be recorded by the Treasurer in such a manner as the Committee think fit.
- 13.5. The financial year of the Club shall be the period commencing on 1<sup>st</sup> September and ending on 31<sup>st</sup> August. Any change to the financial year shall require the approval of the members at a General Meeting
- 13.6. The Committee shall retain all financial records relating to the club and copies of Minutes of all meetings for a minimum period of six years.
- 13.7. All payment is to be received by Direct Debit.
- 13.8. Monthly swimming fees are payable in advance on the 1<sup>st</sup> day of each month.
- 13.9. Annual membership renewal subscriptions are payable in February of each year.
- 13.10. All Open Meet entry fees and Club Championship entry fees are payable 7 days in advance of competition.
- 13.11. All other purchases, hats, badges, T shirts and any other item provided for purchase as agreed by Club and payee.
- 13.12. All transactions will be made by internet/online banking. The club will transact in cheques but only as a last resort. The Treasurer and the Club Secretary have authorised debit cards for the club account and will make payments as necessary for the benefit of the club. All payments will be authorised by two Executive Officers either by email correspondence or by verbally agreement.

## **14. BORROWING**

- 14.1. The Committee may borrow money on behalf of the Club for the purposes of the Club from time to time at their own discretion for the general upkeep of the Club or with the (prior) approval of a General Meeting for any other expenditure, additions or improvements.

- 14.2. When so borrowing the Committee shall have power to raise in any way any sum or sums of money and to raise and secure the repayment on 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 Club.
- 14.3. The Committee shall have no power to pledge the personal liability of any member of the Club for the repayment of any sums so borrowed.

## **15. PROPERTY**

- 15.1. The property of the Club, other than the cash in 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 a resolution of the Committee and entry in the minute book shall be conclusive evidence of such a resolution.
- 15.2. The Custodians shall be elected at a General Meeting of the Club and shall hold office until death or resignation unless removed by a resolution passed at a General Meeting.
- 15.3. The Custodians shall be entitled to an indemnity out of the property of the Club for all expenses and other liabilities properly incurred by them in the discharge of their duties.

## **16. DISSOLUTION**

- 16.1. A resolution to dissolve the Club shall only be proposed at a General Meeting and shall be carried by a majority of at least three quarters of the members present and entitled to vote. A specific date for the dissolution shall be included in the resolution.
- 16.2. The dissolution shall take effect from the date of the resolution and the members of the Committee shall be responsible for the winding-up of the assets and liabilities of the Club.
- 16.3. Any property remaining after the discharge of the debts and liabilities of the Club shall be divided equally among the members of the club at the date of dissolution.

## **17. ACKNOWLEDGEMENT**

- 17.1. The Members acknowledge that these Rules constitute a legally binding contract to regulate the relationship of the members with each other in the Club.
- 17.2. The following statement appears on the Clubs online membership and medical form. By the completing and submission of the online form all members acknowledge receipt of the rules of Burnham-on-Sea Swimming Club and confirms their understanding and acceptance that such rules (as amended from time to time) shall govern the membership of the Club. Members further acknowledge and accept the responsibilities of membership upon members as set out in these rules. Where a member is under 18 years of age, the online membership and medical form is to be completed and submitted by the parent, or a person having parental responsibility for the member.